

NATIONAL IMPLEMENTATION MEASURES FOR THE 1993 CONVENTION ON THE PROHIBITION OF THE DEVELOPMENT, PRODUCTION, STOCKPILING AND USE OF CHEMICAL WEAPONS AND ON THEIR DESTRUCTION (CWC)

FACTS ABOUT THE CONVENTION

The Chemical Weapons Convention (CWC) opened for signature on 13 January 1993 and entered into force on 29 April 1997.



The Fourth Review Conference of the Chemical Weapons Convention (CWC), The Hague, Netherlands, 21–30 November 2018 - VERTIC

The Secretary-General of the United Nations is the Convention depositary. The list of States Parties to the CWC is available at <https://treaties.un.org>. The Organisation for the Prohibition of Chemical Weapons (OPCW), based in The Hague, is responsible for the implementation of the Convention and consists of the Conference of the States Parties, the Executive Council and the Technical Secretariat.

Chemical weapons are defined under Article II, paragraph 1 of the Convention on the basis of purpose (the “general purpose criterion”) as follows:

‘Together or separately:

(a) Toxic chemicals and their precursors, except where intended for purposes not prohibited under this Convention, as long as the types and quantities are consistent with such purposes;

(b) Munitions and devices, specifically designed to cause death or other harm through the toxic properties of those toxic chemicals specified in subparagraph (a), which would be released as a result of the employment of such munitions and devices;

(c) Any equipment specifically designed for use directly in connection with the employment of munitions and devices specified in subparagraph (b).’

The Convention seeks to prohibit and prevent chemical weapons, while facilitating the peaceful uses of toxic chemicals.

IS MY STATE UNDER AN OBLIGATION TO IMPLEMENT THE CWC?

Once your State has ratified or acceded to the Convention, it will be bound by the content of the CWC and will have to implement its requirements. Article VII requires all States Parties to adopt the necessary measures to fulfil their obligations under the Convention, especially appropriate penal legislation. They must then inform the OPCW of the measures they have taken.

In addition, Article VI requires States Parties to adopt the necessary measures to ensure that toxic chemicals and their precursors are only developed, produced, otherwise acquired, retained, transferred, or used for peaceful purposes within their territory or anywhere under their jurisdiction or control. States Parties must accordingly regulate and oversee activities involving the chemicals listed in Schedules 1, 2 and 3 of the Convention’s Annex of Chemicals.

Article VI also requires that these measures be implemented in a manner which avoids hampering the economic and technological development of States Parties and international cooperation in the field. Article XI of the CWC also enshrines and elaborates on this right of States Parties.



Photo of Old Chemical Weapons (OCWs) at destruction installation in Poelkapelle, Belgium (2019)
The OPCW, licensed by CC BY 2.0 (image modified from original)

WHAT FORMS OF LEGISLATION SHOULD MY STATE CONSIDER?

In order to comply with the CWC, your State should adopt penal measures criminalising the development, production, acquisition, stockpiling, retention, transfer and use of chemical weapons, as well as the use of riot control agents as a method of warfare. Participatory offences, including assistance, encouragement, or inducement, should be penalised. Your State must also penalise certain activities involving Schedules 1, 2 and 3 chemicals, including prohibited transfers to States not Party to the CWC.

The Convention's prohibitions must apply to acts committed in your State's territory and in any other areas under its jurisdiction or control. They must also extend extraterritorially to your State's nationals abroad. States Parties to the CWC should have licensing procedures in place to regulate activities involving scheduled chemicals, including transfers. They should also be in a position to collect information from industry for annual declarations to the OPCW.

States Parties should be able to host international inspections of their industrial facilities to ensure that they are in compliance with the Convention.

ARE THERE ADDITIONAL MEASURES MY STATE SHOULD TAKE?

- If your State has not already done so, it must designate or establish a **National Authority** (see below) to ensure, at a minimum, effective liaison with the OPCW and other States Parties.
- Your State must submit an initial declaration regarding any scheduled chemicals activities, as well as possession of any chemical weapons stockpiles or chemical weapons production facilities. Additionally, your State must submit annual declarations on any previous and anticipated activities related to scheduled chemicals.
- The CWC requires States Parties to protect confidential information sent to or received from the OPCW, and to cooperate and provide legal assistance to other States Parties in the implementation of their Convention obligations.

- States Parties are required to review their national regulations in the field of trade in chemicals to ensure that they are consistent with the object and purpose of the Convention.
- Some States Parties may have to enact measures ensuring the timely destruction of any chemical weapons stockpiles or any chemical weapons productions facilities anywhere under their jurisdiction or control. Some may also be required to destroy any chemical weapons they have abandoned on the territory of another State Party.

WHAT IS A NATIONAL AUTHORITY?

A National Authority serves as a national focal point for effective liaison with the OPCW and other States Parties.

The tasks of a National Authority will depend on the nature and extent of the obligations that the Convention imposes on a State Party. In general, National Authorities:

- serve as national focal points for liaison with the OPCW and other CWC States Parties;
- prepare and submit mandatory declarations to the OPCW;
- are responsible for the enactment and enforcement of legislation to implement the Convention;
- protect confidential information; and
- facilitate OPCW inspections.

WHERE SHOULD MY STATE'S LEGISLATIVE DRAFTERS TURN FOR ASSISTANCE?

The OPCW's **Implementation Support Branch** and **Office of the Legal Adviser** provide assistance to States Parties with the establishment of their National Authorities and national implementation of the Convention through appropriate legislation and regulations.

In coordination with the OPCW, **VERTIC** offers assistance with legislative drafting for CWC obligations, remotely or in capitals, at no cost. VERTIC proposes approaches to fully implement the CWC including amendments to existing legislation, single issue laws or laws incorporating all obligations under the nuclear, chemical and biological weapons treaties.

HOW CAN MY STATE CONTACT THE OPCW AND VERTIC?

Organisation for the Prohibition of Chemical Weapons (OPCW) Implementation Support Branch

Johan de Wittlaan 32
2517 JR - The Hague
The Netherlands

Telephone: +31 70 416 3300
Fax: +31 70 306 3535

Contact: <https://www.opcw.org/contact-form>

www.opcw.org

VERTIC

National Implementation Measures (NIM) Programme

The Green House
244-254 Cambridge Heath Road
London E2 9DA
United Kingdom

Telephone: +44 20 7065 0880
Fax: +44 20 7065 0890
Email: NIM@vertic.org

www.vertic.org