



CWVC

Survey Template of National Implementation Measures for the 1993 Chemical Weapons Convention and chemical weapons-related provisions of relevant international instruments



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Photos

Cover: Repetition of a ball and stick model of Lewisite 1, a Schedule 1 chemical under the Chemical Weapons Convention (CWC).

Page 2: The Fourth Review Conference of the CWC, The Hague, Netherlands, 21–30 November 2018. © VERTIC

Contents

Introduction	5
The National Implementation Measures Programme	5
The content of the CWC legislation survey template	5
How to use the CWC legislation survey template	5
Acknowledgments and liabilities	6
The survey	7
I. Adherence to international instruments related to chemical weapons	7
II. Legislation survey	8
A. Definitions	8
B. Offences and penalties	10
Offences related to chemical weapons	10
Offences related to chemical weapons on aircraft, ships, fixed platforms and public places	11
Offences related to war crimes	12
Offences related to Schedule 1 chemicals	13
Offences related to Schedule 2 chemicals	13
Offences related to Schedule 3 chemicals	13
Offence related to unscheduled discrete organic chemicals (UDOCs)	14
Offence related to dual-use chemical equipment, technology and software; brokering	14
Other offences related to scheduled chemicals, UDOCs, and dual-use chemical equipment, technology and software	14
Offences related to enforcement	14
Other offences	15
C. Participation in offences in (B)	15
D. Jurisdiction over offences in (B) and (C)	16
E. Scheduled chemicals and control lists	18
F. Control measures for scheduled chemicals, UDOCs and dual-use chemical equipment, technology and software	18
Schedule 1 chemicals	18

Schedule 2 chemicals	19
Schedule 3 chemicals	19
Unscheduled discrete organic chemicals (UDOCs)	20
All toxic chemicals and their precursors	20
Dual-use chemical equipment, technology and software	20
Brokering and other services	20
Chemical safety and security measures	20
Other control measures	22
G. Enforcement	22
National authorities and international cooperation	22
Inspections	22
Criminal proceedings	23
Other enforcement measures	24

Overview 26

Introduction

The National Implementation Measures Programme

VERTIC's National Implementation Measures (NIM) Programme, established in 2008, provides tailored assistance to interested states for adherence to and implementation of certain international instruments, including those focusing on the non-proliferation of chemical, biological, nuclear and radiological weapons and the security of related materials. The NIM Programme provides cost-free assistance including awareness-raising, legal analysis and legislative drafting assistance to interested states.

The NIM programme has been engaged in analysis and drafting of States Parties' implementing legislation for the 1993 Chemical Weapons Convention (CWC). Through our engagement with states worldwide and our participation in diplomatic and technical CWC-related processes, we have developed a unique understanding of states' approaches to implementing the Convention and of what constitutes effective practice.

The content of the CWC legislation survey template

One of the primary activities that the NIM Programme undertakes is analysis of an interested state's existing laws and regulations for implementation of the CWC. In order to comprehensively analyse a state's CWC-related legislation, VERTIC has developed a survey template compiling national implementation measures which are necessary to fulfil Article VII of the Convention. For this purpose, Decisions of sessions of the CWC Conference of States Parties have been taken into account, which help guide interpretation of the CWC.

The survey template also covers national implementation measures for the chemical weapons-related requirements

of UN Security Council Resolution (UNSCR) 1540 (2004). UNSCR 1540 obligations bind all UN Member States; they reinforce and further expand national implementation obligations in the CWC. In addition, the survey template takes into account chemical-weapons related provisions in a number of other international treaties relating to civil aviation, maritime navigation, terrorism and international crimes.

On the basis of these international instruments, the survey identifies 163 distinct national implementation measures falling into seven categories. The first category of national implementation measures concerns definitions of key terms, such as 'chemical weapon'. The second category concerns offences and penalties for prohibited activities involving chemical weapons, toxic chemicals and their precursors. For example, it should be an offence to possess a chemical weapon, with an appropriate penalty for such conduct. The third category refers to forms of criminal liability, such as assisting in an offence. The fourth category relates to jurisdiction, which refers to the authority of states to try chemical-weapons related offences. The fifth category concerns the establishment of national control lists of scheduled chemicals as well as related dual-use chemical equipment, technology and software. The sixth category includes control measures for scheduled chemicals, unscheduled discrete organic chemicals and dual-use chemical equipment, software and technology. Finally, the seventh category contains legislative enforcement measures, such as inspections, criminal investigations and prosecutions.

How to use the CWC legislation survey template

When using the survey template to conduct legislative analysis, NIM staff research, collate and analyse a state's national implementation measures in legislation, regu-

lations, decrees, administrative acts and other pertinent official documents, across a broad range of areas. Such measures can be found in criminal laws, weapons- and treaty-specific laws, export control and strategic trade laws, chemical safety and environmental laws and customs laws. Our staff then enter the text of any provision which may serve to fulfil an implementation criterion in the appropriate cell, referencing the relevant source.

In addition to completing a survey, NIM staff complete a survey overview, using a template we have developed. The survey overview provides a summary of the survey's gap analysis and complements it with a qualitative assessment of a state's national implementation measures along with recommendations for strengthening the state's legislative framework. Each completed survey and survey overview inform VERTIC's discussions with the surveyed state on the effectiveness of measures in force and on approaches for further strengthening its legal and regulatory framework. Such surveys are shared with the respective state.

The legislation survey and the survey overview are not compliance assessment tools. Rather, they are intended to aid states in their analysis of their legislation, to enable them to strengthen their legislative frameworks. There is no single approach to national implementation as the approach taken will depend on the constitutional processes and needs of each state.

It is hoped that by publishing the survey and survey overview templates, state officials can use these tools to assess their legislative frameworks. By inputting the relevant legislative provision in the appropriate cell in the right-hand column of the survey tool, and comparing the text with

the legislative implementation requirements in the cells in the left-hand column, users can see where there are gaps in their current legislation. Such a gap analysis can then inform future amendments to the legislative framework.

NIM staff stand ready to review and assist with such analysis, or conduct the legislative analysis at a state's request. For further information concerning our assistance activities, please contact: [NIM \[at\] vertic.org](mailto:NIM@vertic.org)

Acknowledgments and liabilities

The CWC legislation survey and overview templates are the product of hard work from a number of current and former staff of the National Implementation Measures Programme.

VERTIC wishes to thank the Ministry of Foreign Affairs of Norway for their financial support for the major revision of these survey tools in 2020. The views expressed by VERTIC do not necessarily reflect theirs.

Although every care has been taken to prepare this legislation survey template and overview template, VERTIC hereby disclaims any liability or responsibility arising from their use in any way. VERTIC would be grateful for any errors or omissions that are brought to our attention.

Notes

1. For more information on national implementation of the CWC, see VERTIC fact sheet: "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)."

The survey

State name:

Survey of National Implementation Measures for the 1993 Chemical Weapons Convention and chemical weapons-related provisions of relevant international instruments

I. ADHERENCE TO INTERNATIONAL INSTRUMENTS RELATED TO CHEMICAL WEAPONS	
1925 Geneva Protocol for the Prohibition of the Use of Asphyxiating, Poisonous or other Gases, and of Bacteriological Methods of Warfare	[Please check here]
CWC: 1993 Chemical Weapons Convention	[Please check here]
OPCW Privileges and Immunities Agreement <i>{Article VIII (50)}</i>	[Please check here]
Beijing Convention: 2010 Convention on the Suppression of Unlawful Acts Relating to International Civil Aviation ¹	[Please check here]
SUA 2005: Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, as amended by the Protocol of 2005 to the Convention ²	[Please check here]
SUA PROT 2005: Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf as amended by the 2005 Protocol to the Protocol (SUA PROT 2005)	[Please check here]
ICSTB: 1997 International Convention for the Suppression of Terrorist Bombings	[Please check here]
Rome Statute: 1998 Rome Statute of the International Criminal Court	[Please check here]
2010 Amendment to the Rome Statute (RC/Res.5)	[Please check here]
UNSCR 1540: United Nations Security Council Resolution 1540 (2004) ³	Decisions in UNSCR 1540 are legally binding on all UN Member States pursuant to Article 25 of the UN Charter.

II. LEGISLATION SURVEY

A. Definitions

A.1	Chemical weapon {CWC, Article II(1); Beijing Convention, Article 2(h)(b); SUA 2005, Article 1(1)(d)(ii); SUA PROT 2005, Article 1(1)}	
A.2	Chemical Weapons Convention, or Convention	
A.3	Chemical weapons production facility {CWC, Article II(8)}	
A.4	Consumption (for the purposes of CWC, Article VI) {CWC, Article II (12)(c)}	
A.5	Discrete organic chemical {CWC, VA Part I (4), C-I/DEC.39}	
A.6	Dual-use	
A.7	Explosive or other lethal device {ICSTB, Article 1(3)} ⁴	
A.8	Inspection site {CWC, VA Part I (16)}	
A.9	International inspection {CWC, Article VI(9)}	
A.10	International inspector {CWC, VA Part I (13), (18)}	

A.11	Non-state actor {UNSCR 1540, footnote}	
A.12	Organisation for the Prohibition of Chemical Weapons, Organisation, or OPCW {CWC, Article VIII}	
A.13	Precursor {CWC, Article II(3); Beijing Convention, Article 2(i); SUA 2005, Article 1(1)(f); SUA PROT 2005, Article 1(1)}	
A.14	Processing (for the purposes of CWC, Article VI) {CWC, Article II(12)(b)}	
A.15	Production (for the purposes of CWC, Article VI) {CWC, Article II(12)(a)}	
A.16	Purposes not prohibited under the Convention {CWC, Article II (9)}	
A.17	Riot control agent {CWC, Article II(7)}	
A.18	Schedules 1, 2 and 3 chemicals {CWC, Article II(2), (3), Annex on Chemicals}	
A.19	State Party to the Chemical Weapons Convention	
A.20	Toxic chemical {CWC, Article II(2); Beijing Convention, Article 2(d); SUA 2005, Article 1(1)(e); SUA PROT 2005, Article 1(1)}	
A.21	Verification Annex {VA}	

A.22	Definitions to be interpreted in light of the CWC, including its Annexes, and the decisions adopted thereunder	
A.23	Terms and expressions used and not defined in national legislation, but defined in the CWC shall, unless the context otherwise requires, have the same meaning as in the CWC	
A.24	Other	

B. Offences and penalties

Offences related to chemical weapons

B.1	Develop chemical weapons [see A.1]; penalties {CWC, Article I(1)(a), Article VII(1); UNSCR 1540, OP 2}	
B.2	Manufacture/produce chemical weapons; penalties {CWC, Article I(1)(a), Article VII(1); UNSCR 1540, OP 2}	
B.3	Acquire chemical weapons; penalties {CWC, Article I(1)(a), Article VII(1); UNSCR 1540, OP 2}	
B.4	Stockpile/store chemical weapons; penalties {CWC, Article I(1)(a), Article VII(1); UNSCR 1540, OP 2}	
B.5	Possess/retain chemical weapons; penalties {CWC, Article I(1)(a), Article VII(1); UNSCR 1540, OP 2}	
B.6	Transfer ⁵ , directly or indirectly, a chemical weapon to any other person; penalties {CWC, Article I(1)(a), Article VII(1); UNSCR 1540, OP 2}	
B.7	Transport chemical weapons; penalties {UNSCR 1540, OP 2}	

B.8	Use chemical weapons; penalties {CWC, Article I(1)(b), Article VII(1); UNSCR 1540, OP 2}	
B.9	Engage in any military preparations to use chemical weapons; penalties {CWC, Article I(1)(c), Article VII(1)}	
B.10	Use riot control agents [see A.16] as a method of warfare ; penalties {CWC, Article I(5), Article VII(1)}	
B.11	Own or possess a chemical weapons production facility [see A.3], construct a new chemical weapons production facility or modify any existing facility for the purpose of transforming it into a chemical weapons production facility; penalties {CWC, Article I(4), Article V(5), Article VII(1)}	
Offences related to chemical weapons on aircraft, ships, fixed platforms and public places		
B.12	Unlawfully and intentionally release or discharge from an aircraft in service any chemical weapon [see A.1] in a manner that causes or is likely to cause death, serious bodily injury or serious damage to property or the environment; penalties {Beijing Convention, Article 1(1)(g) and Article 3}	
B.13	Unlawfully and intentionally use against or on board an aircraft in service any chemical weapon in a manner that causes or is likely to cause death, serious bodily injury or serious damage to property or the environment; penalties {Beijing Convention, Article 1(1)(h) and Article 3}	
B.14	Unlawfully and intentionally transport , cause to be transported, or facilitate the transport of, on board an aircraft any chemical weapon, knowing it to be a chemical weapon; penalties {Beijing Convention, Article 1(1)(i)(2) and Article 3}	
B.15	Unlawfully and intentionally transport , cause to be transported, or facilitate the transport of, on board an aircraft any equipment, materials or software or related technology that significantly contributes to the design, manufacture or delivery of a chemical weapon without lawful authorisation and with the intention that it will be used for such purpose; penalties {Beijing Convention, Article 1(1)(i)(4) and Article 3}	
B.16	Unlawfully and intentionally, when the purpose of the act, by its nature or context, is to intimidate a population, or to compel a government or an international organisation to do or to abstain from doing any act, use against or on a ship or discharge from a ship a chemical weapon in a manner that causes or is likely to cause death or serious injury or damage; penalties {SUA 2005, Article 3bis(1)(a)(i) and Article 5}	

B.17	Unlawfully and intentionally transport on board a ship any chemical weapon, knowing it to be a chemical weapon; penalties {SUA 2005, Article 3bis(1)(b)(ii) and Article 5}	
B.18	Unlawfully and intentionally transport on board a ship any equipment, materials or software or related technology that significantly contributes to the design, manufacture or delivery of a chemical weapon, with the intention that it will be used for such purpose; penalties {SUA 2005, Article 3bis(1)(b)(iv) and Article 5}	
B.19	Unlawfully and intentionally transport another person on board a ship knowing that the person has committed an act that constitutes an offence set forth in B.16 to B.18 and B.20 and intending to assist that person to evade criminal prosecution; penalties {SUA 2005, Article 3ter and Article 5}	
B.20	Unlawfully and intentionally injure or kill any person in connection with the commission of any of the offences set forth in B.16 to B.19; penalties {SUA 2005, Article 3quater(a) and Article 5}	
B.21	Unlawfully and intentionally, when the purpose of the act, by its nature or context, is to intimidate a population, or to compel a government or an international organisation to do or to abstain from doing any act, use against or on a fixed platform or discharge from a fixed platform a chemical weapon in a manner that causes or is likely to cause death or serious injury or damage; penalties {SUA PROT 2005, Article 2bis(a)}	
B.22	Unlawfully and intentionally injure or kill any person in connection with the commission of the offence in B.21; penalties {SUA PROT 2005, Article 2ter(a)}	
B.23	Unlawfully and intentionally deliver, place, discharge or detonate an explosive or other lethal device [see A.7] in, into or against a place of public use , a State or government facility , a public transportation system or an infrastructure facility, with the intent to cause death or serious bodily injury or with the intent to cause extensive destruction of such a place, facility or system, where such destruction results in or is likely to result in major economic loss; penalties {ICSTB, Article 2(1) and Article 4}	
B.24	Other offences related to chemical weapons	
Offences related to war crimes		
B.25	Employing a) poison or poisoned weapons or b) asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices ⁶ in an international armed conflict {Rome Statute, Article 8(2)(b)(xvii), (xviii)}	

B.26	Employing a) poison or poisoned weapons or b) asphyxiating gases, poisonous or other gases, and all analogous liquids, materials or devices in an armed conflict not of an international character {2010 Amendment to the Rome Statute (RC/Res.5), Article 8(2)(e)(xiii), (xiv)}	
Offences related to Schedule 1 chemicals		
B.27	Produce, acquire, retain or use Schedule 1 chemicals without prior declaration or licence ; penalties [see also F.1-F.3, F.5] {CWC, VA Part VI (1), Article VI(2)-(3), Article VII(1)}	
B.28	Transfer Schedule 1 chemicals without prior declaration or licence ; penalties [see also F.4-F.5] {CWC, VA Part VI(5)-(6), Article VI(2), (3), (7), (8)}	
B.29	Produce, acquire, retain, transfer or use Schedule 1 chemicals in the territory of a State not Party ; penalties [see also F.6-F.7] {CWC, VA Part VI(1), Article VI(2)-(3), Article VII(1)}	
B.30	Transfer Schedule 1 chemicals to or from a State not Party ; penalties [see also F.7] {CWC, VA Part VI(1), (3), Article VI(2), (3), Article VII(1)}	
B.31	Retransfer Schedule 1 chemicals to third States; penalties [see also F.8] {CWC, VA Part VI(4), Article VI(2), (3), Article VII(1)}	
Offences related to Schedule 2 chemicals		
B.32	Produce, process or consume Schedule 2 chemicals without declaration or licence , except where an exemption applies; penalties [see also A.15, A.14, A.4, F.10] {CWC, VA Part VII(1)-(11), (31), Article VI(2), (4), (7), (8), C-5/DEC.19, C-7/DEC.14, C-8/DEC.7, C-9/DEC.6, C-14/DEC.4}	
B.33	Transfer Schedule 2 chemicals without declaration or licence ; penalties [see also F.11] {CWC, VA Part VII(1)-(11),(31), Article VI(2), (4), (7), (8), C-7/DEC.14, C-13/DEC.4}	
B.34	Transfer Schedule 2 chemicals to or from a State not Party , unless an exemption applies and the transferor has made a declaration ; penalties [see also F.12] {CWC, VA Part VII(31), Article VI(2), (4), Article VII(1), C-V/DEC.16}	
Offences related to Schedule 3 chemicals		
B.35	Produce Schedule 3 chemicals without declaration or licence , except where an exemption applies; penalties [see also F.14] {CWC, VA Part VIII(1)-(11), Article VI(2), (5), (7), (8), C-V/DEC.19, C-8/DEC.7, C-9-DEC.6}	

B.36	Transfer Schedule 3 chemicals without declaration or licence ; penalties [see also F.15] {CWC, VA Part VIII(1)-(11), Article VI(2), (5), (7), (8), C-7/DEC.14, C-13.DEC.4}	
B.37	Transfer Schedule 3 chemicals to a State not Party , unless the transferor has a licence and is in possession of an end-use certificate (except where exemption applies to the requirement of an end-use certificate); penalties [see also F.16] {CWC, VA Part VIII(26), Article VI(2), (5), Article VII(1), C-III/DEC.6; C-III/DEC.7, C-VI/DEC.10}	
Offence related to uncheduled discrete organic chemicals (UDOCs)		
B.38	Operate a facility that produces uncheduled discrete organic chemicals without prior declaration or licence ; penalties [see also F.18] {CWC, VA Part IX(1)-(6), Article VI(2), (6), (7), (8), C-I/DEC.39}	
Offence related to dual-use chemical equipment and related technology and software; brokering		
B.39	Internationally transfer dual-use chemical equipment and related technology and software without prior declaration or licence [see E.2 and F.20] {UNSCR 1540, OP 3(d), footnote regarding 'related materials'}	
B.40	Broker international transfers of scheduled chemicals and their precursors or dual-use chemical equipment and related technology and software in contravention of an applicable control measure [see F.21] {UNSCR 1540, OP 3(c), (d), footnote regarding 'related materials'}	
Other offences related to scheduled chemicals, UDOCs, and dual-use chemical equipment, technology and software		
B.41	Other offences related to scheduled chemicals, UDOCs and dual-use chemical equipment, technology and software	
Offences related to enforcement		
B.42	Obstruct verification or enforcement measures under the Convention or national law and regulations; penalties {CWC, VA Part II(45), Article VI(9), Article VII(1)}	
B.43	Fail to comply with the licensing or declaration regime including record-keeping or any other requirement to provide information established by national law and its implementing regulations; penalties [see also F.9, F.13, F.17] {CWC, Article III, Article VI(8), Article VII(1)}	
B.44	Fail to protect confidential information as required by national law and regulations; penalties {CWC, Article VI(10), Article VII(1), (6), Confidentiality Annex}	

B.45	Providing false or misleading information to the National Authority or other enforcement authorities or agencies; penalties {CWC, VA Part II(46), Article VII(1)}	
Other offences		
B.46	Criminal responsibility for legal persons (corporations, partnerships, associations, etc.) and their responsible officers (directors, managers, etc.) or agents; penalties {CWC, Article VII(1)(a); Beijing Convention, Article 4; SUA 2005, Article 5bis; SUA PROT 2005, Article 1(1)}	
B.47	Other offences related to toxic chemicals and their precursors	
C. Participation in offences in (B)		
C.1	Assist anyone to engage in an activity prohibited in B.1-B.11, B.25-B.40; penalties {CWC, Article I(1)(d), Article VII(1); UNSCR 1540, OP 2; Rome Statute, Article 25(3)(c)}	
C.2	Encourage anyone to engage in an activity prohibited in B.1-B.11, B.27-B.38; penalties {CWC, Article I(1)(d), Article VII(1)}	
C.3	Induce anyone to engage in an activity prohibited in B.1-B.11, B.25-B.38; penalties {CWC, Article I(1)(d), Article VII(1); Rome Statute, Article 25(3)(b)}	
C.4	Order anyone to engage in an activity prohibited in B.25-B.26; penalties {Rome Statute, Article 25(3)(b)}	
C.5	Organise or direct anyone to engage in an activity prohibited in B.12-B.23; penalties {Beijing Convention, Article 1(4)(b); SUA 2005, Article 3quater(d); SUA PROT 2005, Article 2ter(d); ICSTB, Article 2(3)(b)}	
C.6	Act as an accomplice to an activity prohibited in B.1-B.23 and B.27-B.40; penalties {UNSCR 1540, OP 2; Beijing Convention, Article 1(4)(c); SUA 2005, Article 3quater(c); SUA PROT 2005, Article 2ter(c); ICSTB, Article 2(3)(a)}	
C.7	Finance an activity prohibited in B.1-B.11, B.27-B.40; penalties {UNSCR 1540, OP 2}	

C.8	Contribute in any other way to the commission of one or more activities prohibited in (B) by a group of persons acting with a common purpose ; such contribution shall be intentional and either be made with the aim of furthering the general criminal activity or purpose of the group where such activity or purpose involves the commission of the activities prohibited in B.12-B.26, or be made in the knowledge of the intention of the group to commit activities prohibited in B.12-B.26 <i>{Beijing Convention, Article 1(5); SUA 2005, Article 3quater(e); SUA PROT 2005, Article 2ter(e); ICSTB, Article 2(3)(c); Rome Statute, Article 25(3)(d)}</i>	
C.9	Threaten to commit an activity prohibited in B.12-B.13; penalties <i>{Beijing Convention, Article 1(3)(a)}</i>	
C.10	Unlawfully and intentionally, when the purpose of the act, by its nature or context, is to intimidate a population, or to compel a government or an international organisation to do or to abstain from doing any act, threaten , with or without a condition, as is provided for under national law, to commit the offence in B.16 and B.21 <i>{SUA 2005, Article 3bis(1)(a)(iv) and Article 5; SUA PROT 2005, Article 2bis(c)}</i>	
C.11	Attempt to commit an activity prohibited in (B); penalties <i>{UNSCR 1540, OP 2; Beijing Convention, Article 1(4)(a); SUA 2005, Article 3quater(b); SUA PROT 2005, Article 2ter(b); ICSTB, Article 2(2); Rome Statute, Article 25(3)(f)}</i>	
C.12	Other	

D. Jurisdiction over offences in (B) and (C)

D.1	Offence in (B) committed in the territory of the State, in any other place under its jurisdiction as recognised by international law or in any place under its control <i>{CWC, Article VII(1)(a) and (b); Beijing Convention, Article 8(1)(a); SUA 2005, Article 6(1)(b); ICSTB, Article 6(1)(a); Rome Statute, Article 12(2)(a)}</i>	
D.2	Offence in B.12-B.15, B.23 or B.25-B.26 committed against or on board an aircraft registered in the State <i>{Beijing Convention, Article 8(1)(b); ICSTB, Article 6(1)(b); Rome Statute, Article 12(2)(a)}</i>	
D.3	Offence in B.23 committed on board an aircraft operated by the Government of the State <i>{ICSTB, Article 6(2)(e)}</i>	

D.4	Offence in B.12-B.15 committed on board an aircraft which lands in the State's territory with the alleged offender still on board <i>{Beijing Convention, Article 8(1)(c)}</i>	
D.5	Offence in B.12-B.15 committed against or on board an aircraft leased without crew to a lessee whose principal place of business or, if the lessee has no such place of business, whose permanent residence is in the State <i>{Beijing Convention, Article 8(1)(d)}</i>	
D.6	Offence in B.16-B.20, B.23 or B.25-26 committed against or on board a ship flying the flag of the State at the time the offence is committed <i>{SUA 2005, Article 6(1)(a); ICSTB, Article 6(1)(b), Rome Statute, Article 12(2)(a)}</i>	
D.7	Offence in B.21-B.22 committed against or on board a fixed platform while it is located on the continental shelf of the State <i>{SUA PROT 2005, Article 3(1)(a)}</i>	
D.8	Offence in B.1-B.23 or B.25-B.26 allegedly committed by a national of the State <i>{CWC, Article VII(1)(c); Beijing Convention, Article 8(1)(e); SUA 2005, Article 6(1)(c); SUA PROT 2005, Article 3(1)(b); ICSTB, Article 6(1)(c); Rome Statute, Article 12(2)(b)}</i>	
D.9	Offence in B.12-B.23 allegedly committed by a resident or stateless person whose habitual residence is in the territory of the State <i>{Beijing Convention, Article 8(2)(b); SUA 2005, Article 6(2)(a); SUA PROT 2005, Article 3(2)(a); ICSTB, Article 6(2)(c)}</i>	
D.10	Offence in B.16-B.23 committed with intent to harm the State or its nationals or to compel the State to do or abstain from doing any act <i>{SUA 2005, Article 6(2)(c); SUA PROT 2005, Article 3(2)(c); ICSTB, Article 6(2)(d)}</i>	
D.11	Victim of the offence in B.12-B.23 was a national of the State <i>{Beijing Convention, Article 8(2)(a); SUA 2005, Article 6(2)(b); SUA PROT 2005, Article 3(2)(b); ICSTB, Article 6(2)(a)}</i>	
D.12	Offence in B.23 committed against a State or government facility of that State abroad, including an embassy or other diplomatic consular premises of that State <i>{ICSTB, Article 6(2)(b)}</i>	
D.13	Offence involved the use of chemical weapons	
D.14	Other	

E. Scheduled chemicals and control lists

E.1	Schedules 1, 2 and 3 chemicals listed in national law or regulation {CWC, Article VI(2), (3), (4), (5); Annex on Chemicals} ⁷	
E.2	A control list in national law or regulation of dual-use chemical equipment and related technology and software ⁸ {UNSCR 1540, OP 3(d), footnote regarding 'related materials'}	
E.3	A measure for the updating of scheduled chemicals and control lists {CWC, Annex on Chemicals}	
E.4	Other	

F. Control measures for scheduled chemicals, UDOCs and dual-use chemical equipment, software and technology

Schedule 1 chemicals

F.1	Prior declaration or licensing of the acquisition, retention and use of Schedule 1 chemicals; National Authority able to prohibit or limit such activities [see also B.27] {CWC, VA Part VI(1), (2), Article VI(2), (3), (7), (8)}	
F.2	Licensing of the production of Schedule 1 chemicals [see also B.27] {CWC, VA Part VI(8)-(11), Article VI(2)-(3), C-1/DEC.43, C-10/DEC.12}	
F.3	Exemption for production of Schedule 1 chemicals by synthesis for research, medical or pharmaceutical purposes, but not for protective purposes, at laboratories [see also B.27] {CWC, VA Part VI(12), Article VI(2)-(3)}	
F.4	Prior declaration or licensing of the transfer of Schedule 1 chemicals; National Authority able to prohibit or limit such activities [see also B.28] {CWC, VA Part VI(5)-(6), Article VI(2), (3), (7), (8)}	
F.5	Schedule 1 chemicals shall only be produced, acquired, retained, transferred or used for research, medical, pharmaceutical or protective purposes and the types and quantities of chemicals are strictly limited to those which can be justified for such purposes [see also B.27-B.28] {CWC, VA Part VI(1), (2) (a)-(b), Article VI(2), (3)}	

F.6	Schedule 1 chemicals shall only be produced, acquired, retained, transferred ⁹ or used in the territory of a State Party [see also B.29] {CWC, VA Part VI(1),(3), Article VI(2), (3)}	
F.7	Schedule 1 chemicals shall only be transferred ¹⁰ in and between the territories of States Parties [see also B.29-B.30] {CWC, VA Part VI(1), (3), Article VI(2), (3)}	
F.8	Schedule 1 chemicals shall not be retransferred to a third State [see also B.31] {CWC, VA Part VI(4), Article VI(2),(3)}	
F.9	Declaration of any past production, acquisition, retention, transfer or use of Schedule 1 chemicals, or by any persons having operated a facility in which such activity was carried out [see also B.43] {CWC, VA Part VI(1), (2), (6), (13)-(20), Article VI(2), (3), (7), (8)}	
Schedule 2 chemicals		
F.10	Declaration or licensing of the production, processing, consumption of Schedule 2 chemicals, and exemptions [see also A.15, A.14, A.4, B.32] {CWC, VA Part VII(1)-(11), Article VI(2), (4), (7), (8), C-V/DEC.19, C-7/DEC.14, C-8/DEC.7, C-9/DEC.6, C-14/DEC.4}	
F.11	Declaration or licensing of transfers of Schedule 2 chemicals [see also B.33] {CWC, VA Part VII(1)-(2), (31), Article VI(2), (4), (7), (8), C-7/DEC.14, C-13/DEC.4}	
F.12	Declaration or licensing of transfers of Schedule 2 chemicals to or from a State not Party where an exemption applies [see also B.34] {CWC, VA Part VII(1), (2), (31), Article VI(2), (4), (7), (8), C-V/DEC.16}	
F.13	Declaration of any past production, processing, consumption or transfer of Schedule 2 chemicals, or by any persons having operated a facility in which such activity was carried out [see also A.15, A.14, A.4, B.43] {CWC, VA Part VII(1)-(11), Article VI(2), (4), (7), (8)}	
Schedule 3 chemicals		
F.14	Declaration or licensing of the production of Schedule 3 chemicals, and exemptions [see also B.35] {CWC, VA Part VIII(1)-(11), Article VI(2), (5), (7), (8), C-V/DEC.19, C-8/DEC.7, C.9-DEC.6}	
F.15	Declaration or licensing of transfers of Schedule 3 chemicals [see also B.36] {CWC, VA Part VIII(1)-(11), Article VI(2), (5), (7), (8), C-7/DEC.14, C-13.DEC.4}	

F.16	Licensing of transfers of Schedule 3 chemicals to a State not Party and requirement of an end-use certificate (and an exemption to that requirement) [see also B.37] {CWC, VA Part VIII(1), (2), (26), Article VI(2), (5), (7), (8), C-III/DEC.6, C-III/DEC.7, C-VI/DEC.10}	
F.17	Declaration of any past production or transfer of Schedule 3 chemicals, or by any persons having operated a facility in which such activity was carried out [see also B.43] {CWC, VA Part VIII(1)-(11); Article VI(2), (5), (7), (8)}	
Unscheduled discrete organic chemicals (UDOCs)		
F.18	Declarations to or licencing of any facility producing unscheduled discrete organic chemicals [see also B.38] {CWC, VA Part IX(1)-(6), Article VI(2), (6), (7), (8), C-I/DEC.39}	
All toxic chemicals and their precursors		
F.19	Development, production, acquisition, retention, transfer and use of toxic chemicals are prohibited unless it is for purposes not prohibited under the Convention (without prejudice to the more stringent purposes required for Schedule 1 chemicals: see F.5) {CWC, Article VI(1)-(2)}	
Dual-use chemical equipment, technology and software		
F.20	Declaration or licensing of international transfers of dual-use chemical equipment and related technology and software [see also A.6, B.39 & E.2] {UNSCR 1540, OP 3(d), footnote regarding 'related materials'}	
Brokering and other services		
F.21	Control of brokering of scheduled chemicals and their precursors and dual-use chemical equipment, technology and software [see also B.40] {UNSCR 1540, OP 3(c), (d) footnote regarding 'related materials'}	
F.22	Control of financing and related services related to the international transfer of scheduled chemicals and their precursors and dual-use chemical equipment, technology and software {UNSCR 1540, OP 3(d), footnote regarding 'related materials'}	
Chemical safety and security measures¹¹		
F.23	Any person carrying out an activity referred to in F.1-F.19, or operating a facility where such activity is carried out, to ensure safety of people and protection of the environment {CWC, Article VII(3)}	
F.24	Any person carrying out an activity referred to in F.1-F.19, or operating a facility where such activity is carried out, to keep records {CWC, Article VI(8)}	

F.25	Any person carrying out an activity referred to in F.1-F.19, or operating a facility where such activity is carried out, to report without delay any loss or theft of scheduled chemicals to the National Authority {UNSCR 1540, OP 3(a)}	
F.26	Any person who discovers scheduled chemicals anywhere in the territory of the State to inform, without delay, the law enforcement authorities or the National Authority {UNSCR 1540, OP 3(a)}	
F.27	Any person carrying out an activity referred to in F.1-F.19, or operating a facility where such activity is carried out, to physically protect the toxic chemicals or their precursors, including scheduled chemicals, as well as the chemical facilities these are in {UNSCR 1540, OP 3(b)}	
F.28	Any person carrying out an activity referred to in F.1-F.19, or operating a facility where such activity is carried out, to physically protect facilities and vehicles involved in transporting ¹² toxic chemicals or their precursors, including scheduled chemicals {UNSCR 1540, OP 3(b)}	
F.29	Any person carrying out an activity referred to in F.1-F.19, or operating a facility where such activity is carried out, to notify the National Authority [see G.1] of any suspicious transactions or transfers of any toxic chemicals or their precursors that may be intended for purposes other than those not prohibited under the Chemical Weapons Convention {UNSCR 1540, OP 3(c), (d)}	
F.30	Any person carrying out an activity referred to in F.1-F.19, or operating a facility where such activity is carried out, to control personnel access to toxic chemicals or their precursors, including scheduled chemicals {UNSCR 1540, OP 3(a)}	
F.31	Any person carrying out an activity referred to in F.1-F.19, or operating a facility where such activity is carried out, to train personnel on chemical safety and security {UNSCR 1540, OP 3(a)}	
F.32	Any person carrying out an activity referred to in F.1-F.19, or operating a facility where such activity is carried out, to promotion a chemical safety and security culture {UNSCR 1540, OP 3(a)}	
F.33	Any person carrying out an activity referred to in F.1-F.19, or operating a facility where such activity is carried out, to have a preparedness and response plan for any chemical incidents	
F.34	Any person carrying out an activity referred to in F.1-F.19, or operating a facility where such activity is carried out, to protect confidential information related to toxic chemicals or their precursors, including scheduled chemicals {CWC, Article VI(10), Article VII(6), Confidentiality Annex, C-I/DEC.13/Rev.2, C-10/DEC.9, C-22/DEC.15}	

F.35	Any person carrying out an activity referred to in F.1-F.19, or operating a facility where such activity is carried out, to ensure cybersecurity of their hardware and software and facilities {UNSCR 1540, OP 3(a)}	
F.36	Other chemical safety and security measures	
Other control measures		
F.37	Power to the National Authority [see G.1] to issue regulations for the control of toxic chemicals or their precursors, including scheduled chemicals [see F.1-F.19] {CWC, Article VII(4)}	
F.38	Any other national measures related to control of toxic chemicals or their precursors, including scheduled chemicals	
F.39	Other	
G. Enforcement		
National authorities and international cooperation		
G.1	Establishment of a National Authority for the CWC (or competent authority) {CWC, Article VII(4)}	
G.2	Other relevant national agencies (e.g. trade licensing body) {UNSCR 1540, OP 3(d)}	
G.3	Submission of declarations to the OPCW {CWC, Article 3(1) (e), Article VI(7),(8), VA Part VI(6) and (13)-(20), VA Part VII(1)-(10), VA Part VIII(1)-(10)}	
Inspections		
G.4	Measures enabling international inspections by international inspectors from the OPCW as provided for in the Chemical Weapons Convention and its Verification Annex {CWC, VA Part II(10)-(15), (38)-(60), VA Part VI(21)-(32), VA Part VII(12)-(30), VA Part VIII(12)-(25), VA Part IX(9)-(21), Article VI(9)}	

G.5	Measures for the appointment and duties of an escort team for international inspections {CWC, VA Part I(9), VA Part II(35), (41), Article VI(9)}	
G.6	Measures ensuring inspected persons and their personnel facilitate an international inspection and cooperate with the international inspectors and escort team during the preparation and performance of, and follow-up to, an inspection {CWC, VA Part II(37)-(52), Article VI(9)}	
G.7	Measures for notification of an international inspection to an inspected person, and for a search warrant in the event an inspected person does not consent to an international inspection {CWC, VA Part II(31)-(33), (37), Article VI(9)}	
G.8	Measures enabling national inspections in relation to toxic chemicals or their precursors, including scheduled chemicals {CWC, Article VI(9)}	
G.9	Measures enabling challenge inspections {CWC, Article IX, VA Part II & X}	
Criminal proceedings		
G.10	Measures enabling investigations of suspected chemical weapons activities or misuse of toxic chemicals or their precursors, including scheduled chemicals {CWC, Article VI(2), Article VII(1)}	
G.11	Measures enabling physical or electronic surveillance of individuals suspected of chemical weapons activities or of misusing toxic chemicals or their precursors, including scheduled chemicals {CWC, Article VI(2), Article VII(1)}	
G.12	Measures to facilitate a preliminary enquiry into the facts of an offence in B.12-B.22 {Beijing Convention, Article 9(2); SUA 2005, Article 7(2); SUA PROT 2005, Article 1(1)}	
G.13	Entry/warrant/forfeiture/seizure procedures related to suspected chemical weapons activities or misuse of toxic chemicals or their precursors, including scheduled chemicals {CWC, Article VI(2), Article VII(1)}	
G.14	Evidence: measures to ensure chain of custody of evidence and proper collection and sampling techniques {CWC, Article VI(2); Article VII(1)}	

G.15	Measures to facilitate taking an offender or alleged offender of an offence in B.12-B.22 into custody or taking other measures to ensure the alleged offender's presence <i>{Beijing Convention, Article 9(1); SUA 2005, Article 7(1); SUA PROT 2005, Article 1(1)}</i>	
G.16	Measures to assist any person in custody with respect to an offence in B.12-B.23 in communicating immediately with the nearest appropriate representative of the State of which that person is a national <i>{Beijing Convention, Article 9(3); SUA 2005, Article 7(3)(a); SUA PROT 2005, Article 1(1); ICSTB, Article 7(3)-(6)}</i> and be visited by a representative of that State <i>{SUA 2005, Article 7(3)(b); SUA PROT 2005, Article 1(1)}</i>	
G.17	Measure to guarantee fair treatment of any person taken into custody, or regarding whom any other measures are taken or proceedings are being carried out with respect to an offence in B.12-B.23 <i>{Beijing Convention, Article 11; SUA 2005, Article 10(2); SUA PROT 2005, Article 1(1); ICSTB, Article 14}</i>	
G.18	Measures enabling prosecutions of offences involving chemical weapons or toxic chemicals or their precursors, including scheduled chemicals <i>{CWC, Article VI(2), Article VII(1); Beijing Convention, Article 11; SUA 2005, Article 10(2); SUA PROT 2005, Article 1(1); ICSTB, Article 14}</i>	
G.19	Measures enabling legal co-operation and assistance with law enforcement agencies of other States in the event of an incident involving chemical weapons or toxic chemicals or their precursors, including scheduled chemicals <i>{CWC, Article VII(2); UNSCR 1540, OP 3(c); Beijing Convention, Articles 12 and 17(1); SUA 2005, Articles 11, 12(1); SUA PROT 2005, Article 1(1); ICSTB, Articles 7(2), 8, 9}</i>	
G.20	Measure to ensure that a request for extradition or for mutual legal assistance based on any of the offences in B.12-B.23 is not refused on the sole ground that it concerns a political offence or an offence connected with a political offence or an offence inspired by political motives <i>{Beijing Convention, Article 13; SUA 2005, Article 11bis; SUA PROT 2005, Article 1.1; ICSTB, Article 11}</i>	
G.21	Measures facilitating training of law enforcement personnel in investigating incidents involving chemical weapons or toxic chemicals or their precursors, including use of personal protective equipment, containment and risk assessment <i>{CWC, Article VI(2), Article VII(1)}</i>	
G.22	Measures enabling co-operation and co-ordination with public health officials and other (law enforcement) agencies in the event of an incident involving chemical weapons or toxic chemicals or their precursors, including scheduled chemicals <i>{CWC, Article VI(2), Article VII(1), UNSCR 1540, OP 3(c)}</i>	
Other enforcement measures		
G.23	Other	

Notes

- 1 Article 7 of the **Beijing Convention** provides “Nothing in this Convention shall affect the rights, obligations and responsibilities under the [. .] the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, signed at Paris on 13 January 1993, of States Parties to such treaties.”
- 2 Article 2bis (3) of **SUA 2005** provides “Nothing in this Convention shall affect the rights, obligations and responsibilities under [. .] the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, done at Paris on 13 January 1993 [. .] of States Parties to such treaties.”
- 3 Operative Paragraph (**OP**) 5 of the resolution provides “that none of the obligations set forth in this resolution shall be interpreted so as to conflict with or alter the rights and obligations of States Parties to [. .] the Chemical Weapons Convention [. .]”.
- 4 This includes “a weapon or device that is designed, or has the capability, to cause death, serious bodily injury or substantial damage through the release, dissemination or impact of **toxic chemicals**, biological agents or toxins or similar substances or radiation or radioactive material”.
- 5 In this survey, “**transfer**” is understood to mean 1) international transfers (import, export, re-export, transit and transshipment), 2) national transfers (i.e. movement within the state) and 3) transfers of ownership either internationally or nationally. For more information, see Walter Krutzsch, ‘Article 1: General Obligations’ in Walter Krutzsch, Eric Myjer, Ralf Trapp, Jonathan Herbach (eds), *The Chemical Weapons Convention: A Commentary* (Oxford University Press 2014), p. 65.
- 6 While the **Rome Statute** of the International Criminal Court does not explicitly use the term “chemical weapons”, the terminology used in this article draws from the 1899 and 1907 Hague Regulations and the 1925 Geneva Protocol and is therefore included in this survey.
- 7 Note the Decisions of the Conference of States Parties to the Chemical Weapons Convention on 27 November 2019 (C-24/DEC.4 and C-24/DEC.5) to **change Schedule 1** of the Annex on Chemicals. The entry into force date for these changes is 7 June 2020. To incorporate these changes at the national level, States Parties may need to review and update their national legislation and regulations.
- 8 See as an example the Australia Group’s control list of dual-use chemical manufacturing facilities and equipment and related technology and software (May 2017). Note that the Australia Group’s lists of chemical weapons precursors and toxins contains the Scheduled Chemicals, but also other toxic chemicals.
- 9 **Transfer** in this cell refers to 1) transfers of ownership taking place within a State Party and 2) any movement of Schedule 1 chemicals within a State Party.
- 10 In other words, the following is not allowed: 1) involvement in transfers of ownership of Schedule 1 chemicals in a State not Party to the CWC; 2) involvement in international movement of Schedule 1 chemicals between States not Party to the CWC; and 3) international movement of Schedule 1 chemicals from the State Party to or from a State not Party to the CWC.
- 11 Decision C-16/DEC.10 (1 Dec 2011) of the CWC Conference of States Parties recognises that the implementation of Article XI on economic and technological development includes **chemical safety and security**.
- 12 For guidance on **transport of dangerous goods**, including toxic chemicals, please see the 2019 UN Model Regulations on the Transport of Dangerous Goods, especially Part 7 on transport operations.

Overview

State name:

Survey of National Implementation Measures for the 1993 Chemical Weapons Convention and chemical weapons-related provisions of relevant international instruments

Date of CWC survey	
Laws and regulations included in the survey	
Laws and regulations necessary to complete the survey	
Summary of survey and recommendations	
A. Definitions	
B. Offences and penalties	
C. Participation in offences in (B)	
D. Jurisdiction over offences in (B) and (C)	
E. Scheduled chemicals and control lists	
F. Control measures for scheduled chemicals, UDOCs and dual-use chemical equipment, technology and software	
G. Enforcement	
Other recommendations	

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