

The Chemical Weapons Convention: The past, the present and the future

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Part 1

ON THE ORIGINS OF THE CWC

Towards the Geneva Protocol

- **1925: Conference for the Supervision of the International Trade in Arms and Ammunition and in Implements of War**
 - US proposal to *'prohibit the export from their territories of any such asphyxiating, poisonous or other gases, and all analogous liquids, intended or designed for use in connection with operations of war'*
 - Practical problem: several *'asphyxiating, poisonous or other gases'* had widespread legitimate industrial & commercial application
- **Dual-use problem could not be resolved → Proposal for protocol **banning use in war****
 - Moral imperative as issue of gas had been raised in diplomatic forum
 - Drew on language from 1899 Hague Declaration (IV, 2) & 1922 Washington Treaty
 - 'Protocol' was **agreed in anticipation of comprehensive disarmament treaty** to be negotiated by League of Nations

Disarmament:

3 critical issues to resolve

- **Late 1920s: to prevent chemical warfare, peacetime preparations had to be prohibited**
 - Diplomats had to tackle the 'dual-use' problem head on
 - In May 1932: report by the Special Commission on CBW offered solutions → contained the foundations of what is now known as the

General Purpose Criterion

- **Definition of 'chemical weapon'**
 - **Rejection** of circumscription based on 'toxicity' or 'lethality'
 - **Rejection** of circumscription based on chemical composition
 - Need to **capture** all toxic chemicals (including 'tear gas'), present and future
 - Focus on physiological impact on living organisms
 - Emphasis on 'all' toxic chemicals → **no exceptions to definition**
- **Ban on the application of ('all') toxic chemicals became *default* position**
 - A limited number of **purposes** were identified to be legitimate applications, and therefore explicitly 'exempted' from the general prohibition
- **Defence and protection against CW was to be authorised**
 - CW development, production and stockpiling for '**deterrence**' not

Part 2

INTO THE FUTURE

Future challenges for CWC

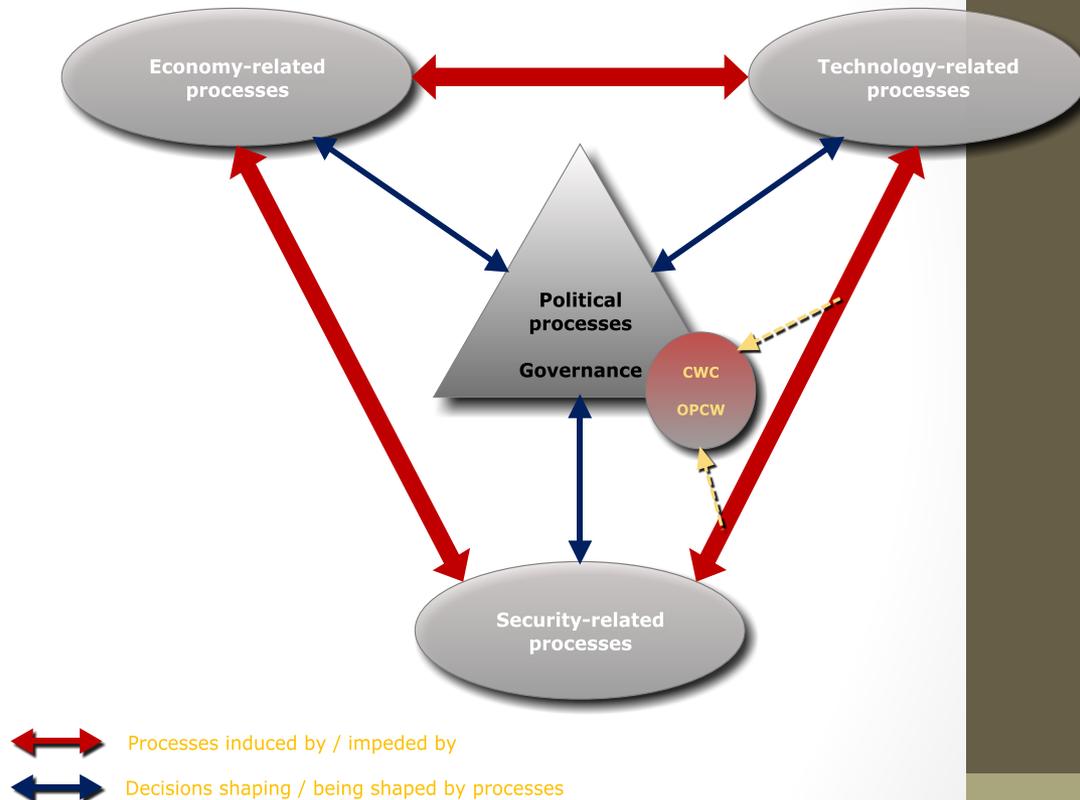
- **CWC of unlimited duration ≠ perpetual**
 - **Challenge:** How can the CWC retain its relevancy for States Parties after destruction of declared CW?
- **Disarmament**
 - Backward-looking dimension
 - Destruction of existing stockpiles and weapon-related equipment
 - Destruction or conversion of production installations and other infrastructure
 - Forward-looking dimension
 - Prevention of future armament
 - Governance of relevant dual-use technologies
- **Transition phase between the two dimensions**
 - CW destruction deadlines: 2007 / 2012 missed
 - Destruction operations in USA & Russia likely until \pm 2022
 - 10-year transition phase for OPCW to adapt to future challenges

After CW destruction

- **Centrality of industry activities: production, consumption & trade**
 - **Article XI:** technology transfers, scientific exchanges, & other development cooperation
 - **Article VI:** transfers of toxic chemicals and their verification
 - **Article VIII:** CSP tasked with '*international cooperation for peaceful purposes in the field of chemical activities*' → enables deployment of future activities by OPCW
- **Prevention of armament: a challenge**
 - **Verification:**
 - Post-destruction: reduction of inspectors envisaged
 - Increased emphasis on transfer monitoring (Art. VI):
 - Is the current monitoring system adequate to capture the volumes of transfers of toxic chemicals?
 - Quid the General Purpose Criterion (vs. scheduled chemicals subject of reporting)?
 - Who verifies State Party reports?
 - **Options:**
 - Modification of reporting requirements and upgrading of monitoring system
 - Recruitment of more inspectors with proficiency in chemical industry?
 - Rebalancing functional division between OPCW and States Party responsibilities?
 - Enhanced verification responsibilities for States Parties
 - Greater lateral interaction among National authorities relating to transfer monitoring
 - Reporting to OPCW + auditing process of national reports

The post-proliferation governance challenge

- No unified model for governance of weapon control anymore
- States do not drive the processes anymore; they can steer in a limited way
- New stakeholders and security actors
- Increased role of non-state national & transnational actors
- Declining role of states in shaping developments
- Shifting relative balances of powers (economy, politics, military) and multiple power centres
- Geographical decentralisation of business and industry activities
- South-south trade patterns and impact on technology diffusion
- Etc.



Part 3

STILL CHEMICAL WARFARE...

CW attacks in Syria

- **CW allegations mounting during 1st half of 2013**
 - 21 March: UNSG accepts Assad's request for an investigation of alleged use
 - August: UN team (OPCW + WHO) finally arrives in Damascus after much haggling
 - Team uses OPCW operational procedures for CW investigation and OPCW-certified reference laboratories
- **CW attacks against Ghouta (Damascus), 21 August 2013**
 - Change mandate UN investigative team
 - Preliminary report, 16 September (Ghouta only)
 - Final report, 12 December (also includes originally mandated investigations of allegations and some post-Ghouta allegations)
 - Outcomes:
 - Reports do not apportion blame
 - Ghouta: strong suggestion responsibility Syrian government
 - Earlier attacks: confirmation of sarin use in some of them; other evidence very limited
 - Still some open questions
- **Chlorine attacks (spring – summer 2014; 2015)**
 - Confirmed by OPCW fact-finding missions
 - As good as certain that Syrian government forces are responsible
 - Some unconfirmed claims of ISIL use (mostly in Iraq)

Opportunistic use of toxic chemicals

- **Syrian use of barrel bombs with chlorine**
 - OPCW investigated & confirmed allegations
 - February 2015: OPCW EC decision condemning chemical warfare in Syria (1st in a CWC state party)
 - March 2015: unanimous UNSC condemnation
 - August 2015: UNSC Resolution 2235 → OPCW – UN Joint Investigative Mechanism (JIM)
- **ISIL allegations of CW use**
 - AQI bombing campaign with chlorine (October 2006 – June 2007)
 - Syria: skin irritant report from Kobane area (August 2014)
 - Several chlorine reports from Iraq (September – October 2014)
 - Today: reports of chlorine use in battle in Iraq; mustard agent in Syria
 - Trend towards technology development for delivery systems?
- **Challenges**
 - How to investigate? Who requests investigation?
 - CWC: territory not under government control → UNSG's investigative mechanism → JIM
 - Kobane scenario: non-state actor against non-state actor on territory of CWC state party, but not under control of that state party
 - OPCW: strategies for chemical safety/security in conflict zones?
 - Preventive infrastructure protection strategies?



THE TRENCH

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Challenging entrenched positions

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