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

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Asser Institute, 6th Annual WMD Summer Programme: Disarmament and Non-Proliferation of Weapons of Mass Destruction in a Changing World
The Hague, 30 August – 4 September 2015
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 ± 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

- 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?
Recalling where science, industry and military art converged

Challenging entrenched positions

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