

Status of the Chemical Weapons Convention after CSP-23 and RevCon-4

Some personal reflections

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*Arbeitskreis „Abrüstung und Nichtverbreitung biologischer und chemischer
Waffen“*

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Basic outcomes: 23rd CSP

- 23rd Conference of the States Parties (CSP) – 19-20, 29/11/2018
 - 1st time back to back with a Review Conference
 - Main agenda items: adoption of programme of work and budget
- Follow-up to 4th Special Session of the CSP – 26-27/06/2018
 - Adoption of an identification/accountability mechanism for CW use in Syria
 - Time-limited (i.e. duration of Syrian civil war)
 - Mechanism can be reactivated in case of a future war involving CW use
 - Request for Director-General (DG) to submit proposals + budget outline
 - Strengthening & explication of technical assistance to states parties (Article VIII, 38(e))
 - Response to assassination operations with nerve agents in Malaysia and UK
 - Proposals highly contested and adopted by majority voting
- Outcomes of 23rd CSP
 - Sino-Russian proposal 'Preserving the Integrity of the OPCW' – Rejected
 - Adoption of DG proposals and budget (majority voting) following defeat of amendments by opponents
 - Several routine agenda items (e.g. DG report CWC implementation; progress CW & ACW elimination; etc.)
 - Major diplomatic blunder by the US → Delayed adoption report; Impact on RevCon

Basic outcomes: 4th RevCon

- **Failure**
 - No final document
 - Chairperson's report
 - Lists areas of disagreement
 - All under Agenda item 9: 'Review of the operation of the CWC'
 - Other paragraphs agreed *ad referendum* (i.e. consensus)
- **Consequences**
 - No CWC review of the past 5 years
 - No legally binding obligations for the next 5 years (objectives)
 - Paragraphs agreed *ad referendum* give a sense of direction
 - Does not affect annual programmes or budget (annual CSP decisions)
 - OPCW can continue to function
 - Major difference with context of the Biological and Toxin Weapons Convention (BTWC) where the RevCon is the only decision-making body accepted by all
- **Failure was anticipated**
 - RevCon document has to be adopted by consensus (no majority voting)
 - Almost all controversial paragraphs concern CW use and disarmament in Syria, especially the findings by Fact-Finding Mission and the Declaration Assessment Team
 - References to assassination operations in Malaysia and UK also controversial
 - US diplomatic blunder – resolved for CSP – had unavoidable impact on RevCon

US diplomatic blunder

- US amendment stating refusal to recognise State of Palestine as a state, and therefore as a CWC state party
 - Came towards the end of the 2nd day of CSP when draft report was being considered for adoption
 - Many states rejected idea, threatening refusal to adopt report
 - Came out of the blue
 - No indication at start of the meeting
 - Palestine was allowed to vote during the CSP prior to submission of amendment
 - US eventually retreated, allowing adoption of report on 29/11
 - *Note*: Iran's habitual statement of not-recognising Israel always made at end of meeting, which is noted for the record [*Israel is not a state party*]
- Impact on RevCon
 - Concrete indication that consensus on final report would be elusive even before RevCon had started
 - Final RevCon report always "welcomes" new states parties
 - Compromise language "noted with appreciation" the rise of number of states parties → unacceptable to many states, especially Palestine
 - May have removed any constraints on debates concerning CW use in Syria
 - 30 November (final day) = UN Day of Remembrance for all Victims of Chemical Warfare
 - Nobody mentioned it on final day of RevCon
 - Many states, especially from Middle East, used Palestinian issue to avoid responsibility to denounce chemical warfare

A taste of the nature of debates

- Challenges to the investigative / accountability mechanism
 - To some, this amounted to major amendment
 - To some, attribution was a responsibility of the UN Security Council
 - To some, the OPCW is a technical, not a political organisation
 - = rephrasing of 2013 point by DG: “technical, not diplomatic”
 - This referred to need for UN involvement in disarmament of Syria to assess risk and negotiate local truces to be able to secure & evacuate Syria’s CW
 - *However,*
 - OPCW decision-making bodies have right to determine non-compliance and decide on measures (Articles VIII, IX & XII)
 - Technical Secretariat can identify perpetrators (Verification Annex XI, para. 26)
- Syrian allegation of chemical attack at Aleppo during RevCon
 - Real or staged to entrap the OPCW (and its new investigative responsibilities)
 - Prior announcement of Russian detection units in area (Russian media)
 - Prior announcement of attack by insurgents (Syrian officials)
- Syria & factual reports
 - Original idea: determine CW use & consensus decision to sanction violator
 - Today: integrity of investigative and analytical procedures challenged, which pushes evidence collection and scientific analysis to the limit of current abilities, e.g.
 - Detection of chlorine molecules days after attack against background of natural presence of chlorine
 - Biomarkers in humans for exposure to chlorine not yet available
 - Interviews of victims at locations removed from attack site (e.g. neighbouring country)
 - Sample collection by local NGOs in inaccessible areas
 - Challenges to the verification operations of (un)declared CW & installations or to reconstitute past CW-relevant activities



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