International responses to chemical weapon (CW) use

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The CW threat spectrum

- War scenarios
- Terrorism
- Criminal acts

- Each will consider and have the availability of different toxic agents, with different degrees of toxicity or pathogenicity
  - Depends on *intent*
  - Depends on *availability*
  - Depends on *technical skills* and *structure* of the organisation
Evolving understanding of CW threat

• Concept of ‘chemical weapon’ is changing fast
  • Until end of Cold War: vast arsenals counted in *tens of thousands* of metric tonnes (mt)
  • Iran – Iraq war (1980 – 88): arsenals counted in *thousands* of mt
  • Syria civil war (2011 - ): arsenal counted in *hundreds* of tonnes
  • Terrorist use: *kilogramme* amounts at most
  • Assassinations: *grammes / milligrammes*

• Terrorist incidents with CW: less than ¼ of 1% of all recorded terrorist events

• Terrorism & crime: in many cases industrial or commercial toxicants, often obtained off the shelf (literally)
Alternative uses of chemical agents

• **Against humans**
  • Potential for mass casualties exists
    • Not necessarily most likely scenario as agents are difficult to acquire
  • Off-the-shelf toxicants
    • Poisons for individual assassination
    • Acid attacks
    • Property damage (e.g. furs)
    • Exploitation of vulnerabilities in the food chain

• **Against animals and plants**

• **Economic and societal disruption**
  • Disruption functioning of utilities, enterprises, public agencies
  • Wider range of chemical agents available
    • Several can be commercially obtained (e.g. pepper spray & mace)
  • Environmental pollution with industrial toxic chemicals
    • e.g. during strikes
Opportunistic use of toxic agents

- **Use of any available toxic chemical**
  - Stores at industrial plants, water purification facilities, etc.
  - Toxic substances may be used in agriculture (pesticides, insecticides, herbicides & other anti-plant chemicals)

- **Core characteristics:**
  - No development or production of the agent by the user
  - Attacks will cease after available stores have been depleted
  - Only development may be in area of delivery system

- **Examples:**
  - **Sri Lanka**: Tamil Tigers – chlorine from paper mill after munition ran out (1990)
  - **Iraq**: al Qaeda in Iraq (AQI) – chlorine in truck bombing campaign (2006-07)
  - **Iraq and Syria**: Islamic State in Iraq and the Levant (ISIL) – chlorine in mortar bombs and improvised explosive devices (IEDs) (2014 - 17)
  - Cases are rather use of CW as a method of warfare by non-state actor than terrorism
Challenges for the Chemical Weapons Convention – 1

- Treaty negotiators could not foresee many of the new CW uses
  - Focus on major CW use in international wars:
    - Aum Shinrikyo attacks: came after end CWC negotiations (1992; before entry into force (1997)
    - Investigation: intended to establish fact of use to be able to trigger assistance mechanisms
    - Nobody anticipated possible return of chlorine as a weapon of choice 100 years after first use
  - Requires interpretation of the CWC provisions in line with new challenges
  - New roles for the OPCW and its Technical Secretariat
    - Investigation of allegations in a civil (rather than international) war:
      - Poses challenges of access to evidence (Government permission is needed)
      - Geopolitical interests behind warring factions politicise discussions on evidence and evidence collection
    - Identification of perpetrators → requires forensic capacities; pushes limits of current science and technological capacities
    - May cause serious political tensions among States Parties
      - Some question legitimacy of new functions and tools
Challenges for the Chemical Weapons Convention – 2

- **CWC States Parties must request assistance**
  - The Technical Secretariat cannot act autonomously
  - At what point is a deliberate harmful act with toxic chemicals domestic crime; at what point does it become a matter for international consideration or action?
    - Malaysia after Kim Jong-nam murder:
      - Request for VX reference kit under CWC Article VIII, 38(e)
      - Briefing of States Parties
      - No other international actions
    - UK after Skripal incident:
      - Requests for confirmation of own analytical results under CWC Article VIII, 38(e)
      - No pursuit of other options under the CWC (e.g. Article IX)
      - Retaliatory diplomatic measures and mobilisation of allies
    - Russia has challenged UK accusations and faults UK for not using CWC processes
CWC Article X

• **Positive security guarantee**
  - CWC States parties entitled to receive assistance and protection in case of
    • CW use or threat of CW use
    • Threat arising from violations of the CWC prohibitions on development, acquisition and stockpiling
  - OPCW Technical Secretariat prepares actively for such eventualities
  - States parties support preparations through contributions (equipment, training, logistics and transport, medical, financial, etc.)

• **Expansion of programme to chemical safety and security**
  - Facilitated extension of programmes to counter non-state actor threats
  - Prevention of accidents in laboratories, industrial plants and storage sites
  - Infrastructure protection (against e.g. terrorist attacks or intrusions)
  - Frequent (regional) training exercises on all continents by Technical Secretariat
    • Prevention
    • Response capacities
  - State-to-state transfers of equipment to enhance response capacities
Current CWC assistance options

• **Prevention**
  - Assistance with the development of effective national implementation legislation and regulations
    - Transposition of international obligations into domestic law
    - Make prohibitions applicable to natural and legal persons
    - Criminal and penal legislation: prevent and punish
  - (Regional) Training courses: Capacity-building in chemical security and safety (prevention), emergency response and consequence management

• **Response**
  - Activation of relevant Article X provisions
  - Investigation of alleged use (in CWC) + Fact-Finding Mission (FFM) specific to Syria
  - Rapid Response and Assistance Mission (RRAM): non-state actor incident
  - Technical Assistance Visit (TAV): Expansion of CWC Article VIII, 38(e)