

Core Obligations Related to Chemical Weapons

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Main prohibitions against CW

- **1925 Geneva Protocol**
 - Prohibits the use in war of CBW
 - Not a disarmament treaty; part of laws of war
 - 145 states parties; 36 signatory states
- **1993 Chemical Weapons Convention (CWC)**
 - Comprehensive ban on development, production, possession, and use of CW
 - Also covers toxins (like the 1972 BTWC)
 - 193 states parties; 1 signatory state

MENA region treaty participation

Geneva Protocol

- 18 MENA states are party
- 6 MENA states are not party
 - Comoros
 - Djibouti
 - Mauritania
 - Oman
 - Somalia
 - United Arab Emirates

CWC

- 22 MENA states are party
- 2 MENA states are not party
 - Egypt
 - Israel (signatory)

All 24 MENA states are bound by
at least 1 international agreement banning CW use

Integrated approach in the CWC

- Definition of the weapon under consideration
 - Demarcates applicability of treaty
 - Lays foundation for the verification system
- All dimensions of the ban on development, acquisition and possession covered
 - Backward-looking dimension (destruction of weapons & related infrastructure)
 - Forward-looking dimension (prevention of future armament)
 - Application of the *General Purpose Criterion (GPC)* in the definition to cover dual-use problem
 - Prohibits use under any and all circumstances
 - Covers inter-state behaviour, as well as terrorism and crime
 - Demands national implementation, including national criminalisation and penalisation of international prohibitions
- Operates tools to enhance transparency, monitor and enforce compliance (incl. verification), and resolve concerns and conflicts
- *One* treaty for disarmament, non-proliferation, cooperation & technology transfers, assistance, verification, complaints & compliance, ...

Understanding the *General Purpose Criterion* (GPC)

- The GPC is a core element in the definition of a CW
 - Covers all toxic chemicals (past, present *and* future)
 - CWC contains 3 Schedules in annex
 - Schedules do not replace the GPC
 - Tools to organise declarations and help with organisation of industry verification
- The GPC is a critical tool in addressing 'dual-use' issues
 - Under the GPC the CWC *does not prohibit* objects or activities
 - The CWC *prohibits* certain purposes to which they may be applied (i.e. acquisition, retention and use of the proscribed weapons)
- The GPC determines the scope of the CWC
 - The *default position* is that all applications of toxic chemicals are prohibited
 - Only a restricted set of purposes are '*non-prohibited*'

Organisation of compliance

- OPCW
 - International organisation overseeing implementation of and compliance with *all* treaty articles
 - Has *autonomous responsibility* for detecting non-compliance and restoring compliance
- Mechanisms to:
 - Generate transparency \Rightarrow declarations
 - States parties must declare all past and present CW-related activities within treaty-specified parameters
 - Any unreported or erroneously reported activity is CWC violation (but not necessarily deliberate)
 - Address anomalies
 - Consultations
 - Clarification requests
 - Challenge inspections
 - Investigation of alleged CW use
- Division of labour between the international organisation and states parties
 - Strength of treaty regime depends to a large extent on effective national implementation

National implementation = key aspect

- 'Any necessary measures'
 - Wide range of legislative and regulatory tools available
- Penal legislation
 - Deterrence and prevention
- Criminal procedural legislation
 - Enable investigation and prosecution of CBRN-related crimes
 - Before an incident (→ in the CW context, incorporation of the *General Purpose Criterion*)
 - After an incident
- Transfer controls
 - Import, transit and export control legislation
 - Legislation governing domestic transfers of materials (terrorism & crime)
 - Legislation must cover all actors involved in the transfer process
- Authorisation of legitimate activities
 - Registration and licensing of legal and natural persons and certain types of activity
 - Transport and storage regulations
 - CBRN safety and security policies
 - Government level
 - Company level
 - Individual level

Past steps by regional actors to ensure regional security and stability prior to disarmament

- *Prenuptials*: prior to CWC opening for signature many states in regional security complexes signed regional agreements not to use CW against each other, not acquire or retain CW, and committed themselves to joining the CWC
- Past examples:
 - USA – USSR: *Memorandum of Understanding Regarding A Bilateral Verification Experiment and Data Exchange Related to Prohibition of Chemical Weapons* (23 September 1989)
 - Argentina, Brazil and Chili + later Bolivia, Ecuador, Paraguay and Uruguay: *Joint Declaration on the Complete Prohibition of Chemical and Biological Weapons* (Mendoza Agreement, 5 September 1991)
 - Bolivia, Colombia, Ecuador, Peru and Venezuela: *Declaration on the Renunciation of Weapons of Mass Destruction* (Andean Declaration, 4 December 1991)
 - Southeast Asia and Oceania (21 countries): Statement issued by participating States at the conclusion of the Third Chemical Weapons Regional Seminar, held in Sydney, Australia, from 21 to 23 June 1992
 - India and Pakistan: *Joint Declaration on Complete Prohibition of Chemical Weapons* (19 August 1992)

Possible early confidence-building steps

- *A unilateral renunciation of chemical warfare* under any circumstances.
- *A unilateral pledge* not to engage in the development, production or any other form of acquisition and retention of CW
- A statement on when the country *ceased offensive chemical warfare activities* and CW development and production
 - It could accompany such a statement with a brief description of past CW activities
- Voluntary national statements on the *nature of chemical research and development activities* in the country, as well as statements on the *production of chemicals for peaceful purposes* that could have potential use for CW production
 - The statements could be modelled after the CWC requirements
- A national statement on the types of *chemical defence activities*
- *Promulgation of national legislation* (or supplementing any existing legislation) that prohibits any natural or legal person operating on its territory from engaging in any form of activity that contributes towards chemical weapon development and production, as well as assisting anybody else inside or outside the country with CW acquisition
 - Already required for all MENA states under UNSC Resolution 1540
- In a second phase, each state could *conduct some national transparency-enhancing visits (inspections)* in accordance with the CWC procedures and publicise the results of the exercise
- In a third phase, MENA states might engage in *transparency-enhancement* processes similar to the steps in the US–Soviet MoU of 1989

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