

## CWC's First Decade

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Non-lethal chemical weapons are a problem and CWC should address it. The West Asian chemical weapons issue has no immediate solution. Chemical industries in many states, particularly in developing nations, have shown exponential growth in their activities, which demands immediate attention.

The spectre of Weapons of Mass Destruction (WMD) warfare has led to the formation of global disarmament architecture. The Chemical Weapons Convention (CWC) forms an important part of this architecture. It is seen as an important part of the international law supporting disarmament and non-proliferation concerning weapons of mass destruction. It is the only international agreement that necessitates complete and verifiable eradication of an entire category of WMD. Also, though the treaty became an international law much later than the Non-Proliferation Treaty (NPT) and the Biological Weapons Convention (BWC), it is the only one concerning WMD to create its own international institution, the Organisation for the Prohibition of Chemical Weapons (OPCW), and to include comprehensive verification provisions.

This convention came into force on 29 April 1997. Within a span of less than a decade, the CWC has won support from nearly all United Nations member states: 182 states-parties (covering 98 per cent of the world's population) have agreed to be bound by the convention, while additional six states have signed but not ratified it, namely, Bahamas, Congo, Dominican Republic, Guinea-Bissau, Israel, and Myanmar. Seven countries, namely, Angola, North Korea, Egypt, Iraq, Lebanon, Somalia and Syria are not party to this convention.

On 29 April 2007, on the occasion of the CWC's tenth anniversary, Ban Ki-Moon, the United Nations Secretary General, observed that the CWC has made significant strides in eliminating an entire category of WMD. He also praised the work done by OPCW under which the convention is carrying out its activities.

## Chemical Weapon

The CWC defines ‘chemical weapon’ broadly to include the following:

- (a) toxic chemicals and their precursors, except where intended for purposes not prohibited by the CWC, as long as the types and quantities are consistent with such purposes;
- (b) munitions and devices specifically designed to cause death or harm through the toxic properties of toxic chemicals released by using such munitions or devices; and
- (c) any equipment specifically designed for use directly in connection with the employment of such munitions and devices (Article 2.1).

## CWC Bans

- (a) Developing, producing, acquiring, stockpiling, or retaining chemical weapons.
- (b) The direct or indirect transfer of chemical weapons.
- (c) Chemical weapons use or military preparation for use.
- (d) Assisting, encouraging or inducing other states to engage in CWC-prohibited activity.
- (e) The use of riot control agents “as a method of warfare.”

## OPCW

Formation of the OPCW is one of the biggest successes of the CWC. It was established to implement provisions of the CWC and is headquartered in Hague with about 500 employees. It started its operations in 1997 after the ratification of the CWC. The OPCW is an important part of the UN system that

provides research and information on the use and potential use of chemical weapons, including by terrorist organisations. It also tracks the movement of chemicals that could be used to put together such weapons globally. Signatories to the treaty could ask OPCW to carry out expert “challenge inspections” to ensure other states-parties are adhering to their commitment to not develop, stockpile or use such weapons.

The OPCW too, during a decade of its existence, has played a major role in pursuing new states to join the CWC. While it is responsible for ensuring that the CWC states-parties implement their obligations into national law and policy as required by the treaty (Article 7.1), it has also been at the forefront in assisting the new member-states to develop domestic implementation legislation and regulations, taking into account their specific political, legal, and economic conditions.

The OPCW receives states-parties’ declarations about their respective chemical weapons related activities or materials and industrial activities. Such declarations are then verified through the OPCW inspections. OPCW monitors states-parties’ facilities and activities as they are pertinent to the Convention’s aims. The organisation also relies on the cooperation of other international organisations to assist it with dispatch, delivery and managing on-site activities and training.

## Main Bodies of OPCW

- (a) The Conference of States Parties, its highest decision-making body;
- (b) The Executive Council, which supervises the activities of the Technical Secretariat and is responsible to the Conference; and
- (c) The Technical Secretariat, which does the work of the OPCW.

## OPCW Inspections

The Convention allows “short-notice challenge” inspections by the OPCW where, if a state-party complains of a breach of the Convention by another. It also provides for routine inspections and investigations of alleged use of chemical weapons. Civilian chemical industries are open to inspection to ensure that:

(a) “dual-use” industrial chemicals are not used in a weapons programme; and

(b) chemical weapons programmes are not hidden in what appear to be legitimate civilian facilities. The OPCW has, since the entry into force of the Convention, conducted over 2,500 inspections of chemicals sites within 76 states-parties. However, till date, no state-party has ever invoked the provision of “challenge inspection”. Since its entry into force in 1997, six countries that include United States, Russia, India, Albania, Libya and a “state party”, possibly South Korea have confirmed the availability of chemical weapons: Russia topping the list with 40,000 tonnes and the United States with 27,000 tonnes; the total declaration amounting to 70,000 tonnes.

## Destruction

Little more than 25 per cent of the declared chemical weapons stockpiles have been destroyed so far. Initially, the deadline specified by the treaty for complete destruction of chemical weapons stockpiles was 29 April 2007. However, the pace at which the six countries destroyed their stockpiles led to the extension of this deadline by five years, i.e. till April 2012. But, even this date appears to be totally unrealistic, particularly from the point of view of the US and Russia who possess very large stockpiles of weapons; and their past progress indicates that they are nowhere near to their task. It is estimated that the

US would be able to manage a total destruction of its stockpiles only by 2023.

## Other Mandates of CWC

Destruction of the declared chemical weapons is a very important task for the CWC/OPCW though its mandate extends much beyond. The CWC/OPCW looks at the verification and implementation of the convention as a whole. It also offers cooperation and assistance on various issues under the umbrella of this convention. Regular inspections for chemical industries are carried out to confirm that the norms set by CWC are being pursued. The most positive aspect of this convention is that generally it has managed to strike an acceptable balance between political concerns and the industry’s interests.

## Review Conference

The First Review Conference was held from April 28 to May 9, 2001, four years after the convention came into force; 101 states, out of the then 151 signatory states, participated. In addition, two signatory states, Haiti and Israel, two non-signatory states, Libya and Angola; five international organisations ESA, ICRC, PCA, CTBTO and UNIDIR; 22 NGOs; and six industry associations were approved by the Conference as participants. The Conference started with heated arguments between the Iranian and US representatives, with regard to the alleged possession of chemical weapons by Iran. Later, the discussion was conducted in a more professional manner and the Conference was able to agree on two documents: the Political Declaration and the Review Document. These documents essentially discuss the following issues:

- (a) Universality of the Convention;
- (b) National implementation measures;

- (c) International Cooperation and Assistance;
- (d) Verification regime for the chemical industry;
- (e) Optimisation of verification measures;
- (f) Scientific and technological development; and
- (g) Functioning of the OPCW.

On the whole, the Conference witnessed insufficient engagement of key stakeholders from the industrial, scientific and academic fields. The main reason for this could be that Hague based OPCW representatives, including official representatives from various states, largely dominated the Conference proceedings. In sum, though the First CWC Review Conference was dominated, to a considerable degree, by the pursuit of national self-interest, this did not undermine the effectiveness of the Convention – a fear expressed by New Zealand during the general debate.

### Status of Chemical Weapons

Following is a gist of the important issues discussed in recent writings, presentations and discussions:

- (a) Progress made in the area of verifications is slow and gaps exist with respect to chemical industry and verification system.
- (b) The concept of ‘challenge inspections’ has failed owing to the widespread fear that the challenged country might retaliate with a *quid pro quo*. For this formula to succeed, it is necessary to understand that it is not an antagonistic, but a cooperative process.
- (c) The representatives of the industries are of the opinion that better implementation

of CWC is more important before stepping up controls on industry. Therefore, they would resist extending sampling and analysis to Other Chemical Production Facilities (OCPF). The OPCW should use open source information more effectively in order to focus on what to inspect and the number of OCPF inspections should be increased.

- (d) It could be argued that destruction of chemical weapons till the ‘last-drop’ is not a practical idea. Instead, weapons could be made incapable from the point of view of reuse only.
- (e) Concerns are raised about state-parties that may possess chemical weapons but have not declared the same. The states that fall in this category are North Korea, Syria, Egypt, Iran, China, Sudan and Israel.
- (f) It could be argued that the arms control and disarmament community has overrated this treaty. Most of the developing nations have joined this treaty because of the economic benefits promised to them. The basic flaw with CWC is that the ratification has essentially remained a political act whereby the states have failed to take subsequent measures of putting national legislation in place. The rise of networks like the AQ Khan Network could be attributed to this tendency.
- (g) The OPCW needs to look at modern developments in science and technology and the impact of technologies like micro-reactors, nanotechnology and biotechnology on chemical industry, and its likely consequences for CWC.
- (h) Non-lethal chemical weapons are a problem and CWC should address it.
- (i) West Asian chemical weapons issue has no immediate solution. Israel should set

up an example for the region by signing CWC. As such, chemical weapons have no future because they are militarily and technologically non-viable.

- (j) CWC is concentrating more on state related issues. However, the history of chemical weapons shows that such weapons have always been used by a state against a civilian population and not by the military against military. In the 21<sup>st</sup> century, the threat of chemical terrorism needs adequate attention.

### India and CWC

Today, the world's attention is also focused on India. This is essentially due to two reasons. First, after denying the possession of chemical weapons for many years, in June 1997, India became one of the six states that declared possession of chemical weapons stockpile and production facilities; but is yet to finish the destruction of its stockpiles. Second, India has one of the largest and advanced chemical industries in the region. India is an original signatory to the CWC (signed on 14 January 1993). India was also amongst the first 65 countries to ratify this Treaty in September 1996. Incidentally, an Indian was the first Chairperson of the Executive Council of the OPCW. India has taken active part in all activities of the CWC right from the beginning while adhering to the principle that the provisions of the Convention must be implemented in a non-discriminatory manner.

Ever since India declared possession of chemical weapons, initial inspections have taken place at pertinent military and industrial sites. India has also begun to destroy its chemical arsenal under the supervision of inspections. Immediately after India's admission, a four-person OPCW inspection team visited a laboratory in Gwalior to verify India's compliance with the CWC in July 1997. The OPCW reported that

India is in compliance. Again, during early August 1997, a ten-person team of inspectors from OPCW conducted an inspection of another Defence Research and Development Organisation (DRDO) facility involved in chemical weapons production located at Ozar (near Nashik, Maharashtra).

Currently, India is in the process of destroying these weapons in accordance with its obligations to the CWC. In 1999, India destroyed more than 1 per cent of its declared stockpiles to meet the requirement of the convention for the first phase of Category 1 chemical weapons destruction. Phase II of the convention required the destruction of 20 per cent of its stockpile by 29 April, 2002. By November 2003, India had destroyed 45 per cent of its declared Category 1 stockpile six months ahead of schedule. By the end of 2004, India had destroyed 1.7 metric tons of toxic waste that it had declared as Category 1 chemical weapons, all of its declared Category 2 and all 1,558 of its Category 3 chemical weapons. In fact, by the end of October 2004, OPCW had carried out 16 inspections with respect to India.

By 2005, from among the six possessor states, India was the only one to meet its deadline for verified CW destruction and for inspections of its facilities by the OPCW. It has also incorporated all three CWC schedules of chemicals into its national export control list.

As reported, India has a declared stockpile of 1,044 metric tons of sulphur mustard. Less than 2 per cent of the agent was filled into artillery shells and the remainder stored in bulk containers. As of March 2006, India had destroyed 53 per cent of its stockpile, including all of the filled munitions.

India has succeeded in destroying almost more than 75 per cent from the entire stock. At the 11<sup>th</sup> session to the conference of the



state parties to the CWC concluded in Hague on 8 December 2006, extended India's term for total destruction to 28 April 2009. Even though five years extension is officially permitted, India is confident that it can complete the destruction process by 2009.

Till date all destruction by India has been carried out under the watchful eyes of OPCW inspectors and will also be done in future. The cause for envisaged delay is essentially because the process of destruction is very slow and we need to take adequate precautions from point of view of safety of personal, environmental pollution etc.

By the end of 2006, India had destroyed more than 75 per cent of its chemical weapons/material stockpile. India had asked for and was granted two years extension for destroying its chemical weapons (till April 2009), and is expected to achieve 100 per cent destruction within this timeframe.

Apart from its commitment to the OPCW, domestically India has taken all efforts to strengthen its commitment to the CWC. India has an act called 'CWC 2000 Act' in place. As per the '2005 WMD Bill', proliferation is a crime and private companies are liable for prosecution under this bill. India has a well established export control mechanism in place with updated guidelines related to export of Special Chemicals, Organisms, Materials, Equipment and Technologies (SCOMET) items.

### **Primacy of CWC**

Currently, issues related to chemical weapons are being discussed with greater concern owing to various reasons.

First, this most successful disarmament treaty has completed its tenth year. Though the completion of ten years of the CWC has provided opportunity to the policy makers, the chemical industry and the academia to reexamine various issues related to the CWC

beyond celebrations, the real challenge is to fix the agenda for the coming future.

Second, the second Review Conference is due to be held next year, in 2008. As it would be the first review conference post 11 September 2001, there is a need to have an exhaustive appraisal of the issues pertaining to chemical terrorism too. The Open-Ended Working Group for the Second Review Conference (WGRC) is responsible for directing the preparations for the upcoming conference in 2008. Importance is placed on the need to integrate a wide range of members, like the chemical industry, and appoint facilitators to help resolve contentious issues. The provisional structure for the WGRC is to have one delegation acting as Chair and four delegations as Vice Chairs in order to avoid the domination of the WGRC by one delegation. It has been decided that UK would chair the WGRC with Iran, Mexico, Russia and Sudan in the Vice Chairs.

Third, chemical industries in many states, particularly in developing nations, have shown exponential growth in their activities, which demands immediate attention. The modern day chemical industry focuses more on production of chemicals through smaller production facilities. More importantly, chemistry in the 21<sup>st</sup> century is fast becoming a multidisciplinary subject with addition of biotechnology, nanotechnology, and so on. Hence, the CWC would need to factor in such developments. While adjusting to the new challenges, there is also a need to maintain a balance between rights and obligations; and factor in the rights and interests of the developing countries. Immediate attention is to be paid to the lack of progress in verification means.

Fourth, the issue of development of 'non-lethal' chemical agents and various advancements made in chemical sciences and technology demands attention. Two significant incidences that occurred during the

last few years are indications that non-lethal chemical weapons issue require immediate attention. The Moscow theatre hostage crisis during 2002 where a Fentanyl derivative was used, clearly demonstrates that even a non-lethal chemical could turn out to be a fatal weapon. Recently, British authorities thwarted a complex terrorist plan to blow ten aeroplanes flying from Britain to the United States overhead the Atlantic by using liquid explosives; here chemical properties of particular liquids and gels are used to convert them into explosive bombs.

Finally, the threat posed by chemical terrorism remains a potent cause of concern.

## Conclusion

The progress of the CWC during its first decade is praiseworthy. In the years to come, it needs to concentrate more on two geographical areas that are of serious concern with respect to the universality and nonproliferation value of CWC; namely, North Korea and a few states in West Asia. Till date, approximately 67 per cent of OPCW inspector days have been spent at destruction facilities. Hence, until and unless chemical weapon possessor states accelerate the process of destruction, it is going to be a big challenge of the 21<sup>st</sup> century. United States and Russia would be required to look for some 'out of box' solutions to destroy their existing stockpiles.

In short, interesting and challenging days are ahead for the CWC and both developed and

developing countries should see to it that the CWC, one of the most successful disarmament treaties, continues to lead by example.

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