

## The Fourth CWC Review Conference: Debates and Outcomes

(November 23-30, 2018)

Inputs based on reports by Richard Guthrie on day to day activities of the Fourth CWC Review Conference (see <http://www.cbw-events.org.uk/cwc-rep.html> ) and discussions with Jean Pascal Zanders

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The Chemical Weapons Convention (CWC) is a multilateral treaty that bans chemical weapons and requires their destruction within a specified period of time. It came into effect on April 29, 1997.

CWC Review Conferences are five yearly reassessment mechanisms established as a means to ensure compliance, verification and assurance because of the global determination to stop the proliferation of chemical weapons and eliminate them altogether. The Fourth CWC Review conference was held from 21 to 30 November 2018 at the World Forum Convention Centre, The Hague, Netherlands. The First Review Conference was held between 28 April and 9 May 2003. The second review conference took place from 7 to 18 April 2008 and the Third Review Conference was held from 8 to 19 April 2013.

The outcome of the Fourth CWC review conference was a mixed bag of success and failures where the latter seemed to be outweighing the former. This report outlines the major debates and deliberations of the Fourth CWC Review conference and the final conclusion of the same.

### The Agenda

The Fourth five-yearly CWC Review Conference provided the opportunity “to undertake reviews of the operation of this Convention. Such reviews shall take into account any relevant scientific and technological developments.” This conference comes at a time when the modern day chemical threat is found reinventing itself, and today more than ever, nation states need to be aware of the dangers of negligence. Syria being a classic example where the last known chemical attack extended from January to July 2018 underscores the

salience of understanding the importance of collaborative efforts for the sake of countering such emergent threats.

Major issues that were debated in the conferences included the usage of nerve agent sarin on a large population in the region of East Ghouta, Syria, and the investigation report which was led by Sweden's Åke Sellström; adoption of the Kerry-Lavrov plan to remove all chemical weapons from Syria; removal of declared chemical weapons from Syria alongside contested allegations that the declaration was incomplete; numerous further allegations of use of chemical weapons in the territory of Syria; establishment of the UN-OPCW Joint Investigative Mechanism for a limited period; establishment of the OPCW Fact-Finding Mission and a majorly challenged debate about whether the mandate should be continued; culmination of demolition of declared chemical weapons in Russia and continuous debate on chemical weapons destruction in the United States; the completion of destruction of Libya's chemical weapons-related materials; the poisoning of Kim Jong-nam at Kuala Lumpur airport, Malaysia; and the poisoning of Sergei and Yulia Skripal in Salisbury, UK, with further exposures to three other people, leading to the death of one. Though the aforementioned list highlights a number of issues of significant political controversy, it no way undermines the positive developments that took place.

## **The Beginning**

The Fourth five-yearly Review Conference of the Chemical Weapons Convention (CWC) was opened on Wednesday 21 November 2018 by the current Chair of the Conference of State Parties, Ambassador Yun-Young Lee (Republic of Korea). The Conference then adopted its officers, confirming Ambassador Agustín Vásquez Gómez (El Salvador) as

Chair for the fourth Review Conference. Ambassador Marcin Czepelak (Poland) was agreed as Chair of the Committee of the Whole (CoW).

The opening statement was given by the OPCW Director-General Fernando Arias. Major aspects of his statement is enumerated below:

- The activities of the regular sessions of the CSP were delineated with those of the Review Conference where the latter was suggested to be taking a "long view" and a more holistic approach to the issues of possession and destruction of chemical weapons.
- The efforts of CWC were well appreciated for being able to implement an 'effective global ban' which included the destruction of over 96 per cent of declared chemical weapons under international verification.
- CWC was also lauded for achieving significant milestones since the Third Review Conference (RC-3). Most significant achievement being the completion of destruction of declared chemical weapons by a major possessor state, Russia.<sup>1</sup> Additionally, declared chemical weapons had also been destroyed in Libya and Syria together with remnants of chemical weapons in Iraq and that the United States is well on track to complete its chemical weapons destruction in 2023.<sup>2</sup> It was therefore forecasted that in the foreseeable future the destruction of all declared chemical weapons will be complete, which will be a 'momentous development' of the CWC.
- This 'near-universal' Convention, with the CWC membership being 193 states parties in total.
- There had been notable developments since RC-3 on the issues of assistance and

protection and international cooperation and assistance. These developments included the creation of the Rapid Response and Assistance Mission (RRAM) to aid any state party dealing with a chemical incident caused by a non-state actor and the work of the Fact-Finding Mission and the Declaration Assessment Team in Syria. The establishment of the Advisory Board on Education and Outreach was also welcomed.

- The use of nerve agents in Malaysia and the UK and the use of chemical weapons in Iraq and in Syria by non-state actors is seen as ‘a chilling reality’. The first reported chemical attack in Syria was 23 December 2012 and the last being the continuous use of Chlorine from January to July 2018 by the Syrian government on the local populace showcases the gravity of the situation.<sup>3</sup>
- The OPCW had an ‘extraordinary and productive past’ and there is no reason for the future to be any different. However, there is a need to maintain the global norm against use of chemical weapons as ‘a permanent barrier against a form of cruelty that it has taken many generations to banish.’

## General Debates

Broadly the general debates outlined the view of various state parties. For many of the long-term issues, such as cooperation and assistance under Article XI, there was little change in the detail of what has been raised so far compared with previously expressed positions other than commenting on developments since RC-3. On other issues, such as allegations of use of chemical weapons in Syria there were divergent views and many new details since RC-3. Many statements welcomed the five new

states parties that have joined the Convention since the RC-3 - Somalia, Syria, Myanmar, Angola and the State of Palestine - making a total of 193 states parties.

- Universality - Universality is a subject that is frequently talked about in international treaties dealing with “global challenges” as the breadth of the membership is a reflection of overall effectiveness. Some statements recorded that the main aim of the CWC, that is, “the creation of a true chemical-weapon free world” will not be attained until all countries ratify the Convention. On the contrary, many suggested that should be no advantages to remaining a non-state party to the Convention.<sup>4</sup>
- Article XI - The subject of “access to peaceful uses of chemistry” is enclosed by Article XI of the Convention, demonstrating a trade off that the relinquishment of chemical weapons and the control of poisons as weapons has to be executed in such a manner so as to assist the use of chemistry for civilian purposes. The NAM statement welcomed the 2016, 2017 and 2018 annual review and evaluation workshops of the components of an agreed framework for the implementation of Article XI. Iran noted its working paper on ‘Full, Effective and Non-Discriminatory Implementation of Article XI’, a major proportion of which relates to regulation of transfers which the country suggests are implemented unfairly. There were numerous capacity building issues raised relating to this article and many references to the work of the OPCW’s Africa programme. It was noted that capacity building could assist in promoting broader geographical representation of designated laboratories.

- Allegations of use of chemical weapons - There were four sets of allegations of use that appeared regularly in statements: “by Syria within the territory of that country; by non-state actors in the territory of Iraq and Syria; the poisoning of Kim Jong-Nam at Kuala Lumpur airport; and the poisoning of Sergei Skripal in Salisbury in which others were also affected.” Out of these, only the Kuala Lumpur incident was uncontested in statements. Syria was explicit in claiming that ‘false flag’ attacks had taken place in its territory. Contentions relating to Syria were brought up in a number of statements and were central to most divergences of views expressed. Bangladesh, in a plea for unity, said ‘these allegations, unless held accountable, will come to haunt us’, and referred to exchanges on the subject as ‘bullets of duality’ that ‘split us into a subtle line of “us” and “them”’. Many statements expressed optimism regarding the use of chemical weapons which may become a thing of the past and that there would be no more victims.
- Investigations of alleged use - The primary arrangement for investigating alleged use of chemical weapons in Syria is the OPCW Fact-Finding Mission (FFM), established in 2014 through a decision of the Executive Council. The work of the FFM has been debated. Some statements were slightly coded, for example, the NAM statement said: ‘We take note of the work done so far by [the FFM] and look forward to receiving its reports on its ongoing activities. We expect the approach followed by the FFM teams would be uniform and consistent.’ Russia was more explicit and suggested the terms of reference of the FFM required ‘drastic revision’ in order to ‘fully bring in conformity with the provisions of the CWC’. Many member states were overt in their support for the Mission.
- Allegations of possession of chemical weapons - A number of statements alleged continuing possession of chemical weapons by Syria and noted the work of the Declaration Assessment Team (DAT). The Republic of Korea noted ‘with concern’ a recent report by the DAT that the OPCW remains unable to resolve ‘all of the identified gaps, inconsistencies, and discrepancies in Syria’s initial declaration’. The US highlighted ‘longstanding concerns’ that Iran ‘maintains a chemical weapons programme that it failed to declare to the OPCW’ and other concerns that Iran ‘is pursuing Central Nervous System-Acting Chemicals for offensive purposes’.
- Scientific and technological developments - As with earlier Review Conferences, there was recognition of the need for keeping the efforts to prevent acquisition and use of chemical weapons to take into account scientific and technological developments. Many references were made to plans to upgrade and add to the OPCW Laboratory to turn it into a ‘Centre for Chemistry and Technology’. As well as verbal support for this project, a number of delegations promised voluntary financial assistance; these included Belgium, France and the Republic of Korea.
- Central nervous system-acting chemicals - There has been an ongoing effort by some states to consider the implications of aerosolized CNS-acting chemicals that some governments have been exploring for possible use for ‘law enforcement’ purposes. Australia and Switzerland have been promoting a discussion on the subject and asking other governments to sign up to a paper which now appears to

have over 40 co-sponsors with Sweden getting added to the list. A typical statement of position of the co-sponsors of the paper is that of New Zealand which stated ‘We will only employ chemical agents which conform to the definition of riot control agents contained within the CWC, and which have been endorsed as such by the OPCW’s Scientific Advisory Board.’

- Schedule amendment proposal - A number of delegations referred to a joint suggestion by Canada, the Netherlands and the United States to amend the schedules of chemicals in the CWC. This would add the family of chemicals which includes the toxic substance to which the Skripals were exposed. This technical proposal has been caught up in some of the controversies around the Salisbury poisonings.
- Chemical weapons destruction and past disposal - The remaining US declared chemical weapons stocks awaiting destruction were highlighted a number of times. China and Japan both spoke of developments in the destruction of chemical weapons abandoned in the territory of the latter by the former, although each described progress in quite different terms. The risks from sea-dumped chemical munitions, that were disposed of before the CWC was agreed, were raised by Lithuania and Poland.
- Management activities - A number of issues relating to the management of the OPCW Technical Secretariat were raised. The issue of staff tenure (a policy adopted some years ago that limits employment within the OPCW for most staff to 7 years) was raised many times, especially regarding the balance between ensuring reasonable turnover of staff while at the same time fulfilling the need to retain

acquired expertise that can be highly specialized. The call to ensure fair geographic representation of staff was prominent as has been in previous Review Conferences. Gender issues had a much higher profile at this Review Conference than at earlier ones; Canada, in an aside from the prepared speech, noted that of the personnel on the stage during the Conference proceedings, 1 was a woman, while 11 were men and commented ‘we can do better.’

## Outcome

In conclusion, the Fourth CWC Review conference failed to build consensus among member states.<sup>5</sup> The main differences existed over the use of chemical weapons in Syria and attributing blame for chemical attacks. However, this was not reflected much in the statements on the final day of the meeting. Many countries chose to talk about the recognition of the State of Palestine<sup>6</sup> rather than assuming responsibility as a state party to uphold Article I of the CWC. Handling of the issue, particularly by the USA, prompted many delegations to take the floor in support of Palestine as a state party. This provided a distraction from the issues relating to how to deal with allegations of use of chemical weapons.

The outcome is further evidence of the breakdown of the multilateral system. However, the unison decision over the future programme and the respective budget highlights that there is a scope of making effective progress in the foreseeable future.

## Endnotes:

1. “OPCW Marks Completion of Destruction of Russian Chemical Weapons Stockpile”, OPCW News, October 11, 2017, see <https://www.opcw.org/media-centre/news/2017/>

10/opcw-marks-completion-destruction-russian-chemical-weapons-stockpile

2. “OPCW Director-General Congratulates Iraq on Complete Destruction of Chemical Weapons Remnants”, OPCW News March 13 2018, see <https://www.opcw.org/media-centre/news/2018/03/opcw-director-general-congratulates-iraq-complete-destruction-chemical>
3. Alicia Sanders-Zakre, "Timeline of Syrian Chemical Weapons Activity, 2012-2018," Arms control Association, see <https://www.armscontrol.org/factsheets/Timeline-of-Syrian-Chemical-Weapons-Activity>
4. The acceptance of an instrument of signature, ratification or accession by a depositary to a treaty does not imply that the provider of that instrument is universally recognized as a state in its own right. For example, the Cook Islands and Niue are long-standing states parties to the CWC, but neither is recognized as a state by many governments.
5. It is important to note that some negotiations where many delegations had a single issue as their negotiating priority, the issues under consideration within the CWC overlapped each other and so the trade-offs between issues were complex and not necessarily apparent to those who were not within the relevant meetings, whether this is the formal proceedings of the Committee of the Whole or informal consultations that may take place inside rooms or in corridors.
6. On 16 June 2018 Palestine became a state Party to the convention. However, US's staunch Policies like US Public Law 101-246 (1990) that provides: “No funds authorized to be appropriated by this Act or any other Act shall be available for the United Nations or any specialized agency thereof which accords the Palestine Liberation Organization the same standing as member states” makes consensus building difficult and complex.