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THE CHEMICAL WEAPONS CONVENTION OR CWC WHICH ENTER INTO FORCE IN APRIL 1997 PROHIBITS THE DEVELOPMENT, PRODUCTION, STOCKPILING, ACQUISITION, OR TRANSFER OF CHEMICAL WEAPONS. IN RELATION TO THIS STATEMENT HOW EFFECTIVE IS CWC IN ELIMINATING CHEMICAL WEAPONS UNDER UNIVERSALLY APPLIED INTERNATIONAL CONTROL?

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The CWC forms an important part of the international law supporting disarmament and non-proliferation concerning weapons of mass destruction. The CWC "is the only international treaty that requires complete and verifiable elimination of an entire category of weapons of mass destruction."This Insight looks at the CWC as its tenth anniversary approaches and identifies challenges the CWC faces in its second decade.

**Basic Information on the CWC**

Negotiations on the CWC finished in September 1992, and the United Nations (UN) General Assembly opened the treaty for signature in January 1993. The CWC entered into force on April 29, 1997. The CWC States Parties seek, "for the sake of all mankind, to exclude completely the possibility of the use of chemical weapons" (Preamble). To this end, the States Parties agreed never in any circumstances to develop, produce, otherwise acquire, stockpile, retain, or use chemical weapons, to engage in any military preparations to use chemical weapons, or to assist, encourage, or induce anyone to engage in any activity prohibited by the CWC (Article I.1). States Parties possessing chemical weapons agreed to destroy them and any chemical weapons production facilities (Article I.2-I.4).

The CWC defines "chemical weapon" broadly to include (1) 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; (2) 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 (3) any equipment specifically designed for use directly in connection with the employment of such munitions and devices (Article II.1).

Although the CWC became international law much later than the NPT and the BWC, the CWC was the first disarmament and non-proliferation treaty involving weapons of mass destruction to create its own international institution, the Organization for the Prohibition of Chemical Weapons (OPCW), and to include comprehensive verification provisions. The CWC requires States Parties to make declarations concerning possession of chemical weapons, chemical weapons production facilities, and certain civilian chemical production facilities, and the CWC empowers the OPCW to engage in verification of these declarations. The OPCW also verifies destruction of chemical weapons and chemical weapons production facilities. The CWC allows any State Party to request on-site challenge inspections by the OPCW in the territory of another State Party to clarify and resolve questions concerning possible non-compliance (Article IX.8).

As of April 16, 2007, the CWC had 182 States Parties, in which 98% of the world's population lives. As of March 7, 2007, six other countries have signed but not ratified the CWC (Bahamas, Congo, Dominican Republic, Guinea-Bissau, Israel, and Myanmar), and only seven countries have not signed the treaty (Angola, Egypt, Iraq, Lebanon, North Korea, Somalia, and Syria).

**Accomplishments in the CWC's First Decade**

The CWC made progress on strengthening the regime for chemical weapon disarmament and non-proliferation during its first decade. Experts consider achieving near universal membership within a decade an important CWC accomplishment.

In terms of verification of disarmament, the OPCW reports that, as of March 16, 2007, 100% of declared chemical weapons production facilities have been inactivated and 90% of these facilities have been destroyed or converted to peaceful purposes, 30% of the 8.6 million chemical munitions and containers covered by the CWC have been verifiably destroyed, and almost 25% of the world's declared stockpile of approximately 71,000 metric tons of chemical agent have been verifiably destroyed. Since April 1997, the OPCW conducted 2,800 inspections at 200 chemical weapon-related sites and over 850 industrial sites in 77 States Parties.

Although the CWC faces on-going and new challenges in its second decade (see next section), its operations since April 1997 have not suffered the problems the NPT and BWC have had. Unlike the NPT, which has confronted increasing problems related to nuclear proliferation (e.g., North Korea's withdrawal from the NPT and its subsequent nuclear test, and concerns about the proliferation threats posed by Iran's nuclear activities), the CWC has not experienced State Party withdrawal or defection that threatens the treaty's disarmament and non-proliferation objectives. Unlike the failure of the States Parties of the BWC to construct a verification regime, the CWC's verification strategy has produced results the OPCW can build upon in the future.

**Challenges for the CWC's Next Ten Years**

The problems affecting the NPT and the BWC have, to a significant extent, overshadowed concerns about the CWC. The following provides a brief and non-exhaustive description of some important issues facing the CWC in its next decade.

**Universality of membership**

Although the CWC's near universal membership is a source of strength for the treaty, the OPCW Director-General has identified achieving full universality as a future challenge for the CWC.The Middle East is the primary region of concern because it has a number of States that have not joined or signed the CWC (Israel, Egypt, Iraq, Lebanon, and Syria). Although the OPWC Director-General has expressed optimism that Lebanon and Iraq may soon join the CWC, additional progress in the Middle East may be dependent on developments in the Arab-Israeli conflict and the impact in the region of the U.S.-led global war on terrorism.

**National implementation**

The OPCW has focused efforts on ensuring that CWC States Parties implement their obligations into national law and policy as required by the treaty (Article VII.1), and these efforts included the Action Plan on National Implementation adopted at the First CWC Review Conference in April 2003. Problems remain with national implementation. For example, only half of the States Parties have adopted comprehensive national legislation to implement their CWC obligations.However, those States Parties that have met their national implementation obligations account for 90% of the world's organic chemical production and trade, so the existing level of national implementation has significant impact on the CWC's objectives. Nevertheless, leading States Parties and the OPCW Director-General favor renewing the Action Plan on National Implementation at the Second CWC Review Conference in April 2008.

**Destruction of chemical weapons**

The CWC required States Parties that possessed chemical weapons to destroy them completely within ten years from the CWC's entry into force (Article IV.6). This objective has not been achieved. Most States Parties possessing chemical weapons arsenals requested extensions on the deadline to finish destruction. In December 2006, the OPCW granted deadline extensions to China and Japan (until 2012, for destruction of chemical weapons abandoned by Japan in China during World War II), India (until 2009), South Korea (until 2008), Libya (until 2010), Russia (until 2012), and the United States (until 2012). The States Parties with the largest chemical weapons stockpiles are the United States and Russia, and experts do not believe that the United States or Russia will meet the 2012 deadline for complete destruction of their chemical weapons arsenals. All States Parties that received extensions have expressed continued commitment to destruction, but the destruction process has proved more difficult and costly for countries than anticipated.

**Non-compliance concerns**

No State Party has utilized the challenge inspection procedure in the CWC despite accusations that some States Parties are not in compliance with CWC obligations. Jonathan Tucker notes, for example, "the United States has publicly accused China, Iran, Russia, and Sudan of violating the CWC, yet it has not provided specific evidence nor pursued these allegations through challenge inspections, thereby weakening the treaty."Technological changes in the chemical industry and in the chemical sciences (discussed below) suggest that concerns about non-compliance may increase in the future, perhaps heightening the significance of the challenge inspection mechanism. To increase incentives and readiness for challenge inspections, the OPCW is interested in conducting mock challenge investigations, and it conducted one in Germany in 2006 and plans another in 2007 in The Netherlands.

Terrorism and chemical weapons When the UN General Assembly opened the CWC for signature in January 1993, terrorism involving chemical agents was not a significant issue. By the time the CWC entered into force in 1997, chemical terrorism had become a threat to national and international security, as illustrated by the 1995 sarin gas attack on the Tokyo subway system. Concerns about chemical terrorism have only increased since April 1997, and especially after the terrorist attacks of September 11, 2001. Governments have uncovered evidence of terrorist interest in chemical weapons, and the recent attacks in Iraq using chlorine tanks have heightened fears about terrorist interest in using toxic chemicals and underscored concerns about the security of chemical production and storage facilities from terrorist attack.

As the OPCW Director-General has pointed out, the CWC is not designed to address directly the threat of chemical terrorism. Compliance with, and full national implementation of, the CWC can help efforts to prevent chemical terrorism. The obligations the UN Security Council imposed through Resolution 1540 (2004), which requires UN Member States to prevent terrorist access to weapons of mass destruction, overlap with the CWC's duties on national implementation. The result, in the words of the OPCW Director-General, is "a synergy . . . that demonstrates that the Chemical Weapons Convention, when effectively implemented, is an effective contributor to the prevention of the use of chemical weapons by terrorists." However, the significant work to be done on national implementation (see above) worries those concerned about terrorist interest in, and potential use of, chemicals.

**Changes in the chemical industry**

A trend in the chemical industry towards smaller facilities with the ability to switch manufacturing flexibly between different kinds of chemicals poses a potential problem for CWC verification. The CWC permits OPCW inspections of declared chemical production facilities that do not produce chemicals listed in the CWC's schedules of chemicals. These other chemical production facilities far outnumber the declared facilities that produce scheduled chemicals, and the trend towards smaller, more flexible production capabilities may only increase this gap, especially in developing countries. The OPCW may need to re-orient more resources towards inspections of these other chemical production facilities to deter States Parties from diverting such facilities to chemical weapons production.

**"Non-lethal" chemical agents**

One of the most serious and controversial challenges the CWC faces comes from the potential development and use of so-called "non-lethal" chemical agents. The CWC negotiations involved disagreements about riot control agents (RCAs), mainly stemming from long-standing U.S. positions on the legitimacy of certain defensive military uses of RCAs. Although the RCA controversy continues, stronger fears about the future relate to the potential development and use of incapacitating chemical or bio-chemical agents that have physiological effects more substantial and long lasting than produced by RCAs. The science behind developing incapacitating agents is rapidly advancing, and harnessing the potential of new incapacitants has caught the attention of both law enforcement agencies and military forces, especially in light of the need to counter terrorist threats.

The use by Russian security forces of an incapacitating agent to end a hostage crisis in October 2002 highlighted the threat incapacitants could present to the CWC and deepened disagreements about how to address incapacitants within the CWC. The incapacitant issue was too controversial for the First CWC Review Conference in April 2003 to address directly. In 2006, the Weapons of Mass Destruction Commission argued that "[t]here is an increasing interest among some governments to adopt a more flexible interpretation of the CWC rules on the use of incapacitating chemical weapons, even as a method of warfare, in order to be able to use them in diverse situations." Whether the Second CWC Review Conference in April 2008 takes up this increasingly important issue for the future of the CWC remains to be seen