

The OPCW in Transition

Ralf Trapp

The Third Review Conference marks the beginning of a transition of the Chemical Weapons Convention, and its implementing agency, the Organization for the Prohibition of Chemical Weapons, from mandates that were characterized by a strong focus on making progress with CW disarmament during the early implementation years, to the long-term objective of preventing the re-emergence of chemical weapons in whatever shape or form. At the same time, the CWC is facing challenges that result from rapid advances in science and technology, from economic pressures that have already changed the scientific and industrial landscape within which the Convention is being implemented, and from new conditions in the international security environment that affect policy assumptions and risk assessments including with regard to chemical warfare. It was against this background that the OPCW Director-General Ahmed Üzümcü asked a panel of experts under the lead of Rolf Ekeus of Sweden to prepare a report on future OPCW priorities. That report, submitted in July 2011, made a number of strategic recommendations, which this paper is reflecting on.

A first area of CWC implementation to consider is verification – the *raison d'être* of the OPCW's Technical Secretariat. Effective and dependable verification of treaty compliance will remain a key feature of the CWC. But as the elimination of the huge CW stockpiles accumulate during the Cold War is getting closer to completion and the experience from previous CW programs recedes into history, questions need to be raised about how the verification system of the CWC should address the emerging risks associated with the use of toxic chemicals. Will the verification system in the chemical industry, based to a large extent on the Schedules of Chemicals that reflect past CW programs, mirror security concerns of the future? What about new types of chemicals that might pose a risk to the Convention – can they be included into the Schedules, or can the verification regime for other chemical production facilities be adapted to verify that such chemicals are not being misused for chemical warfare purposes? What about the pressures for the acquisition of so-called “no-lethal” toxic chemicals, ostensibly for law enforcement purposes? A common response to such questions has been that the Convention's “General Purpose Criterion” (the GPC) ensures the comprehensive nature of the prohibitions – covering *all* toxic chemicals and their precursors under the definition of chemical weapons (unless intended for purposes not prohibited under the CWC) and requiring States Parties to implement measures to prevent that *any* toxic or precursor chemical is used for chemical warfare purpose.

But for verification purposes, applying the GPC means moving beyond merely checking the accuracy of declared data—it requires evaluating whether activities at an inspected facility are consistent with the requirements and provisions of the Convention. Qualitative factors will gain importance in the verification process and the challenge will be to further develop the CWC's industry verification system in a manner that mirrors evolving security concerns while keeping intrusiveness to the minimum necessary so as to maintain the cooperation of the States Parties and of the chemical industry.

A second mandate that will need to be further developed is implementation support. CWC States Parties are required to put in place a series of national implementation measures (National Authority, legislation and regulatory as well as administrative measures). Many States Parties have failed to do so comprehensively, however, and ever since the entry into force of the Convention the OPCW has offered support to the States Parties to set up such national systems. This OPCW implementation support overlaps with the activities of other organizations that provide assistance in adjacent fields, for example the United Nations 1540 Committee, the United States, the European Union, Japan, Norway and other countries under

the Global Partnership, the ICRC and a number of non-governmental organizations such as VERTIC. Interacting with these other assistance providers will require the OPCW to develop effective partnerships, from needs assessment and the planning and execution of capacity building measures to impact assessment and ensuring sustainability. Coordination is critical, and regional approaches can help develop and implement effective action plans. The establishment of regional Centers of Excellence in CBRN risk mitigation, sponsored by the European Union under its Instrument for Stability, offers a new opportunity for the OPCW. A third field of activity that will require attention is preparedness and response. When the Convention was adopted in 1992, the emphasis of its Article X provisions was on the ability of the OPCW to conduct investigations of allegations that chemical weapons had been used, and on the establishment of an international response mechanism to help victims of chemical attack by providing them with means of protection such as medical treatments, protective clothing, respirators, chemical agent detectors and the like. With regard to investigations of alleged use, the security context of today with its increased emphasis on threats emanating from non-State actors puts additional pressures on the ability to forensically investigate incidents and *attribute* the chemicals used to certain actors or methods of manufacturing. The demand for forensic analysis has significantly increased, scientific knowledge gaps need to be filled, and the OPCW can offer a platform for international cooperation in this field much like it has done with the establishment of its network of Designated Laboratories in the past. With regard to the response to incidents involving toxic chemicals, the emphasis is shifting from providing assistance from the outside (which has severe limitations given the short response times needed) to strengthening indigenous and regional response capacity. That requires a strategic orientation of OPCW assistance and protection programmes towards capacity building rather than the mobilization of international assistance after an incident—a balance that is different from what the text of the CWC might suggest.

Fourth, new challenges exist also in the field of international cooperation. The OPCW has already moved well beyond what the drafters of the Convention expected it to do in this promotional field. There are OPCW programmes to foster scientific and technological cooperation among States Parties, to help building national and regional capacity and to promote exchanges between States Parties. This draws on the OPCW's political and technical knowledge base and competencies. A field of activity where the OPCW can make significant contributions is chemical safety and security. But again, here as elsewhere the OPCW is not the only actor, in fact it is probably a small (and relatively new) one. Mechanisms such as the Intergovernmental Forum for Chemical Safety or the Strategic Approach to International Chemicals Management (SAICM) already exist, bringing together governments, international agencies and chemical industry associations to develop and coordinate regulatory and other action to improve the safety and security related to the production, trade and use of chemicals. The OPCW will have to find its appropriate place in this concert of actors if it wants to make a meaningful contribution. It should draw on its strength, which include its global reach and multilateralism, its understanding of the operation of the chemical industry, its effective links with the scientific community and its proven record of providing a platform for effective exchanges and results-oriented work.

As the Cold-War era CW programs recede into history and as science and technology advance deeper into the life science revolution, the OPCW will have to move towards a broader, multi-stakeholder governance approach to manage the risks associated with the possible misuse of toxic chemicals. The Third Review Conference offers an opportunity for the States Parties and other stake-holders to discuss these challenges, to put mechanisms in place to address them and prepare recommendations and solutions when they will be required in the future, and to strengthen the common sense of direction among the parties about what their organization and treaty should look like in the years to come.