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**THE CHEMICAL WEAPONS CONVENTION  
AND  
ITS RELEVANCE TO CHEMICAL TERRORISM**

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# THE CHEMICAL WEAPONS CONVENTION AND ITS RELEVANCE TO CHEMICAL TERRORISM

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Status of the Convention. The Chemical Weapons Convention (CWC) was opened for signature in January 1993 and has been signed by 159 states, including all permanent members of the UN Security Council. It will enter into force 180 days after the 65th instrument of ratification is deposited with the UN Secretary-General.

As of 20 September 1995, thirty-nine states had deposited ratifications. A dozen more are in the final procedural stages of doing so and many others are preceding through the steps toward ratification required by their national constitutions.

Among the more prominent states that have deposited ratifications are Sweden, Norway, Australia, Spain, Germany, Mexico, France, Switzerland, Netherlands, Denmark, Algeria, Poland, South Africa, Japan and Canada. The United States and the Russian Federation, the only declared possessors of chemical weapons, have not ratified.

In the US, President Clinton, former president Bush, the Department of Defense, the Department of State, the Joint Chiefs of Staff and the Director of Central Intelligence have all urged the Senate to give its advice and consent to ratification. A sense of the Senate resolution passed by voice vote without dissent earlier this month urged prompt ratification of the CWC by the US and all other signatories. The bottleneck is in the Committee on Foreign Relations. Its chairman, Senator Helms, is said by members of his staff to be determined not to report the treaty to the full Senate. If and when it is reported, the Convention will require scheduling by the Senate leadership before it can be put to a vote.

The situation in Russia is even more problematic. Foreign Minister Kozyrev declared in late June that his government "is actively preparing to ratify" the Convention. Officials of the Ministry of Defense and members of the State Duma, however, have indicated that Russia may not ratify any time soon, citing lack of funding for destruction of the Russian CW stockpile. Recent official estimates of the amount required range from \$3.5 to \$6.0 billion, the latter figure being half of the amount projected by the US for destruction of its own CW stockpile.

It is not impossible that the CWC will accumulate the required 65 deposited ratifications and will enter into force before the US ratifies. Russia almost certainly will not ratify before the US does. Given US ratification, international political pressure, Russia's self-image as a major architect of the CWC, the ineligibility of non-parties to participate in decisions of the treaty organization and the CWC's prohibition against trading with non-parties in certain dual-use chemicals are all factors that should promote Russian ratification. Nevertheless, guarantees of substantial international funding for stockpile destruction and certain assurances regarding cost ceilings for the destruction or conversion of Russia's chemical weapons

production facilities may also be required.

Anticipating that the CWC might enter into force before the end of 1996, its Preparatory Commission and its Provisional Technical Secretariat (PTS) in the Hague have built much of the international infrastructure required for the treaty's implementation. Upon entry into force, the present PTS would become the permanent Technical Secretariat of the treaty organization. By that time, the present PTS staff of approximately 120 is projected to reach approximately 370, of whom 140 would be inspectors.

Thus it may be said that the majority of states and the leadership of the two declared chemical weapons possessors favor timely entry into force of the CWC but that the course of events may be determined, at least in the short run, more by US and Russian domestic political factors than by national security policy.

Provisions of the CWC. The CWC has unprecedented provisions for international coordination and cooperation to discourage, discover and punish the development, production, acquisition, possession, transfer and use of chemical weapons, whether by States Parties or by persons or groups under their jurisdiction.

The Convention establishes a permanent organization in The Hague, the Technical Secretariat of the Organization for the Prohibition of Chemical Weapons, with a resident staff of trained inspectors to verify the declaration, securing and destruction of existing chemical weapons and the declaration, destruction or conversion of chemical weapons production facilities. The Technical Secretariat would also monitor by routine on-site inspection the non-production of chemical weapons within the chemical industry and would conduct short-notice challenge inspections of suspect activities and rapid-response investigations of alleged use.

The treaty provides chemical trade sanctions against non-compliant States Parties and against any state remaining outside the treaty beyond its third year in force. In cases of serious non-compliance, the treaty's Conference of States Parties (consisting of all States Parties) and its 41-state Executive Council may, by two-thirds majority of either body, recommend collective measures to States Parties and are also empowered to bring such cases to the UN General Assembly and the Security Council.

Each State Party is required to adopt the legal and other measures necessary to fulfil its obligations under the CWC and to establish a National Authority to serve as a focal point for liaison with the treaty Organization and other States Parties. In particular, the CWC requires States Parties to enact penal legislation making it a crime for any person under its jurisdiction to undertake any activity prohibited to States Parties under the Convention, namely to:

- (a) "develop, produce, otherwise acquire, stockpile or retain chemical weapons, or transfer, directly or indirectly, chemical weapons to anyone";
- (b) "use chemical weapons";
- (c) "engage in any military preparations to use chemical weapons";

(d) "assist, encourage or induce, in any way, anyone to engage in any activity prohibited to a State Party under this Convention."

The CWC and Chemical Terrorism. The negotiation of the CWC focused primarily on the activities of states. Nevertheless, the treaty embodies important provisions that apply both directly and indirectly to sub-state entities and to individuals. Taken together, these features of the CWC can provide powerful tools against chemical terrorism and may establish precedents for analogous measures against biological terrorism.

To begin with, the verified securing and subsequent destruction of declared chemical weapons required by the CWC will remove an immense quantity of chemical weapons and bulk chemical warfare agent from possible diversion to terrorists, either directly or via other states.

Through its requirement that States Parties gather and annually report to the Technical Secretariat information on the production and disposition, including export, of certain dual-use chemicals, the treaty will impede illegal acquisition of chemical weapons materials and will facilitate detection of illegal activities. This requirement of the treaty will also serve to heighten the awareness of industry to proliferation risks, generally increasing industry's effective cooperation in reporting suspicious orders and transfers.

The treaty's Technical Secretariat will bring together a highly qualified group of experts whose sustained attention to the prohibition of chemical weapons will constitute a further resource for anticipating and detecting threats to the treaty's international and national implementation provisions.

The treaty's requirement for national penal legislation will extend the ability of states to deter, investigate and punish a wide range of chemical weapons-related activities. Japan, for example, until very recently had no law prohibiting the production of chemical weapons. Moreover, the existence of essentially uniform national law in all of the treaty's States Parties will facilitate international intelligence gathering, law enforcement and other forms of cooperation in preventing chemical terrorism.

Finally, the value of the CWC for chemical disarmament and antiproliferation lies only partly in what the treaty says. It also lies in the bureaucratic realignments and changes of outlook that it can induce in its member states. In other words, an important benefit of the CWC is its ability, still largely unrealized, to impose upon the current patchwork of countermeasures against CW a structure, determination and legitimacy that would otherwise be absent.

Prospects. Chemical and biological weapons, of only peripheral importance in the Cold War confrontation between nuclear powers, have come to be of urgent present concern as potential instruments of terror and mass-killing in regional conflicts and in the hands of sub-state parties worldwide. The scope and severity of the problem are evident in the recent nerve gas attacks in Japan and the discovery there of massive clandestine preparations for chemical and biological terrorism; in Iraq's production

and use of poison gas, and its major offensive biological weapons program; and in recurrent reports of chemical and biological weapons proliferation elsewhere.

Ultimately, there is danger that national institutions and international relations could be seriously destabilized by the emergence onto the world scene of an entire new spectrum of immensely frightening and destructive weapons that are relatively easy to acquire, conceal and deliver.

The 1972 Biological Weapons Convention (BWC) prohibiting the development and possession of biological and toxin weapons is in force and has 139 States Parties, but lacks any provision for inspection or verification and has no staff or other international machinery to oversee its operation. Recognizing this weakness, its States Parties are discussing possibilities for strengthening the BWC, for example by means of a legally binding Protocol.

But if the Chemical Weapons Convention fails, its collapse would almost certainly destroy all prospect of strengthening the Biological Weapons Convention. Whether that is what actually happens will largely be determined by the immediate future of the Chemical Weapons Convention, that is, by the precedent which its signatory states, above all the United States and Russia, now allow it to set.

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