

International responses to chemical weapon (CW) use

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The CW threat spectrum

- War scenarios
- Terrorism
- Criminal acts

- Each will consider and have the availability of different toxic agents, with different degrees of toxicity or pathogenicity
 - Depends on *intent*
 - Depends on *availability*
 - Depends on *technical skills* and *structure* of the organisation

Evolving understanding of CW threat

- **Concept of ‘chemical weapon’ is changing fast**
 - Until end of Cold War: vast arsenals counted in *tens of thousands* of metric tonnes (mt)
 - Iran – Iraq war (1980 – 88): arsenals counted in *thousands* of mt
 - Syria civil war (2011 -): arsenal counted in *hundreds* of tonnes
 - Terrorist use: *kilogramme* amounts at most
 - Assassinations: *grammes / milligrammes*
- **Terrorist incidents with CW: less than ¼ of 1% of all recorded terrorist events**
- **Terrorism & crime: in many cases industrial or commercial toxicants, often obtained off the shelf (literally)**

Alternative uses of chemical agents

- **Against humans**
 - Potential for mass casualties exists
 - Not necessarily most likely scenario as agents are difficult to acquire
 - Off-the-shelf toxicants
 - Poisons for individual assassination
 - Acid attacks
 - Property damage (e.g. furs)
 - Exploitation of vulnerabilities in the food chain
- **Against animals and plants**
- **Economic and societal disruption**
 - Disruption functioning of utilities, enterprises, public agencies
 - Wider range of chemical agents available
 - Several can be commercially obtained (e.g. pepper spray & mace)
 - Environmental pollution with industrial toxic chemicals
 - e.g. during strikes

Opportunistic use of toxic agents

- **Use of any available toxic chemical**
 - Stores at industrial plants, water purification facilities, etc.
 - Toxic substances may be used in agriculture (pesticides, insecticides, herbicides & other anti-plant chemicals)
- **Core characteristics:**
 - No development or production of the agent by the user
 - Attacks will cease after available stores have been depleted
 - Only development may be in area of delivery system
- **Examples:**
 - **Sri Lanka:** Tamil Tigers – chlorine from paper mill after munition ran out (1990)
 - **Iraq:** al Qaeda in Iraq (AQI) – chlorine in truck bombing campaign (2006-07)
 - **Iraq and Syria:** Islamic State in Iraq and the Levant (ISIL) – chlorine in mortar bombs and improvised explosive devices (IEDs) (2014 - 17)
 - Cases are rather **use of CW as a method of warfare by non-state actor** than terrorism

Challenges for the Chemical Weapons Convention – 1

- **Treaty negotiators could not foresee many of the new CW uses**
 - Focus on major CW use in international wars:
 - Aum Shinrikyo attacks: came after end CWC negotiations (1992; before entry into force (1997)
 - Investigation: intended to establish fact of use to be able to trigger assistance mechanisms
 - Nobody anticipated possible return of chlorine as a weapon of choice 100 years after first use
 - Requires interpretation of the CWC provisions in line with new challenges
 - New roles for the OPCW and its Technical Secretariat
 - Investigation of allegations in a civil (rather than international) war:
 - Poses challenges of access to evidence (Government permission is needed)
 - Geopolitical interests behind warring factions politicise discussions on evidence and evidence collection
 - Identification of perpetrators → requires forensic capacities; pushes limits of current science and technological capacities
 - May cause serious political tensions among States Parties
 - Some question legitimacy of new functions and tools

Challenges for the Chemical Weapons Convention – 2

- **CWC States Parties must request assistance**
 - The Technical Secretariat cannot act autonomously
 - At what point is a deliberate harmful act with toxic chemicals domestic crime; at what point does it become a matter for international consideration or action?
 - Malaysia after Kim Jong-nam murder:
 - Request for VX reference kit under CWC Article VIII, 38(e)
 - Briefing of States Parties
 - No other international actions
 - UK after Skripal incident:
 - Requests for confirmation of own analytical results under CWC Article VIII, 38(e)
 - No pursuit of other options under the CWC (e.g. Article IX)
 - Retaliatory diplomatic measures and mobilisation of allies
 - Russia has challenged UK accusations and faults UK for not using CWC processes

CWC Article X

- **Positive security guarantee**

- CWC States parties entitled to receive assistance and protection in case of
 - CW use or threat of CW use
 - Threat arising from violations of the CWC prohibitions on development, acquisition and stockpiling
- OPCW Technical Secretariat prepares actively for such eventualities
- States parties support preparations through contributions (equipment, training, logistics and transport, medical, financial, etc.)

- **Expansion of programme to chemical safety and security**

- Facilitated extension of programmes to counter non-state actor threats
- Prevention of accidents in laboratories, industrial plants and storage sites
- Infrastructure protection (against e.g. terrorist attacks or intrusions)
- Frequent (regional) training exercises on all continents by Technical Secretariat
 - Prevention
 - Response capacities
- State-to-state transfers of equipment to enhance response capacities

Current CWC assistance options

- **Prevention**

- Assistance with the development of effective national implementation legislation and regulations
 - Transposition of international obligations into domestic law
 - Make prohibitions applicable to natural and legal persons
 - Criminal and penal legislation: prevent and punish
- (Regional) Training courses: Capacity-building in chemical security and safety (prevention), emergency response and consequence management

- **Response**

- Activation of relevant Article X provisions
- Investigation of alleged use (in CWC) + Fact-Finding Mission (FFM) specific to Syria
- Rapid Response and Assistance Mission (RRAM): non-state actor incident
- Technical Assistance Visit (TAV): Expansion of CWC Article VIII, 38(e)



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