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Strengthening the Norm: The Chemical Weapons Convention 2018 Review Conference

In November 2018 the Fourth Review Conference of the Chemical Weapons Convention will be held. It takes place against the background of serious disagreements on the actual use of chemical weapons and how to deal with that usage. This Clingendael Alert offers some insights on how to overcome the disagreements and to make the Review Conference a success after all.

The Fourth [Review Conference](#) of the Chemical Weapons Convention (CWC)¹ will take place in The Hague from 21-30 November 2018. All three previous five-yearly Review Conferences were successful in that they were concluded with consensus documents. Repeating this performance this year faces stiff challenges. The Review Conference takes place against the background of serious disagreements among its States Parties over the recent use of chemical weapons in Syria, Malaysia and the United Kingdom. The re-emergence of chemical weapons and the difficulties in holding the users accountable affect the core norm of the Convention and therefore its essential validity. The main challenge for the participating States Parties at the Review Conference is to prevent these disagreements from overwhelming the unquestionable progress that has been made over the years; progress that benefits all States Parties and that should be continued.

Vital instrument

The Chemical Weapons Convention represents the actual implementation of a high moral idea: a global ban on an entire category of Weapons of Mass Destruction effected through verification and active oversight. It is an instrument that sets an example as to the possibilities in the field of disarmament and non-proliferation that is to a large extent beset with conflicting interests and purposes. The CWC Review Conference has important symbolic value and offers an opportunity, should it be taken, for senior decision-makers in the capitals of the State Parties to focus their attention on the health and future of a vital instrument of global peace and security.

At the time of the First Review Conference, held in 2008, less than 40 percent of declared stockpiles of chemical weapons had verifiably been destroyed. This percentage had risen to 80 percent by 2013 when the Third Review Conference took place. Currently, 96 percent of all declared chemical weapons have been eliminated. With a few exceptions, albeit notable ones, every country in the world is a member (193 in all) and

¹ Officially: The Fourth Special Session of the Conference of the States Parties to Review the Operation of the Chemical Weapons Convention.

therefore bound by the obligations under the Convention.² The domestic implementation of the Convention, which is very important as a deterrence against the misuse of toxic chemicals including for terrorist purposes, has steadily improved. So have programmes in the area of international cooperation. The OPCW's work in the [elimination](#) of the Syrian chemical weapons programme represents one of its toughest challenges. Overall, the Organisation has represented a well-functioning and efficient international body that has delivered on the promise of elevating a vital norm and ensuring the availability of a mechanism to ensure its enforcement as well as effective investigations in cases of breaches.

Essentially, given the juncture at which States Parties find themselves, the Review Conference will have a twofold purpose; on the one hand, to make a clear declaration that the use of chemical weapons remains unacceptable and, on the other, to endorse a road map for the future of the OPCW as the continuing effective guardian of the global norm against chemical weapons.

Reinforcing the norm

A key challenge for the Review Conference will be reinforcing the global norm against chemical weapons, the most important objective for which the Convention was established. In the past few years, the use of chemical weapons has re-emerged on the international stage after an extended period in which this was considered to be a thing of the past. Instances of the use of such weapons have been extensively investigated and the results have confirmed the use of sarin, chlorine and sulfur mustard during the civil war in Syria, VX in Malaysia, and novichok – a chemical weapon that had never been employed before – in the United Kingdom.

These cases of the actual use of chemical weapons have brought universal condemnation but when it comes to attributing responsibility, this has caused political tension and polarisation. If this situation is not redressed the norm will be endangered, as well as the effective functioning of the OPCW. The findings of OPCW inquiries into various chemical weapon incidents have been contested by some States Parties and the OPCW's cooperation mechanism with the United Nations (Joint Investigative Mechanism, or JIM) had to be terminated after a renewal of its mandate was [vetoed](#) in the UN Security Council. As a result of the way in which the international system is structured, the OPCW is limited in what it can do; collective remedial action remains a responsibility for the UN Security Council.

The collapse of the Joint Investigative Mechanism and the inability of the UN Security Council to proceed any further when faced with the documented use of chemical weapons exposed a serious lacuna in the international system – the absence of a legitimate means to identify perpetrators of what the international community otherwise regards as a serious offence. This led to the convening of a special session of the CWC's Conference of States Parties with a single point agenda. Held in June 2018, [this Conference](#) decided to request the Technical Secretariat of the OPCW to develop proposals to strengthen the verification regime of the CWC. Specifically, the Conference asked the Secretariat to put arrangements in place in order to identify the perpetrators of the use of chemical weapons in Syria and also whenever such use occurs in the territory of any State Party. Follow-up action is expected in the week before the Review Conference in November, when a regular Conference of States Parties will be held.

Given that this decision was not adopted unanimously, the CWC's States Parties are facing a major dilemma: how to balance improvements in the verification and accountability mechanisms in the case of the use of chemical weapons, and preventing a further erosion of the tradition of decision-making by consensus that has all along been

2 The only states that have not (yet) signed or ratified the CWC are: Egypt, Israel, North Korea and South Sudan.

so vital to the progress that the Convention has made. For the purposes of the Review Conference, compromises might be necessary and polarized positions may have to be alleviated to a certain extent.

The Review Conference should have no reluctance in strongly condemning any use of chemical weapons and unequivocally reaffirming the validity of the norms set by the Convention. There are similarly a host of consensus decisions that have been adopted by both the Executive Council as well as the UN Security Council that offer elements that can be included in the pronouncements of the Review Conference. In order to seek to restore avenues for productive dialogue over contentious issues, the Conference may consider setting up an *ad hoc* group that will be open to participation by all States Parties in order to look into ways and means of strengthening existing compliance mechanisms.

It is also important for all States Parties to have a strong representation at the Conference with delegations authorised to elaborate the agreements and decisions that are needed. A possible way to encourage wider participation, especially from Asia, Africa and Latin America, would be to offer sponsorship to one or more senior officials from capitals. Similarly, effective civil society participation at the Conference with a well-prepared campaign to raise awareness of the necessity of preserving the norms of the Convention is essential. Here again, any financial constraints that non-governmental organisations face could be mitigated through sponsorships.

Roadmap for the future

An issue that has now been under discussion for some time, but was overshadowed by the gravity of threats to the Convention's fundamental norms, relates to making the OPCW fit for the future. That the OPCW has been very effective in the past 20 years is generally recognised and appreciated. Yet, the recognition of past achievements is no guarantee for future support. With the verification of the chemical disarmament of all of its States Parties almost completed, a

major objective of the Convention will soon be fulfilled. This part of the OPCW's mission was also the most resource demanding. However, reductions in the size and budget of the OPCW, justified on account of the diminished verification of destruction, could seriously harm its institutional expertise and knowledge base which has accumulated over the years, and therefore hamper the ability to efficiently carry out the other important mandates of the Organisation. To remain relevant, the OPCW will have to [shift its focus](#) from chemical disarmament towards preventing the re-emergence of chemical weapons, including by non-state actors. Without changing the organisation's priorities, in the longer term the OPCW could face indifference, if not neglect, by its States Parties, with the risk of becoming increasingly marginalised as an international institution.

So far, there seems to be relatively little disagreement that the OPCW needs to reprioritise its work and to focus on preventing the re-emergence of chemical weapons, which is a more complex undertaking than mere disarmament. Yet, the initiative in this regard has until now largely come from the OPCW Technical Secretariat with States Parties mostly reacting. The Review Conference offers an opportunity to establish a roadmap for the OPCW's future. It is important for States Parties to seize this opportunity. Review Conferences bear the risk of becoming rituals where the lowest common denominator becomes the convenient basis for consensus, but States Parties can also use the opportunity to insert substance and purpose into the discussions by formulating and submitting constructive proposals to establish this roadmap for the future.

There is already a substantial collection of documents that have been issued by the Technical Secretariat regarding future priorities. The Open Ended Working Group on Future Priorities has submitted its own [recommendations](#). States Parties could submit their working papers for the Review Conference covering various issues indicating their own perceptions and recommendations regarding the way forward. This will ensure that discussions

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and preparations for the Review Conference do not merely regurgitate known positions but can focus on result-oriented outcomes. Again, it is important that all State Parties join the debate on the future of the OPCW, because the Convention serves universal goals and offers security benefits to all countries. They must all have a say in how the future of the OPCW will be reshaped.

Postponing decisions regarding the adaptation of the OPCW for the 'post-disarmament era' risks undermining political support for its longer-term survival. That, in turn, would be a real loss for the international community, considering that the OPCW has been an active and relevant player in the field of global chemical weapons arms control, and has the capacity to continue to do this in the future as well. The unique expertise of the OPCW in keeping the world free from the use of chemical weapons should not be allowed to dissipate, especially in times when the global norm against these weapons seems to be eroding.

Trust & strengthen the Technical Secretariat

Amid the political tensions of the past few years, including some State Parties publicly [criticizing](#) the quality of the verification work of the OPCW, it is important to emphasize the independence, neutrality and expertise of the Technical Secretariat of the OPCW. Hopefully, the States Parties participating in the Review Conference will underscore their trust in the Technical Secretariat.

Independent advisory boards working with the Technical Secretariat, such as the Scientific Advisory Board ([SAB](#)), can provide useful information for the States Parties participating in the Review Conference. The SAB traditionally submits its recommendations to Review Conferences. There is already a substantial amount of work that the SAB has done regarding issues that impact the future of the OPCW and its verification regime. Efforts to improve channels of communication in order for the SAB's technical work to be better understood by policy makers could be accelerated.

Although the OPCW's successes in the past 20 years can at least be partially explained on account of it being considered a 'technical' organisation and therefore immune from the usual political conflicts, the political environment has changed. Every move that the OPCW makes is now viewed from a political prism. In order to restore objectivity and an unbiased scrutiny of the work of the OPCW, it is important to take the message of the Convention far and wide beyond the specialist circle of diplomats and arms control experts. This is particularly true since many States Parties are facing budget constraints and looking to cut costs which, as argued earlier, would be seriously detrimental to the implementation of the Convention's permanent prohibitions.

Therefore, apart from the critical issue of holding to account those who use chemical weapons, it is also vital for the OPCW to demonstrate that it is ready and capable of making the 'switch' from chemical disarmament to long-term prevention that includes both non-proliferation and effective action against the pervasive threat of chemical weapons terrorism. To make a compelling case, the OPCW (backed by its States Parties) should be able to prove that it has both the resources and practical capabilities to support the prevention of the re-emergence of chemical weapons, including chemical terrorism. From this perspective, it is also important to strengthen the public outreach of the OPCW. Currently only a very small group of stakeholders is involved in (and aware of) the OPCW. Enlarging this group will be key to maintaining political and financial support as well as the requisite scientific know-how in the near future.

Conclusion

The CWC Review Conference in November 2018 is not just a regular gathering of States Parties. Following some years of serious turmoil, the main challenge for the Review Conference is to end the gradual erosion of the global norm against chemical weapons. Moreover, in order to make the CWC and the OPCW fit for the future, a shift in focus from chemical disarmament towards preventing

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the re-emergence of chemical weapons is desired. Hopefully, all 193 States Parties will send strong delegations and demonstrate their emphatic support for the CWC in all its aspects.

The key to success for the Review Conference would be for delegations not to press known positions on specific issues without compromising on basic and agreed principles. Moreover, it is important to elevate discussions on future priorities with a view to providing clear guidance for the Technical Secretariat on what to implement in the next five years, thus providing a positive impetus for the OPCW's transition. It has taken decades for the norm against chemical weapons to acquire the status of inviolability. Political divisions can heal over time. However, institutional damage is difficult to repair. It is crucial to contribute to restoring the atmosphere in which the OPCW is allowed to function as an impartial and independent entity contributing to the shared goals of international peace and security.

About the Clingendael Institute

Clingendael – the Netherlands Institute of International Relations – is a leading think tank and academy on international affairs. Through our analyses, training and public debate we aim to inspire and equip governments, businesses, and civil society in order to contribute to a secure, sustainable and just world.

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In October 2017 the Clingendael Institute published a report (commissioned by the OPCW) entitled '*Chemical Weapons Challenges Ahead: The Past and Future of the OPCW. With a Case Study on Syria*'. The report can be downloaded [here](#).

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