

**EFFECTIVE IMPLEMENTATION  
OF THE  
CHEMICAL WEAPONS CONVENTION**

**Routine Inspections and Inspection Hours**

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## Routine Inspections and Inspection Hours

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The text of the Verification Annex (VA) of the Chemical Weapons Convention (CWC) briefly touches on the time allocated to a routine inspection of an industrial facility.

In Schedule 2 it states that: 'The period of inspection shall not last more than 96 hours....' The inspection period for Schedule 3 is: '... not last more than 24 hours....' and when inspections are implemented for other chemical production facilities the inspection time is again 24 hours. In all cases there is the provision that 'extensions may be agreed between the inspection team and the inspected State Party.'

As required by Article VI, 'each State Party shall grant to the inspectors access to facilities as required in the Verification Annex' but there are specific rules that the inspectorate must follow in the manner in which they conduct an inspection. In particular, 'The activities of the inspection team shall be so arranged in a way as to ensure the timely and effective discharge of its functions and the least possible inconvenience to the inspected State Party or to the facility or area inspected.'

It would be pertinent to consider and agree on the meaning of a 96 hour inspection and a 24 hour inspection given that such inspections must be carried out in a way that inconveniences to the plant site to the smallest extent possible, i.e., the inspection must complete its in-plant activities in as short period as practical and so presumably within normal working hours of a chemical plant. It is likely that, due to the nature of the production activities, a chemical plant will either operate:

- continuously; or
- a working day of say ten hours.

It is also likely that small volume chemicals will be produced, processed or consumed in a non-continuous batch process as business circumstances require.

Any inspection scenario requires the presence of the national escorts and a designated senior member of the plant's management team who can instruct plant workers to carry out the instructions of the international inspectors after it is agreed that the tasks are necessary to the conduct of the inspection.

It then becomes necessary to agree on the actual elapsed time that an inspection team may spend at an industrial site assuming that the inspection becomes more complex than anticipated.

If we assume that 96 hours means that there are four working days that the team can spend on the facility grounds, then this means that the team will be restricted to the normal working day of that facility. If we have a ten hour day where senior manager are available then the inspectors will have access to the plant for 4 working days x 10 hours or 40 hours in a so-called 96 hour inspection and for 10 hours for the corresponding 24 hour inspection.

In addition to the requirements of the CWC industrial facilities are governed by a number of legislative acts relating to health, safety and environment. These acts and regulations often limit the hours that any individual can work and where they must work as teams. In the case of Schedule 2 facilities it is likely that the extent of a working day can be agreed upon and the actual access needs of the inspection team but in the potentially intense 24 hour inspection, particularly where there is no previous experience

of an OPCW inspection nor a concluded Facility Agreement, the question of available time for an inspection becomes very important.

It is more than obvious that for Schedule 3 and DOC facilities, in the absence of a Facility Agreement, the PrepCom must find an agreed and workable solution for this problem.

## Inspection hours and national implementing legislation

It goes without saying that the national regulations regarding inspection hours must comply with the respective regulations of the CWC. However, any uncertainties about the understanding of the inspection hour regulations in the CWC may cause as well a problem at the national level.

If we assume that the understanding of inspection hours for a Schedule 2 facility are meant to be continuous this would, at least in principle, require that inspection team must be given access to a site at any time during the in-country period if so requested by the inspection team. This would mean that an inspection team could also request access outside the regular business and working hours, i.e. during hours where senior management personnel will be available. However, it must be stated that inspection scenarios currently developed within the PTS envisage relatively short periods of on-site inspection hours in Schedule 2 facilities and that inspections normally would take place during regular business and working hours. However, from the perspective of future OPCW inspectors the CWC imposes no restrictions in this respect. The only restriction follows from the overall obligation to conduct inspections in a timely and effective manner and to minimize the inconveniences for the inspected State Party or facility to the extent possible.

In this context it is interesting to note that the German Implementation Act explicitly restricts the conduct of routine inspections to 'regular business and working hours'. The way the terms is used implies that this will require the availability of senior management personnel. Thus, under this regulation inspections would be possible at least during 10-12 hours per day. Thus, under the Act an inspected facility could reject access to a facility outside these hours. If we assume that the above stated interpretation of the rules of the CWC is correct, it becomes apparent that there could arise a conflict between the national regulations and those of the CWC. Finally, it should be mentioned that with regard to the CFE treaty Germany made a reservation that inspections could only take place during regular working and business hours.