

**EFFECTIVE IMPLEMENTATION  
OF THE  
CHEMICAL WEAPONS CONVENTION**

**The Role and Function of a National Inspector in the  
National Authority under the CWC**

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# The Role and Function of a National Inspector in the National Authority under the CWC

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## I. Introduction

This paper is concerned primarily with demonstrating compliance with obligations acquired under Article VI (Activities not prohibited under this Convention) and concentrating on the tasks that inspectors of a National Authority would have to undertake under the relevant parts of the Verification Annex (i.e., Part II, General rules of verification; Part VII, Regime for Schedule 2 chemicals and facilities related to such chemicals; and Part VIII, Regime for Schedule 3 chemicals and facilities related to such chemicals). Since no inspections under Part IX (Regime for other chemical production facilities) are anticipated until the beginning of year 4 after entry into force of the CWC, that part is not addressed in this report. Part VI is also not discussed since Schedule 1 chemicals are unlikely to be of concern for a civilian agency in the first instance, (i.e., in that case inspectors (escorts) will likely be provided by a military agency). Some consideration is given to the obligations of a State Party regarding Part IV (B) of the Verification Annex (Old chemical weapons (CW) and abandoned chemical weapons).

## II. The Verification Annex

### **General issues**

Article VII of the CWC is concerned with the national implementation measures required of a State Party in order that it may fulfil its obligations under the Convention. In particular, it has to designate or establish a National Authority for this purpose. If a state does not possess CW, the major tasks of a National Authority involve Article VI and its annexes. There are two aspects to consider: (a) the declarations made under Article VI and (b) the routine, random inspections of declared sites.

This paper is only concerned with the staff involved in escorting the International Inspectors of the Organisation for the Prohibition of Chemical Weapons (OPCW) (the tasks for the personnel involved in providing declarations to the OPCW will not be discussed). This group (referred to as escorts in the CWC) has, in fact, a much broader role to play in demonstrating compliance with the CWC and its annexes. Any information required by the International Inspectorate during an inspection could only be acquired by and through the representatives of the National Authority present, that is, the

national inspectors (escorts). It follows that these individuals will need to have considerable understanding of the CWC, the national obligations and the specific industrial plant sites under inspection. This implies a knowledge of the industrial processes involved, the regulatory nature of the CWC and national implementation legislation, and an ability to convey to the industrial operators both their rights and obligations during an industrial inspection.

The competence of the national inspectors will need to be similar to that of the OPCW inspectors. They will be required to have detailed knowledge of all facilities that produce, process and consume Schedule 2 and 3 chemicals above the specified threshold, since these plant sites will be liable to on-site inspections. (There are three parts of the Verification Annex of which the national inspectors will be required to have detailed knowledge of—Parts II, VII and VIII. )

In general, an inspection starts with notification of the intended arrival of the OPCW team at a point of entry (POE) so that it can reach the inspection site within a further 12 hours. This is where the duties of the national inspectors start. The OPCW team will bring with it 'such equipment which the Technical Secretariat has determined to be necessary to fulfil the inspection requirements'. The national inspectors have the right to inspect this equipment and ensure that it meets the description of the equipment approved for that particular type of inspection.

Upon arrival at the actual inspection site there is a requirement that the OPCW team has to be briefed by a 'facility representative', who would require prior training by the National Authority.

The activities of the international inspection team are governed by the inspection mandate provided by their Director General, a Facility Agreement, where applicable, and the respective provisions of the Convention. The escorts must ensure that the inspection is carried out with the least possible inconvenience to the facility and that the facility operators are aware of their rights under the Convention. In particular, the OPCW team cannot operate any part of a facility but should request that certain operations be performed, if needed, to fulfil their mandate. All inspection activities will be carried out with national inspectors present. Samples required by the OPCW team will normally be collected by the staff of the facility under supervision, with the escort team retaining a portion for the State Party. Any extension of the duration of an inspection will require the approval of the National Authority. At the end of the inspection the OPCW team will present its preliminary findings to the national inspectors representing the State Party. The general provisions for inspections apply unless an alternative procedure is provided under other parts of the Verification Annex. Parts VII and VIII provide such procedures for Schedule 2 and 3 chemicals.

## Schedule 2 requirements

The initial declarations of a State Party will provide information on all Schedule 2 chemicals produced above the threshold<sup>1</sup> and data on the number of plant sites and plants that should undergo an initial inspection within the first three years after entry into force of the CWC.

Verification of Schedule 2 declarations will involve on-site inspection of all plant sites and its plant(s) that have produced, processed or consumed any such chemicals during the three calendar years before entry into force (EIF) or which anticipate any of these activities in the following calendar year. The Technical Secretariat will give priority to Schedule 2 facilities over the first three years after entry into force of the Convention. The aims of these on-site inspections are to verify that Schedule 2 activities are in accordance with a States Party's obligations under the CWC which, *inter alia*, include the absence of Schedule 1 chemicals, consistency with declarations and non-diversion. Each plant site will receive an initial inspection at which time a Facility Agreement for the plant site will be negotiated by the OPCW and the National Authority. This should be agreed upon not later than 90 days after the inspection. In general, access by the OPCW inspection team to other parts of the plant site will be granted in accordance with the negotiated Facility Agreement. The National Authority will have a minimum of 48 hours notice of any given inspection and the inspection cannot last more than 96 hours.

## Schedule 3 requirements

Initial and annual declarations are required for all plant sites where more than 30 tonnes of a Schedule 3 chemical were produced in the past calendar year or are anticipated to be produced in the following calendar year. Verification will involve on-site inspection at plants where production is in excess of 200 tonnes aggregate above the declaration threshold. The inspection aim is to verify that the activities are consistent with the information provided and that no Schedule 1 chemical is present. There will be no Facility Agreement unless requested by the State Party. The OPCW team will focus on the declared Schedule 3 plant(s) but may request access to other parts of the plant site on the basis of negotiation with the national inspector present. Access to records, sampling and on-site analysis will also be subject of negotiation. The State Party will receive a minimum notice of five days before the inspection takes place and the inspection cannot last more than 24 hours without further agreement of the national inspector. Inspections of Schedule 3 facilities will have a lower priority than inspections of Schedule 2 facilities, especially during the first three years. The maximum number of inspections (including 'other chemical production facilities') is 3 + 5 per cent of the total plant sites

<sup>1</sup> The thresholds for Schedule 2 declarations are: Schedule 2A\* = 1 kilogram, Schedule 2A = 100 kilograms and Schedule 2B = 1 tonne.

declared to an overall limit of 20 inspections. No individual plant will receive more than two inspections per annum.

### **Old and abandoned Chemical Weapons**

Within 30 days after entry into force of the CWC, every State Party with old or abandoned CW on its territory has to provide data on these weapons to the Technical Secretariat. If a State Party has abandoned CW on the territory of another party, it also has to submit relevant information. This information shall include, to the extent possible, information on the location, type, quantity and the current condition of the CW and will be verified by the Technical Secretariat through initial inspection later. The purpose of this inspection is to: (a) verify the information submitted, (b) determine whether the CW meet the definition of old CW, (c) verify the origin of the abandoned CW, and (d) establish evidence concerning the abandonment and identity of the abandoning state. After the initial inspection the 'usability' of the old or abandoned CW has to be determined.

## **III. The tasks of the National Authority**

### **Inspector (escort)**

The National Authority personnel will escort the inspection teams from the OPCW. The following discussion is initially limited to Schedule 2 and 3 inspections of a routine nature at declared facilities and an assessment of the tasks involved together with the skills required. The in-country escort of an OPCW team, the 'national inspector' will need to have detailed knowledge of all Schedule 2 and 3 facilities that: (a) provide declarations to the National Authority, and (b) are liable for on-site inspections because they produce chemicals above the specified threshold levels.

Before any inspection takes place the national inspectors will have to be familiar with all of the State Party's declared plant sites and plants. They will have to be familiar with the OPCW's inspection processes, as well as having the requisite technical competence (or access to it in other government departments). They will have to be able to carry out negotiations with both the inspection team and the facility operators. They will act as the States Party's interface with the OPCW inspection team and will also have a major responsibility to industry involved in the production, processing and consumption of scheduled chemicals. Later their activities will extend to the producers of other 'discrete organic chemicals'.

During the first three years inspection assignments will involve the following:

- Schedule 2 (i) Initial Inspections,  
(ii) Facility Agreements, and  
(iii) Annual Inspections,
- Schedule 3 (i) First Inspections,  
(ii) Facility Agreements (if requested), and  
(iii) Annual Inspections.

The activities of national inspectors during an inspection process can best be seen by reviewing the activities of the OPCW inspection team and noting that the inspected State Party has the right to observe all verification activities. The national inspectors will have 48 hours notice of a Schedule 2 inspection (this includes the 12 hours after arrival at the POE of the inspection team). In that period the National Authority will have to review all documentation provided to the OPCW on that facility to review the accuracy of the appropriate declarations and any other information on the facility held by the National Authority. The other pre-inspection activities will involve: (a) reviewing the notification sent by the Director General to the State Party concerning the nature of the inspection and the size of the inspection team, (b) notifying the facility that it will be inspected in the next 48 hours, and (c) preparing the pre-inspection briefing with the facility personnel who will be responsible for delivering it.

After the pre-inspection briefing, the OPCW team begins its inspection using the rules of inspection which form part of the Verification Annex to the CWC. These are based on delicate negotiations and must be adhered to. The Technical Secretariat will actually work from an Inspection Manual that is being developed by the PTS and will be approved by the Preparatory Commission (PrepCom). The role of the national inspector(s) in this process is to ensure that:

- (a) the OPCW team limits its activities to those required to verify compliance;
- (b) the inspection team carries out the on-site inspection in the declared location and only visits other locations at the plant site either after on-site negotiations or under managed access rules, unless a Facility Agreement already exists;
- (c) the industrial operator is fully aware of its rights and obligations under both the CWC and national implementing legislation; and
- (d) no confidential business information (CBI) unnecessarily leaves the site and that which does only leaves in a secure manner with an appropriate 'paper trail'.

It is assumed that the inspection process will eventually fit into the time frames suggested by the CWC, but initial inspections and the negotiation of Facility Agreements will almost certainly require more time on the part of both the facility management and the national inspector(s). In fact, early National Trial Inspections have shown this to be the case. The national

inspector(s) will have to negotiate extensions of on-site inspections if there are problems with verification of compliance by the OPCW team in the time frames allocated. This extension is not a right and needs to be clearly demonstrated by the OPCW team.

There are two final aspects of the inspection: the debriefing where the OPCW team supplies its preliminary report, and a listing of all samples and written information that it wishes to take off-site. There may be disagreement over the latter issue, but the debriefing meeting will have to be completed within 24 hours of the termination of the inspection when the preliminary report of the OPCW team is initiated by the National Authority.

The final report of the OPCW team should be in the hands of the National Authority within 10 days, and it has 30 days to add annexed comments to the report and sent it to the Director General of the OPCW.

The above illustrates the general outline of an inspection process. The difference between Schedule 2 and 3 does not relate to inspection methodology; the differences relate to inspection aims, possible lack of a Facility Agreement, the length of the inspection period and time of notification.

In the case of Schedule 2 facilities and, by request of a State Party, for Schedule 3 facilities a Facility Agreement will have to be negotiated for each declared plant site and this will require both legally and technically qualified personnel from the National Authority side. It is likely that negotiating a Facility Agreement will require three phases to complete: (a) initial discussions between the management of the plant site (or their representatives) and the National Authority represented by national inspectors; (b) preliminary negotiations between the National Authority and the OPCW team; and (c) final agreement on the Facility Agreement between the National Authority and the OPCW after further discussions between the national inspector(s) and the plant site management.

In the absence of a Facility Agreement, as under Schedule 3, such inspections will be carried out on a 'managed access' basis. This requires a step-by-step negotiation on the extent of access between the OPCW team and the national inspector(s) acting for the State Party as well as the facility operator. In the industrial context, this means ensuring the security of CBI as described in the Confidentiality Annex.

The inspection activities of national inspectors can be summarised as follows: (a) notification, (b) pre-inspection process, (c) meet OPCW team at the POE, (d) briefing of OPCW team, (e) overseeing all inspection activities, (f) transmitting requests from the OPCW team to facility representatives, (g) debriefing and discussion of preliminary findings with the OPCW team, (h) escort OPCW team to POE, (i) review and comments on the final report, and (j) annexed comments to the OPCW.

### **Inspectors (skills)**

It is necessary to determine the skills required in a team of national inspectors. There will be a need for: (a) technical skills, (b) understanding of regulatory processes in the chemical industry as well as the CWC, (c) the ability to explain rights and responsibilities to facility employees relative to the CWC and national legislation, (d) the ability to negotiate with the OPCW team, especially for initial inspections, managed access and Facility Agreements, and (e) the knowledge of the country's implementation legislation.

Inspectors skill might involve:<sup>2</sup>

- (a) Leadership, planning, administration;
- (b) Engineering, chemistry, equipment and operation, understanding of statistics, health and safety (environment), confidentiality, industrial auditing, report writing;
- (c) Interpretation and translation, interviewing, data recording; and
- (d) Law, regulations and negotiations.

Any training of national inspectors should center on: (a) verification principles and the CWC, (b) technical skills required to oversee inspections, (c) administration, and (d) a knowledge of regulatory processes in the chemical industry. The background training for a national inspector would be a degree in chemistry (usually industrial, analytical or organic), engineering (chemical, process or mechanical), industrial accountancy, law or business administration and previous experience either in industry or in a regulatory environment.

### **IV. Estimate of inspector (escort) requirements**

It is unlikely that a National Authority would be able to ensure that it could 'observe all verification activities carried out by the inspection team' with only one inspector present especially since the National Authority is responsible for all administrative arrangements for the inspection team at very short notice (e.g., communications, interpretation, transportation and the like). In addition to the fact that it is unlikely to find the mix of skills required to escort an OPCW inspection team in one individual, it is necessary to ascertain the minimum number of national inspectors required to 'escort' an inspection team. To answer this appropriately requires an indication of the size, composition and tasks of the OPCW team.

<sup>2</sup> PrepCom report PC III/B/WP.3, May 1993, a report on 'Inspection team composition'.

### Team size

In terms of an escort group which has to 'observe' all the verification activities described, the OPCW<sup>3</sup> team can be considered to fall into three groups based on required skills:

Group A	Team management	2
Group B	Operational group	7
Group C	Support group	3

The operational group activities can also be subdivided into engineering, chemistry and industrial accounting. Based upon this assumption it can be suggested that a need for 3 to 5 national inspectors would be required to escort an OPCW inspection team:

Group A	1 inspector to carry out negotiations with the team leader and make specific requests to the facility operator;
Group B	3 inspectors to cover engineering, chemistry and accounting exercises; and
Group C	1 inspector to cover the administrative requirements of the inspection including interviews, translation, etc.

In principle, this number could be reduced by having one inspector cover more than one function, but no individual can be in more than one place at a time. For the purposes of this paper, it is assumed that there will be a need for a minimum of four national inspectors at an initial inspection whether it is a Schedule 2 or 3 facility. This is, of course, the minimum staffing required.

### Workload

The number of national inspectors required by a State Party is a function of the overall workload and the number of routine inspections generated by: (a) Schedule 2 facilities, (b) Schedule 3 facilities and, later, (c) discrete organic chemical producers. It is important to estimate the number of days an inspector actually can spend in the field escorting OPCW inspection teams. Until there is a specific legal requirement for producers, processors and consumers to declare their activities related to scheduled chemicals, the best estimates only include producers and consumers involved in national producer organisations.

If the number of plant sites under Schedule 2 is 'X' and the number under Schedule 3 is 'Y' and if the assumption is that the OPCW will attempt to cover both the schedules plants in the first three years after entry into force then the number of inspection days are:

Schedule 2:	(X) x 96 h	= (X) x 4 days
Schedule 3:	(Y) x 24 h	= (Y) days

<sup>3</sup> PrepCom report PC III/B/WP.3, May 1993, a report on 'Inspection team composition'.

As far as Schedule 2 is concerned, there is a requirement for all sites to undergo initial inspection and to prepare for a Facility Agreement to be signed by the OPCW and the State Party within the next 90 days, and to decide on the frequency and intensity of subsequent inspections. Additionally, the inspections must be unpredictable or random, and no individual plant can be inspected more than twice per annum.

For Schedule 3, the first inspection of any site will be the initial inspection, but the Technical Secretariat's selection procedure will be purely random except as related to geographic distribution. A risk assessment will also be implied in the inspection Schedule, and a Facility Agreement may be requested by the State Party. Again, a plant site will not be inspected more than twice a year.

For the number of inspections related to Schedule 3 and 'other chemical production facilities' the CWC provides the general formula:

3 + 5 per cent of the plant sites declared (under Schedule 3 and 'other' facilities) per calendar year to a maximum of 20 inspections.

If this number is estimated and equal 'Z', the number of inspection days for Schedule 3 would be based upon the following estimate:

$$(Z) \times 24 \text{ h} = (Z) \text{ days}$$

It is obvious that the application of the formula for the number of inspections will reduce the inspections on Schedule 3 facilities.

## V. Other inspection activities

The average industrial work load is approximately 220–240 days per annum, but there will be a requirement to have inspectors available for 365 days per annum (i.e., there is a factor of ca. 1.6 to 1.8 to bring a national inspector complement up to the number required to cover all possible industrial inspections). There are also, in many countries, health and safety regulations which involve: (a) a number of continuous working hours for an individual, and (b) work situations where no individual may work alone.

It is also necessary to assess how many days an inspector would actually be available for escort duties. Past international practice suggest that an inspector would be 'on-site' for 40–50 days with a target of 100 days in the field.

This leads to the assessments of other tasks that would require inspector skills. Amongst these are: (a) analysis of other States Parties declarations on scheduled chemicals and plant sites, (b) challenge inspections, (c) industrial training and liaison, (d) assisting the State Party's delegation to the OPCW, (e) assisting other State Party's National Authorities, and (f) liaison with military agencies re-inspections (single small-scale facilities).

If a country has old or abandoned CW the workload for the national inspectors will increase, because the Inspectorate will perform certain inspection related to these weapons, too.