I would like to thank the organizers for inviting me to speak on this panel. The Arms Control Association is a non-governmental organization based in Washington D.C. that has been promoting more effective arms control agreements for almost 40 years. In our monthly journal Arms Control Today, many leading experts, some of which participating in this conference, have been analysing the challenges facing the Chemical Weapons Convention (CWC) in-depth from the very early days of the convention. In addition, we regularly report from The Hague on meetings of states parties and developments at the Organization for the Prohibition of Chemical Weapons (OPCW). It is from the latter perspective, rather than from a technical point of view, that I would like to make a few observations on the subject of this conference, that is achievements of the CWC and challenges facing the treaty.

1. Achievements of the OPCW and the CWC

The main achievement of the Chemical Weapons Convention is that it demonstrates that weapons of mass destruction can be verifiably and comprehensively prohibited. The CWC embodies the taboo against chemical weapons and it has been key in making sure that chemical weapons are no longer legitimate means of warfare.

The OPCW creates the necessary trust that member states are not violating the core obligations of the convention. This is no small task because out of the three categories of weapons of mass destruction, abolition of chemical weapons is by not necessarily the easiest case. Unlike biological weapons, chemical weapons had become engrained into the Cold War system of deterrence. And verification of chemical weapons nonproliferation requires the monitoring of thousands of relatively small facilities around the world that could be misused for hostile purposes, whereas in the nuclear nonproliferation regime there are a few hundred facilities that need to be verified. So from an international security and verification point of view, successful implementation of the CWC is a giant step forward.

These accomplishments are particularly important against the background of the current debate on whether a world free of nuclear weapons can ever be attained and verified. Despite all the differences between chemical and nuclear weapons, the OPCW's core message is “Yes, we can!”

Another achievement is that the OPCW itself has overcome severe internal crises. After the dismissal of his predecessor, Director General Rogelio Pfirter has steered the organization back on solid ground from which it now needs to tackle the challenges that lie ahead. Despite the difficulties it faces, the organization is in very good shape.

2. Challenges facing the OPCW and the CWC

Diplomats in The Hague are rightly proud of the spirit of consensus that is present in the
OPCW. There has been only one decision in the history of the organization that has been taken by a vote rather than by consensus. Yet, this spirit of consensus can sometimes make it difficult to take adequate action on issues that are important yet also potentially divisive politically.

These potentially controversial issues include two of the most important political challenges facing the convention, namely

1. how ensure that new technical developments do not undermine the general purpose criterion, and
2. how to adjust the verification regime to changing economic and political realities at a time when the verification of destruction activities is bound to become relatively less resource-intensive.

There are other important challenges facing the convention, particularly how to deal with the fact that the United States and probably Russia will not be able to meet the 2012 destruction deadline. But this is a technical and legal issue, rather than a political problem. Nobody seriously doubts the political commitment of possessor states to eliminate existing stocks. That is why this problem is not affecting the core of the convention, the taboo against chemical weapons.

By contrast, the question of how to deal with novel technological developments that could undermine the general purpose criterion is a deeply political issue. Several states parties are apparently interested in using novel riot control agents in the context of peacekeeping or antiterrorism operations. Some have already done so in the past. Such operations are constantly becoming more important, thus creating a new demand for toxic agents to be used in such scenarios. At the same time, new technological developments are making it possible to develop ever more capable incapacitants and riot control agents. Discussions at the last review conference have shown that many states parties and certainly non-governmental organizations (NGOs) see a need to clarify two questions:

- What are the permitted circumstances under which toxic chemicals may be used for riot control and domestic law enforcement?
- Which agents may be used for such purposes?

Should these questions not be clarified, there is a real danger the resulting ambiguities may be exploited to expand the use of toxic chemicals and the norm against the use of chemicals for hostile purposes may slowly erode.

Reforming the CWC’s verification system is another political challenge that can weaken the convention. A range of problems lies ahead. States parties need to make sure that

- the OPCW will continue to strengthen its nonproliferation regime as the task of monitoring chemical disarmament is losing relative importance,
- the rising number of modern production facilities that can easily be misused for prohibited purposes are adequately monitored and
- novel verification techniques and technologies are used by the OPCW inspectorate.

So far, the reaction of states parties to these problems has been insufficient. At most, member states were able to discuss incremental measures to address these problems. In the case of non-lethal weapons, the second review conference was unable to even agree on a modest Swiss proposal to “launch a discussion of the ambiguities of the Chemical Weapons Convention regarding riot control agents, and the lack of provisions pertaining to incapacitating agents.”[1] Any mentioning of the issue was deleted from the final document, following a last minute intervention by Iran.[2]

Likewise, the reform of the verification system is also proceeding too slowly. There are a number of reasons why such an incremental approach may turn out to be insufficient. Reorienting the verification system takes time, not least because adequate training of inspectors cannot be done on
short notice. There is also the danger that the OPCW could suddenly find itself in a crisis because a state party successfully evades the system of routine inspections. It was such a crisis after the discovery of Iraq’s nuclear weapons program that triggered a reform of the International Atomic Energy Agency’s safeguards system in the early 1990s. It is to be hoped that the OPCW will never find itself in a similar situation of having to admit that its routine inspections failed to uncover a major clandestine effort to develop weapons of mass destruction.

3. What is to be done?

It seems increasingly clear that addressing both challenges requires political leadership, ideally from one or several influential countries within the regime. The reasons why this leadership has largely been lacking are fairly obvious: Some states are putting their own narrow economic and national security interests before the good of the convention. Reforming the verification regime touches on economic interests, particularly in developing countries and emerging economies. Other states believe that a clarification of the restrictions on the use of incapacitants and riot-control agents could restrict the conditions under which they might in the future use so-called non-lethal weapons.

Looking at the experience in other international organizations, change usually comes as a result of either a deep crisis or because influential coalitions of states demonstrate the political will to push for reforms. Such coalitions of the willing, which ideally cut across regional groups, have induced change in a number of other arms control regimes.

There is a particular role for the EU in tackling the challenges facing the convention. The EU has repeatedly stated that it is concerned about the challenges facing the verification system and it has highlighted the importance of not using riot control agents for purposes prohibited under the convention.[3] The EU itself is already a coalition of like-minded states and therefore in a perfect position to push for political reforms aimed at keeping the implementation of the convention up-to-date.

As Ambassador Pfirter has demonstrated, the Director General can also play an important role by constantly reminded states parties that complacency on controversial issues can seriously affect the operation of the convention and by making specific proposals for the solution of such problems. It is to be hoped that the new Director General will continue to do fulfill both functions.

Last but not least, non-governmental organizations have an important role to play in supporting the convention. Where necessary, NGOs need to report on the lack of action by states parties but they also can assist CWC members by outlining ways to overcome the challenges the convention faces. If necessary, NGOs can try to create public pressure to induce states to act.

4. Conclusion

Two years ago, the Arms Control Association published a reader for the review conference, which contained a range of contributions from leading experts on the implementation of the CWC.[4] The introduction to that reader was titled “No Time for Complacency: Adapting the Chemical Weapons Convention for the Future.” The main thrust was a call on states parties to tackle some of the difficult challenges that face the convention today and in the future.

Not enough has happened in this regard at the second review conference and very little since. But fortunately the OPCW and CWC are strong enough to endure a controversial, open and transparent discussion on these and other issues that could affect the operation of the convention and – in the end might undermine the taboo against chemical weapons. – OLIVER MEIER


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