

24 July 2018

ICCA Position Paper for the Fourth Review Conference

“...achievements in the field of chemistry should be exclusively for the benefit of mankind...” (CWC Preamble)

A. ICCA at a glance

The International Council of Chemical Associations (ICCA) is the world-wide voice of the Chemical Industry, representing chemical manufacturers and producers all over the world. Today, the global chemical industry is a \$ 4 trillion enterprise that impacts nearly every sector of the economy, having businesses in virtually every nation, driving innovation in six continents and supporting more than 20 million jobs. Homepage: www.icca-chem.org.

B. Introductory comments

As an important stakeholder and partner of the CWC, ICCA welcomes the opportunity to provide input into the deliberations of the 4th Review Conference. Throughout the negotiations and subsequent entry into force of the CWC, the Convention received the full and unconditional support of the global chemical industry. The member associations of ICCA reaffirm their commitment to implementation of the CWC at the domestic and international level.

Industry’s support of the CWC is a natural extension of its globally recognized and award-winning Responsible Care[®] program. Responsible Care is a global commitment to manage chemicals safely throughout their lifecycle in ways that help achieve the World Summit on Sustainable Development’s goal that “all chemicals will be produced and used in ways that minimize risks for human health and the environment.”

In the negotiations that led to the CWC, the chemical industry has considered itself not only as subject to verification activities, but also as a partner and resource to governments and the OPCW. Chemical industry representatives have - in their individual capacities or as members of associations and companies - supported the work of the OPCW in many ways. The “Associate Programme”, the participation in subsidiary bodies - such as the Scientific Advisory Board (SAB) and the Advisory Board on Education and Outreach (ABEO) -, the attendance of experts in workshops, and the support of the “The Hague Guidelines,” among others, illustrate the industry’s long commitment to the CWC.

ICCA believes it should be a priority to involve the chemical industry whenever issues arise before the OPCW that have an impact on commercial activities, including verification. In our view, the establishment of a structured dialogue between the OPCW and ICCA (Joint Steering Committee OPCW/ICCA and Chemical Industry Coordination Group) has proven to be very successful. It should be further explored how formal and informal engagement can be expanded, e.g. in the “Industry Cluster”.



C. Future Priorities of the OPCW from ICCA point of view

1. Focus of OPCW activities

As the destruction of the declared stockpiles of chemical weapons is nearing its end, discussions about future priorities have begun. However, as the events in Syria, Malaysia and the UK have shown, the OPCW needs first and foremost to maintain a robust capacity to analyse, investigate, respond to and provide assistance in the case of use of chemical weapons or any other activity related to chemical warfare agents.

Although the CWC considers that other areas of activity might be developed under Article XI, the main focus of the OPCW should remain on the eliminating and preventing the use of chemistry for weapons purposes. Industry outreach activities, e.g. promoting chemical safety and security, should build on existing programs, such as the Strategic Approach to International Chemicals Management, sponsored by the UN Environmental Programme, or Responsible Care®, including its Security Code, in order to avoid duplicating efforts.

2. National implementation and universality

Even more than 20 years after entry into force of the CWC, there is still a lack of full implementation in many States Parties, and key countries remain outside of the CWC. This has at least two consequences. First, it makes it easier for States Parties, sub-state actors and individuals to engage in activities prohibited by the CWC. Secondly, it puts at a disadvantage those States Parties and companies, which fully comply. Both undermine the confidence in the functioning of the CWC.

Universality is of equal importance. As long as key countries remain outside of the CWC, neighbouring and other States Parties need to maintain capacities which can turn from defensive to offensive.

3. Verification – Distribution of Art. VI inspection resources

The total number of inspections in the last years was 241 per year, distributed over Schedule 1 facilities (11), Schedule 2 plant sites (42), Schedule 3 plant sites (19) and OCPFs (169). (see C-22/4, p. 8 ff.)

In order to increase the transparency, the efficiency and effectiveness of the verification regime, ICCA is requesting the States Parties to review the appropriateness of periodic re-inspection of Schedule 2 and Schedule 3 plant sites every 2 to 3 years, i.e. to review the existing distribution of Art. VI inspection resources based on the current selection rules. As a consequence, due to the limitations of maximum number of Art. VI inspections per States Parties per year, the total number of inspections has to be reviewed as well.

4. Challenge Inspections and Investigations of Alleged Use

We view verification provisions under Art. VI largely as confidence-building measures: only what is declared will be verified; anything which is not declared, will not be verified. We therefore assume that no declarable and inspectable facility will violate the core principles of the CWC. On the contrary: Any facility, which potentially should be declared, but is not, deserves special attention. Therefore, Art. IX with its escalating mechanism of consultation and clarification before challenge inspection, must be upheld. This includes a high standard of readiness to conduct a challenge inspection. ICCA does not support the notion that a challenge inspection or an investigation of alleged use are too confrontational. This



instrument should not be given up, and certainly not in exchange for “challenge light” with routine verification.

5. The SAB and the ABEO

Since the SAB and its Temporary Working Groups often cover topics related to chemical industry, and the ABEO deals with joint outreach activities of OPCW, other stakeholders and the chemical industry, a priority should be to have a continued representation from chemical industry in both bodies.

6. Confidentiality

Because of the good cooperation between the TS, the National Authorities and the inspected sites, we have so far not seen any breaches of confidentiality. However, we would request to keep this issue a priority, also when it comes to resolution of transfer discrepancies.

D. Verification in chemical industry

More than 20 years after entry into force of the CWC and after more than 3600 inspections in chemical industry, the routine verification regime in chemical industry by and large has been proven to be effective and efficient.

Any changes should only be implemented if they reduce complexity, time or effort. However, the opposite seems to be happening. Against the wording and the spirit of the CWC, bio-based production and mixtures may be included in the future. To compensate the increase by thousands of facilities to be inspected, more or less arbitrary exceptions are also discussed. This would turn the whole verification regime under Part IX upside down. Chemical industry thinks this is the wrong approach.

We also disagree that there are sites with high or low relevance to the object and purpose of the CWC. What it takes to produce chemical weapons is (political) will, know-how and resources, to retrofit any existing plant or build a new one. There are no objective criteria for “flexibility” or “convertibility”. Therefore, no plant site is inherently more relevant than another, even though from a purely chemical engineering and economic point of view some sites might be better suited than others. Trying to define criteria by additional reporting requirements would only further complicate the already difficult situation of OCPF declarations.

In addition, certain details in industry inspections and procedures for sampling & analysis are at times stretching resources on inspectors, escort teams and facility representatives to a point where the inspection mandate may be exceeded and violations of labour laws on maximum working hours cannot be ruled out. Generally, the provisions of the CWC do not specify that every inspection aim needs to be achieved with every inspection, and definitely not that all tools need to be utilized within one inspection (e.g. sampling and analysis plus physical inspection plus record review). Inspectors should be given flexibility as to scope and intrusiveness, depending on site conditions.

The issue of transfer discrepancies remains a sore point in the verification regime. Numerous workshops, expert meetings and industry cluster sessions have clearly shown that they do not result from negligence or deliberate false declarations, but rather from widely varying national implementation procedures by the States Parties. The chemical industry remains committed to helping improve this situation.

