

# CWC Review Conference Report

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## The Conference of States Parties & the Review Conference: setting the scene

The Fourth five-yearly Review Conference for the 1993 Chemical Weapons Convention (CWC) provides the opportunity, in the words of the Convention itself: ‘to undertake reviews of the operation of this Convention. Such reviews shall take into account any relevant scientific and technological developments’. This Review Conference is being held towards the end of the calendar year so it will follow on directly from the annual Conference of States Parties (CSP) – a change from previous practice that Review Conferences were held in the first half of the calendar year. The CSP (in its 23rd session, so CSP-23) will be convened on 19 and 20 November with the Review Conference (RC-4) convened during 21 to 30 November. Both conferences are being held at the World Forum Convention Centre which is situated next door to the headquarters building of the CWC’s implementing body, the Organization for the Prohibition of Chemical Weapons (OPCW). Official documents are available from the OPCW website <<<http://www.opcw.org>>>.

### **The global context**

Since the last Review Conference, there have been many relevant events that may impact upon CSP-23 and RC-4. These include: the exposure of a large number of people to the nerve agent sarin in the area of East Ghouta, Syria, and the report of the investigation led by Åke Sellström of Sweden; adoption of the Kerry-Lavrov plan to remove all chemical weapons from Syria; removal of declared chemical weapons from Syria alongside contested allegations that the declaration was incomplete; numerous further allegations of use of chemical weapons in the territory of Syria; establishment of the OPCW Fact-Finding Mission; establishment of the UN-OPCW Joint Investigative Mechanism for a limited period and a highly contested debate about whether the mandate should be continued; completion of destruction of declared chemical weapons in Russia and ongoing challenges of chemical weapons destruction in the United States; the fatal poisoning of Kim Jong-nam at Kuala Lumpur airport, Malaysia; the completion of destruction of Libya’s chemical weapons-related materials; the poisoning of Sergei and Yulia Skripal in Salisbury, UK, with further exposures to three other people, leading to one fatality; and the convening of a Special Session of the CSP on the issue of attribution in relation to use of chemical weapons. This list, which is by no means comprehensive, illustrates that while there have been positive developments there are also a number of issues of significant political controversy for which there are substantially divergent views between CWC states parties.

There are other signs of divergent views between CWC states parties. For example, the annual draft resolution on the CWC put forward in the First Committee of the UN General Assembly, usually agreed by consensus, was approved for forwarding to the General Assembly by a vote on 5 November of 148 in favour to 7 against (Cambodia, China, Iran, Nicaragua, Russia, Syria and Zimbabwe), with 23 abstentions. There had also been votes on 5 paragraphs before the final vote on the draft resolution.

### **Prospects for the Conference of States Parties**

CSP-23 will be shorter than the usual annual sessions which are normally scheduled for 5 working days but which are sometimes concluded in 4. In part, time will be saved by not including an agenda item for ‘general debate’ – the allocated time for general opening

statements – as the Review Conference will provide such an opportunity. Most items on the agenda of the CSP have been considered previously by the OPCW Executive Council (EC) and the decisions forwarding them to the CSP taken by consensus. According to the annotated provisional agenda [C-23/INF.1, 9 November], CSP-23 will be asked to take decisions on matters related to the Programme and Budget of the OPCW for 2019 for which no consensus could be reached within the EC. The vote on the budget in 89th session of the EC fell just short of the two-thirds majority required for a substantive decision. The report of a subsequent EC meeting [EC-M-61/3, 5 November] indicated that the voting to adopt a decision to forward the draft budget to the CSP had 29 in favour to 3 against, with 7 abstentions. The same divergences are likely to remain as the budgetary matters are discussed in the CSP. Owing to the nature of financial decisions to be taken, there would have to be 5 votes on financial elements at the CSP. Aside from issues relating to additional expenditures needed for attribution-related activities, there will be some delegations who are used to dealing only with zero-growth budgets in international organizations.

### **Preparations for the Review Conference**

In line with past practice, an Open-Ended Working Group for the Preparation of the Fourth Review Conference (OEWG), with Ambassador I Gusti Agung Wesaka Puja (Indonesia) in the Chair, has taken the place of the ‘Preparatory Committee’ process that occurs in the equivalent treaties dealing with biological and nuclear issues. The OEWG Chair has produced a report to help the Review Conference in its work [WGRC-4/1, 2 November]. There is also an Open-Ended Working Group on the Future Priorities of the OPCW (OEWG-FP) that has prepared a report for the Review Conference [RC-4/WP.1, 16 July]. There have been other official reports prepared for the Review Conference, or its preparatory stages, that are of interest. The Scientific Advisory Board has produced a report [RC-4/DG.1, 30 April], which should be read in conjunction with the response from the Director-General [RC-4/DG.2, 1 June]. The OPCW Technical Secretariat provided written input to the OEWG [WGRC-4/S/1, 29 May]. In recent days, OPCW Director-General Fernando Arias published a background document reviewing the operation of the CWC since the last Review Conference [RC-4/S/1, 6 November] and a number of Working Papers have been published. These documents constitute a rich source of information on a range of challenges and issues for the future regime to prevent re-emergence of chemical weapons, such as those relating to destruction of the remaining chemical weapons, the post-destruction roles of the OPCW, methodologies for industry verification, and state practice in the use of chemicals that act on the central nervous system.

### **Prospects for the Review Conference**

A key activity of Review Conferences is the preparation of a final document to be adopted by consensus – Review Conferences for any treaty seldom adopt anything by a vote. To find consensus text on issues relating to Syria or to the Salisbury poisonings, just to take two examples of current contentious issues, that might form part of a final document from the Review Conference would be extremely challenging. This could be interpreted as a sign that a substantive outcome from the Review Conference looks sufficiently difficult to achieve as to be unlikely. Of all the Review Conferences attended by this author, this would seem at the outset to be the one least likely to produce a consensus outcome. That should not be taken to suggest that the process of the Review Conference is without value as it is not a stand-alone event – it is just one part of a wider set of activities, as illustrated by the documents prepared and published before the Conference.

*This is the first report from the Fourth Review Conference of the Chemical Weapons Convention which is being held from 21 to 30 November 2018 in The Hague, preceded by the Twenty-Third Session of the Conference of States Parties. These reports are prepared by Richard Guthrie of CBW Events for the CWC Coalition, a global network of non-governmental groups with an interest in the Convention. The reports, together with those from earlier Review Conferences and an email subscription link, are available at <<<http://www.cbw-events.org.uk/cwc-rep.html>>>. The author can be contacted via <<[richard@cbw-events.org.uk](mailto:richard@cbw-events.org.uk)>>.*

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## The opening day of the Conference of States Parties: divergences of views

The twenty-third session of the Conference of States Parties (CSP) of the Chemical Weapons Convention (CWC) was opened on Monday morning, as is traditional, by the Chair of the previous session, Ambassador Abdelouahab Bellouki (Morocco). One of the initial decisions of the CSP was to elect Ambassador Yun-young Lee (Republic of Korea) as the Chair of the twenty-third session (CSP-23). After a number of administrative decisions, the Director-General gave an introductory statement that covered a wide range of activities that the the CWC's implementing body, the Organization for the Prohibition of Chemical Weapons (OPCW), is involved with. Owing to space constraints, this will be covered in a future daily report. Previous practice is that the opening statement is published as an official document. CSP-23 documents are posted at <<<https://www.opcw.org/resources/documents/conference-states-parties/twenty-third-session-conference-states-parties>>>. The plenary proceedings webcast can be accessed via <<<https://www.opcw.org/media-centre/featured-topics/webcast-csp23-rc4>>>.

During the opening day, numerous decisions were adopted by consensus on a range of recurring management activities of the OPCW – such as agreement to transmit the financial statements to the external auditor, approval of the Office of Internal Oversight report and the election of members of the Executive Council on the regular two-year cycle. Such decisions took only a minor proportion of the working time of the Conference. The vast majority of time was occupied with issues relating to budgetary matters and a China-Russia draft decision proposal – all of which derived from divergences of views relating to the June decision of the CSP Special Session on attribution issues. It became clear during the proceedings on Monday that there was no chance for consensus on the budget or the China-Russia proposal and so a number of roll-call votes are set to be held on Tuesday.

As might be expected, those countries that had been vocal in favour of adoption of the June decision spoke out in favour of effective implementation of that decision during CSP-23; while those who were most vocally opposed to the decision in June were raising questions in the current conference about legitimacy of the decision and how it related to other operations within the OPCW. Indeed, it is possible to divide most interventions on Monday into two groups that could be described as 'June decision supporters' and 'June decision opponents'. In brief, the June decision supporters consider claims that chemical weapons have been used on numerous occasions in Syria to be credible and cite a number of published sources in support of this, including reports from the OPCW Fact-Finding Mission and the UN-OPCW Joint Investigative Mission. From the other perspective, the June decision opponents broadly claim that the allegations of use of chemical weapons in Syria are based on fabrications and politicized statements which have led to politicization of the OPCW itself. Examples of vocal June decision supporters [in alphabetical order] include countries such as Canada, France, the UK and the USA; and of vocal June decision opponents include countries such as China, Iran, Russia and Syria.

### **The key decision of the Fourth Special Session of the CSP – the 'June decision'**

In order to understand the divergence of opinions represented in the current regular session of the CSP there is a need to understand the June decision. It is titled 'Addressing the Threat from Chemical Weapons Use' and carries the document number C-SS-4/DEC.3. The

decision text was based on a proposal by the UK (the country that had called for the Special Session) and was adopted by a vote on 27 June: 82 in favour, 24 against with 26 abstentions. June decision supporters describe this vote as being taken by a significant majority (77 per cent) of those present and voting and so has a clear legitimacy. June decision opponents argue that its legitimacy is open to doubt as 82 is fewer than half of the number of CWC states parties.

The term ‘attribution’ appears only once in the decision text, in paragraph 19 which reads: ‘Affirms that, whenever a chemical weapons use occurs on the territory of a State Party, those who were the perpetrators, organisers, sponsors or otherwise involved should be identified, and underscores the added value of the Secretariat conducting an independent investigation of an alleged use of chemical weapons with a view to facilitating universal attribution of all chemical weapons attacks’. There is a clear distinction between ‘attribution’ and ‘accountability’ and the decision relates only to the first of these.

June decision opponents argue that this decision is outside of the scope of the CWC, that attribution by the OPCW impinges upon the prerogatives of the UN Security Council, and that as attribution has political as well as technical aspects the decision is an unwarranted politicization of OPCW activities. June decision supporters argue that OPCW attribution efforts are needed owing to the political stalemate in the UN Security Council on issues relating to alleged use of chemical weapons and that the CWC’s mandate for a world free of chemical weapons includes a fundamental underpinning of a need for attribution of the gravest possible violation of the Convention – the use of chemical weapons.

### **The budgetary decisions to be taken**

The decisions on the budget consist of a number of elements. There are four key decisions that have been proposed by the OPCW Director-General – how to deal with a cash surplus from the 2016 financial year; creation of a special fund for ‘cybersecurity, business continuity, and physical infrastructure security’; creation of a special fund for ‘IT infrastructure to support the implementation of C-SS-4/DEC.3’ [i.e., the June decision]; and the overall ‘Programme and Budget of the OPCW for 2019’ which includes contested elements relating to implementation of the June decision. The budgetary votes will be procedurally complex as the draft decisions contain cross references; for example, the one on the 2016 cash surplus refers to the cybersecurity fund and the IT fund in support of attribution, neither of which have a legal basis until their draft decisions are adopted. It could be argued, therefore, that the cash surplus decision could not be taken until those on the special funds are taken. It could also be argued that the cash surplus decision should be voted on first as this provides the source of funds for other decisions. Additional complexity arises from budget amendments tabled by Iran and Russia, that include removing attribution-related expenditures, which might be voted on as separate amendments or as a group. Thus, at least five roll-call votes will be needed on budgetary items.

### **The China-Russia draft decision**

The China-Russia proposal on ‘Preserving the Integrity of the Organisation for the Prohibition of Chemical Weapons’ suggests that the June decision ‘may directly affect the fundamental principles and provisions of the Convention in the context of empowering the Technical Secretariat with functions not stipulated in the Convention’ and calls for the convening of ‘an open-ended working group’ by the Executive Council to review proposals to implement the decision. Opponents of this proposal suggested it was an attempt to impede implementation of the June decision. China suggested that this was not an attempt to interrupt the attribution process but to clarify any doubts about whether the decision can be implemented in a way that is consistent with the provisions of the Convention.

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## The second day of the Conference of States Parties: voting and suspension

The second day of the twenty-third session of the Conference of States Parties (CSP) of the Chemical Weapons Convention (CWC) had been expected to be the final day. The CSP was able to agree a budget (albeit on contested votes), but was not able to agree a final report and so the Conference was suspended to a date yet to be decided, but which will be before the Review Conference finishes. The day was long with full use made of morning, afternoon and evening sessions, the last of which continued after interpretation had finished. Concerns were raised that if the CSP was facing difficulties adopting a report, such difficulties would continue into the Review Conference itself.

The day began with an expectation that it would start with voting on the matters for which consensus had not been reached on Monday. However, after some discussion on procedure, it was agreed that other agenda items would be taken before commencement of voting as some delegations wanted to ensure the full 24 hours had elapsed from when votes had been requested.

Aside from the votes and the work on the final report, the day included the report of the Credentials Committee, a presentation from the United States on the destruction of its remaining chemical weapons, and a statement by Burundi on behalf of a number of states parties under 'any other business' which reflected many of the perspectives highlighted earlier by those opposed to the June decision and reported in the previous daily report.

The role of Credentials Committees at inter-governmental conferences is sometimes perceived as a simple, if perhaps boring, administrative process. However, there is an important purpose in checking that those present and participating in decision making have the relevant authority to be doing so. Without confidence in that authority there might, one day at some conference on some subject, be doubt in the legitimacy of the decisions owing to questions of who was legally able to be in the room.

### **The voting rules and process**

Article VIII, paragraph 18 of the text of the CWC includes the following: 'The Conference shall take decisions on questions of procedure by a simple majority of the members present and voting. Decisions on matters of substance should be taken as far as possible by consensus. If consensus is not attainable when an issue comes up for decision, the Chairman shall defer any vote for 24 hours and during this period of deferment shall make every effort to facilitate achievement of consensus, and shall report to the Conference before the end of this period. If consensus is not possible at the end of 24 hours, the Conference shall take the decision by a two-thirds majority of members present and voting unless specified otherwise in this Convention'. The same words are included in the CSP Rules of Procedure as Rule 69 with 'Chairman' replaced by 'presiding officer'. All votes taken on Tuesday were considered to be on matters of substance. Under rule 76, any amendments to a proposal must be voted on before the proposal itself.

Votes were carried out by roll call, so that each vote took some time. For example the first vote, on the China-Russia draft decision titled 'Preserving the Integrity of the Organisation for the Prohibition of Chemical Weapons', took 25 minutes. Each vote was taken in alphabetical order starting at a random point in the list of states parties such that the first vote started with Denmark and the second with Spain and so on.

### **Voting results**

The vote on the China-Russia draft decision was 30 in favour and 82 against, and thus was not adopted. Explanations of vote (EoVs) were given by Belarus, Viet Nam, Iran, Kazakhstan, India, Venezuela and Algeria, all of whom had voted in favour.

The three amendments to the draft budgetary documents put forward by Iran and Russia were defeated 29-85, 27-86 and 27-86. The voting then moved on to the draft Programme and Budget which was passed 99-27, meeting the requirement for support of two-thirds present and voting. The next vote was on the 2016 cash surplus which was passed 97-25, again meeting the two-thirds present and voting requirement. There was a moment of levity during the vote on the special fund for cybersecurity, etc: the vote was underway when Iran questioned whether this decision could be adopted by consensus. This was put to the Conference by the Chair and the decision was duly adopted by consensus to a loud round of applause. The draft decision to establish a special fund for IT infrastructure to support the implementation of the June decision was then adopted on a vote of 94-26, again meeting the requirement for support of two-thirds present and voting. The scale of assessments was then adopted by consensus.

At various points through this process, EoVs were given by Russia, China, Peru, Bangladesh, Brazil, Iran, Algeria, Indonesia, Syria, Viet Nam, Guatemala, Thailand, India, Singapore, Sudan, Chile and Cuba. Most made reference to a desire for consensus. Some made reference to national policies for zero-growth budgets in international organizations which forced their votes. Many raised concerns about 'politicization' of the CWC. Russia suggested it might unilaterally reduce its 2019 assessed payments by the amount it would have received if the 2016 cash surplus had been returned to states parties.

### **Actions to adopt a final report and suspension of the CSP**

The CSP had just started to go through the draft report of the meeting when the US suggested an amendment to the second sub-paragraph which lists the states parties that participated in the CSP. The amendment was to insert a footnote saying: 'Some States Parties do not legally recognise the "State of Palestine" as a state and therefore do not recognise it as a State Party to the Chemical Weapons Convention'. This prompted a flurry of responses from 27 other delegations before the Chair decided to pause the meeting for consultations. Only 3 of these 27 delegations expressed any form of support for the US position. Most indicated such a footnote would prevent them agreeing adoption of the report. Many noted that the State of Palestine had participated in the voting and so any suggestion that the delegations presence was invalid raised doubts about the validity of the voting results. Some expressed that this was another sign of politicization of the CWC.

The Chair suggested that if a report could not be adopted, the draft should be preserved as a 'Chair's text' as had been done in CSP-13 [document C-13/5, dated 5 December 2008]. Discussion continued in an unstructured way with many interventions stressing the need for some form of report. It was eventually agreed that the CSP should be suspended, but practical considerations meant that a specific date to resume could not be immediately identified. Interpretation ceased at 22.45, and a few minutes before the suspension of the CSP at 23.17, the Chair-designate of the Fourth Review Conference, Ambassador Agustín Vásquez Gómez (El Salvador), noted that the Review Conference would face similar challenges as those in the CSP and that it would be to the benefit of both Conferences if a solution could be found in order to adopt a report from the CSP.

As ever, delegates looked to see if there were any precedents to the current situation that may help guide activities. There has not been an earlier regular session of the CSP that has been immediately followed by another meeting which has kept CSP delegates in The Hague and thus no possibilities for earlier regular sessions to suspend their meetings.

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## The opening of the Review Conference and start of the General Debate

The Fourth five-yearly Review Conference (RC-4) of the of the Chemical Weapons Convention (CWC) was opened on Wednesday by the current Chair of the Conference of States Parties (CSP), Ambassador Yun-young Lee (Republic of Korea), in line with past practice. The Conference then adopted its officers, confirming Ambassador Agustín Vásquez Gómez (El Salvador) as Chair for the Review Conference. Ambassador Marcin Czepelak (Poland) was agreed as Chair of the Committee of the Whole (CoW). Each international treaty regime has its own arrangements for carrying out the line-by-line negotiations of final documents within their review conferences; for the CWC, the drafting work is the responsibility of the CoW which then reports back to the plenary.

OPCW Director-General Fernando Arias then gave his opening statement to the Conference. He contrasted the activities of the regular session of the CSP with those of the Review Conference which he described as having to take ‘the long view’. He described the CWC as being an ‘effective global ban’ with ‘an extraordinary narrative’ which included that over 96 per cent of declared chemical weapons had now been destroyed under international verification. There had been significant milestones since the Third Review Conference (RC-3) with completion of destruction of declared chemical weapons by a major possessor state, Russia. Declared chemical weapons had also been destroyed in Libya and Syria together with remnants of chemical weapons in Iraq and that the United States was on track to complete its chemical weapons destruction in 2023. It was therefore in the relatively near future that the destruction of all declared chemical weapons will be complete, which will be a ‘momentous development’. He noted that with a membership of 193 states parties, the Convention was ‘near-universal’. There had been developments since RC-3 on the issues of assistance and protection and international cooperation and assistance, and he highlighted the creation of the Rapid Response and Assistance Mission (RRAM) designed to aid any state party dealing with a chemical incident caused by a non-state actor. He reminded the Conference of an Executive Council decision from 2017 on addressing the threats from non-state actors. He spoke of the work of the Fact-Finding Mission and the Declaration Assessment Team in Syria. He welcomed the establishment of the Advisory Board on Education and Outreach. Looking to the future, he emphasised that the OPCW needs to be able to uphold the norms embodied within the Convention and have capacities to counter current and future challenges. This included tasks and functions following on from the decision from the CSP Special Session in June. He called the use of nerve agents in Malaysia and the UK and the use of chemical weapons in Iraq and in Syria by non-state actors ‘a chilling reality’. He highlighted that scientific and technological developments impact upon the regime, including verification arrangements, and noted the report of the Scientific Advisory Board and the plans to upgrade the OPCW Laboratory to a Centre of Chemistry and Technology. Concluding his remarks, he said that the OPCW has witnessed an ‘extraordinary and productive past’ and there is no reason for the future to be any different, describing the need to maintain the global norm against use of chemical weapons as ‘a permanent barrier against a form of cruelty that it has taken many generations to banish’.

The UN High Representative for Disarmament Affairs Izumi Nakamitsu conveyed to the Conference a message from the UN Secretary-General, António Guterres.

The message noted that the period since 2013 had been marked by ‘remarkable achievements as well as painful tragedy’. He described the use of chemical weapons as ‘unacceptable’ and stated that ‘the requirement for those responsible to be identified and held accountable is paramount’. The Secretary-General urged those states not yet party to the Convention to join ‘without delay’. He welcomed the work under the Convention to promote chemistry for peace and congratulated the OPCW for receiving the Nobel Peace Prize in 2013.

The Conference was given a brief report from the Chair of the Executive Council, Ambassador Jana Reinišová (Czech Republic) on the preparations for the Review Conference.

### **General Debate**

The General Debate offers the chance for delegations to make statements to outline their positions and started with group statements from: CWC states parties that are members of the Non-Aligned Movement and China; the European Union; and the Africa Group. These were followed by national statements from: Iran, Iraq, Ukraine, Russia, Syria, the Netherlands, Algeria, Germany, Saudi Arabia, New Zealand, Poland, Moldova, Republic of Korea, Brazil, France, Romania, United Arab Emirates, Denmark, Costa Rica, Panama, Switzerland, China, Holy See, Finland and Pakistan. A number of these statements were made by ministerial-level representatives who had travelled to The Hague to make their statements. Although there were time limits indicated, a number of statements went on for much longer than their allotted time.

A wide range of issues were raised. For many of the long-term issues, such as cooperation and assistance under Article XI, there was little change in the detail of what has been raised so far compared with previously expressed positions other than commenting on developments since RC-3. On other issues, such as allegations of use of chemical weapons in Syria there were divergent views and many new details since RC-3. [Note: it is perhaps worth remembering that RC-3 was held in April 2013, barely a month after the first allegations of use of chemical weapons in the territory of Syria had been formally put to UN Secretary-General Ban Ki-moon by the Syrian government (alleging rebel forces had been the user) and by the governments of France and the UK (alleging the Syrian government was the user). Both sets of allegations related to incidents in Khan al-Assal on 19 March 2013 and were the basis on which the investigation team headed by Åke Sellström of Sweden was established by the UN Secretary-General. Syria was not a CWC State Party at the time.] Many statements welcomed the five new states parties that have joined the Convention since the RC-3 – Somalia, Syria, Myanmar, Angola and the State of Palestine – bringing the total to 193 states parties.

However, it is too early to try to identify themes or common threads as there are many speakers waiting to take the floor and it seems the statements could fill Thursday and possibly continue into Friday. Thus at the time of writing, only a small proportion of General Debate statements have been given and so identification general debate themes will be held over to the next daily report.

A number of statements made references to expectations for the Review Conference in general terms, for example, ‘a balanced and consensual outcome’. These are in line with similar statements in General Debates in earlier CWC Review Conferences and it is not possible to draw conclusions this form of data about whether expectations for this Review Conference differ from expectations for earlier Review Conferences at a similar stage in proceedings

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## The second day of the Conference: the General Debate continues

The Fourth five-yearly Review Conference (RC-4) of the of the Chemical Weapons Convention (CWC) continued on Thursday with the General Debate – the chance for delegations to set out their views through prepared statements in plenary session. The debate took the whole day of the plenary meeting.

National statements were delivered by Qatar, Peru, Morocco, Ireland, USA, Slovenia, Cuba, Japan, Indonesia, Lithuania, UK, Canada, Australia, Ecuador, Spain, Bangladesh, Guatemala, Burundi, Norway, Malaysia, Chile, Latvia, Sweden, Luxembourg, Uruguay, Bahrain, Belarus, Viet Nam, Argentina, Uganda, Malta, Italy, Philippines, Czech Republic, State of Palestine, Estonia, Turkey and Kenya.

At the lunch break, the Chair of the Review Conference, Ambassador Agustín Vásquez Gómez (El Salvador), indicated there had been requests to exercise rights of reply. The Chair indicated that these would be taken at the end of the General Debate, in line with previous practice.

### **Some General Debate themes**

With the General Debate continuing into Friday, it is difficult to come to any conclusions relating to any predominant themes. As well as there being more statements to come, there may be an element of chance as to whether delegations interested in any particular aspect happened to all speak on one particular day or another. Nonetheless, there were a number overarching themes; some of which will be examined here and some in the next daily report. The reporting here takes details from statements made on Wednesday and Thursday.

*Universality* – Universality is an issue that is regularly raised within international treaties dealing with global challenges as the breadth of the membership is a reflection of overall effectiveness. Five countries had joined the CWC since the Third Review Conference (RC-3) in 2013 and were named in many statements – Somalia, Syria, Myanmar, Angola and the State of Palestine. Non-states parties were also named – the Democratic People’s Republic of Korea, Egypt and South Sudan have neither signed nor acceded to the Convention; and Israel has signed the Convention but not ratified it. [*Note:* the acceptance of an instrument of signature, ratification or accession by a depositary to a treaty does not imply that the provider of that instrument is universally recognized as a state in its own right. For example, the Cook Islands and Niue are long-standing states parties to the CWC, but neither is recognized as a state by many governments.] Some statements noted that the fundamental objective of the CWC – the creation of a true chemical-weapon-free world – cannot be achieved if any country remains outside the Convention. Others suggested that should be no advantages to remaining a non-state party to the Convention.

*Article XI* – The issue of access to peaceful uses of chemistry is covered by Article XI of the Convention, embodying a bargain that the renunciation of chemical weapons and the control of poisons as weapons has to be implemented in such a way as to facilitate the use of chemistry for peaceful purposes. The NAM statement welcomed the 2016, 2017 and 2018 annual review and evaluation workshops of the components of an agreed framework for the implementation of Article XI, following on from C-16/DEC.10. Iran noted its working paper on ‘Full, Effective and Non-Discriminatory Implementation of Article XI’ [RC-4/WP.7], a major segment of which relates to controls of transfers which

that country suggests are implemented unfairly. There were a number of capacity building issues raised relating to this article and many references to the work of the OPCW's Africa programme. It was noted that capacity building could assist in promoting broader geographical representation of designated laboratories.

*Allegations of use of chemical weapons* – There are four sets of allegations of use that appeared regularly in statements: by Syria within the territory of that country; by non-state actors in the territory of Iraq and Syria; the poisoning of Kim Jong-nam at Kuala Lumpur airport; and the poisoning of Sergei Skripal in Salisbury in which others were also affected. Of these, only the Kuala Lumpur incident was uncontested in statements. Syria did not appear to give a specific denial of use in its Review Conference statement, but had done so in an intervention during the Conference of States Parties earlier in the week. Syria was explicit in claiming that 'false flag' attacks had taken place in its territory. Allegations relating to Syria were raised in a large number of statements and were at the core of most divergences of views expressed. Bangladesh, in a plea for unity, said 'these allegations, unless held accountable, will come to haunt us', and referred to exchanges on the subject as 'bullets of duality' that 'split us into a subtle line of "us" and "them"'. Many statements expressed hopes that use of chemical weapons would become a thing of the past and that there would be no more victims.

*Investigations of alleged use* – The primary arrangement for investigating alleged use of chemical weapons in Syria is the OPCW Fact-Finding Mission (FFM), established in 2014 through a decision of the Executive Council. The work of the FFM has been contested. Some statements were slightly coded, for example, the NAM statement said: 'We take note of the work done so far by [the FFM] and look forward to receiving its reports on its ongoing activities. We expect the approach followed by the FFM teams would be uniform and consistent.' Russia was more explicit and suggested the terms of reference of the FFM required 'drastic revision' in order to 'fully brought in conformity with the provisions of the CWC'. Others were overt in their support for the Mission; Ireland noted it had 'long supported and trusted' the work of the OPCW in this area, including the work of the FFM. Issues around attribution and the June decision will be discussed in the next daily report.

*Allegations of possession of chemical weapons* – A number of statements alleged continuing possession of chemical weapons by Syria and noted the work of the Declaration Assessment Team (DAT). The Republic of Korea noted 'with concern' a recent report by the DAT that the OPCW remains unable to resolve 'all of the identified gaps, inconsistencies, and discrepancies in Syria's initial declaration'. The US highlighted 'longstanding concerns' that Iran 'maintains a chemical weapons program that it failed to declare to the OPCW' and other concerns that Iran 'is pursuing Central Nervous System-Acting Chemicals for offensive purposes'. The US then made 3 more specific allegations about declarations. It is likely that these allegations are the prompt for the right of reply requests.

*Further themes* – Themes to be discussed in the next daily report include: attribution and the June decision, scientific and technological developments, chemical weapons destruction and OPCW management issues.

### **Side Events**

Usually in these reports it is useful to list side events taking place as this gives an indication of the topics gaining most attention. However, the number of side events at this Review Conference is too high to be able to list them individually. For example, on Thursday there were 2 breakfast events, 5 at lunchtime and 2 in parallel with the afternoon plenary session.

*This is the fifth report from the Fourth Review Conference of the Chemical Weapons Convention being held in The Hague 21-30 November 2018, preceded by the 23rd Session of the Conference of States Parties. These reports are prepared for the CWC Coalition, a global network of non-governmental groups with CWC interests, and are available at <<<http://www.cbw-events.org.uk/cwc-rep.html>>>. The author, Richard Guthrie of CBW Events, can be contacted via <<[richard@cbw-events.org.uk](mailto:richard@cbw-events.org.uk)>>.*

# CWC Review Conference Report

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## The third day of the Conference: the General Debate concludes

Friday, the third day of the Fourth five-yearly Review Conference (RC-4) of the of the Chemical Weapons Convention (CWC), marked the end of the first of two weeks of back-to-back meetings in The Hague. Plenary activities continued on Friday with the agenda item known as the General Debate which took the whole day of the Conference proceedings.

National statements were delivered by Côte d'Ivoire, Mexico, Myanmar, Colombia, Ghana, Nigeria, Nepal, Tunisia, Thailand, South Africa, Belgium, Burkina Faso, India, Singapore, Fiji, Cameroon, Venezuela, Kuwait, Sudan, Kazakhstan and Bulgaria. There then followed right of reply statements from Iran, Syria and Russia in which each used terms such as 'baseless' and 'categorically reject' in denying allegations that had been made by the United States in its earlier statement. These were followed by statements from: Israel as a signatory state; the International Committee of the Red Cross as an international organization; the OPCW's Advisory Board on Education and Outreach; and the International Council of Chemical Associations (ICCA) and the International Union of Pure and Applied Chemistry (IUPAC) as industrial and scientific bodies. The final block of statements were from 24 non-governmental organizations (NGOs) and these were followed by the exercise of a right of reply by Palestine in response to the statement by Israel. The last of the NGOs statements and the Palestinian statement were made after interpretation had finished, with the session ending at 19.04. A number of delegates gave an abridged oral version of their statements with the full version being circulated in writing.

For those not experienced with Review Conferences, it may seem odd as to how repetitive many of the statements are. The obvious purpose of statements is to present ideas to the Review Conference and highlight priorities. There is further purpose that is not so obvious which relates to the process within governments that puts them together – within most country's administrative arrangements, a high-level statement such as in the general debate of a Review Conference cannot be given until all relevant departments have agreed to it. This means that the departments are interacting on the subject and so this process makes officials across governments aware of CWC issues.

### **Some further General Debate themes**

Following on from the themes examined in the last daily report, some further themes are examined here. This reporting takes details from statements made on Wednesday, Thursday and Friday. The themes reported here and in earlier daily reports are not comprehensive as there have been some 18 hours of general debate at this Review Conference.

*Attribution and the June decision* – As might be expected, the issues around attribution have been where some of the most divergent views have been expressed. Supporters of the June attribution decision have expressed views that the new attribution process falls within the scope of the CWC while opponents of the June decision have expressed views that if the OPCW were to be given an attribution role, there should have been a conference to amend the CWC itself, as is allowed for under Article XV of the Convention as, from this perspective, attribution is beyond the scope of the CWC as it stands. For example, India suggested that it was essential that 'all investigations of alleged use of chemical weapons are impartial, objective and conducted strictly in accordance with

the Convention, utilizing all its provisions.’ Russia described the proposed attribution process as ‘politically motivated’ and Malaysia suggested the process to get the attribution decision was a ‘rushed job’. Others declared support for attribution and some announced voluntary financial contributions to OPCW attribution efforts, such as Denmark and the UK. The UK suggested ‘supporting OPCW attribution is not about choosing sides in big power politics, it is about restoring the global taboo against chemical weapons’.

*Scientific and technological developments* – As with earlier Review Conferences, there was recognition of the need for keeping the efforts to prevent acquisition and use of chemical weapons to take into account scientific and technological developments. Many references were made to plans to upgrade and add to the OPCW Laboratory to turn it into a ‘Centre for Chemistry and Technology’. As well as verbal support for this project, a number of delegations promised voluntary financial assistance; these included Belgium, France and the Republic of Korea.

*Central nervous system-acting chemicals* – There has been an ongoing effort by some states to consider the implications of aerosolized CNS-acting chemicals that some governments have been exploring for possible use for ‘law enforcement’ purposes. Australia and Switzerland have been promoting a discussion on the subject and asking other governments to sign up to a paper which now appears to have over 40 co-sponsors. An additional co-sponsor announced this week is Sweden. A typical statement of position of the co-sponsors of the paper is that of New Zealand which stated ‘We will only employ chemical agents which conform to the definition of riot control agents contained within the CWC, and which have been endorsed as such by the OPCW’s Scientific Advisory Board.’

*Schedule amendment proposal* – A number of delegations referred to a joint suggestion by Canada, the Netherlands and the United States to amend the schedules of chemicals in the CWC. This would add the family of chemicals which includes the toxic substance to which the Skripals were exposed. This technical proposal has been caught up in the some of the controversy around the Salisbury poisonings. [Note: in discussions this author had with relevant officials before the Review Conference it had seemed that the amendment proposal was to be made public with a confidential document circulated in parallel amongst states parties. There does seem to be two documents but it seems neither will be made public at this stage. It has been suggested in corridor discussions that both documents are now judged to contain proliferation-sensitive information.]

*Chemical weapons destruction and past disposal* – The remaining US declared chemical weapons stocks awaiting destruction were highlighted a number of times. China and Japan both spoke of developments in destruction of chemical weapons abandoned in the territory of the latter by the former, although each described progress in quite different terms. The risks from sea-dumped chemical munitions, that were disposed of before the CWC was agreed, were raised by Lithuania and Poland.

*Management activities* – A number of issues relating to the management of the OPCW Technical Secretariat were raised. The issue of staff tenure (a policy adopted some years ago that limits employment within the OPCW for most staff to 7 years) was raised many times, especially regarding the balance between ensuring reasonable turnover of staff while at the same time fulfilling the need to retain acquired expertise that can be highly specialized. A recent independent review of staffing was referred to a number of times. The call to ensure fair geographic representation of staff was prominent as has been in previous Review Conferences. Gender issues had a much higher profile at this Review Conference than at earlier ones; Canada, in an aside from the prepared speech, noted that of the personnel on the stage during the Conference proceedings, 1 was a woman, while 11 were men and commented ‘we can do better’.

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# CWC Review Conference Report

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## Week two: remembrance, thematic review and Committee of the Whole

The second week of the Review Conference started with the observation of the annual ‘Day of Remembrance for All Victims of Chemical Warfare’ in a Ceremony at the OPCW headquarters building which included statements from the Secretary-General of the Dutch Ministry of Foreign Affairs and the Mayor of The Hague inside the building (in the Ieper Room, named after the town that was the location of the first large-scale chemical weapons attack in April 1915) and the laying of wreaths and observance of a minute’s silence at the memorial site adjacent to the grounds of the OPCW building.

The Conference proceedings commenced with an open plenary session in the morning. At lunchtime, the Chair of the Review Conference, Ambassador Agustín Vásquez Gómez (El Salvador), announced that the Committee of the Whole would start work in the afternoon and report on progress to the plenary at 17.30 on Wednesday 28 November. Ambassador Gómez also indicated that the twenty-third session of the Conference of States Parties, which had been suspended on Tuesday, would resume on Friday afternoon and that he hoped to complete the work of the Review Conference by Friday lunchtime.

The point at which the Committee of the Whole is convened is a useful moment to try to gauge the atmosphere of the Conference. There are clearly issues on which delegations disagree a great deal. While conveying a sense of the atmosphere of the Review Conference is difficult, the current atmosphere is much more characteristic of the tensions of the Second Review Conference (RC-2, held in 2008) at a similar stage of the proceedings than it is of the Third Review Conference (RC-3, held in 2013) which had relatively few tensions at this point, although there were many tensions that emerged in later proceedings that year. With a truncated Review Conference this year [8 working days instead of the usual 10], the timescale will be challenging to complete the work of the Conference.

### **The morning plenary session**

The plenary session started with a request by Syria to take the floor to inform the Review Conference of what it described as a ‘terrorist’ attack that appeared to have been carried out with chlorine on Saturday 24 November in Aleppo. Syria noted that its government had sent letters about this incident to the UN Secretary-General and the President of the UN Security Council as well as informing the OPCW. The OPCW Director-General informed the Conference that he had received a request for the Fact-Finding Mission to be deployed to investigate. Many delegations, at this point or later in the morning, condemned the use of chemical weapons by anyone, anywhere, at any time and under any circumstances.

The Conference then received a report from the Chair of the ‘Open-Ended Working Group for the Preparation of the Fourth Review Conference’ (OEWG). Ambassador I Gusti Agung Wesaka Puja (Indonesia) told the Conference that the OEWG had met 23 times since January and had received inputs from governments, civil society and industry. He indicated that, as well as the public report from the OEWG, he had prepared a ‘Chairperson’s draft provisional text’, formulated under his personal responsibility as a best judgement that could be drawn from the inputs available to him and noted the text did not cover all issue areas as there were some issue areas with divergent views.

The next presentation was from the outgoing Chair of the Scientific Advisory Board (SAB), Christopher Timperley, who gave a presentation on the work of the Board, including its 4 Temporary Working Groups and 4 workshops held in 2016 and 2017.

The main part of the work of the morning was under Agenda item 9 'Review of the operation of the Chemical Weapons Convention as provided for in paragraph 22 of Article VIII, taking into account any relevant scientific and technological developments'. In the past this has been commonly known as the 'thematic review'. Many points raised under this agenda item had also been raised in the general debate and covered in the daily reports so are not repeated here. The section of the thematic review dealing with chemical weapons destruction that had been held in classified session during RC-3 was conducted in open session this year, although very little specific information was mentioned. Iran responded to this, suggesting that as chemical weapons destruction was a 'main pillar' of the Convention the US showed 'audacity' in accusing others in relation to CWC implementation. This prompted a forceful intervention from the US. China gave a detailed report on the situation relating to destruction of chemical weapons left behind by Japan on Chinese territory around the time of the Second World War and falling within the definition of 'abandoned chemical weapons' (ACWs) within the CWC [see also Erratum, below]. China noted that the destruction of tens of thousands of items had been carried out but that there were many thousands remaining and more ACWs were being discovered with more likely to be discovered in future. Japan also took the floor on this subject. Under one of the assistance sub-items, South Africa noted the help it had received from VERIFIN, Finland, in developing its laboratory capacity and highlighted that Protechnik Laboratories would be signing a cooperation memorandum this week with TNO Laboratories of the Netherlands.

### **The role of the Committee of the Whole**

Each international treaty has its own processes and procedures for preparation of documents produced from their meetings. For the CWC, the drafting work of the main elements of the final document is the responsibility of the Committee of the Whole which then reports back to the plenary. For this Review Conference, the Chair of the Committee of the Whole is Ambassador Marcin Czepelak (Poland). Unlike plenary sessions, which are open, the Committee of the Whole meets behind closed doors with no NGO access.

The issues likely to be of most concern for the content of the final document have been highlighted in the public sessions, such as in the general debate, thematic review, and through working papers and national papers submitted to the Conference. Indeed, experience of Review Conferences within a variety of treaties indicates it is very rare for a new issue to be raised at this stage of a Conference, although new aspects of an issue may become the focus of attention.

With the Committee of the Whole only just convened, and the underlying principle of negotiation that 'nothing is agreed until everything is agreed', experience suggests few firm decisions will be taken in the early run through of the text until delegations get a sense of where the ground lies. Unlike some negotiations where many delegations will have only a single issue as their negotiating priority, the issues under consideration within the CWC overlap each other and so the trade-offs between issues may be complex and not necessarily apparent to those who are not within the relevant meetings, whether this is the formal proceedings of the Committee of the Whole or informal consultations that may take place in side rooms or in corridors.

**Erratum** - A late edit for the report circulated on Monday introduced an error in which the last minute recasting of a sentence about Japan abandoning chemical weapons on the territory of China inadvertently suggested this was the other way around. Mea culpa. *This is the seventh report from the Fourth Review Conference of the Chemical Weapons Convention being held in The Hague 21-30 November 2018, preceded by the 23rd Session of the Conference of States Parties. These reports are prepared for the CWC Coalition, a global network of non-governmental groups with CWC interests, and are available at <<<http://www.cbw-events.org.uk/cwc-rep.html>>>. The author, Richard Guthrie of CBW Events, can be contacted via <<[richard@cbw-events.org.uk](mailto:richard@cbw-events.org.uk)>>.*

# CWC Review Conference Report

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## The fifth day: the long day of the Committee of the Whole

The Fourth five-yearly Review Conference (RC-4) of the of the Chemical Weapons Convention (CWC) continued into Tuesday, its fifth working day, with the formal proceedings dedicated to the work of the Committee of the Whole. Rather than two sessions [10.00-13.00 and 15.00-18.00] there were three sessions held during the day – morning, afternoon and evening [10.00-13.00, 15.00-18.00 and 19.30-22.30].

The Committee started in the morning in the Ieper Room in the OPCW building where it had convened on Monday afternoon. It continued to meet behind closed doors. The Ieper Room is much smaller than the main hall in the World Forum Convention Centre (WFCC) next door and with so many delegates wishing to participate in proceedings the room is said to have become crowded. The decision was taken during the morning that the afternoon and evening sessions would be held in the WFCC main hall where the plenary is also held.

The Committee of the Whole is working its way through the ‘Chairperson’s draft provisional text’ prepared by the Chair of the ‘Open-Ended Working Group for the Preparation of the Fourth Review Conference’ (OEWG), Ambassador I Gusti Agung Wesaka Puja (Indonesia). By the end of the day, four sessions of the Committee of the Whole had been held [1 on Monday afternoon and 3 on Tuesday] with barely half of the paragraphs of the OEWG Chair’s text having been given a preliminary examination, commonly known as a ‘first reading’. From discussions in the corridors, it is clear that many difficult paragraphs in the text were skipped. It is worth remembering that Ambassador Puja informed the Review Conference on Monday that there were a number of difficult subject areas not covered in his text. These factors taken together indicate that the timetable for this Review Conference to reach any kind of conclusion is very tight.

One aspect of the work of the Committee of the Whole that appears to be different from that which has taken place in earlier Review Conferences is that there appear to have been no facilitators appointed to deal with difficult issue areas. During the Second Review Conference (RC-2, held in 2008) and the Third Review Conference (RC-3, held in 2013) facilitators were appointed to deal with challenging issue areas through consultation with interested delegations. This allows for progress on specific subject areas without taking away time available for other subjects to be discussed in the meeting. However, it is understood that the Chair of the Committee of the Whole, Ambassador Marcin Czepelak (Poland), has been calling upon the experience of some of those who had coordinated aspects of the OEWG work.

### **The structure of 2013 CWC Review Conference final document**

The Review Conference is currently working towards a final document in the same format as that resulting from Third Review Conference in 2013. The formal title of the final document of that conference is ‘Report of the Third Special Session of the Conference of the States Parties to Review the Operation of the Chemical Weapons Convention’ [OPCW document number RC-3/3, 19 April 2013, available from the OPCW website <<<http://www.opcw.org>>>]. The section numbers directly follow the numbers of the agenda items for that Conference, with sections 1-8 and 10-13 being almost entirely procedural and, in essence, are like brief minutes of what had occurred under those items.

The substantive parts fell within agenda item 9 under which the thematic review took place. For the final report, this was split into two parts – ‘Part A: Political Declaration’ and ‘Part B: ‘Review of the operation of the Chemical Weapons Convention as provided for in paragraph 22 of Article VIII, taking into account any relevant scientific and technological developments’. Part B of the 2013 final report used the sub-item titles to agenda item 9 agreed to at the beginning of RC-3 as sub-section headings. The Part A political declaration has also sometimes been known as the solemn declaration.

The structure of the CWC Review Conference documents has evolved over time. In 2003, the political declaration was issued separately [RC-1/3, 9 May 2003] from the final report [RC-1/5, 9 May 2003]. The difficulties in reaching consensus in 2008 meant that there was no separate political declaration nor was a political declaration text included in that year’s final report [RC-2/4, 18 April 2008]. As noted above, the political declaration in 2013 was included in the final report.

At the time of writing, the current author is not aware of any draft text that would be put forward as a possible political declaration for the current Review Conference.

### **Agenda item 9 sub-items in the Third and the Fourth Review Conference**

The sub-items under agenda item 9 for the Fourth Review Conference, as agreed on the first day of the Conference are the same as those in RC-3 and read:

- (a) the role of the Chemical Weapons Convention in enhancing international peace and security and in achieving the objectives as set forth in the preamble of the Convention;
- (b) ensuring the universality of the Chemical Weapons Convention;
- (c) implementation of the provisions of the Chemical Weapons Convention relating to:
  - (i) general obligations and declarations related thereto;
  - (ii) reports by the Director-General on destruction-related issues;
  - (iii) destruction of chemical weapons including implementation of the Conference of the States Parties and Executive Council decisions on destruction-related issues;
  - (iv) destruction or conversion of chemical weapons production facilities;
  - (v) verification activities of the OPCW;
  - (vi) activities not prohibited under the Chemical Weapons Convention;
  - (vii) national implementation measures;
  - (viii) consultations, cooperation, and fact-finding;
  - (ix) assistance and protection against chemical weapons;
  - (x) economic and technological development;
  - (xi) Articles XII to XV and final clauses; and
  - (xii) the protection of confidential information; and
- (d) the general functioning of the Organisation for the Prohibition of Chemical Weapons.

These sub-items were the elements of the thematic review.

In the equivalent activities within Review Conferences to the Biological Weapons Convention, there is an article-by-article review that is prepared by the Committee of the Whole.

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# CWC Review Conference Report

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## The sixth day: a Committee of the Whole or a committee of three parts?

The sixth day of the Fourth five-yearly Review Conference (RC-4) of the of the Chemical Weapons Convention (CWC) saw the completion of the work of the Committee of the Whole, a new text by the Chair of the Committee, and the announcement of a move to informal consultations.

From what can be gleaned from discussions in corridors with participants in the work of the Committee of the Whole there would seem to be three groups of states parties within the proceedings. A key defining factor is the divergences of views relating to the June decision of the CSP Special Session on attribution issues. Just as it was possible to describe most interventions in the twenty-third session of the Conference of States Parties (CSP) that preceded the Review Conference into two groups that could be described as 'June decision supporters' and 'June decision opponents' [see earlier daily reports] these groupings could be identified in the work of the Committee of the Whole. As noted before, the June decision supporters consider claims that chemical weapons have been used on numerous occasions in Syria to be credible and cite a number of published sources in support of this, including reports from the OPCW Fact-Finding Mission and the UN-OPCW Joint Investigative Mission. From the other perspective, the June decision opponents broadly claim that the allegations of use of chemical weapons in Syria are based on fabrications and politicized statements which have led to politicization of the OPCW itself. Within the Committee as a Whole there has also been a quiet group of delegates, many of whom do not have strong inclinations either way on the attribution issue but see no advantage in speaking out as they cannot see any way of bridging the gap between the views on each side. As is usual in these situations, there have been no reported changes of positions from those made in the public sessions such as the general debate.

### **Short plenary, including report from the Committee of the Whole**

Late on Wednesday afternoon, the plenary was resumed to hear a report back from the Chair of the Committee of the Whole, Ambassador Marcin Czepelak (Poland). He noted that the Committee had held 6 meetings totalling almost 17 hours of working time and that one reading had been completed of the entire draft provisional text that had been prepared by Chair of the Open-Ended Working Group for the Preparation of the Fourth Review Conference (OEWG), Ambassador Puja (Indonesia). He described the work as having made 'substantial progress' and suggested that the work of the Committee was an 'open and transparent process'. [Note: in suggesting an 'open and transparent process', Ambassador Czepelak is clearly referring to what delegates from states parties might feel about the work of the Committee. Those who have been excluded from the room while the Committee of the Whole is in session, such as NGOs, are not likely to describe the process in such terms.]

He thanked a group of Ambassadors who conducted informal consultations to help facilitate the outcome: Amb. Matthew Neuhaus (Australia), Amb. Sabine Nölke (Canada), Amb. María Teresa Infante (Chile), Amb. Mr. Gusti Agung Wesaka Puja (Indonesia), Amb. Hiroshi Inomata (Japan), Amb. Abdelouahab Bellouki (Morocco), Amb. Shujjat Ali Rathore (Pakistan), and Amb. Bruce Koloane (South Africa).

Ambassador Czepelak indicated that consensus could not be achieved on all paragraphs of the draft provisional text within the limited time that the Committee of the

Whole had to work within and noted that there were ‘still outstanding issues, on which fundamental divergence of views continue to exist’. [Note: the Committee of the Whole met for fewer hours at this Review Conference than at the previous two, in line with the total reduction of the number of working days at this Review Conference to 8 compared with the 10 at the previous Review Conferences.]

Ambassador Agustín Vásquez Gómez (El Salvador), Chair for the Review Conference, thanked Ambassador Czepelak for having handled a ‘difficult task’ to a compressed timetable. He announced that he would holding informal consultations based of the text being prepared by the Chair of the Committee of the Whole and that he aimed to submit a new text to a plenary session at 15.00 on Thursday which would then be suspended for delegates to consider the detail of the text and reconvene at 19.30. He also announced that in between these plenaries, the resumption of the twenty-third session of the Conference of States Parties, which had been unable to adopt its final report the week before, would be convened and this would be scheduled for 16.00.

### **Moving towards the end-game of the Review Conference**

It is clear that to achieve consensus on certain substantive policy points – such as allegations of use or attribution – will be extremely challenging, if not impossible. Impossible is a term most delegates would not want to use at this stage, but there is a clear recognition that any reasonable possibility of moving toward consensus has to be attempted as it would be foolish not to exhaust all options. However, there are a number of challenging influences, or potential influences, on proceedings; one is that the wrong sort of effort to push for consensus could inadvertently harden positions which could then spill over into activities after the Review Conference.

There has been active consideration by many delegations about what form of document there might be that could replace the final document of the usual CWC Review Conference format. The procedural elements of the usual CWC document format are mostly uncontroversial and so there is clear potential for a procedural report to be adopted by consensus. This would leave open the question of what text – including in what format and in the name of whom – could be put together to reflect the substantive work of the Conference. There are many precedents within a variety of international treaty arrangements where the outputs of a conference have been separated into a part agreed by consensus and a part for which it is clearly indicated that consensus could not be reached. In many cases, a Chair’s summary or a Chair’s report will fulfil this latter function, but this works best where divergences do not run too deep.

In working out what forms of output might be produced, it is worth thinking about the question: ‘What do we have a Review Conference for?’ In general terms, five-yearly Review Conferences of the treaties relating to the control of ‘weapons of mass destruction’ are the ultimate decision-making bodies as no other meetings have powers to take substantive decisions, including those on budgets. This is not the case here. For the CWC and its implementing body, the OPCW, most of its key decisions, such as the budget, are taken at the regular annual session of the CSP. The Review Conference, while technically a CSP special session, takes no budget decisions, although its policy decisions could have budgetary consequences. The practical day-to-day operations of the OPCW would be unaffected if there was no substantive report from the Review Conference. There would be political consequences, however, as the Review Conference is there to provide a political steer to the overall regime to control chemical weapons and there might be questions raised about the coherence of that regime. In this context, many states parties clearly want to continue efforts to try to reach consensus on substantive elements of a final report, even though that challenge seems daunting.

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# CWC Review Conference Report

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## The penultimate day of the Review Conference and closure of the CSP

The seventh, and penultimate day of the Fourth five-yearly Review Conference (RC-4) of the of the Chemical Weapons Convention (CWC) started with numerous informal consultations during the morning on what should be in a new draft text for the substantive part of the final report. A new text was introduced in the name of the Chair of the Review Conference, Ambassador Agustín Vásquez Gómez (El Salvador) in a short plenary after lunch. No meetings, other than the brief closing meeting of the Conference of States Parties, were held during the afternoon, allowing delegations to consider the new draft. An evening plenary took views on the new draft before further informal consultations were initiated. At the time of writing of this summary, it would appear that the informal consultations were unable to make sufficient progress to enable a text to be adopted by consensus and that the likely outcome would be a Chair's report. These consultations are scheduled to be reported to a plenary meeting on Friday morning

### **Short afternoon plenary**

Ambassador Gómez introduced his new text, highlighting some of the aspects where he had added text to cover subject matter where neither the Open-Ended Working Group for the Preparation of the Fourth Review Conference (OEWG) nor the Committee of the Whole were able to reach conclusions, or where language had been changed to help move to consensus. Among these, he described the 'instances of use' of chemical weapons since the previous Review Conference as continuing to be the subject of 'debate and contention' and that he had selected text on the subject taken from language used in the Convention itself and references to relevant documents produced or adopted by the OPCW. He noted that central nervous system-acting chemicals had been the subject of debate and so that this should be reflected. A number of aspects of the Syria situation, such as the need to extend full cooperation to the Declaration Assessment Team, and lessons learned from OPCW activities in relation to that country were included. A proposal to have an open-ended working group on Article XI issues was reflected within the capacity development section. A mention of sea-dumped chemical weapons was inserted. References were added to 'highlight the valuable contribution' civil society organizations bring through their engagement with the OPCW. The meeting was adjourned without further discussion.

In the corridors of the Convention Centre, the text was well received, with many individual delegates commenting that the text was a far more effective move towards consensus than they had thought possible, although there were still a number of significant issues in play.

### **Closure of the Conference of States Parties**

Shortly after the brief plenary of the Review Conference, the twenty-third regular session of the Conference of States Parties (CSP) was resumed. This meeting had been suspended just over a week before after it had been unable to reach agreement on adoption of its report.

A revised version of the final report text was introduced by Ambassador Yun-young Lee (Republic of Korea) in his role as Chair of CSP-23. Rather than the process that had been started just over a week ago of considering the draft report paragraph by paragraph, this time the report was considered for adoption as a whole. This is typical of a

deal arranged through informal channels. The Chair's opening remarks, a brief verbal amendment, the standard reservation from Iran about not recognizing Israel, a clarification from Côte d'Ivoire, adoption of the report and the Chair's closing remarks all took 14 minutes – perhaps the shortest CSP meeting this author has witnessed.

### **Evening plenary**

The evening plenary started 4 or 5 hours after most delegations had seen the new text from the Chair of the Review Conference. There was a moment of levity when there was initially no delegation ready to make a comment. The Chair asked again if any delegation wished to comment and then said, with a wry smile, 'If no one takes the floor we will adopt this by consensus', prompting laughter and a gentle ripple of applause.

Reactions to the new text started with a number of primarily Latin American delegations taking the floor in support of the draft. This is typical of a situation where a difficult text has been compiled by a Chair, it is often delegations from the Chair's region who speak out first in support. There were then many supportive statements from other delegations with appreciation to the chair for his efforts. The first dozen or so interventions gave unqualified support, then a few referred to further negotiations or consultations needed. Up to this point, all states parties taking the floor were from the NAM/China group. The US took the floor highlighting that ISIL/Daesh was named as having used chemical weapons but that there was 'a state party in the room', unnamed in the text, that had been found by the same investigation group to have used chemical weapons and asked 'what signal does that send?' Canada asked, through the Chair, if those delegations that referred to further consultations could indicate the areas of concern. Palestine, one that had done so indicated, with some passion, that they found it unacceptable that earlier Review Conferences had used the term 'welcome' in reference to new members but that this draft instead used 'noted with appreciation' that the number of states parties had risen to 193. [Note: CWC Review Conference documents have previously consistently used the word 'welcome' when referring to new adherents to the Convention. This has also been the predominant, but not exclusive, term in documents from other policy making organs. For example the Executive Council 'welcomed the accession of Somalia to the Convention on 28 June 2013' [EC-73/6, 19 July 2013] but 'noted the accession of the Syrian Arab Republic with effect from 14 October 2013' [EC-74/5, 11 October 2013].] Another intervention given with some passion was when the US took the floor a second time and made further points about making reference to one finding of the Joint Investigative Mechanism (JIM) but not another, explicitly stating people have died from chemical weapons 'in Syria, by Syria', asking 'what price consensus?', and suggesting that Article I of the Convention does not refer to use of chemical weapons only when it is convenient not to ignore. Syria responded by saying that the results of the JIM investigations were not endorsed by the UN Security Council and, therefore, if there was no consensus in the Security Council, why should there be consensus in the OPCW?

There were over 50 interventions in the discussion, with few delegations taking the floor more than once. The discussion was focused on two clusters of issues – JIM, the Fact Finding Mission and attribution; and the issue of what term should be used in relation to new states parties. Numerically, most interventions were on the latter subject. The Chair announced that informal consultations would start in his office once the plenary was adjourned.

***There will be at least one further report on the closing day of the Review Conference and documentation produced which will be posted to the website listed below, probably next week. The author will be producing daily reports from the Meeting of States Parties to the Biological Weapons Convention next week which may impact upon this schedule.***

*This is the tenth report from the Fourth Review Conference of the Chemical Weapons Convention being held in The Hague 21-30 November 2018, preceded by the 23rd Session of the Conference of States Parties. These reports are prepared for the CWC Coalition, a global network of non-governmental groups with CWC interests, and are available at <<<http://www.cbw-events.org.uk/cwc-rep.html>>>. The author, Richard Guthrie of CBW Events, can be contacted via <<[richard@cbw-events.org.uk](mailto:richard@cbw-events.org.uk)>>*

# CWC Review Conference Report

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## The closure of the Review Conference and some reflections

[*Editorial note:* please note that the production of this wrap-up report was delayed owing to reporting from the Meeting of States Parties of the Biological Weapons Convention the week after the Review Conference.]

The eighth and final day of the Fourth five-yearly Review Conference of the Chemical Weapons Convention (CWC) finished its proceedings on Friday 30 November without concluding a final report. Instead, a report from the Chair [RC-4/3/Rev.1] constitutes the official record of the Review Conference.

The Conference opened in the morning with the formality of adopting the report from the Credentials Committee. This was followed by a report from the General Committee, the body that administers the Review Conference and which in some settings is referred to as ‘the bureau’. During this report, in plenary session, it was confirmed that consultations overnight had made it clear that there would be no consensus on a final report from the Conference as differences in positions held by delegations were too far apart. The Chair of the Review Conference, Ambassador Agustín Vásquez Gómez (El Salvador), had therefore decided to issue the text that he had modified from the work of the Committee of the Whole as a Chair’s report, under the terms of rule 50 of the Rules of Procedure.

The Conference then moved to agenda item 11 ‘Any other business’ which gave delegations a chance to make interventions on a wide range of issues. Many delegations used this opportunity to make what, in other contexts, would be closing statements. Most expressed regret in one form or another at the inability of the Conference to reach consensus and thanked the Chair for his efforts in challenging circumstances. A number of delegations suggested that, as the negotiating model of ‘nothing is agreed until everything is agreed’ had been in use, the Chair’s report should not indicate whether any individual paragraphs were the subject of divergent views.

There were specific points in particular statements that were of note (covered here in the order they were raised). The USA indicated a belief that Iran and Venezuela should not have been elected as Vice-Chairs at the Review Conference, describing them as ‘malign states’ and suggesting this undermined the credibility of the Convention. France introduced a declaration by 57 states parties [published as RC-4/NAT.37, not to be confused with the impunity partnership statement also coordinated by France, RC-4/NAT.19\*]. This noted that the ‘re-emergence of the use of chemical weapons is the most alarming development we face today’ and called for a range of actions to strengthen implementation of the Convention. Russia introduced a declaration by around two dozen states parties [not published on the OPCW website at the time of writing] which suggested that disunity within the Convention was caused by politicization which was weakening the Convention. The coordinators of each declaration indicated that their declarations remained open for new adherents. South Africa, noting the two declarations, suggested that calls to adhere to one declaration or another were not a way of achieving consensus.

In his closing comments, the Chair noted that the final text was closer to consensus than many delegates had expected. He also noted that while consensus would have needed some political flexibility there were divergences on issues that were ‘fundamental’ to delegations. The meeting closed at 16.35.

## Reflections

A conscious effort is taken in writing these daily summaries to report objectively and not give opinion. However, there are times that this style of reporting does not convey some of the atmosphere of meetings. The following are some personal reflections that do not necessarily represent anyone's views other than the author's own.

This Review Conference was held in particularly challenging circumstances. As the Chair noted, the divergences of views were on 'fundamental' issues. Indeed, as the Review Conference is supposed to give strategic direction to the Convention and the activities within it, could it really be expected that it would reach any form of consensus conclusion so soon after the divisive votes over the budget at the Conference of States Parties (CSP) the week before? The votes were called because of the lack of consensus over the strategic direction of the Convention and the votes were held only eight working days before the conclusion of the Review Conference. Later analysts are likely to look back and wonder why anyone had any expectation of consensus. Indeed, the divergence of views continued into the following week, with the adoption on 5 December of the UN General Assembly resolution on the CWC by a vote of 152 in favour, 7 against with 22 abstentions.

Nevertheless, the Review Conference moved much closer to consensus than might have been reasonably expected. In part this was down to a number of individual delegates who wanted to be able to report back to their capitals that all avenues that could have reasonably been pursued to reach consensus had been followed. In part this was also down to the excellent role played by the Chair himself. The reduced time of this Review Conference – only 8 working days instead of the usual 10 – was probably not a factor in the lack of consensus. While further time would have provided the opportunity for additional consultations to further develop any potential final report, it is clear from the stated positions of a number of delegations that it would have been extremely hard to find formulations on key issues that would have achieved consensus.

The key issue of divergence related the question of how to handle allegations of use of chemical weapons (the assessments of many governments has been that many of these should be considered confirmed use). As noted in earlier daily reports, the key divergence was between those that were supporters of the June decision on attribution and those that were opposed to this. These pretty much neatly fell in to the two groups epitomised by the rival declarations coordinated by France and by Russia. In a rough and ready characterisation, the first group believes chemical weapons have been used in Syria by the government and that this use presents a challenge to the principles and objectives of the CWC itself. It is worth recalling that the Convention includes the following words in its preamble: 'Determined for the sake of all mankind, to exclude completely the possibility of the use of chemical weapons, through the implementation of the provisions of this Convention'. The second group believes that proposals for attribution by the OPCW are an unwarranted politicization of the Convention and its activities.

While investigations of alleged use of chemical weapons have been carried out in challenging situations in which it has been impossible to verify every aspect of every allegation, the methods for investigation of alleged use of chemical weapons in the territory of Syria have not been a failure. Indeed, there is an argument to be made that the processes of investigation and evaluation of evidence regarding allegations of use, such as the Joint Investigative Mechanism (JIM), were opposed because they were too successful in identifying cases where there was clear evidence of use of chemical weapons.

Another notable feature of the Review Conference/CSP was the politics around the status of the State of Palestine which had deposited an instrument of accession to the CWC in 2018. Handling of the issue, particularly by the USA, prompted many delegations to take the floor in support of Palestine as a state party. This provided a distraction from the issues relating to how to deal with allegations of use of chemical weapons

*This is the final report from the Fourth CWC Review Conference held in The Hague 21-30 November 2018. These reports are prepared for the CWC Coalition, a global network of non-governmental groups with CWC interests, and are available at <<<http://www.cbw-events.org.uk/cwc-rep.html>>>. The author, Richard Guthrie of CBW Events, can be contacted via <<[richard@cbw-events.org.uk](mailto:richard@cbw-events.org.uk)>>*