Investigations of Alleged Use (IAU) Under the Chemical Weapons Convention

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Presentation outline

• Relevant CWC provisions
• Initiation of an IAU
• Pre-investigation activities
• Field activities
• Post-investigation activities
• TS preparedness
• Summary
CWC prohibition of use

• Among the most fundamental of CWC prohibitions:
  – Preamble “Determined for the sake of all mankind, to exclude completely the possibility of the use of chemical weapons”
  – Article I, para. 1(b) “Each State Party to this Convention undertakes never under any circumstances ... to use chemical weapons”

• But a State Party could violate the CWC, or a State not Party could use CW, or terrorists

• Therefore, CWC negotiators included provisions to investigate allegations of use
Initiation of an IAU

• An IAU can be initiated in three situations:
  – under the provisions for a challenge inspection laid down in Article IX
  – in the course of providing assistance in accordance with Article X
  – upon the request of the UN Secretary-General
IAU under Article IX

• To clarify and resolve any questions concerning possible non-compliance with the CWC
• An investigation, in the form of a challenge inspection, if one State Party believes another State Party has used CW on its own territory
• High burden of proof – did accused State Party use CW or not?
• Article IX + Part XI, VA
IAU under Article X

• Each SP has the right to request assistance & protection if it considers:
  – Chemical weapons have been used against it
  – Riot control agents have been used against it as method of warfare
  – It is threatened by actions/activities of States prohibited to States Parties by Article I

• DG initiates (within 24 hours), an investigation to “provide foundation for further action”

• Lower burden of proof – were CW used? (no requirement to identify culprit)

• Requirement to assess assistance needs

• Article X + Part XI, VA
IAU requested by UNSG

• If alleged use involves a State not Party or territory not controlled by a State Party, OPCW shall “closely cooperate” with the UNSG

• If so requested, the OPCW shall “put its resources at the disposal” of the UNSG

• UNSG can act under his authority from investigative mechanism, OPCW is centre of expertise and resources

• Paragraph 27 of Part XI, VA
Content of an IAU request

• State Party on whose territory use of CW is alleged to have taken place
• Point of entry or other suggested safe routes of access
• Location and characteristics of alleged CW use
• Time of alleged CW use
• Types of CW used
• Extent of alleged use
• Characteristics of the possible toxic chemicals
• Effects on humans, animals and vegetation
• Request for specific assistance, if applicable
Pre-investigation activities I

- Actions by the Director-General:
  - Acknowledge receipt of request to Requesting State Party
  - Establish internal Mission Support Group
  - Inform Executive Council and all States Parties
  - Notify other States Parties as applicable
  - Assign the inspection team:
    - Designated “core team” among TS staff
    - Qualified experts if required
  - Sign the inspection mandate
Pre-investigation activities II

• Preparation of the IAU team:
  – Review of all relevant information
  – Technical and operational briefings
  – Health and safety measures
  – Logistical arrangements/preparation and packing of equipment
  – Development of preliminary inspection plan

• Emphasis on safety of the team
EC involvement during an Article X investigation

1. Request for assistance and protection
   → Director-General

2. Initiation of investigation within 24 hrs
   → EC (immediate)
   All State Parties (immediate)
   Offering State Parties (12 hrs)

3. Complete investigation and report within 72 hrs (possible 72 hrs extensions)
   → The report:
   Establish relevant facts
   Type and scope of supplementary assistance

4. Submission to the EC and decision on the report within 24 hrs
   → DG’s action to mobilise OPCW resources
   Secretariat action
   Supplementary assistance
   International organisation
Possible composition of an investigation team

- ML
  - DML (CP)
    - Liaison & Media
    - Health & Safety
    - Communications
    - Logistics
  - ACAT
  - InTL (Field)
    - ST1 Recce
    - ST2 S&A
    - ST3 Decon
Field activities I

• Chemical and explosive ordnance reconnaissance:
  – General recon, UXO recon
  – CW munitions identification
  – Non Destructive Evaluation of unexploded ordnance
Field activities II

• Environmental and chemical sampling and analysis:
  – Sampling
  – Sample decontamination and delivery
  – Sample preparation
  – Analysis & chain of custody procedures
  – Off-site sample transportation
Field activities III

• Interviews:
  – Witnesses
  – Refugees
  – RSP representatives

• Medical investigations:
  – Clinical examination and interviewing of causalities
  – Review of medical records
  – Biomedical sampling and analysis
Field activities IV

• Command Post
• Communications
• Decontamination
• Logistics
Post-investigation activities I

• Technical and operational debriefing of the IAU team
• Return of inspection equipment
• Handover of confidential documents
• Medical debriefing
Post-investigation activities II – Reporting

- Preparation and submission of a preliminary report NLT 72 hrs after return
- Submission of final report NLT 30 days to the DG
- Report shall:
  - Summarize factual findings of the IAU team
  - Describe the investigation process
  - Provide information on sampling and on-site analyses
  - Provide any supporting evidence to the alleged use cited in the request
- DG submits preliminary and final reports to Executive Council and all States Parties
TS preparedness status – Objective

• “The Second Review Conference requested the Secretariat to continue to maintain a high standard of readiness to conduct a challenge inspection or investigation of alleged use”
• “The Second Review Conference requested the Secretariat to maintain competence in the light of scientific and technological developments.”
TS preparedness status – Procedures, personnel, equipment

- SOPs approved and updated as necessary
- Follow-up lessons learnt from exercises
- Qualified Experts concept paper approved
- Personnel designated and available
- Equipment stockpiled and ready for rapid deployment
- Arrangements with charter companies for cargo and personnel
TS preparedness status – Exercises

• IAU-only exercises:
  – October 1999 (Czech Republic)
  – June/July 2000 (Poland)
  – March/April 2003 (Czech Republic)
  – May 2010 (Serbia)

• IAU and assistance exercises:
  – October 2005 Joint Assistance (Ukraine)
  – October 2010 ASSISTEX-3 (Tunisia)
Summary

• Investigation of alleged use of CW:
  – Non-routine type of inspection
  – Complex inspection requiring high flexibility of the IAU team
  – Possible high media attention
  – Potential political sensitivities
  – Strict timelines

• IAU team tasked to establish facts