

Declarations of Old Chemical Weapons under the Chemical Weapons Convention
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Ada Cheung, Australia

Introduction

When a country joins the Chemical Weapons Convention (CWC), it is required under Article III to make an initial declaration of any known chemical weapons (CW) on its territory. This declaration must be submitted to the Organisation for the Prohibition of Chemical Weapons (OPCW) in The Hague no later than 30 days after the Convention enters into force for it. As all PICS are States Parties to the CWC, this will already have been done.

All chemical weapons are subject to stringent declaration and verification requirements under the Convention and must be destroyed. However, any unusable chemical weapons that were produced between 1925 and 1946 are deemed under the CWC to be 'Old Chemical Weapons' (OCW) (see definition below) and have less stringent declaration and verification requirements than other CW.

A number of countries, including Australia, occasionally discover OCW. These must be declared within certain timeframes and in accordance with Part IV(B) of the Verification Annex (VA) to the Convention. Any declared OCW must also be destroyed in accordance with OPCW guidelines, and might require international verification by OPCW inspectors. The OPCW Technical Secretariat (TS) is the organ of the OPCW responsible for the global implementation of the Convention and it will provide appropriate cooperation and assistance.

The purpose of this presentation is to outline the processes involved when suspected OCW has been discovered.

As you can see in the flow-chart, the first step is identifying whether the find is likely to be a chemical weapon, or is conventional explosive remnants of war. Identification of OCW is very technical and can be difficult and dangerous. The OPCW does not expect anyone, especially from countries with no history of producing CW, to be an expert in identification.

The Chemical Demilitarisation Branch (CDB) (email: chemicaldemilbr@opcw.org) of the OPCW's Verification Division, is happy provide formal or informal technical advice to States Parties to assist in identifying OCW. Mr Jeff Osborne has provided his personal contact details (in the handout) to enable the provision of timely advice to States Parties. In addition to taking photographs of the suspected OCW find, it is helpful during the same exercise to also measure the GPS (global positioning system) coordinates of the find in case a formal declaration is required.

Definitions of old and abandoned CW

Under Article II of the CWC:

“Old Chemical Weapons” means:

- (a) Chemical weapons which were produced before 1925; or
- (b) Chemical weapons produced in the period between 1925 and 1946 that have deteriorated to such extent that they can no longer be used as chemical weapons.

“Abandoned Chemical Weapons” means:

Chemical weapons, including old chemical weapons, abandoned by a State after 1 January 1925 on the territory of another State **without the consent** of the latter.

It is important for a State Party to distinguish between these definitions. If it is abandoned CW, then the State which abandoned them is responsible for providing all necessary financial, technical, expert, facility as well as other resources for destruction and verification. You can also see from the handout that the CWC defines ‘chemical weapon’ as including toxic chemicals and CW precursors.

This presentation will only cover declarations of OCW as this is a complex political question. Further information on abandoned CW is covered under Part IV(B) section C of the VA.

Declarations of Old Chemical Weapons

The estimated age and condition of a suspected chemical weapon is important because the CWC distinguishes between OCW produced before 1925, and that produced between 1925 and 1946 (Table 1). It is highly unlikely that anyone outside of the United States (US) or Europe should find any pre-1925 OCW.

The usability of any CW produced between 1925 and 1946 should be determined by experts in OPCW TS in accordance with certain “usability criteria”. Anything deemed to be usable is then treated as CW. Even though it is unlikely that finds of OCW would be judged to be usable, corrosion and damage alone are not the only criteria for determining usability – other factors include fusing and the state of other components such filling plugs.

Content and Format of Declaration

Table 1 in the handout includes a summary of the Convention’s declaration requirements for OCW. Information about declarations and template declaration forms is available from the OPCW TS in hard copy, on CD ROM, and from the OPCW website (www.opcw.org).

These formal reporting requirements are in addition to informal reporting and advice from the OPCW.

Destruction of OCW

The Convention requires that all confirmed OCW be destroyed, after its status has been determined.

Again, the OPCW TS are the technical experts, and their assistance should be sought as soon as practical after the discovery, to determine how best to destroy it **before** proceeding with any further action for destruction or disposal. Emergency destruction of OCW by trained personnel is only permitted prior to declaration to the OPCW TS if it poses an immediate threat. A leaking suspected OCW munition does not automatically qualify as an emergency.

Role of the OPCW Technical Secretariat

The OPCW TS conducts an initial inspection and any further inspections as it considers necessary in order to verify the information submitted and in particular to determine whether the CW meets the definition of OCW. Given that the OPCW TS has the right under the Convention to inspect any discoveries of OCW, it is important that it is consulted about the method and timing of destruction so that it has the option to conduct an on-site inspection.

Australia's Experience with OCW

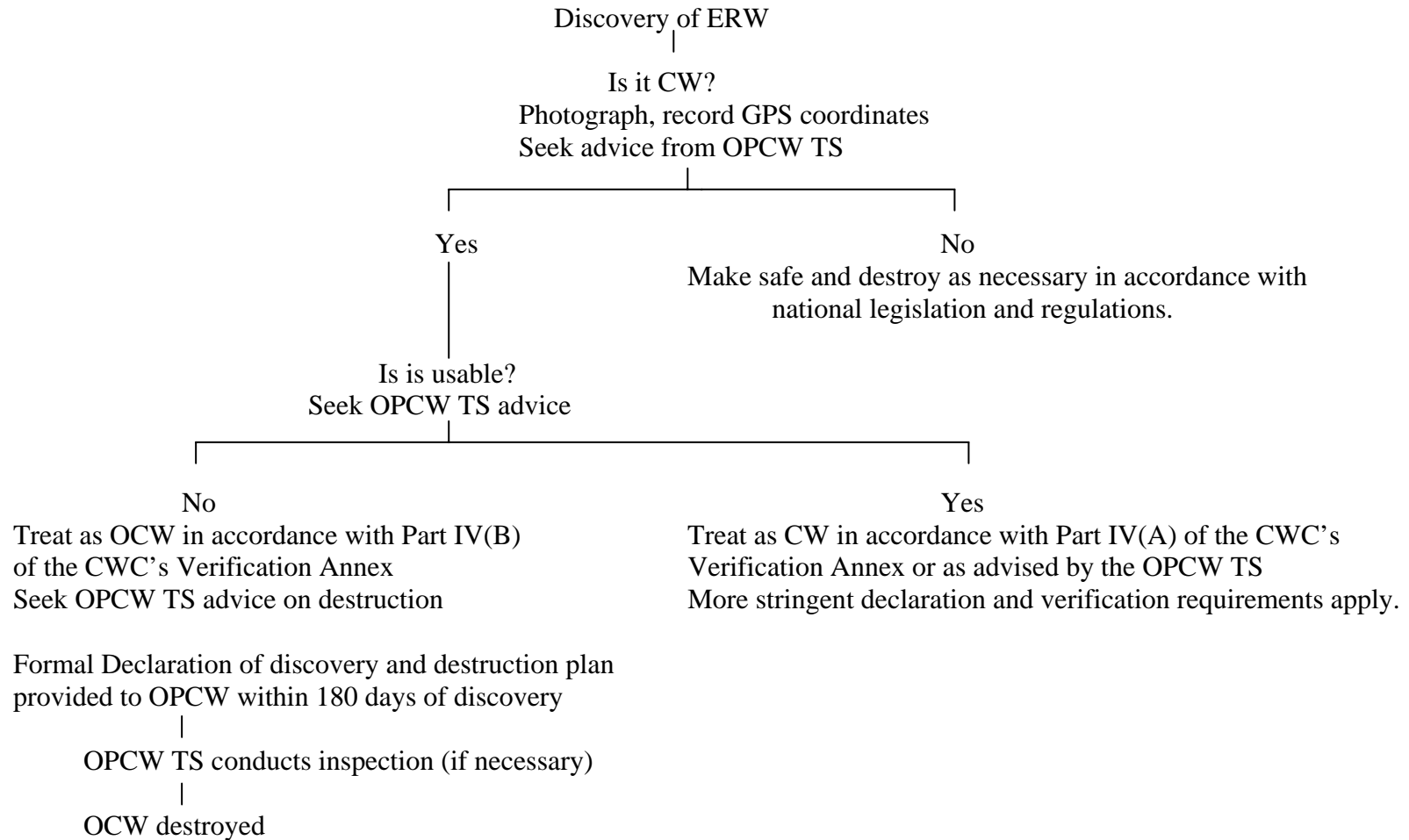
During WWII, US and British chemical weapons were brought onto Australian territory. By the end of 1948, all known CW stocks were incinerated, vented or dumped at sea, depending on the agent type. This information was provided voluntarily as a footnote in Australia's initial declaration to the OPCW.

In recent years Defence land in Australia has been sold to private enterprise, and in the process of clearing the land, there have been some discoveries of buried empty and corroded OCW of WWII vintage (see photos in handout). As required under the Convention, these finds have all been declared to the OPCW and destroyed.

Australia's experience has been to initially notify the OPCW TS as soon as practicable after the discovery (by email), and to include photographs of the finds in order to determine what action is required. As a result of this openness and transparency, and the fact that what has been found are rusty, empty delivery systems, in none of these instances, has the OPCW TS conducted an on-site inspection. However Australia invited the OPCW to visit as a transparency measure and to seek their assistance in providing guidance to the Australian Defence Force's explosive ordnance personnel on the Convention's requirements as they relate to discoveries and destruction of OCW.

The Australian Safeguards and Non-Proliferation Office (ASNO), within the Department of Foreign Affairs and Trade, is responsible for implementing the Convention in Australia. ASNO has worked closely with the Department of Defence to formulate a Defence Policy document for the reporting, management and disposal of suspected chemical weapons discoveries to ensure that Australia meets all its obligations under the CWC. The Defence Instruction, as it is referred to, is currently in the approval process before becoming mandatory for the entire Australian defence Force.

CW/OCW process flow-chart



Footnote: CWC = Chemical Weapons Convention
 ERW = explosive remnants of war
 GPS = global positioning system or geographic coordinates to the nearest second
 OCW = old chemical weapon
 OPCW TS = Organisation for the Prohibition of Chemical Weapons Technical Secretariat in The Hague

**Handout to accompany presentation on Declarations of Old Chemical Weapons
under the Chemical Weapons Convention**

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CWC Article II

Chemical Weapon means the following, together or separately:

- (a) Toxic chemicals and their precursors, except where intended for purposes not prohibited under this Convention, as long as the types and quantities are consistent with such purposes;
- (b) Munitions and devices, specifically designed to cause death or other harm through the toxic properties of those toxic chemicals specified in subparagraph (a), which would be released as a result of the employment of such munitions and devices;
- (c) Any equipment specifically designed for use directly in connection with the employment of munitions and devices specified in subparagraph (b).

Table 1: Declaration, destruction, and verification of OCW

OCW production age	Timing of declaration	Declaration information "to the extent possible"	Destruction (all OCW must be destroyed)	Verification by OPCW TS
1925 - 1946	EIF (SP) + 30 days for known OCW and not later than 180 days after any new discovery	Above information, as well as, more detailed information such as GPS coordinates of exact location of discovery, suspected or actual chemical fill, etc. as provided in Part IV(A) para 1-3 of the VA.	Any CW confirmed by the OPCW TS as being of age 1925 - 1946 and unusable (i.e. OCW) must be destroyed in accordance with Article IV and Part IV(B) of the VA	The OPCW TS shall conduct an initial inspection and any further inspections as it considers necessary (comment: more likely and may depend on the usability of the OCW).

Note: EIF (SP) + 30 days: within 30 days after the CWC enters into force for the State Party
 GPS: global positioning system or geographic coordinates to the nearest second
 OPCW TS: Organisation for the Prohibition of Chemical Weapons Technical Secretariat
 VA: Verification Annex of the Chemical Weapons Convention

CONTACT DETAILS

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Unusable OCW from WWII discovered in Australia. Photographs courtesy of Defence Australia.