

Compliance mechanism

The OPCW's Executive Council has the authority to determine whether a situation of non-compliance exists and what action should be taken. The matter may be referred to the Conference of States Parties. In situations of serious non-compliance the Conference may suspend the party in question, recommend collective measures against it, or refer the issue to the UN General Assembly or UN Security Council.

The most egregious example of non-compliance to date has been the lack of progress in the destruction of the Russian and American CW stockpiles, by far the largest. The reasons have been political, organizational, environmental, technical and budgetary. Neither of the two countries, which together account for 95 percent of the world's declared chemical weapons, are likely to meet the extended 2012 deadline for destruction of their entire stockpiles. In this case however it is clear that both states intend to comply eventually. The Council has responded therefore by extending the destruction deadlines rather than attempting to impose sanctions.

A case of deliberate non-compliance, particularly the hiding of substantial stockpiles from OPCW inspectors or the secret manufacture of new chemical weapons would be a much more serious breach of the convention. To date there is no firm evidence that any state party has done so. The US has, however, publicly accused Iran of such a violation, but without producing evidence and without raising the issue in the Executive Council or requesting a challenge inspection (although it did so at the first CWC Review Conference, along with accusing Sudan and Libya, two non-states parties at the time, of having CW). Some observers have argued that without a challenge inspection being called in the near future, the option will atrophy. Others contend that conducting a challenge inspection for the sake of it, without proper evidence to justify it, will jeopardize the future exercise of such an option.

Biological Weapons

Geneva Protocol: the UN Secretary-General's fact-finding mechanism

The 1925 Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous or Other Gases, and of Bacteriological Methods of Warfare bans the use of chemical and biological weapons (CBW) as a means of warfare, but does not have provisions for monitoring or verifying compliance. The UN Secretary-General has a presumed inherent authority under Article 99 of the UN Charter to conduct fact-finding missions to inform himself of any situation which threatens international peace and security. In 1982³² and 1983³³ the UN General Assembly specifically endorsed this authority in regard to investigating the alleged use of chemical, biological and toxin weapons. This was intended to provide a provisional procedure for verifying compliance with the Geneva Protocol pending the adoption of the CWC. In 1988 the Security Council in 1988³⁴ endorsed the procedure, which significantly, is applicable to all UN member states.

³² UN General Assembly resolution 37/98D, 13 December 1982, A/Res/37/98D (1982).

³³ UN General Assembly resolution 42/37C, 30 November 1987, A/Res/42/37C (1987).

³⁴ UN Security Council resolution 620, S/Res/620, 26 August 1988.