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Great Powers and the Norms of the CW Prohibition Regime

Alexander Kelle
Senior Researcher, IFSH
Project Leader and Network Coordinator, CBWNet

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Senior Researcher, IFSH Berlin Office
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Executive Summary

- Great powers play an important role in the establishment and maintenance of international institutions, such as the chemical weapons (CW) prohibition regime. However, once international regimes have been set up, they display path dependent behavior over longer periods, i.e. govern an issue area according to the norms agreed upon for state behavior when the regime was created. This raises the question of great power impact on the norms of an international regime once it has been established.
- The United States of America played a crucial role in negotiations of the Chemical Weapons Convention (CWC) and shaped many provisions of the treaty, including on CW destruction. However, the US, like most other CW possessor states, missed several of the CWC destruction deadlines. In addition to the CW destruction norm, the US focused its attention on the non-acquisition, the non-use and the attribution norms of the regime. Under Republican administrations, the US was more outspoken about other CWC states parties who are violating the non-acquisition and non-possession norms. It also was a driving force behind the international efforts to rid Syria of its CW program and prevent further CW use in that country, inter alia by supporting creation of the new attribution norm.
- The Russian Federation, much like the US, failed to implement the CW destruction norm according to the timelines foreseen in the CWC. The protection of its Syrian ally in the face of clear evidence of CW use by that country shows that Russia values bilateral relationships more than the compliance with multilaterally agreed upon and legally-binding norms. Also, Russia itself did not comply with the non-use norm as evidenced by two instances of Novichok use in 2018 and 2020. Combined, these actions did not result in a weakening of the norms but were instead contributing to the evolution of the CW prohibition regime through the creation of a new attribution norm.
- China has put great emphasis on the CW destruction norm, without any tangible effects of compliance by Japan or any of the CW possessor states adherence to the destruction deadlines foreseen in the CWC. Similarly, Chinese demands for a more equitable distribution of industry inspections has not changed implementation of the inspection norm. With a view to challenge inspections, China and the NAM could not achieve agreement among CWC states parties on a norm sequence that would have given priority to the consultation norm over the investigation norm. Finally, China without much success objected to the establishment of a new attribution norm in 2018.
- In sum, the key norms of the CW prohibition regime and their implementation over the past 26 years have largely conformed to the expectations of path dependency. Major disruptions caused by one or more of the great powers, which would have resulted in the demise of one or more regime norms, did not occur. Exceptions to the path charted in the CWC concern mostly delays in realizing the CW destruction norm and creation of a new attribution norm in order to identify the perpetrators of CW use in Syria. In the former case, Russia and the US were part of the problem, and in the latter Russia and China were unable to prevent establishment of the new norm.

1 Introduction

Great powers are often assumed able to shape the international system to their liking, including the creation of alliances and international institutions and regimes more broadly. From a functional or utilitarian perspective, great or hegemonic powers have an interest in the establishment of issue area specific institutions, or regimes, because of the functions such regimes can fulfil: they ascribe roles, create a stable set of expectations concerning state behaviour in a particular issues area and thereby reduce transaction costs. Continuing great power support should be forthcoming as long as the regime continues to provide those functions. However, as Harald Müller has noted, if great powers want to achieve “broad legitimacy for the system of governance to be established”, they cannot simply impose their preferences for particular regime norms onto other states. Instead, norms have to be negotiated (and sometimes re-negotiated), which means “bringing together norms emerging from different cultural settings.”¹ In other words, regime norms are socially constructed.

Usage of the term “norm” in the context of an “international regime” in this paper takes one of the early definitions in the literature on international regimes as its starting point. Accordingly, norms do not exist in isolation – rather, they are embedded in the broader structure of international regimes governing an issue area, which are based on a set of principles and put into practice through more detailed rules and decision-making procedures. As Krasner has summarized: “Principles are beliefs of fact, causation and rectitude. Norms are standards of behaviour defined in terms of rights and obligations. Rules are specific prescriptions or proscriptions for action. Decision-making procedures are prevailing practices for making and implementing collective choice.”²

More recent scholarship on the evolution of international institutions more broadly, has sought to explain patterns of continuity in such institutions and the change they are experiencing, often at the same time. From such a perspective, “understanding an institution requires an analysis of an institution’s origins and development over time.”³ Founding moments are important in this view, as they create path dependence for a regime or institution, which represents its normal, business-as-usual, mode of operation. Simply put, international regimes can take on a life of their own, thereby limiting the impact individual actors, including great powers, can have on the regime or its normative guideposts for appropriate behavior. While this allows for incremental adaptations of the regime’s operation, major changes can be expected to occur at so-called critical junctures. These, in turn, can be brought about by both (cumulative) endogenous developments and exogenous shocks.

Turning to the chemical weapons (CW) prohibition regime, adopting the above approaches and terminology means that, first we can – and should – identify the “beliefs of fact, causation and rectitude”, or principles, that underlie the regime. In the case of the CW prohibition regime there are four such principles: (1) CW use constitutes an abhorrent act of warfare, what some have called the “CW taboo”; (2) peaceful uses of chemistry are permitted; (3) protection / defenses against the use or threat of use of CW are permitted, and; (4) verification is required to confirm regime-compliant behavior by states parties to the Chemical Weapons Convention (CWC).

Without acceptance of these principles, CWC states parties would not have been able to agree on any of the regime norms that are expressed in the treaty text and have been guiding state action since the CWC’s entry into force in 1997. In other words, implementation of the CW prohibition regime was set on a particular path with the inclusion of a set of normative guideposts negotiated into the CWC

¹ Harald Müller, ‘Introduction. Where it all began’, in H. Müller and C. Wunderlich (eds), *Norm Dynamics In Multilateral Arms Control. Interests, Conflicts and Justice*, Athens and London: Univ. of Georgia Press, 2013, pp.1-19, quote on p.10.

² Stephen D. Krasner, “Structural Causes and Regime Consequences: Regimes as Intervening Variables”, *International Organization* 36(2), 1982, pp.185-205, quote on p.186.

³ Thomas Rixen and Lora Anne Viola, “Historical Institutionalism and International Relations: Towards Explaining Change and Stability in International Institutions”, in Thomas Rixen et.al. (eds), *Historical Institutionalism and International Relations. Explaining Institutional Development in World Politics*, Oxford: OUP, 2016, pp.3-34, quote on p.10.

mostly during the second half of the 1980s. Most importantly, the “General Obligations” formulated in CWC Article I comprise

- the non-acquisition norm (which in turn includes the prohibition to develop, produce, or otherwise acquire CW),
- the non-retention norm,
- the non-transfer norm,
- the non-use norm (which is meant to guide regime participants’ behavior both in relation to CW and to riot control agents when used as a method of warfare),
- the non-assistance norm, and, last but not least,
- the CW destruction norm (which goes beyond CW in the narrow sense and also includes abandoned CW (ACW), and chemical weapons production facilities (CWPF)).

Additional normative guideposts are the declaration norm in CWC Article III, the inspection norm expressed in Articles IV, V, and VI for different objects of verification, and the internalization norm in Article VII, which requires CWC states parties to enact implementing legislation and take a number of administrative steps, such as setting up a National Authority for domestic CWC implementation. In addition, CWC Article IX contains the consultation, cooperation and investigation norms⁴ and Article X spells out the assistance and protection norms. What is more, Article XI requires the non-interference in economic and technological development of CWC states parties and Article XII contains the compulsion norm, which enables states parties to compel another state party to redress a situation and return to compliance with the CWC.

One key factor that led to this particular set of regime norms are the conditions prevailing at the time of regime creation. Founding moments are important in the life of any institution, and the CWC negotiations concluded in the early 1990s at the end of the Cold War. Expectations concerning the need for and the possibility of verifying arms control treaty compliance had expanded significantly and toxic chemicals were regarded as more amenable to routine verification measures as for example the causative agents of disease. In essence, the normative structure of the CW prohibition regime is to a large degree a function of great power relations prevailing at the time, especially concerning the CW destruction norm. In order to achieve the “broad legitimacy” mentioned above, CWC negotiations had to accommodate the interests of states with a large chemical industry in the formulation of the declaration and inspection norms. Similarly, states with sovereignty concerns or development interests left their mark on the investigation, assistance and international cooperation provisions of the treaty.

However, the relationship between power and interests on the one hand, and regimes and their norms on the other is not static or immutable. First, as great power relations overall or relative to a particular issue area change, we can expect the adaptation, or at least an attempt to change the regime norms, or their interpretation and implementation. Secondly, and equally importantly, actors’ definitions of their interests, including those of great powers, are subject to change. Leadership changes, changes in the domestic political environment, or a feedback loop involving norm implementation could lead to a re-evaluation of previously defined interests. As Müller has summarized “norms and interests are thus no opposites. [...] We must ... expect that norms and interests penetrate each other and depend on each other.”⁵ While a detailed analysis of interest-shaping factors in the three great powers US, Russia and China is beyond the scope of this paper, major changes in leadership or the domestic politics will be highlighted in cases where they have led to a change in policies or positions in relation to the CW prohibition regime.

⁴ The set of norms contained in CWC Art. IX, in contrast to the inspection norm expressed in Art. IV, V and VI, relates to non-compliance concerns and related fact-finding activities under the CWC.

⁵ Rixen and Viola, “Historical Institutionalism and International Relations”, p.9.

The past three decades have witnessed significant changes in the international system, the position of great powers, relations among them, and their approaches to international institutions and the norms they contain. As Wunderlich, Müller and Jakob have noted recently, the “world is witnessing growing power rivalry among three great powers, the United States, China and the Russian Federation, with the latter leaning to China – despite some conflicting interests – to balance the United States.”⁶

In addition to their role in shaping the international order more broadly, the great powers also take on a special role in the CW prohibition regime. The U.S. and Russia amassed, or in the latter case, inherited from the Soviet Union, the largest CW stockpiles by far. This places a special responsibility on those two CW possessor states to implement successfully the CW destruction norm contained in Article I of the Convention. China, in contrast, is under no such obligation, as it has not declared a CW stockpile to the OPCW. However, China has a strong interest in the destruction norm as it has the largest amount of abandoned CW (ACW) (by the imperial Japanese army at the end of World War II) on its territory. Furthermore, China since entry-into-force of the CWC has emerged as one of the world’s predominant chemical producers. This makes it the recipient of a large number of inspections under the CWC’s industry verification system. Furthermore, China, although not a formal member of the Non-Aligned Movement (NAM), regularly sides with the NAM and supports its positions during meetings of the OPCW policy-making organs, such as regular sessions of the Conference of the States Parties or Review Conferences.

The following sections will first provide some additional CW-related information on each of the great powers. The paper will subsequently discuss positions and policies of the great powers during CWC Review Conferences on key regime norms, and supplement this with positions, initiatives etc. put forward during inter-Review Conference periods, as relevant for different regime norms. Focus will be on those norms where great power behavior has challenged a norm, sought to prevent or remedy such a challenge, or, alternatively, where policies have led to a challenge to the path dependent evolution of the CW prohibition regime.⁷ The final section of the paper will summarize the findings and assess the impact of great power policies on the evolution of the CW prohibition regime against the expectations of path dependency.

2 The United States of America

As one of the two Cold War superpowers, the United States built up a chemical weapons arsenal of over 28,000 metric tons. As late as 1985 did the US decide to embark on a new binary CW program. Although the US Congress tied its approval to the requirement for the US Army to destroy the aging unitary CW munitions in the US stockpile, the decision caused frictions at both the bilateral US-Soviet CW disarmament negotiations, as well as the negotiations for a legally binding treaty at the Conference on Disarmament (CD) at the time.⁸ These talks revolved around a draft text proposed by the US in the previous year. However, progress on the multilateral level could only be achieved once the bilateral negotiations moved forward, culminating in a 1989 Memorandum of Understanding and the 1990 Bilateral Destruction Agreement (BDA), signed by Presidents George H.W. Bush and Mikhail Gorbachev.⁹ In the BDA – which never entered into force – both parties committed themselves to stop the production of CW, destroy the biggest part of their CW stockpiles and bilaterally verify the

⁶ Carmen Wunderlich, Harald Müller and Una Jakob, *WMD Compliance and Enforcement in a Changing Global Context*, UNIDIR, Geneva, 2021, <https://doi.org/10.37559/WMD/21/WMDCE02>, pp.3-4.

⁷ National policies or actions undertaken outside the purview of the treaty-based CW prohibition regime, such as threatening or actually pursuing military action, are beyond the scope of this paper even though they may be intended to support a particular norm or the regime as a whole.

⁸ Al Mauroni, 2003. *Chemical Demilitarization. Public Policy Aspects*, Westport, CT: Praeger, p.9.

⁹ Jozef Goldblat and Thomas Bernauer, 1990. “The US–Soviet Chemical Weapons Agreement of June 1990: Its Advantages and Shortcomings.” *Bulletin of Peace Proposals*, vol. 21, no. 4, 1990, pp. 355–62.

obligations undertaken. Although there were modifications to some of the bilateral agreements reached, the BDA provided a major impetus for completion of CWC negotiations at the CD.

Yet, despite successive US administrations having significantly shaped the CWC, the Clinton administration in the mid-1990s barely managed to ensure the advice and consent of the US Senate for CWC ratification.¹⁰ As a result, the US deposited its instrument of ratification only a few days before the CWC entered into force. This in turn, led to delays in the adoption of US national implementing legislation, resulting in the submission of the initial US industry declarations to the OPCW being almost three years late. As OPCW industry inspections under the CWC had already begun in 1997, the domestic delays in the US led to “the initial burden of industry inspections falling on other States Parties, mostly located in Europe and Asia.”¹¹ Not surprisingly, affected states parties repeatedly complained about the uneven burden put on their chemical industries at the time.¹²

Challenges in Implementing the CW Destruction Norm

Concomitant with its binary CW program in the second half of the 1980s, first US CW destruction efforts date back to the same period, being first mandated by the Department of Defense Authorization Act, 1986 (Public Law 99-145). Although the Act stipulated that the “destruction of such stockpile shall be completed by September 30, 1994” the last munition of the US CW stockpile was eventually destroyed at the Blue Grass Army Depot, Kentucky, on 7 July 2023.¹³ The almost thirty years in between saw significant local opposition at two of the nine US CW destruction sites, the search for alternative destruction technologies at those two sites, temporarily reduced political and funding commitments for the demilitarization process, and hence delays to the timelines for destruction foreseen by both US law and the CWC.¹⁴

Domestic law led to an early start of the US CW destruction effort in 1990 at the Johnston Atoll destruction facility in the Pacific Ocean. The US could therefore note at the First CWC Review Conference in 2003 that it had complied with intermediate destruction deadlines stipulated in the CWC and had “destroyed over 22 percent”¹⁵ of its declared stockpile. However, already in 2006 then US Secretary of Defense, Donald Rumsfeld acknowledged that the US would not meet either the 2007 destruction deadline foreseen in the CWC, or an extended deadline of 2012. US Army estimates at the time foresaw completion of CW destruction in the US by 2023.¹⁶

The delays in timely implementation of the CW destruction norm were acknowledged in 2008 during the Second CWC Review Conference when the US noted that it had destroyed more than half of its declared stockpile and that progress “has not been as rapid as any of us would wish”, adding for context that “most possessors of chemical weapons were forced to seek extensions to their original

¹⁰ Amy E. Smithson, 1995. Dateline Washington: Clinton Fumbles the CWC, *Foreign Policy*, No. 99 (Summer, 1995), pp. 168-182; and A.E. Smithson, 1997. “Playing Politics with the Chemical Weapons Convention.” *Current History*, vol. 96, no. 609, 1997, pp. 162–66.

¹¹ Ralf Trapp, “The First Ten Years”, in Kenyon and Feakes (eds.) *The Creation of the OPCW*, 2007, pp.272.

¹² See Greece, *Statement by the Head of the Delegation of Greece, Ambassador George J. Kaklikis, on behalf of the European Union at the First CWC Review Conference*, The Hague, 28 April 2003.

¹³ [Department of Defense Authorization Act, 1986, Public Law 99-145 – Nov.8, 1985, Section 1412. Destruction of Existing Stockpile of Lethal Chemical Agents and Munitions, 99 STAT. 747.](#) For the completion of CW destruction in the US see <https://www.peocwa.army.mil/2023/07/07/facts-u-s-chemical-demilitarization-program-overview/>.

¹⁴ See for example National Research Council, *Review and Evaluation of Alternative Chemical Disposal Technologies*, Washington, D.C.: The National Academies Press, 1996; Finn Torgrimsen, “Making Progress in Chemical Weapons Destruction”, in Giovanni Gasparini and Natalino Ronzitti (eds), *The Tenth Anniversary of the CWC’s Entry Into Force: Achievements and Problems*, Rome: IAI, 2007, pp.57-66; Owen LeGrone, “[U.S. Begins Final CW Destruction](#)”, *Arms Control Today*, July/August 2019.

¹⁵ United States of America, *National Statement to the First Review Conference of the Chemical Weapons Convention by Assistant Secretary of State for Arms Control, Stephen G. Rademaker*, The Hague, 28 April 2003, p.7.

¹⁶ Dates referenced in Paul Walker, “[Abolishing Chemical Weapons Globally: Successes and Challenges – An NGO Perspective](#)”, 24 September 2008.

10-year deadline”.¹⁷ At the Third CWC Review Conference in April 2013, i.e. one year after the extended destruction deadline of 29 April 2012 had expired, the US confirmed that it had destroyed close to 90% of its declared CW. Construction of the remaining “two destruction facilities to destroy the last 10% of the United States stockpile” was progressing. Welcoming the December 2011 decision by the OPCW CSP to further extend the destruction deadline, the US reaffirmed its commitment “to achieving 100% destruction [...] as soon as practicable, consistent with the Convention’s imperatives of public safety, environmental protection, and international transparency and oversight.”¹⁸

No references to its still ongoing destruction program were included in the US statement at the Fourth CWC Review Conference general debate in 2018. However, at the Fifth Review Conference in May 2023 the US highlighted that “despite the pandemic, the United States took extraordinary measures to continue operations at its destruction facilities [...] and we remain on track to complete destruction by our planned completion date of September 30, 2023.”¹⁹ As noted above, the US Army achieved this goal on 7 July 2023.

In addition to destroying its own CW stockpile, the United States has also assisted other CW possessor states in this endeavor. Initially this focused on the Russian destruction program in the context of the Nunn-Lugar Cooperative Threat Reduction Program (CTR).²⁰ The US extended this support subsequently to other possessor states. As noted during the Third CWC Review Conference the US had “provided financial and technical assistance to Russia and Albania. Most recently, we have been assisting Libya in planning for the destruction of the chemical weapons previously hidden by the Qadhafi regime.”²¹ In addition, the US has significantly contributed to the destruction of Syria’s declared CW stockpile, *inter alia* by providing a refurbished marine vessel, the USS Cape Ray, as a floating destruction facility.²²

Violations of the Non-acquisition, Non-possession and Non-use Norms

While the US has been consistently vocal in denouncing the use of CW by anybody and under any circumstances, its level of criticism of violations of the non-acquisition and non-possession norms have varied over time. As the analysis of US statements at CWC Review Conferences shows, there is a pattern of “naming names” of violators of these key regime norms being more likely under Republican US administrations.

At the first CWC Review Conference in 2003 – during the Presidency of George W. Bush – the US accused Iran, already a CWC state party at the time, to be in violation of the non-acquisition and non-possession norms. It also named Syria, Libya and North Korea as states with CW programs and stockpiles who need to be brought into the Convention. The US was even more outspoken at the Fourth Review Conference – during the Presidency of Donald J. Trump – when it expressed “long-standing concerns that Iran maintains a chemical weapons programme that it failed to declare to the OPCW”. The US characterized Iranian behavior as “especially concerning because Iran is the world’s leading State sponsor of terrorism.”²³ Concerning Russia, the US noted at RC-4 that despite the official completion of Russian CW destruction, “Russia used an unscheduled, military-grade nerve

¹⁷ United States of America, *Statement by Ambassador Eric M. Javits to the Second Review Conference of the Chemical Weapons Convention*, The Hague, 7 April 2008, p.5.

¹⁸ United States of America, *Statement by Rose E. Gottemoeller, Acting Under Secretary for Arms Control and International Security at the Third Review Conference*, document RC-3/NAT.45, 9 April 2013, p.2.

¹⁹ United States of America, [Statement by H.E. Ambassador Kenneth D. Ward, document RC-4/NAT.7](#), 22 November 2018; United States of America, [Statement by Ambassador Bonnie Jenkins, Under Secretary of State for Arms Control and International Security](#), The Hague, 12 May 2023, p.4.

²⁰ For an overview of the CTR see U.S. Mission to International Organizations in Geneva, [Fact Sheet on DoD Cooperative Threat Reduction \(CTR\) Program](#), Geneva, 4 April 2022.

²¹ United States of America, *Statement by Rose E. Gottemoeller*, document RC-3/NAT.45, 9 April 2013, p.2.

²² See “U.S. Completes Destruction of Sarin Precursors from Syria on the Cape Ray”, [OPCW news item](#), 13 August 2014.

²³ United States of America, [Statement by H.E. Ambassador Kenneth D. Ward, document RC-4/NAT.7](#), 22 November 2018, p.2.

agent in an assassination attempt of the Skripals in Salisbury, the United Kingdom ... [which] ... demonstrates that Russia [...] still maintains a chemical weapons programme, in clear violation of Article I.”²⁴ In addition, the US noted that “the Russian Federation’s actions to shield the Syrian regime from international accountability also make it complicit in the Syrian regime’s use of chemical weapons.”²⁵

The US has consistently sought to counter the latter state’s CW program and repeated use of CW. Beginning in early 2013 the US reached a deal with Russia that ensured Syrian accession to the CWC and thus enabled the verified destruction of (at least a significant part of) Syria’s CW program and stockpile.²⁶ This was driven by US concerns that Syria had admitted to possessing a CW arsenal and “made clear its willingness to use it” and led to the conclusion that “the situation in Syria clearly constitutes a serious threat to international peace and security.”²⁷ Following Syria’s accession to the CWC the US also supported the operationalization of the investigation norm through the establishment of the OPCW Fact-Finding Mission in 2014 and the Investigation and Identification Team in 2018, in order to hold the perpetrators of CW use in Syria to account. The alternative, i.e. “allowing chemical weapons use to continue with impunity” the US argued, would threaten the international “rules-based order and all nations around the world.”²⁸

The United States at RC-4 in 2018 summarized recent efforts to implement the non-use norm as “the antithesis of progress.”²⁹ It was also critical of OPCW member states’ inability to reach a consensus outcome report and concluded that “if we are unwilling in our report to acknowledge this crisis—because that is indeed what we are facing, a crisis—then we have collectively failed to achieve the purpose of this Review Conference.”³⁰ Although progress on holding the perpetrators for CW use in Syria to account was rather limited between the Fourth and Fifth CWC Review Conference, the prospect of a review conference without a consensus outcome document at RC-5 in May 2023 led the US to take a longer-term perspective. Acknowledging that “a few countries here would prefer to ignore the past five years of work because it does not align with their political narratives”,³¹ the US pledged to “make a good-faith effort to reach consensus on an outcome document”, not “undermine or ignore the actions taken by this organization over the past five years”, and “not be deterred from continuing work at the OPCW to hold those who use CW accountable.”³²

In summary, the US put most emphasis on the normative guideposts of the regime representing the core obligations, as spelled out in CWC Article I.³³ While the US faced the most significant delays among all CW possessor states in implementing the CW destruction norm, it consistently sought to convey its willingness to live up to the obligations undertaken. At the same time, the US sought to hold other states parties to their commitments under the CWC, most notably with respect to the non-acquisition, non-possession and non-use norms. It was instrumental in bringing Syria into the regime and efforts to hold it to account for use of CW, including through the establishment of the new

²⁴ Ibid, p.3.

²⁵ Idem.

²⁶ See Hanna Notte, “The United States, Russia, and Syria’s chemical weapons: a tale of cooperation and its unravelling”, *The Nonproliferation Review*, Vol.27, 2020, pp.201-224, <https://doi.org/10.1080/10736700.2020.1766226>.

²⁷ United States of America, OPCW document RC-3/NAT.45, p.4.

²⁸ United States of America, *Statement by the Honorable John Sullivan, Deputy Secretary of State at the Fourth Special Session of the Conference of the States Parties*, document C-SS-4/NAT.6, 26 June 2018, p.1.

²⁹ United States of America: *Statement by H.E. Ambassador Kenneth D. Ward at RC-4 Under Agenda Item 11*, The Hague, 30 November 2018, OPCW document RC-4/NAT.33, p.1.

³⁰ Idem.

³¹ United States of America, 2023, note 17, p.1.

³² Ibid, p.2.

³³ US positions and policies on other regime norms have also been expressed in the various statements to CWC Review Conferences referenced, or in statements and papers delivered to the OPCW policy-making organs.

attribution norm.³⁴ The US repeatedly criticized Russia for both providing cover for CW use by Syria and for using new nerve agents against Russian citizens, both abroad and on Russian territory.

Yet, in spite of the delays in CW destruction and the creation of a new attribution norm relating to CW use, the expectation of path dependency of regime evolution was mostly realized. The delays in CW destruction led to a change in normative content of the CW destruction norm, but did only lead to an extension of path dependency, not a departure from it. With a view to establishing the attribution norm during a special session of the CSP in June 2018, the US certainly played an important role, but did so as part of a much larger group of CWC states parties voting in favor of the new competencies for the OPCW.

3 The Russian Federation

The end of the Cold War brought with it the collapse of both the Warsaw Treaty Organization and the Soviet Union at its core. As a result, Russia during the 1990s had to reassert itself as a great power. Much of this rebuilding in a regional context initially involved treaty-based agreements and alliance formation, such as the Collective Security Treaty of 1992, the Commonwealth of Independent States of 1993, and the Shanghai Cooperation Organization of 2001. In its relationship with the United States, Russia agreed on Principles of Strategic Stability in 2000 and signed the 2002 Treaty on Strategic Offensive Reductions.³⁵ However, in the early 2000s Russia's growing disillusionment with Western politics as well as its growing economic power, which was fueled by rising energy prices, led to an increasingly assertive Russian foreign policy. This was guided less by "the principle of sovereign equality of states" and more by the "Soviet and pre-Soviet view of the primacy of great powers in their spheres of influence."³⁶ This shift included Russia's behavior in international bodies such as the UN Security Council, where this increasingly offensive stance was initially limited to Russia's sphere of influence in the former Soviet neighborhood.³⁷ Russia subsequently extended this approach to the protection of interests and allies further afield, such as Syria from 2012 onward.³⁸ However, as Hamilton and Meister have summarized, in many instances, including the Russian intervention in Syria, "Russia is still more a spoiler than a security provider" that would act on the basis of a "bold strategic vision."³⁹ Sustained disinformation campaigns have increasingly become a part of what has been labelled hybrid warfare, including the Russian intervention in Syria and its war against Ukraine.⁴⁰

The possession of large arsenals of so-called weapons of mass destruction was one of the vestiges of great power status during the Cold War period. As a result, the Russian Federation inherited the responsibility for nearly 40,000 metric tons of chemical weapons when it succeeded the Soviet Union in December 1991. Both bilateral talks with the United States and multilateral negotiations within the Geneva-based Conference on Disarmament to destroy existing arsenals and prohibit CW were already ongoing at the time. In the bilateral context, the September 1989 Wyoming Memorandum of

³⁴ This new normative guidepost has more of a political than a legal character, as it has not been established via an amendment to the CWC treaty text. However, over time it may acquire a stronger legal dimension through state practice.

³⁵ See Andrei Melville and Tatiana Shakleina (eds), *Russian foreign policy in transition: concepts and realities*, Budapest: CEU Press, 2005.

³⁶ Ian Bond, "Russia in International Organizations: The Shift from Defence to Offence", in David Cadier and Margot Light (eds.), *Russia's Foreign Policy: Ideas, Domestic Politics and External Relations*, Palgrave Macmillan, 2015, pp.189-203, quote on p.189.

³⁷ Idem.

³⁸ See David G. Lewis, *Russia's New Authoritarianism. Putin and the Politics of Order*, Edinburgh: Edinburgh Univ. Press, 2020, pp.206ff.

³⁹ Daniel S. Hamilton and Stefan Meister, "Introduction" in Hamilton and Meister (eds.), *The Russia File: Russia and the West in an Unordered World*, Washington, D.C./Berlin, 2017, p.X.

⁴⁰ On Russian hybrid warfare and disinformation campaigns see for example Stefan Meister, *Isolation and Propaganda. The Roots and Instruments of Russia's Disinformation Campaign*, Washington, D.C.: Transatlantic Academy, 2016; Mason Clark, *Russian Hybrid Warfare*, Institute for the Study of War, 2020; Kateryna Zarembo and Sergiy Solodkyy, *The Evolution of Russian Hybrid Warfare: Ukraine*, Washington, D.C.: CEPA, 29 January 2021.

Understanding (MOU) foresaw data exchanges on CW and related facilities as well as mutual on-site inspections. Also in 1991 a whistleblower, Vil A. Mirzayanov, alleged that the Soviet Union had some secret CW development programs, including for highly toxic binary nerve agents, nick-named “Novichoks” (for “newcomer”), which Russia continued to shield from international scrutiny.⁴¹ This complicated and ultimately led to the breakdown of the bilateral CW destruction efforts. As summarized by the late Jonathan Tucker, “during discussion with U.S. officials, the Russians did not dispute the facts that Mirzayanov had disclosed – only their interpretation. They admitted having conducted research on a new class of nerve agents but maintained that the Wyoming MOU ... required declaring only stockpiled weapons, not small amounts of agent produced for development and testing purposes.”⁴² This Russian attitude also prevailed several years later in the multilateral context when Russia from 1997 onward did not declare its Novichok nerve agent program to the OPCW.

Implementing the CW Destruction Norm

The CW destruction norm in the CWC context focusses on declared CW stockpiles. After Russia joined the CWC in late 1997, it declared almost 40,000 metric tons of CW to the OPCW, stored in seven locations. Similar to the United States, Russia faced significant difficulties in meeting the intermediate and final CW destruction deadlines stipulated in the CWC. In the Russian case, the OPCW Conference of the States Parties extended the deadlines for periods between 3 and 5.5 years.⁴³ In light of these delays, Russia at the Second Review Conference in April 2008 sought to reassure CWC states parties that it was “fully committed to its obligations under the Convention, consistently fulfilling them, and will do everything necessary to complete the destruction of its chemical weapons stockpile by April 29, 2012.”⁴⁴ At the same time, Russia also expressed its gratitude for the “large-scale international cooperation” making a “worthy contribution to the [...] Russian Federal Special Program for the destruction of chemical weapons.”⁴⁵

At the Third Review Conference in 2013, that is one year after the extended destruction deadline foreseen in the CWC had passed, Russia noted that it “is consistently and unremittingly increasing the rates and capacities of chemical weapons destruction, while strictly observing the safety regulations with regard to the population and the environment.”⁴⁶ Russia eventually completed destruction of its declared CW stockpile in September 2017,⁴⁷ five years after the deadline foreseen in the CWC. This notwithstanding, Russia at RC-4 in 2018 claimed that it “has fulfilled its CWC obligations three years ahead of schedule” and criticized the United States for having “opted for too lax conditions for the completion of their programme.”⁴⁸ At RC-5 in May 2023 Russia repeated the somewhat puzzling assessment that it had destroyed its CW stockpile “ahead of schedule”, which it tried to present as a “sign of its serious approach to the CWC”, while at the same time blaming the US for still having to complete this task.⁴⁹

⁴¹ Vil A. Mirzayanov, *State Secrets. An Insider's Chronicle of the Russian Chemical Weapons Program*, Denver, CO: Outskirts Press, 2009.

⁴² Jonathan B. Tucker, *War of Nerves. Chemical Warfare from World War I to Al-Qaeda*, New York: Random House, 2007, p.323.

⁴³ See Finn Torgrimsen Longinotto, “Making Progress in Chemical Weapons Destruction”, p.63.

⁴⁴ Russian Federation, *Statement by Mr Victor Kholstov, Head of the Russian Delegation to the Second Special Session of the Conference of the States Parties to Review the Operation of the Chemical Weapons Convention*, The Hague, 8 April 2008, p.1.

⁴⁵ *Ibid.*, p.2. The supporters mentioned were the United States, Germany, the United Kingdom, Italy, Canada, France, the Netherlands, Norway, Switzerland, Finland, Sweden, New Zealand, the Czech Republic, Poland, Ireland, Belgium, the European Union, as well as the U.S. “Nuclear Threat Reduction Initiative” Foundation.

⁴⁶ Russia, *Statement by G.V. Kalamonov, Deputy Minister of Industry and Trade of the Russian Federation at the Third Review Conference*, RC-3/NAT.21, The Hague: OPCW, 9 April 2013, p.1.

⁴⁷ See “[OPCW Marks Completion of Destruction of Russian Chemical Weapons Stockpile](#)”, OPCW News, 11 October 2017.

⁴⁸ Russia, *Statement by Georgy V. Kalamonov Head of the Delegation of the Russian Federation Deputy Minister of Industry and Trade at the Fourth Chemical Weapons Convention Review Conference*, The Hague, 21 November 2018, p.4.

⁴⁹ Russia, *Statement by the Head of the Russian Delegation, Deputy Minister of Industry and Trade of the Russian Federation at the Fifth Review Conference*, The Hague, 12 May 2023, p.4.

Violations of the Non-Use Norm, Part I: Syria

From the outset, Russia took allegations of CW use on the territory of its Syrian ally seriously. Already at the Third Review Conference in April 2013, Russia noted that “the situation in Syria demonstrates that the use of chemical weapons in modern times is a real threat” and characterized the alleged use of CW by armed opposition forces in Syria to be “be an extremely disturbing and dangerous turn of events in the Syrian crisis.”⁵⁰ Ever since, Russia has consistently sided with Syrian positions in the OPCW and supported the Syrian narrative on CW use in that country being attributable to non-state actors only. At RC-3 Russia sought to characterize CW use “including those of foreign origin, on Syrian territory by non-State actors as provocation to justify military intervention in the internal conflict in Syria.” Russia also criticized the OPCW for biased behavior and saw parallels to “the investigation once conducted into the existence of weapons of mass destruction in Iraq.”⁵¹ The first UN-led investigation in Syria took place during the summer of 2013, and the report concluded that CW had been used in the Ghouta area of Damascus on 21 August 2013.⁵²

In an effort to prevent a US-led intervention in Syria, Russia negotiated a framework with the United States according to which Syria would accede to the CWC and eliminate its CW stockpile under international verification. Based on this Syria joined the CWC on 14 September 2013. This paved the way for the formalization of CW disarmament in Syria in an OPCW Executive Council decision and UN Security Council Resolution 2118(2013). In light of the ongoing civil war in Syria, implementation of those decisions involved a maritime operation to transport Syrian CW out of the country. As Hanna Notte has summarized, Russia significantly contributed to the OPCW and UN Security Council decisions by “(1) providing security for the maritime operation, and (2) exercising pressure on the Syrian authorities as and when required.”⁵³ Following increasing Russian involvement in the Syrian war from 2015 on, the level of cooperation forthcoming from the Russian government concerning CW and their use in Syria declined significantly.

In line with this more confrontational stance, Russia at RC-4 in 2018 stated in relation to the investigation of reported CW use cases in Syria that “the time has come for a drastic revision of the Terms of Reference of the OPCW Fact-Finding Mission (FFM).”⁵⁴ Ignoring the fact that the terms of the mandate had been agreed by Syria and approved by the OPCW Executive Council, Russia asserted that the FFM mandate was not conforming to the provisions of the CWC and offered a litany of purported shortcomings. Russia further lamented the fact that its draft decision on this matter, submitted to the Executive Council in October 2017, had not gained the required support and should be revisited by CWC states parties.⁵⁵ With the establishment of the OPCW IIT, the focus of Russia’s criticism of investigations of CW use in Syria shifted to this new body (see below).

Violations of the Non-Use Norm, Part II: Novichok Nerve Agents

At the March 2018 Executive Council meeting the United Kingdom reported the attempted assassination of Sergey Skripal, a former Russian spy then residing in the United Kingdom, with what the UK government had identified as a ‘Novichok’ nerve agent. This finding was later confirmed by the OPCW, after it had conducted a Technical Assistance Visit in the UK.⁵⁶ Novichok nerve agents

⁵⁰ Russia, RC-3/NAT.21, p.3.

⁵¹ Idem.

⁵² United Nations, [Report of the United Nations Mission to Investigate Allegations of the Use of Chemical Weapons in the Syrian Arab Republic on the alleged use of chemical weapons in the Ghouta area of Damascus on 21 August 2013](#) : note / by the Secretary-General

⁵³ Notte, “The United States, Russia, and Syria’s chemical weapons”, 2020, p.3.

⁵⁴ Russia, [Statement by Georgy V. Kalamonov Head of the Delegation of the Russian Federation Deputy Minister of Industry and Trade at the Fourth Chemical Weapons Convention Review Conference](#), 21 November 2018, p.5.

⁵⁵ Idem.

⁵⁶ Caitríona McLeish, “The Skripal case: Assassination attempt in the United Kingdom using a toxic chemical”, *SIPRI Yearbook 2019*, Oxford: Oxford University Press, 2019, pp.408-17.

played a central role in the reports of a clandestine Soviet CW program by Vil Mirzayanov and others in the early 1990s. Confirmation of the use of an unscheduled nerve agent set in motion a range of activities at the OPCW, with the aim to include such nerve agents in the CWC schedules. Following a laborious process at the OPCW, its Conference of the States Parties in November 2019 adopted both a Russian proposal and one jointly put forward by Canada, the Netherlands and the US. The combined proposals resulted in amendments to CWC Schedule 1 and entered into force in June 2020.⁵⁷

Throughout this process, Russia categorically rejected any responsibility for the use of a novel nerve agent on UK territory. At RC-4 in November 2018 Russia asserted that the UK had not provided any evidence to support its claims and refused to “act in the realm of international law and to cooperate with Russia in the framework of the CWC.”⁵⁸ In addition Russia sought to deflect attention from its own involvement by using the location of the incident to implicate “the laboratory of the UK Ministry of Defense in Porton Down”, which is located only about 10 kilometers away from the location of the assassination attempt in Salisbury.⁵⁹ While the UK government may have been reluctant to share information publicly related to the attempted assassination of Sergei Skripal, the open-source research network Bellingcat in September 2018 issued two detailed reports putting two Russian GRU operatives at the location of the assassination and linking them to other suspected poisonings.⁶⁰

Shortly after the CWC Schedule amendments had entered into force, Russian opposition politician Alexei Navalny fell seriously ill on a domestic flight. An analysis of the poison he was exposed to revealed a highly toxic substance that belonged to the group of Novichok nerve agents. Whereas several of these had been the subject of the 2019 CWC Schedule amendment, the chemical used to poison Navalny was not among them.⁶¹ Despite Russia initially proposing that the OPCW dispatch an expert team to Russia to investigate the incident, and the OPCW Director General confirmed the availability of a team on short notice, such a visit never took place due to unacceptable conditions placed upon it by Russia.⁶²

In order to clarify the situation, the UK and 44 co-sponsoring CWC states parties on 5 October 2021 used the Article IX (2) procedure to ask Russia four specific points of clarification. Instead of constructively engaging with the clarification request, Russia quickly issued a lengthy compilation of documents that accused CWC states parties involved in trying to clear up the matter of misusing the provisions of the CWC for political ends. Russia thus rejected the least confrontational way to address existing compliance concerns.⁶³

Russia’s refusal to cooperate in clarifying the Novichok use cases also puts into perspective its statement at the Fifth CWC Review Conference in May 2023 in which it claimed that “following the last Review Conference, an important decision has been made by consensus to add chemicals to

⁵⁷ Alexander Kelle, *Adding Novichok Nerve Agents to the CWC Annex on Chemicals*, UNIDIR compliance and enforcement series paper #13, Geneva: UNIDIR, June 2022, <https://doi.org/10.37559/WMD/22WMDCE/01>.

⁵⁸ Russia, *Statement by Georgy V. Kalamonov Head of the Delegation of the Russian Federation Deputy Minister of Industry and Trade at the Fourth Chemical Weapons Convention Review Conference*, 21 November 2018, p.6.

⁵⁹ Idem.

⁶⁰ Bellingcat, *Skripal Poisoning Suspect's Passport Data Shows Link to Security Services*, 14 September 2018; Bellingcat, *Skripal Suspects Confirmed as GRU Operatives: Prior European Operations Disclosed*, 20 September 2018.

⁶¹ OPCW, *Note by the Technical Secretariat: Summary of the Report on Activities Carried Out In Support of a Request for Technical Assistance by Germany (Technical Assistance Visit - TAV/01/20)*, document S/1906/2020, The Hague: OPCW, 6 October 2020.

⁶² OPCW, *Correspondence Between OPCW and Permanent Representation of the Russian Federation to the OPCW, from 1/10/2020 to 21/12/2020, in Relation to a Request for a Technical Assistance Visit to the Russian Federation Under Subpar. 38(e), Article VIII of the CWC*, (The Hague: OPCW, 21 December 2020, available at <https://www.opcw.org/media-centre/featured-topics/case-mr-alexei-navalny>

⁶³ Russian Federation, *Request for Circulation of a Document at the Ninety-Eighth Session of the Executive Council*, document EC-98/NAT.8, The Hague, 7 October 2021; see also Oliver Meier and Alexander Kelle, “*The Navalny poisoning: Moscow evades accountability and mocks the Chemical Weapons Convention*”, *Bulletin of the Atomic Scientists*, online, 19 October 2021.

Schedule 1 of the Annex on Chemicals to the Convention.”⁶⁴ Although this may have shown that “the OPCW is able to take effective and responsible measures to strengthen the Convention,”⁶⁵ such signs of cooperation have clearly been short lived as the continued Russian refusal to engage with the clarification request put forward by over 40 CWC states parties demonstrates.

Instead, Russia at RC-5 sought to deflect attention from its use of Novichok nerve agents by accusing the “collective West” to have undertaken since 2018 “a large-scale anti-Russian disinformation campaign with unsubstantiated accusations against the Russian Federation” which it characterized “as provocations by Western intelligence services attempting to portray Russia as a violator of the CWC.”⁶⁶ Given the lack of interest of the so-called “collective West” to escalate the clarification request any further, Russia is allowed to continue to mock the CWC declaration and investigation norms, thereby undermining the effective implementation of the non-use norm.

Challenging the Establishment of a New Attribution Norm

Initially, identifying the perpetrators behind CW use in Syria was conferred to the OPCW-UN Joint Investigative Mechanism (JIM). The JIM was established by the UN Security Council and worked from 2015 to 2017. It issued several reports implicating the Syrian government and the so-called Islamic State (ISIL) in the use of CW. Russian vetoes in the UN Security Council in the fall of 2017 blocked the extension of the JIM mandate. The Skripal poisoning in March 2018 resulted in a UK-led initiative to establish a new attribution role for the OPCW. This process culminated in a special session of the Conference of the States Parties in June 2018, which took a decision by vote enabling the OPCW Director-General to set up the Investigation and Identification Team (IIT).⁶⁷

When Russia at RC-4 characterized the decision of June 2018 as “being literally imposed by a number of Western countries on the rest of CWC States Parties”,⁶⁸ it ignored the actual voting results, achieved by following the applicable Rules of Procedure of the Conference of the States Parties. Nevertheless, Russia questioned the legitimacy of “the decision to authorize the OPCW Technical Secretariat to ‘identify the perpetrators’ of the use of chemical weapons”⁶⁹ as this would confer “quasi-prosecutorial functions” to the OPCW TS. This, in Russia’s view, amounts to “actual amendments, affecting the very essence of OPCW work, [...] in circumvention of CWC Article XV”, which, in turn, represents “a destructive step with regard to the chemical disarmament and non-proliferation regime”.⁷⁰

During RC-5 Russia reiterated its accusations against “the Euro-Atlantic allies” who have made it “a regular practice to use the OPCW against certain States that, for one reason or another, turn out to be undesirable to [them].” In the Russian world view “these processes destroy the Convention regime from within and, should they not be addressed soon, the world risks losing the Organisation as designed by the founding fathers of the Convention.”⁷¹ In line with earlier missives, Russia at RC-5 has also asserted that investigations of CW use in Syria have been misused “to create a pseudo-evidentiary basis for attributing responsibility to the legitimate Syrian Government.”⁷²

⁶⁴ Russia, [Statement by the Head of the Russian Delegation, Deputy Minister of Industry and Trade of the Russian Federation at the Fifth Review Conference](#), The Hague, 12 May 2023, p.1.

⁶⁵ Idem.

⁶⁶ Ibid, p.4.

⁶⁷ OPCW, [Decision: Addressing the Threat from Chemical Weapons Use](#), document C-SS-4/DEC.3, The Hague, 27 June 2018.

⁶⁸ Russia, [Statement by Georgy V. Kalamonov Head of the Delegation of the Russian Federation Deputy Minister of Industry and Trade at the Fourth Chemical Weapons Convention Review Conference](#), 21 November 2018, p.2.

⁶⁹ Idem.

⁷⁰ Idem.

⁷¹ Russia, [Statement by the Head of the Russian Delegation Deputy Minister of Industry and Trade of the Russian Federation Kirill Lysogorskiy at the Fifth Review Conference of the Chemical Weapons Convention](#), 12 May 2023, p.2.

⁷² Idem.

Accordingly, Russia called for the reversal of the decision taken by the CSP in April 2021 to suspend Syria's rights and privileges.

In summary, Russia, notwithstanding some rhetoric of having destroyed its CW arsenal ahead of time, has struggled to implement the CW destruction norm according to the timelines foreseen in the CWC. The protection of its Syrian ally in the face of clear evidence of CW use by that country demonstrates that Russia values bilateral relationships more than the compliance with multilaterally agreed upon and legally-binding norms, even if this involves the repeated use of widely outlawed toxic chemicals. Russia has also violated the non-use norm with the two cases of Novichok use in 2018 and 2020. Combined, these actions have had the perverse effect (from a Russian perspective) of contributing to the strengthening of the CW prohibition regime in the form of the creation of a new attribution norm.

4 China

According to a recent study on WMD compliance and enforcement “China appears to be working to restore its past position as the ‘Middle Kingdom’ and is loath to curb this ambition by submitting itself to constraints.”⁷³ In addition to not subordinating its policy priorities to others’ preferences, the Chinese priority to restoring its former power position also influences its approach to “[m]ultilateral arms control regimes [which] take second place to these wider – and increasingly nationally orientated – priorities.”⁷⁴ This notwithstanding, since the CWC entered into force in 1997 China has often associated itself with positions of the Non-Aligned Movement (NAM), with which it has observer status since 1992, complementing the pursuit of its national policies at CWC Review Conferences (and other meetings of the OPCW policy-making organs).

In addition to the tension between its NAM affiliation and the pursuit of great power status, China’s role in relation to CWC implementation has been shaped by its status as a victim of past chemical warfare (during the Sino-Japanese War from 1937-1945) and a CWC state party on whose territory CW have been abandoned (by Imperial Japan) without its consent.⁷⁵ As Ian Kenyon has noted regarding negotiations on the scope of the CWC, “a separate undertaking ‘to destroy all chemical weapons [...] abandoned on the territory of another State Party’ was necessary to achieve the agreement of China”⁷⁶ on the text of the Convention. In addition to putting the onus for destruction on the abandoning state party, China saw to it that the strict verification requirements for “regular” CW would be applied to abandoned CW (ACW) as well.⁷⁷ Ever since then China has put emphasis on this particular destruction requirement emanating from the CWC.

China has also emerged as the world’s chemical industry powerhouse over the past three decades. Just comparing figures for world chemical sales from 2011 and 2021 shows that China’s share grew from 28 to 43%.⁷⁸ From the perspective of European chemical industry, this confirms that the “global landscape of the chemical industry is changing rapidly. China is moving from a ‘big country’ to a ‘great

⁷³ Wunderlich, Müller and Jakob, *WMD Compliance and Enforcement*, 2021, p.5

⁷⁴ Idem.

⁷⁵ Eric Croddy, “China’s Role in the Chemical and Biological Disarmament Regimes”, *The Nonproliferation Review*, 2002, 9(1), pp.16-47.

⁷⁶ Ian R. Kenyon, “Why We Need a Chemical Weapons Convention and an OPCW”, in I.R. Kenyon and D. Feakes (eds.) *The Creation of the Organisation for the Prohibition of Chemical Weapons. A Case Study in the Birth of an Intergovernmental Organisation*, The Hague: TMC Asser Press, 2007, p.18.

⁷⁷ Ron G. Manley, Preparing for Disarmament: Articles III, IV and V, in Kenyon and Feakes (eds), *The Creation of the OPCW*, 2007, pp.172f.

⁷⁸ Over the same period the US share of world chemical sales dropped from 15 to 11% and that of the EU27 from 19 to 15%. See CEFIC, *Facts and Figures of the European Chemical Industry*, <https://cefic.org/a-pillar-of-the-european-economy/facts-and-figures-of-the-european-chemical-industry/profile/>, last accessed 18 April 2023.

power” of the petroleum and chemical industry, leading in technology innovation and trade, and prevailing in international markets.”⁷⁹ All of these characteristics – NAM affiliation, great power status, “host” of abandoned CW, and global leader in chemical production and trade – have a bearing on China’s position towards the CW prohibition regime and in particular some of its key norms. These are most notably the CW destruction norm, the inspection and investigation norms, the internalization and assistance norms, the normative guidepost concerning the civilian uses of chemistry, i.e. the non-transfer and the international cooperation norms, as well as the newly established attribution norm.

China and the CW destruction norm

In contrast to the US and Russia, China did not join the CWC in 1997 as a CW possessor state. Ever since the treaty’s entry-into-force has China emphasized the “the destruction of chemical weapons and related facilities remain the core task under the Convention.”⁸⁰ This assessment remains practically unchanged more than 25 years later, after all declared CW stockpiles have been destroyed under international verification. The consistent Chinese policy of emphasizing the CW destruction norm and holding CW possessor states under the CWC to account has also applied to the destruction of Japanese ACW in China. Citing the fact that “actual destruction has not yet started” China at the First CWC Review Conference characterized the situation “as far from optimistic” and called on Japan “to start the destruction process at an early date and complete it within the deadline set by the Convention.”⁸¹ Chinese position papers and statements at successive Review Conferences have consistently subsumed ACW under the general CW heading, which has also led China to repeated complaints that Japan had missed ACW destruction deadlines.⁸² Most recently, China re-iterated this position in some detail, complaining that the destruction process was significantly behind schedule and that “due to insufficient attention and inputs, the Japanese side failed to complete the destruction for four times in 2007, 2012, 2016 and 2022.”⁸³ While factually correct, China’s continued criticism of Japanese ACW destruction efforts also has to be seen in the context of its overall antagonistic relationship with Japan, and China’s growing assertiveness in the region.⁸⁴

Appropriate application of the inspection and investigation norms

Concerning implementation of the inspection norm, China early on took the position that related inspections of industry facilities and plant sites “should be carried out in direct proportion to the assessment [...] of the risk they represent, and should follow the principle of equitable geographic distribution.”⁸⁵ Given that China is “the CWC State Party with the largest number of declared and inspectable facilities,”⁸⁶ it does not come as a surprise that the importance of a fair distribution of industry inspections has been a recurring theme in Chinese policy ever since. However, with the uneven distribution of the chemical industry globally, an uneven distribution of industry inspections among CWC states parties is to be expected. Most recently, in a position paper on industry verification for RC-5 China “takes note of the problems and challenges that the industry verification is currently faced with in declaration, on-site inspection, policy making and implementation measures” and proposes several concrete steps to address these issues.⁸⁷ Throughout the implementation history of the CWC China has sought to limit its exposure to intrusive industry inspections, which have also

⁷⁹ CEFIC, *Facts and Figures*, 2023.

⁸⁰ China, *Statement by Ambassador Zhu Zushou at the First Review Conference of the Chemical Weapons Convention*, The Hague, The Netherlands, 28 April 2003, p.3, mimeo.

⁸¹ China, *Statement by Ambassador Zhu Zushou*, 2003, p.5.

⁸² OPCW, *People’s Republic of China. Position Paper*, document RC-1/NAT.1, 15 April 2003; OPCW, *People’s Republic of China. Position Paper – Chemical Weapons Abandoned by Japan in China*, document RC-3/NAT.5, 2008, p.1.

⁸³ China, [Position Paper on the Chemical Weapons Abandoned by Japan in China](#), 27 March 2023.

⁸⁴ Stephen N. Smith, “Community of common destiny: China’s ‘new assertiveness’ and the changing Asian order”, *International Journal*, Vol. 73, No. 3, September 2018, pp. 449-463.

⁸⁵ OPCW, *People’s Republic of China. Position Paper*, document RC-1/NAT.1, 15 April 2003, p.4.

⁸⁶ OPCW, *The People’s Republic of China. Position Paper: Verification Issues*, document RC-2/NAT.3, 25 March 2008, p.1.

⁸⁷ China, [Position Paper of the People’s Republic of China on Industry Verification](#), 14 April 2023.

been perceived as a burden on its industry and the government bureaucracy in charge of hosting the numerous OPCW inspection teams.

Similarly, China's approach to the investigation norm has always been overshadowed by a concern with the abuse of the intrusive challenge inspection provisions of the CWC. Already in the period leading up to CWC entry-into-force China was among those states parties who sought to define more precisely the provisions in Article IX dealing with abusive requests of a challenge inspection.⁸⁸ Once the CWC was in operation, China continued to emphasize the necessity of preventing "any abuse of the right to request a challenge inspection, in order to maintain the solemnity and authority of the Convention."⁸⁹ This position was supported by the NAM statement at the First Review Conference, according to which "challenge inspections ... should be undertaken as a last resort and as part of the process of consultation and fact finding."⁹⁰ This seeks to establish a sequence of steps flowing from consultation to clarification to investigations (via a challenge inspection) that is difficult to reconcile with the wording of CWC Article IX (2). According to this provision, any State Party can request a challenge inspection without having to meet any preconditions. Notwithstanding the wording of the CWC, China and the NAM have continued during subsequent CWC Review Conferences to assert the priority of the consultation and clarification norms over the investigation norm and its operationalization through a challenge inspection. In a position paper submitted to the Second CWC Review Conference in 2008 China reiterated this prioritization of any abuse of the challenge inspection mechanism. China also called on CWC States Parties to "develop a wide-spread political consensus" on this issue and agree on the "punishment of abuse ... as soon as possible."⁹¹ During the Third Review Conference in 2013 the NAM and China revisited the issue of challenge inspections and asserted that "any abuse of this provision would jeopardize the trust among States Parties and would be contrary to the letter and spirit of the Convention."⁹²

Opposition to identifying the perpetrators of CW use by the OPCW

More recently, the Chinese concern with the possibility of a challenge inspection being invoked in an abusive manner seems to have been superseded by the actual conduct of non-routine missions by OPCW inspectors in Syria and the expansion of the normative toolbox available under the CWC. Although in the early stages of this development "China ... temporarily cooperated with other major powers in efforts to eliminate Syrian chemical weapons",⁹³ such cooperation in implementing the CW destruction norm under rather unusual circumstances gave way to a more confrontational Chinese stance. In particular, "Beijing opposes new OPCW powers to investigate chemical weapons attacks and views this as a slippery slope,"⁹⁴ leading CWC States Parties away from the core mandate of the CWC.

As discussed previously, the establishment of this new attribution norm within the CW prohibition regime was triggered by the end of the JIM mandate due to Russian vetoes at the UNSC and the assassination of former Soviet spy Sergey Skripal in the UK. At the resulting Special Session of the CSP convened in June 2018, China voted against the new OPCW attribution powers.⁹⁵ Subsequently, China also sided with Russia in voting against successive OPCW annual budgets that also provide the

⁸⁸ Ralf Trapp, *Maintaining Honesty: Article IX*, in Kenyon and Feakes (eds.), *The Creation of the OPCW*, 2007, pp.232f.

⁸⁹ OPCW, *People's Republic of China. Position Paper*, document RC-1/NAT.1, 15 April 2003, p.5.

⁹⁰ Malaysia, *Statement by Ambassador Noor Farida Ariffin on Behalf of the States Parties of the Non-Aligned Movement to the Chemical Weapons Convention and China*, The Hague, 30 April 2003, p.6.

⁹¹ OPCW, *The People's Republic of China. Position Paper: Challenge Inspection*, document RC-2/NAT.2, 25 March 2008, p.1.

⁹² OPCW, *Islamic Republic of Iran. Statement on Behalf of the Member States of the Non-Aligned Movement that are States Parties to the Chemical Weapons Convention and China. Position Paper*, document RC-3/NAT.8, 2013, p.8.

⁹³ Oliver Meier and Michael Staack, *China's role in multilateral arms control*, Bonn: Friedrich Ebert Foundation, 2022, p.15.

⁹⁴ *Ibid.*, p.17.

⁹⁵ See OPCW, [Report of the Fourth Special Session of the Conference of the States Parties](#), document C-SS-4/3, 27 June 2018, paragraph 3.15, p.6.

funding for the IIT.⁹⁶ A summary of votes in the OPCW that was compiled in late 2020 already showed China as one of the CWC states parties – besides Iran and Cuba – voting most consistently with Russia on matters of attribution of CW use.⁹⁷ This stance has not changed and at RC-5 in May 2023 China lamented the prevalence of an “outdated Cold War mentality” and criticised “certain states” for “push[ing] the Syrian chemical weapons issue and even the whole Middle East situation onto the wrong track.”⁹⁸

International cooperation in the civilian uses of chemistry

Chinese policy on the civilian uses of chemistry and the furtherance of international cooperation in this regard has been characterized by a continuous emphasis on the need for further action to fully and indiscriminately implement the cooperation norm. This has been accompanied by a steady criticism of – in the Chinese and NAM view – unwarranted export restrictions that some CWC states parties maintain in contravention to the Convention. Already at the first CWC Review Conference China supported the NAM statement that called for “the removal of all and any discriminatory restrictions that are contrary to the letter and spirit of the Convention.”⁹⁹ At the same time, China noted in its general debate statement at RC-1 several of the national implementation measures it had undertaken since the Convention’s entry-into-force, including “rigorous control [...] on the production, stockpiling, trading and export/import of chemicals relevant to the Convention.”¹⁰⁰ China at the same time also characterized “international cooperation [as] one of the pillars of the Convention and a key obligation if national implementation is to be accomplished”¹⁰¹ thereby established a clear linkage between the cooperation and internalization norms of the regime.

At RC-3 in 2013 China and the NAM sought to add further pressure to their international cooperation demands by claiming that “each and every Article of the Convention bears the same value.”¹⁰² In addition to the already agreed-upon “Components of an Agreed Framework” on implementation of Article XI, the group characterized “a plan of action [as] the best tool to ensure the full implementation of Art. XI as a fundamental pillar of the Convention.”¹⁰³ It also submitted a concrete proposal for establishing an action plan.¹⁰⁴ However, such a plan was never agreed upon and in China’s view even efforts to implement the “Components of an Agreed Framework” adopted more than a decade ago remain insufficient.¹⁰⁵

In sum, the analysis of Chinese positions and policies on a number of regime norms in general support Meier and Staack’s assessment of a “principled support for global prohibition norms.”¹⁰⁶ The analysis of individual regime norms, however, reveals a more nuanced picture. China clearly has put great emphasis on implementation of the CW destruction norm, in particular as it relates to the ACW abandoned by Japan in China. This, however, has not resulted in Japan or any of the other possessor

⁹⁶ See for example OPCW, [Report of the Twenty-Fourth Session of the Conference of the States Parties 25 - 29 November 2019](#), document C-24/5, 29 November 2019, paragraph 14.4, p.11.

⁹⁷ See Andrea Stricker, [Who Votes With Russia at the OPCW?](#), Washington, D.C.: Foundation for Defense of Democracies, 25 November 2020.

⁹⁸ China, [Statement by the Chinese Delegation at the General Debate of the Fifth Review Conference of the Chemical Weapons Convention](#), 24 May 2023.

⁹⁹ Malaysia, *Statement on Behalf of the States Parties of the NAM to the CWC and China*, 2003, p.6.

¹⁰⁰ China, *Statement by Ambassador Zhu Zushou at the First Review Conference of the Chemical Weapons Convention*, The Hague, The Netherlands, 28 April 2003, p.5, mimeo.

¹⁰¹ OPCW, *People’s Republic of China. Position Paper*, document RC-1/NAT.1, 15 April 2003, p.5.

¹⁰² OPCW, *Islamic Republic of Iran. Statement on Behalf of the Member States of the Non-Aligned Movement that are States Parties to the Chemical Weapons Convention and China. Position Paper*, document RC-3/NAT.8, 8 April 2013, p.6.

¹⁰³ Idem.

¹⁰⁴ OPCW, *Islamic Republic of Iran. Proposal for a Plan of Action on the Full Implementation of Article XI of the Chemical Weapons Convention*, document RC-3/NAT.13, 8 April 2013.

¹⁰⁵ China, [Position Paper on Promoting International Cooperation on Peaceful Uses Under the Framework of the Chemical Weapons Convention](#), 27 March 2023.

¹⁰⁶ Meier and Staack, 2022, p.18

states complying with the destruction deadlines foreseen in the CWC. Similarly, Chinese demands for a more equitable distribution of industry inspections have not changed implementation of the inspection norm. In spite of the Chinese support of NAM criticism of export control mechanisms, China has also made sure to present itself as a CWC state party in good standing, fully implementing CWC provisions domestically, including on transfer controls. In addition, in terms of Chinese and NAM demands for further-reaching international cooperation mechanisms, such as an action plan, success has been rather limited. With a view to the inspection norm, China and the NAM could not achieve agreement among CWC states parties on a norm sequence under Article IX that would have given priority to the consultation norm over the normative guidepost on investigations. Finally, China's rejection of the newly established attribution norm in 2018 and its voting against OPCW budgets since then is more of a political statement than it does affect the actual work of identifying the perpetrators of CW attacks in Syria.

5 Great Powers, Their Impact on the Norms of the CW Prohibition Regime and the Prevalence of Path Dependence

This paper set out to address the impact of great powers – the United States, Russia, and China – on the norms of the CW prohibition regime. As established by scholars on international institutions, great powers play an important role in their establishment and maintenance. This also applies to a subset of institutions in the form of international regimes, including the CW prohibition regime. During negotiation of the CWC, the US, Russia and China have all left their mark on the shape and normative content of the treaty and its implementing organization, the OPCW.

However, once international regimes have been set up, one particular school of thought – historical institutionalism – expects international regimes to display path dependent behavior over longer periods, i.e. govern an issue area according to the norms agreed upon for state behavior when the regime was created. This raises the question which effect great powers can have on the norms of an international regime once it has been established and implementation of its provisions have begun.

The US played a key role in negotiations of the CWC and shaped many provisions of the treaty, including on CW destruction and its verification. However, despite an early start to the demilitarization of its CW stockpile, the US faced delays due to the technical complexities of CW destruction and local opposition at some of the destruction sites. As a result it missed several of the CWC destruction deadlines. In addition to the CW destruction norm, the US focused its attention on the non-acquisition, the non-use and the attribution norms of the regime. Under Republican administrations, the US was more outspoken about other CWC states parties who are violating the norms. The same applies to the non-use norm, as evidenced by repeated US criticisms of Russia for its use of new nerve agents of the Novichok group. The US also was one of the driving forces behind the international efforts to rid Syria of its CW program and prevent further CW use in that country, inter alia by supporting creation of the new attribution norm.

The Russian Federation, much like the US, failed to implement the CW destruction norm according to the timelines foreseen in the CWC. Notwithstanding Russian public relation efforts to the contrary, the country finished destruction of its declared CW stockpile five years after the final destruction deadline anticipated by the drafters of the CWC. The protection of its Syrian ally in the face of clear evidence of CW use by that country shows that Russia values bilateral relationships more than the compliance with multilaterally agreed upon and legally binding norms, in this case the norms proscribing possession and use of CW. Also, Russia itself did not comply with the non-use norm as evidenced by two instances of Novichok use in 2018 and 2020. Combined, these actions are a manifestation of what Hamilton and Meister have identified as the Russian potential to act as a spoiler. However, these Russian actions did not result in a weakening of the norms but were instead

contributing to the evolution of the CW prohibition regime through additions to the CWC Schedule on Chemicals and the creation of a new attribution norm.

China, in general has shown strong support for the CW prohibition regime. Based on its experience of both a victim of chemical warfare and the recipient of the largest number of ACW on its territory, China has put great emphasis on the CW destruction norm. However, this did not have any tangible effects of compliance by Japan (as the abandoning CWC state party) or any of the CW possessor states with the destruction deadlines foreseen in the CWC. Similarly, Chinese demands for a more equitable distribution of industry inspections have not changed implementation of the inspection norm. With a view to challenge inspections, China and the NAM sought, but could not achieve agreement among CWC states parties on a norm sequence that would have given priority to the consultation norm over the investigation norm. Finally, China without much success objected to the establishment of a new attribution norm in 2018.

In sum, the central norms of the CW prohibition regime, as contained in CWC Article I, and their implementation over the past 26 years have largely conformed to the expectations of path dependency. Major disruptions caused by one or more of the great powers, which would have led to the demise of one or more of the regime norms, have not occurred. Exceptions to the path charted in the CWC concern on the one hand delays in implementing the CW destruction norm, which resulted in a change in normative meaning.¹⁰⁷ In this case, Russia and the US were part of “the problem” of a larger group of CW possessor states that were unable to comply with CWC deadlines. This, however extended path dependent norm implementation by several years in that it prolonged a set of destruction activities foreseen in the CWC.

The main departure from path dependent regime development occurred with the creation of a new attribution norm in order to identify the perpetrators of CW use in Syria. The process that eventually led to the June 2018 decision of the special session of the OPCW Conference of States Parties began in 2015 with the establishment of the OPCW-UN JIM. All three of the great powers initially supported the attribution of responsibility for CW use in the form of UN Security Council resolutions. In the later stages of this process, once consensus in the Security Council had broken down and several CWC states parties, including the US, sought to transfer the JIM’s mandate into the CWC context, Russia and China were unable to prevent this.

¹⁰⁷ In late 2011 the meaning changed from a time-bound obligation with equally applicable deadlines to one where the possessor states themselves could individually determine the end-point of their destruction programs. See Alexander Kelle, *Prohibiting Chemical and Biological Weapons. Multilateral Regimes and Their Evolution*, Boulder, CO: Lynne Rienner, 2014, pp.151f.

The CBW network for the comprehensive strengthening of norms against chemical and biological weapons (CBWNet)

The research project CBWNet is carried out jointly by the Berlin office of the Institute for Peace Research and Security Policy at the University of Hamburg (IFSH), the Chair for Public Law and International Law at the University of Gießen, the Peace Research Institute Frankfurt (PRIF) and the Carl Friedrich Weizsäcker-Centre for Science and Peace Research (ZNF) at the University of Hamburg. The joint project aims to identify options to comprehensively strengthen the norms against chemical and biological weapons (CBW).

These norms have increasingly been challenged in recent years, *inter alia* by the repeated use of chemical weapons in Syria. The project scrutinizes the forms and consequences of norm contestations within the CBW prohibition regimes from an interdisciplinary perspective. This includes a comprehensive analysis of the normative order of the regimes as well as an investigation of the possible consequences which technological developments, international security dynamics or terrorist threats might yield for the CBW prohibition regimes. Wherever research results point to challenges for or a weakening of CBW norms, the project partners will develop options and proposals to uphold or strengthen these norms and to enhance their resilience.

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Author information

Alexander Kelle is Senior Researcher at the Berlin Office of the IFSH, where he leads the *CBWNet* project and serves as *CBWNet* coordinator.

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Contact

Responsible for Content §55, Abs.2 RStV:
Dr Alexander Kelle, IFSH
Reinhardtstraße 7, 10117 Berlin
E-Mail: CBWNet@ifsh.de

www.cbwnet.org
twitter.com/CBWNet

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