

## PREFACE

In February 2001, the Organisation for the Prohibition of Chemical Weapons organised and hosted a major international symposium at its headquarters in The Hague, the Netherlands. The symposium, attended by more than 200 leading jurists and representatives of many major international organisations, addressed an issue of concern to the membership of the OPCW in the implementation of the Chemical Weapons Convention — the unequivocal, but unelaborated, requirement for all Member States to cooperate and provide legal assistance in appropriate forms, as set out in paragraph 2 of Article VII of the Convention.

Of course, in attracting such an audience at that time, it became clear that the issue had, and has, much wider ramifications.

- The Issue: cooperation and legal assistance for international agreement enforcement.
- The Challenge: effective implementation.

The events of 11 September 2001 brought both the issue and the challenge into sharp focus in relation to the threats posed by international terrorist activities and networks. This book is no longer, therefore, a collection published to reproduce the proceedings of February 2001. In light of subsequent developments, many of the authors in this volume have revised their papers to reflect current realities, and new authors have been added.

International cooperation and assistance have many faces. Particularly in their legal and multi-jurisdictional aspects, they are essential, and often complex, elements in the implementation equation.

The OPCW and its Member States are responsible for the implementation of the Chemical Weapons Convention, which emphasises verification and compliance measures. Signed in 1993, and entering into force in 1997, it is the first convention of its type to provide for the elimination of an entire category of weapons of mass destruction, while at the same time being non-discriminatory in its application, and establishing a verifiable regime for its implementation.

The OPCW Secretariat received a mandate from the Conference of the States Parties to the Convention — the principal organ of the OPCW — to search out pathways to cooperation, and to develop a more detailed approach to avenues of legal assistance, through the convening of the symposium. Given its importance, T.M.C. Asser Institute, the Institute for International Law of Peace and Armed Conflict of the University of Bochum, the University of Leiden Faculty of Law, and the Harvard Sussex Program on CBW Armament and Arms Limitation joined as co-organisers. A number of sponsors came forward from relevant branches of governments, international organisations, and from universities and specialist research institutes. Our gratitude is expressed in the Acknowledgements.

It bears repeating: cooperation and assistance have many faces, and operate at many levels — between governments, industry, academics and other practitioners, as well as international organisations, bodies and networks.

One thing appears certain — the scope and the resources for cooperating in the prevention, prosecution and enforcement of legal norms and obligations are unlikely to be

available on a scale which could effectively be addressed on a single subject matter basis in all, or even most, countries and regions. Moreover, when it comes to jurisdictional issues, or the modalities of international cooperation, and in particular when confronting the challenges to the development of such cooperation, we must recognise that there is unlikely to be precise replication from State to State or region to region.

Of course, there may well be significant overlaps between the locations of cooperating agencies, but these may be imperfect and sometimes confusing in their degree of matching. To take the National Authorities under the Chemical Weapons Convention as just one example, it may be seen that, in well over half of the cases, these are located in Ministries of Foreign Affairs or the equivalent. However, in a significant number of countries the relevant authorities are found in the areas of trade, industry, economy, defence, export control, science and technology, justice, health, or the environment, or as a separate institute, interministerial or high-level advisory body.

Authorities at the national and sub-national level traditionally deal with investigatorial, judicial and jurisdictional issues relating to many serious crimes with international features. They will often, but not always, have similar roles, responsibilities, and methods of organisation and operation, whether the subject matter consists of major weapons offences or other transboundary activities, such as money-laundering, narcotics, endangered species, cultural property, transport of hazardous materials and other environmental matters, or international terrorism.

A coordinated and well-understood framework for cooperation will be essential, to ensure that resources are used efficiently, and that the various subject matters — which are dealt with by a vast array of international agreements and arrangements — are addressed and implemented effectively.

This publication goes to the heart of both the preventive and prosecutorial aspects of legal enforcement, and raises issues entailing cooperation between many different agencies of national governments. It includes contributions from leading international experts and practitioners in their fields. Whether your particular interests lie in the area of jurisdictional issues, or whether you are concerned with the modalities of international cooperation or the challenges to the development of such cooperation, I am confident that the chapters of this book hold a wealth of information and insight. The special legal issues raised by the stringent confidentiality regime of the Chemical Weapons Convention, and the implications at the national level and for other international regimes, are also featured.

I would like to express my gratitude to Professor Cherif Bassiouni for his support in providing the foreword to this volume, and to all of the contributors published here. I would also like to acknowledge, in particular, the very small group of staff in the Secretariat of the OPCW without whose dedication and untiring efforts the results presented to you through this important publication would not have been possible.

It is my hope that this contribution to the cause of international cooperation and legal assistance will be a spur to encourage further work in this field in the years ahead — and to uphold and strengthen commitments to effective implementation of international agreements.

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