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A Bibliographic Essay on Reference Sources on International and Federal Law Relating to the Disposal of Chemical Weapons and Community Right to Know

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Many communities are concerned about the release of toxic chemicals into their environment, especially those communities located near chemical weapons stockpiles. There are eight chemical weapons stockpiles in the United States, and by international and federal law, such stockpiles must be destroyed. This bibliographic essay provides some of the key reference sources on international and federal law relating to the disposal of chemical weapons and local communities' right to be informed of government and industry programs to prevent the release of toxic chemicals.

The U.S. Office of Technology Assessment's *Proliferation of Weapons of Mass Destruction: Assessing the Risk* (Washington, D.C., 1993), a technical work more suited for chemists and chemical engineers than the average citizen, notes that whereas the post-Cold War superpowers fully realize the use of weapons of mass destruction is a no-win situation, some of the "less powerful nations trying to prove their rank and their strength" do not. It is thus within this background that the United States and other superpowers pursued "a cooperative international nonproliferation policy" to prevent chemical weapons and other weapons of mass destruction from falling into the hands of weaker and more volatile countries. *Control and Elimination of Chemical and Biological Weapons. U.S.Code. Vol. 22, secs. 5601-5606* (1994).

Arms Control and Disarmament. U.S. Code. Vol. 22, secs. 2551-2595c (1994 & Supp. II 1996). The Arms Control and Disarmament Act established the U.S. Arms Control and Disarmament Agency (ACDA), "a new agency of peace to deal with the problem of reduction and control of armaments looking toward ultimate world disarmament," whose mission is "to strengthen the national security of the United States by formulating, advocating, negotiating, implementing and verifying effective arms control, nonproliferation, and disarmament policies, strategies, and agreements." "ACDA HOME PAGE" (Washington, D.C., 1998).

Public Papers of the Presidents of the United States: George Bush (Washington, D.C., 1994). Exercising his constitutional treaty-entering power, President George H. Bush signed the Convention on the Prohibition of

the Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction (also known as the "Chemical Weapons Convention," or CWC) in the last seven days of his Administration. *Public Papers of the Presidents of the United States: William J. Clinton* (Washington, D.C., 1995). His successor, President William J. Clinton, later that year submitted the CWC for ratification to the U.S. Senate, which ratified the same some four years later on 25 April 1997. U.S. Congress. Senate. *Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and on Their Destruction* (Washington, D.C., 1997).

Organisation for the Prohibition of Chemical Weapons (OPCW). "The Chemical Weapons Convention Homepage" (The Hague, 1998). To date, of the 169 countries that have signed the CWC, 120 countries have fully ratified or acceded to it as "States Parties."

U.S. Senate. *Message from the President of the United States Transmitting the Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, Opened for Signature and Signed by the United States at Paris on January 13, 1993* (Washington, D.C., 1993). The U.S. Department of State's Letter of Submittal to the U.S. Senate provides an excellent and concise summary of the CWC, which consists of a Preamble, twenty-four Articles, and three Annexes: "Chemicals" (listing the banned chemicals and their precursors), "Implementation and Verification" (setting forth compliance procedures) and "Protection of Confidential Information" (assuring confidentiality of trade and national defense secrets). Unlike prior arms control treaties, States Parties to the CWC agree to accept all of its Articles "without reservation," albeit reservations to its three Annexes are permitted provided the same are not "incompatible with [the CWC's] object and purpose."

States Parties promise "never under any circumstances ... [t]o develop, produce, acquire, stockpile or retain chemical weapons, or transfer, directly or indirectly, chemical weapons to anyone; ... [or] use chemical weapons" and States Parties further promise to "destroy chemical weapons." The CWC broadly defines "[t]oxic chemical" as "[a]ny chemical which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals." The CWC further establishes the Organization for the Prohibition of Chemical Weapons (OPCW), the international agency charged with overseeing its implementation. States Parties further undertake to enforce the CWC via their criminal laws, and U.S. law in particular establishes export and import controls on chemical weapons as well as criminal penalties for their use. *Arms Export Control. U.S. Code. Vol. 22, secs. 2751-2799aa-2* (1994). *Terrorism. U.S. Code. Vol.*

18, secs. 2331-2339B (1994 & Supp. II 1996).

Chemical and Biological Warfare Program. U.S. Code. Vol. 50, secs. 1511-1524 (1984 & Supp. II 1996). The Chemical and Biological Program actually pre-dates the CWC and provides for the "[d]estruction of existing stockpiles of lethal chemical agents and munitions" by the Secretary of Defense, adopting by reference destruction deadline schedules contemplated by treaties such as the CWC; expressly directs the Secretary of Defense to provide for "maximum protection for the environment, the general public, and the personnel who are involved in the destruction of chemical agents and munitions ... and adequate and safe facilities designed solely for the destruction of lethal chemical agents and munitions"; and provides that "[f]acilities that are constructed may not be used for any purpose other than destruction of lethal chemical weapons and munitions, and when no longer needed ... such facilities must be cleaned, dismantled, and disposed of."

The U.S. Environmental Protection Agency's *Toxic Releases Inventory* (TRI) (Washington, D.C., 1997-) is a comprehensive, detailed, and annually updated reference that was developed out of the Emergency Planning and Community Right to Know Act of 1986 (EPCRA). *Emergency Planning and Community Right-to-Know. U.S. Code. Vol. 42, secs. 11001-11050 (1994 & Supp. I 1995).* The EPCRA, which became effective 17 October 1986, pre-dates the CWC by a decade, and provides for the creation of "State commissions, planning districts, and local committees" to develop emergency plans in the event of toxic release, and requires private industries to notify communities of routine and accidental release of hazardous materials. Non-emergency notification is done via publication in the EPA's *Toxic Releases Inventory*. It is thus possible for concerned citizens to discover the locations, types, quantities, and dates of any chemical releases as well as the relevant community-based contact agencies. Most importantly, this source provides individuals, States, and local governments the power to supervise their environment via civil lawsuits for the release of such information.

Pollution Prevention. U.S. Code. Vol. 42, secs. 13101-13109 (1994 & Supp. I 1995). By Executive Order, President Clinton in 1993 made the EPCRA and the Pollution Prevention Act of 1990 (PPA), generally applicable to all federal agencies and government-owned/contractor operated (GOCO) facilities.

U.S. Program Manager for Chemical Demilitarization (PMCD). "PMCD: Welcome! (Graphical Version)" (Washington, D.C., 1998). The eight chemical weapons stockpiles located in the continental United States that are managed by the PMCD are: Anniston Chemical Activity (ANCA), Anniston, Alabama; Blue Grass Chemical Activity (BGCA), Richmond,

Kentucky; Deseret Chemical Depot (DCD), Tooele, Utah; Edgewood Chemical Activity (ECA), Aberdeen Proving Ground, Maryland; Newport Chemical Depot (NECD), Newport, Indiana; Pine Bluff Chemical Activity (PBCA), Pine Bluff, Arkansas; Pueblo Chemical Depot (PUCD), Pueblo, Colorado; and Umatilla Chemical Depot (UMCD), Hermiston, Oregon. Additionally, there is Johnston Atoll (JACADS), 800 miles southwest of Hawaii (U.S. Army Program Manager for Chemical Demilitarization 1998).

U.S. Department of Defense. *Anniston Chemical Demilitarization Community Outreach Office* (Anniston, 1998). Adjacent communities need not feel at all powerless or uninformed, as the stated mission of local committees under the EPCRA includes community outreach, and to this end the Anniston (Alabama) Community Center offers a pamphlet containing an outline of the various resources and services the agency can provide members of the community interested in chemical stockpile disposal programs, including scientific studies and a host of other research literature.

Bibliography

International Treaty

Organisation for the Prohibition of Chemical Weapons (OPCW). "Texts of the Chemical Weapons Convention." Online. Tue, 21 April 1998 5:46:18 PM GMT. Available: <http://www.opcw.nl/cwcdoc.htm>.

———. "Signatory States to the Chemical Weapons Convention." Online. Sat, 31 October 1998 3:43:32 PM GMT. Available: <http://www.opcw.nl/memsta/namelist.htm>.

———. "States Parties to the Chemical Weapons Convention." Online. Sat, 31 October 1998 3:43:32 PM GMT. Available: <http://www.opcw.nl/memsta/ratifyer.htm>.

———. "The Chemical Weapons Convention Homepage." Online. Sat, 31 October 1998 3:43:32 PM GMT. Available: <http://www.opcw.org>.

U.S. Congress. Senate. *Convention on the Prohibition of the Development, Production, Stockpiling, and Use of Chemical Weapons and on Their Destruction, opened for signature January 13, 1993*, S. Treaty Doc. No. 103-21, 105th Cong., 1st sess., 1997, S. Exec. Res. 75.

———. art. I ("GENERAL OBLIGATIONS").

———. art. II ("DEFINITIONS AND CRITERIA").

———. art. VIII ("THE ORGANIZATION").

———. art. VI ("NATIONAL IMPLEMENTATION MEASURES").

———. art. XXII ("RESERVATIONS").

———. *Message from the President of the United States Transmitting the Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, Opened for Signature and Signed by the United States at Paris on January 13, 1993, Letter of Transmittal, William J. Clinton, pp. III-VI. Washington, D.C.: G.P.O., 1993. US MicFiche Y1.1/4:103-21.*

———. Letter of Submittal, pp. VII-XXI. Washington, D.C.: G.P.O., 1993. US MicFiche Y1.1/4:103-21.

U.S. Statutes

Arms Control and Disarmament. U.S.Code. Vol. 22, secs. 2551-2595c (1994 & Supp. II 1996). 22 U.S.C.A. Ch. 35, §§ 2551-2595c (West 1990 & Supp. 1998).

———. Vol. 22, sec. 2551 (1994 & Supp. II 1996). ("Congressional statement of purpose"). 22 U.S.C.A. § 2551 (West 1990 & Supp. 1998)

———. Vol. 22, sec. 2561 (1994). ("United States Arms Control and Disarmament Agency"). 22 U.S.C.A. § 2561 (West 1990).

Arms Export Control. U.S.Code. Vol. 22, secs. 2751-2799aa-2 (1994). 22 U.S.C.A. Ch. 39, §§ 2751-2799aa-2 (West 1990 & Supp. 1998).

———. Vol. 22, sec. 2751 (1994 & Supp. II 1996). ("Need for international defense cooperation and military export controls"). 22 U.S.C.A. § 2751 (West 1990 & Supp. 1998).

———. Vol. 22, sec. 2778 (1994 & Supp. II 1996). ("Control of arms exports and imports"). 22 U.S.C.A. § 2778 (West 1990 & Supp. 1998).

Chemical and Biological Warfare Program. U.S.Code. Vol. 50, secs. 1511-1524 (1984 & Supp. II 1996). 50 U.S.C.A. Ch. 32, §§ 1511-1525 (West 1995 & Supp. 1998).

———. Vol. 50, sec. 1521(b)(2) (1994). ("Destruction of existing stockpile of lethal chemical agents and munitions"). 50 U.S.C.A. § 1521(b)(2) (West 1995).

———. Vol. 50, sec. 1521(c)(1)(A,B) (1994). 50 U.S.C.A. § 1521(c)(1)(A,B) (West 1995).

———. Vol. 50, sec. 1521(c)(2) (1994). 50 U.S.C.A. § 1521(c)(2) (West 1995).

Control and Elimination of Chemical and Biological Weapons. U.S.Code. Vol. 22, secs. 5601-5606 (1994). 22 U.S.C.A. Ch. 65, §§ 5601-5606 (West 1995).

———. Vol. 22, sec. 5602 (1994). ("Multilateral efforts"). 22 U.S.C.A. § 5602 (West 1995).

Emergency Planning and Community Right-to-Know. U.S.Code. Vol. 42, secs. 11001-11050 (1994 & Supp. I 1995). 42 U.S.C.A. Ch. 116, §§ 11001-11050 (West 1995 & Supp. 1998).

———. Vol. 42, sec. 11004 (1994). ("Emergency notification"). 42 U.S.C.A. § 11004 (West 1995).

———. Vol. 42, sec. 11021 (1994). ("Material safety data sheets"). 42 U.S.C.A. § 11021 (West 1995).

———. Vol. 42, sec. 11022 (1994). ("Emergency and hazardous chemical inventory forms"). 42 U.S.C.A. § 11022 (West 1995).

———. Vol. 42, sec. 11023 (1994 & Supp. I 1995). ("Toxic chemical release forms"). 42 U.S.C.A. § 11023 (West 1995 & Supp. 1998).

———. Vol. 42, sec. 11044 (1994). ("Public availability of plans, data sheets, forms, and followup notices"). 42 U.S.C.A. § 11044 (West 1995).

———. Vol. 42, sec. 11046 (1994). ("Civil actions"). 42 U.S.C.A. § 11046 (West 1995 & Supp. 1998).

Pollution Prevention. U.S.Code. Vol. 42, secs. 13101-13109 (1994 & Supp. I 1995). 42 U.S.C.A. Ch. 133, §§ 13101-13109 (West 1995 & Supp. 1998).

Terrorism. U.S.Code. Vol. 18, secs. 2331-2339B (1994 & Supp. II 1996). 18

U.S.C.A. Part I, Ch. 113B, §§ 2331-2339B (West Supp. 1998).

———. Vol. 18, sec. 2332c (1994 & Supp. II 1996). ("Use of chemical weapons"). 18 U.S.C.A. § 2332c (West Supp. 1998).

Cornell Law School, Legal Information Institute. "18 USC CHAPTER 113B - TERRORISM (01/16/96)." Online. Tue, 2 September 1997 6:41:32 PM GMT. Available: <http://www.law.cornell.edu/uscode/18/ch113B.html>.

———. "22 USC CHAPTER 35 - ARMS CONTROL AND DISARMAMENT (01/16/96)." Online. Tue, 18 November 1997 9:55:48 PM GMT. Available: <http://www.law.cornell.edu/uscode/22/ch35.html>.

———. "22 USC CHAPTER 39 - ARMS EXPORT CONTROL (01/16/96)." Online. Tue, 18 November 1997 9:55:55 PM GMT. Available: <http://www.law.cornell.edu/uscode/22/ch39.html>.

———. "22 USC CHAPTER 65 - CONTROL AND ELIMINATION OF CHEMICAL." Online. Tue, 18 November 1997 9:56:48 PM GMT. Available: <http://www.law.cornell.edu/uscode/22/ch65.html>.

———. "42 USC CHAPTER 116 - EMERGENCY PLANNING AND COMMUNITY RIGHT-TO-KNOW." Online. Tue, 18 November 1997 9:56:55 PM GMT. Available: <http://www.law.cornell.edu/uscode/42/ch116.html>.

———. "42 USC Sec. 11001 (01/16/96)." Online. Available: <http://www.law.cornell.edu/uscode/42/11001.shtml>.

———. "42 USC CHAPTER 133 - POLLUTION PREVENTION (01/16/96)." Online. Tue, 18 November 1997 9:57:29 PM GMT. Available: <http://www.law.cornell.edu/uscode/42/ch133.html>.

———. "50 USC CHAPTER 32 - CHEMICAL AND BIOLOGICAL WARFARE PROGRAM." Online. Tue, 18 November 1997 9:45:15 PM GMT. Available: <http://www.law.cornell.edu/uscode/50/ch32.html>.

———. "50 USC Sec. 1521 (01/16/96)." Online. Tue, 18 November 1997 9:45:15 PM GMT. Available: <http://www.law.cornell.edu/uscode/50/1521.shtml>.

———. "U.S. Constitution - Article II." Online. Wed, 16 June 1993 3:38:14 AM GMT. Available: <http://www.law.cornell.edu/constitution/constitution.articleii.html#section1>.

———. "U.S. Constitution - Article VI." Online. Wed, 16 June 1993 3:10:27 AM GMT. Available: <http://www.law.cornell.edu/constitution/constitution.articlevi.htm> ↓.

U.S. Publications

Bush, George. *Public Papers of the Presidents of the United States: George Bush, 1989-1993*, "Statement on Completion of the Chemical Weapons Convention, January 13, 1993," p. 2246. Washington, D.C.: Government Printing Office, 1994.

Clinton, William J. *Public Papers of the Presidents of the United States: William J. Clinton, 1993-*, "Message to the Congress Transmitting the Chemical Weapons Convention, November 23, 1993," pp. 2061-63. Washington, D.C.: Government Printing Office, 1995.

Ex. Ord. No. 12856, August 3, 1993, 58 F.R. 41981.

U.S. Arms Control and Disarmament Agency (ACDA). "ACDA HOME PAGE." Online. Thu, 8 October 1998 1:39:32 PM GMT. Available: <http://www.acda.gov/initial.html>.

———. "ACDA'S MISSION." Online. Wed, 12 August 1998 6:13:03 PM GMT. Available: <http://www.acda.gov/aboutacd/mission.htm>.

U.S. Department of Defense. 1998. *Anniston Chemical Demilitarization Community Outreach Office*. Anniston: PMCD. D101.2:C42/12/ANNIST.

U.S. Environmental Protection Agency. 1987-. Annual. *Toxic Release Inventory*. Washington, D.C.: G.P.O. EP 5.22/2:987-92.

U.S. Office of Technology Assessment. 1993. *Proliferation of Weapons of Mass Destruction: Assessing the Risk*. Washington, D.C.: G.P.O. Y3T22/2:2W37/2.

U.S. Program Manager for Chemical Demilitarization. 1998. "PMCD: Welcome! (Graphical Version)." Online. Available: http://www-pmcd.apgea.army.mil/graphical/w_body.html. 4 November 1998.

———. "PMCD: Missions (Graphical Version)." Online. Available: http://www-pmcd.apgea.army.mil/graphical/m_body.html. 4 November 1998.

———. "PMCD: Public Involvement (Graphical Version)." Online. Available:

<http://www-pmcd.apgea.army.mil/graphical/PI/index.html>. 4 November 1998.

———. "PMCD: Missions: CSDP: Site Locations (Graphical Version)." Online. Available: <http://www-pmcd.apgea.army.mil/graphical/CSDP/SL/index.html>. 4 November 1998.

U.S. Constitution

U.S. Constitution, art. 2, sec 2, par. 2 ("He shall have power, by and with the advice and consent of the Senate, to make treaties, provided two thirds of the Senators present concur").

U.S. Constitution, art. 6., par. 2 ("This Constitution, and the laws of the United States which shall be made in pursuance thereof; and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land; and the judges in every state shall be bound thereby, anything in the Constitution or laws of any State to the contrary notwithstanding.")

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