



**ORGANISATION FOR THE PROHIBITION
OF CHEMICAL WEAPONS**

Check against delivery

Challenge Inspections under the Chemical Weapons Convention

by

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Introduction

The Chemical Weapons Convention prohibits the production, stockpiling, development and use of chemical weapons and requires its States Parties to declare and then destroy any chemical weapons or related facilities they might possess. Compliance with the Convention, which currently has 107 States Parties, is verified by the Convention's implementing body, the Organisation for the Prohibition of Chemical Weapons (OPCW). States Parties declare certain activities and facilities to the OPCW, which in turn conducts on-site inspections in the States Parties.

Essentially, the Convention has three types of inspection. The first is routine inspections, which are inspections launched by the Secretariat of sites and activities declared by States Parties to the OPCW, the purpose of which is to verify the accuracy of the information provided by States Parties in their declarations. The second is challenge inspections, which are inspections requested by a State Party to take place on the territory of another State Party and which are launched by the Secretariat to deal with concerns of possible non-compliance. Challenge inspections can take place at either declared or undeclared sites. The third type of inspection is on-site investigations of alleged use, where there is an allegation that one State Party has used chemical weapons, or that chemical weapons have been used, or threatened to be used, against a State Party.

This presentation explains the provisions of the Convention as they pertain to challenge inspections. It provides an overview of the role of challenge inspections in the verification system and describes the procedures involved in a challenge inspection. Some underlying principles are then identified as are some comparisons with the system in IAEA.

Challenge Inspections - An Overview

Challenge inspections are one of the hallmark features of the Chemical Weapons Convention. Each State Party has the right to request a challenge inspection. This right is created by Article IX.8 which provides:

Each State Party has the right to request an on-site challenge inspection of any facility or location in the territory or in any other place under the jurisdiction or control of any other State Party for the sole purpose of clarifying and resolving any questions concerning possible non-compliance with the provisions of this Convention, and to have this inspection conducted anywhere without delay by an inspection team designated by the Director-General and in accordance with the Verification Annex.

Therefore, challenge inspections may be carried out at the request of one State Party against another State Party which is alleged to have violated the Convention. A challenge inspection can be carried out at anytime, anywhere - on declared or undeclared sites or facilities - irrespective of ownership or nature. The challenge inspection should also be carried out without delay. Challenge inspections are designed to provide deterrence against violations of the Convention, by virtue of their scope and intrusiveness. At the same time, challenge inspections will also serve as a powerful tool to restore confidence in compliance by a particular State Party. While

this clearly gives each State Party an absolute right to request a challenge inspection, to be properly understood, it needs to be considered in the context of the Article as a whole.

This right to request a challenge inspection is found in the eighth paragraph of a long Article entitled "Consultations, Cooperation and Fact-Finding". In fact, Article IX, taken as a whole, provides an excellent example of the Convention's emphasis on preventing disputes or at least managing their escalation where the disputes cannot be prevented. The Article as a whole is graduated in approach. It starts by setting out preventative measures such as consultation, cooperation and exchange of information between States Parties, the aim of which is to provide a means of resolving concerns which arise about implementation of or non-compliance with the Convention.

In the event that these mechanisms do not resolve the concerns, the Article goes on to set out procedures for requesting clarification about any situation that "may be considered ambiguous or which gives rise to a concern about the possible non-compliance of another State Party with this Convention" At this stage, States Parties have the right to request the assistance of the Executive Council, and, in particular, to request the Executive Council to obtain information from another State Party. Time lines are set down in which the procedures ought to be followed, and, if doubts have not been resolved within 60 days or the situation is otherwise urgent, a State Party can request that a special session of the Conference be convened to consider the matter and recommend appropriate measures.

It is only after detailing these procedures that the Article moves on to the ultimate tool - the right of every State Party to request an on-site challenge inspection at any location on the territory of another State Party without delay. The remainder of the Article sets out the detailed procedures for conducting challenge inspections, which is supplemented by Part X of the Verification Annex to the Convention. Although the challenge inspection option is preceded by these other options to resolve concerns about non-compliance, pursuing those mechanisms is not in any way a prerequisite to exercising the right to request the challenge inspection.

The right to request a challenge inspection must also be considered in the light of the number of provisions which are designed to ensure that the right is not abused. Firstly, the only grounds on which a challenge inspection can be requested is to clarify and resolve any questions concerning possible non-compliance with the provisions of this Convention. This is clear from the language of Article IX.8 itself but also in the following sub-paragraph, Article IX.9, which cautions States Parties against unfounded inspection requests and provides that the sole purpose is to determine facts related to the possible non-compliance. Second, pursuant to Part X.4 of the Verification Annex, a request must contain the underlying substantive concerns. Third, pursuant to Article IX.17, the Executive Council can decide within 12 hours and by a three quarters majority of its membership against carrying out of an inspection if it considers the inspection request to be frivolous, abusive or clearly beyond the scope of this Convention. Fourth, Article IX.22 requires the Executive Council to review the final report of the inspection team and, at that stage, again can address any concerns that the right to request a challenge inspection has been abused.

Designation of inspectors

The procedures for designating inspectors for challenge inspections is not any different from the procedures for designating inspectors for routine inspections. Thus, not later than 30 days after it acknowledges receipt of the list of inspectors from the Secretariat, a State Party is deemed to have designated all the inspectors on that list in the absence of written notification of non-acceptance. However, States Parties are provided with different lists in the course of the designation process, to match the different types of inspections under the Convention. That is, one list contains those inspectors proposed for routine inspections while a second list is prepared listing those inspectors proposed for challenge inspections. A third contains those designated for on-site investigations of alleged use. All those on the challenge inspection list are also included in the routine inspection list.

Challenge inspections - the procedures

The request

The procedures involved in requesting and conducting challenge inspections under the Chemical Weapons Convention are to be found in Article IX.8-25, Part X of the Verification Annex, which are supplemented by two decisions of the First Session of the Conference of the States Parties (C-I/DEC.44 and C-I/DEC.45).

The challenge inspection process starts with a request being made by a State Party under Article IX.8 to the Executive Council and to the Director-General. It is interesting to note that paragraph 3 of Part X of the Verification Annex provides for the possibility that a State Party, before submitting the inspection request, can seek confirmation from the Director-General that the Technical Secretariat is in a position to take immediate action on the request. Once the request is received, the Director-General must acknowledge receipt within one hour. The next step is for the Director-General to immediately ascertain that the request meets certain requirements. While the requesting State Party is free to submit any information it deems necessary, at a minimum it must provide the following information:

- (a) The State Party to be inspected, and, if applicable, the Host State
- (b) The point of entry to be used
- (c) The size and type of the inspection site
- (d) The concern regarding possible non-compliance including a specification of the relevant provisions of this Convention about which the concern has arisen, and of the nature and circumstances of the possible non-compliance as well as all appropriate information on the basis of which the concern has arisen
- (e) The name of the observer of the requesting State Party.

It is not necessary for the requesting State Party to provide the location of the inspection site at this stage in the process. That information can be provided at a later stage, resulting in a situation whereby the request is considered by the Executive Council and the Director-General without necessarily knowing the precise location of the site in question. It should be noted that the Director-General's role is not to assess

whether the request is well-founded - at this point his mandate is a purely technical one - to ascertain that the request has been completed properly. The Director General can also assist the inspecting State Party in filing the inspection request if it so requires.

Meanwhile, the Executive Council, having received the inspection request is obligated to take cognizance of the Director-General's actions on the request and shall keep the case under its consideration throughout the inspection procedure. It may decide against the carrying out of the challenge inspection - however this option is very limited. Firstly, it must do so not later than 12 hours after having received the inspection request. Secondly, it must make that decision by a three-quarters majority of all its members and thirdly, it can only do so on the grounds that it considers the inspection request to be frivolous, abusive, or clearly beyond the scope of the Convention. In the absence of an actual decision to the contrary, the inspection goes ahead.

Preparations for the challenge inspection begin as soon as the Director General ascertains that the request fulfills the stated requirements. Then, not less than 12 hours before the planned arrival of the inspection team at the point of entry, the Director-General transmits the inspection request to the inspected State Party. He must also provide the inspected State Party with the precise location of the inspection site within this same time-frame which means that the requesting State Party must provide that information to the Director-General in time to allow him to comply with this timeline. Taken together, these provisions guarantee that the inspected State Party knows the location of the site and the inspection request for at least 12 hours prior to the arrival of the inspection team.

Procedures at the Point of Entry

When the inspection team reaches the point of entry of the inspected State Party, it will be received by a representative of the State Party to whom it will provide the inspection mandate from the Director-General. The inspection mandate essentially puts the challenge inspection request into operational terms. All time lines for the in-country period relate to this moment and both sides record that time for reference purposes.

As with other types of inspections under the Chemical Weapons Convention, the inspection equipment to be used will be inspected by the State Party at this time.

The inspected State Party will also provide at this time, information available at the Point of Entry about health and safety considerations at the site which could be important for the conduct of the inspection.

The team and the State Party negotiate the perimeter of the inspection site - a process which can take up to a maximum of 108 hours counted from the arrival at the point of entry. If no agreement is reached in this time period, then the perimeter is that suggested by the inspection team.

The inspected State Party should transport the inspection team to the inspection site no later than 36 hours after the team's arrival at the Point of Entry.

Perimeter activities

The Convention requires the inspected State Party to also monitor the perimeter. Not later than 12 hours after the arrival of the inspection team at the point of entry, the inspected State Party must start to collect factual information on all vehicular exit activity from all exit points for all land, air and water vehicles of the perimeter. This information will be handed over to the inspection team upon arrival.

Upon arrival at the perimeter, the inspection team will verify its location, confirming that it has been transported to the challenged facility or location. Appropriate location-finding equipment may be used. If equipment such as GPS is used, it shall not be used longer than the time needed to establish the position with sufficient accuracy.

The inspection team also secures the site and conducts exit monitoring to ascertain that no Convention-related information or items are removed from the inspection site while the inspection team is conducting negotiations with the inspected State party on the final perimeter. Exit monitoring activities shall include: the identification of vehicular exits, the making of traffic logs, the taking of photographs, and the making of video recordings of exits and exit traffic. The inspection team may also inspect vehicular traffic (except personal vehicles) exiting the site on a managed access basis, and patrol the perimeter under escort. Vehicular traffic into the site is *not* subject to monitoring.

The inspected State Party must provide a pre-inspection briefing which includes safety and logistics considerations and provides the inspection team with a map or sketch of the site, showing all structures and significant geographical features at the site. The inspected State Party may indicate during the briefing the equipment, documentation or areas it considers sensitive and not related to the purpose of the challenge inspection. Inspection site personnel will brief the inspection team on the physical layout and other relevant characteristics of the site. The inspection team will also receive information on the availability of facility personnel and records. At its discretion, the inspected State Party may offer a guided site tour within the perimeter, or an aerial overflight, if it considers that useful for planning purposes. The briefing should not be more than three hours.

Based on the results of the briefing and the inspection mandate, the inspection team will develop an initial inspection plan, which specifies the activities to be carried out by the inspection team. This plan could be flexible for operational purposes.

Conduct of the challenge inspection

The actual challenge inspection is not to exceed 84 hours, unless this period is extended by agreement with the inspected State Party. As is already evident from the pre-inspection activities, the fundamental approach in challenge inspection is one of negotiation about the nature and extent of access into the requested perimeter. While the inspected State Party has the fundamental obligation to cooperate and undertake

any reasonable effort to demonstrate its compliance, the inspection team is in turn restricted to limit its activities, inspection measure and information gathering strictly to those necessary to provide sufficient relevant facts to clarify the concern about possible non compliance.

Managed access

The Convention makes a clear distinction between the conduct of a challenge inspection at a declared and at undeclared sites, with different rules being applied as regards when access is to be granted. In undeclared sites the inspected State Party has the right to invoke "managed access" to protect sensitive installations and confidential information unrelated to the Convention. This concept of managed access is a key element in the conduct of challenge inspections. At its simplest, it means the right of inspected States Parties to elect to provide less than full and unimpeded access, while making every reasonable effort to demonstrate to the inspection team that any area or object to which the inspection team has not had full access is not being used for purposes related to the possible non-compliance concerns raised in the inspection request.

The Convention lists some examples of how access might be managed by a State Party including for example, removal of sensitive papers, shrouding of sensitive displays, equipment, restriction of sample analysis to determine the presence or absence of chemicals, using random selective access techniques whereby inspectors are requested to select a given percentage or number of buildings of their choice to inspect. However, other methods might be agreed to.

The role of the observer

The Convention also allows for an observer, a representative of the requesting State Party, to be present at the inspection, unless the inspected State Party refuses to accept the observer. The observer's role is to observe and to make recommendations to the inspection team which the team shall take into account to the extent it deems appropriate. The inspected State Party has the discretion to decide on the level of access granted to the observer.

Post-inspection activities

Prior to departure, the inspected State Party has the right to again inspect the equipment of the inspection team. Its rights in this regard include the right to clean equipment upon request and to remove "unrelated information" from storage media. In the event that the inspected State Party is not confident that the equipment has been cleared of all unrelated information it may elect to retain all or part of the particular equipment in question and will pay for the said equipment. Upon the completion of the post-inspection procedures at the inspection site, the inspection team should promptly proceed to the Point of Exit.

The challenge inspection report

Not later than 72 hours after its return to the Hague, the inspection team is to submit a preliminary inspection report, which the Director-General promptly transmits to the requesting State Party, the inspected State Party and to the Executive Council. Then, not later than 20 days after the completion of the challenge inspection, a draft final inspection report is to be made available to the inspected State Party. Following this, the Secretariat is obliged to consider proposals for changes made by the inspected State Party as regards confidentiality, which it has the discretion to accept or reject. The final report must be submitted to the Director-General not later than 30 days after the completion of the challenge inspection.

The final report contains the factual findings as well as an assessment by the inspection team of the degree and nature of access and cooperation granted for the satisfactory implementation of the challenge inspection. Detailed information relating to the concerns regarding possible non-compliance will be submitted as an Appendix to the final report but retained within the Secretariat to protect sensitive information.

Once he has received the final report, the Director-General promptly transmits it to the requesting State Party, to the inspected State Party, to the Executive Council and to all other States Parties. He also transmits the assessments of the requesting and of the inspected States Parties to the Executive Council and all States Parties, as well as any views of other States Parties which may have been conveyed him.

The Executive Council reviews the final report of the inspection team as soon as it is presented to them. The requesting and inspected State Party have the right to participate in the review process and the Council informs the States Parties and the next session of the Conference of the outcome of the process.

Paragraph 22 of Article IX sets out the mandate of the Executive Council in the review process. It must address

- (a) Whether any non-compliance has occurred
- (b) Whether the request had been within the scope of the Convention
- (c) Whether the right to request a challenge inspection had been abused

If the Council reaches the conclusion that further action is necessary in respect of any of these assessments, it must then take appropriate measures. In a situation where the Council comes to the view that the right to request a challenge inspection has been abused, the Council is required to examine whether the requesting State Party should bear any of the financial implications of the challenge inspection.

There are a number of other possible actions. The Council can consult with the States Parties involved and require a situation to be redressed within a specified time. It can make recommendations to the Conference of the States Parties and inform all States Parties of the situation. In cases of particular gravity and urgency, the Executive Council shall bring the issue directly to the attention of the United Nations General Assembly and the United Nations Security Council.

Principles underlying the concept of Challenge Inspections

The system of challenge inspections in the Convention balances powerful obligations and extensive rights. For example, the requesting State Party has an absolute right to request a challenge inspection at any time, in any place. There is no right of refusal on the part of the inspected State Party - it has an obligation to submit completely. However, balancing that, the requesting State Party has an obligation to ensure that its request is for the sole purpose of clarifying and resolving any questions concerning possible non-compliance with the Convention and each inspected State Party has the right to demonstrate its compliance with the Convention. Submission to the inspection is not just seen in terms of an obligation - but also as a right to demonstrate its compliance.

Again, while the requesting State Party has the right to have the inspection carried out without delay and to be conducted anywhere in the territory of another State Party, the inspected State Party is assigned a number of rights allowing it to protect its interests in the course of an inspection. This includes a role in negotiating the perimeter of the inspection site, exercising managed access and so on. In addition, the inspection team is to be guided by the principle of conducting the challenge inspection in the least intrusive manner possible and to use only those methods necessary to provide sufficient relevant facts to clarify the concern of possible non-compliance.

This careful balance of rights and obligations exists without resulting in the procedure itself being held hostage to political interests. This is achieved by imposing timelines for each step of the process - for example, the inspected State Party can negotiate the inspection site perimeter, but if there is no agreement within 108 hours, the perimeter is fixed at that decided upon by the inspection team. Further, the Executive Council has the power to stop a challenge inspection has a role in following the process - but it must decide to do this within twelve hours and by a three quarters majority, otherwise the inspection goes ahead.

Comparison between the OPCW's challenge inspections and the IAEA's special inspections or strengthened safeguards inspections

There are a number of differences between the challenge inspection procedures of the Chemical Weapons Convention and the inspection procedures employed by the IAEA. First, in the case of the Chemical Weapons Convention, only a State Party may request a challenge inspection to be conducted. In fact, each State Party to the Convention has an absolute right to make such a request and, unless it is stopped by a three-quarters majority of the Executive Council, that request will be honoured. In the case of the IAEA, it is the Agency itself which decides to conduct a special inspection. This can be done in consultation with the inspected State Party, utilising where necessary the standard dispute resolution procedures. Further, while a State Party might choose to provide the Agency with information to assist it in making a decision about launching a inspection, there is no requirement for a State Party to request an inspection.

Second, a challenge inspection under the Chemical Weapons Convention can take place anywhere in the territory, or in any other place under the jurisdiction and control of any State Party. Theoretically then this could extend to a private residence. By contrast, the inspections conducted by the IAEA will take place only at sites with

strong indications of a connection with nuclear activities. In theory, there is a possibility to conduct inspections outside declared facilities, but in reality, an inspection can only proceed with the cooperation of the state in question and only with the consent of the Member State.

Third, while the scope of the challenge inspection under the Chemical Weapons Convention is extremely broad, and there is an inherent right to request an inspection is extremely flexible, there are a number of effective measures built in to ensure that the right is not abused. These include measures at the time of the inspection request and following the inspection. By contrast, in the IAEA system, it is not so easy to launch an inspection, both in terms of process and also in terms of the requirement that the suspected breach be a substantial one. However, with that more onerous standard comes less measures to ensure that the process is not subject to abuse.

Fourth, Article IX provides for a range of measures to facilitate cooperation and consultation, although there is no requirement for States Parties to follow that course. By contrast, this is not much detailed in the IAEA system of inspections.

Conclusions

It is very difficult to anticipate how in fact a challenge inspection will proceed - there have been much preparations but no practical experience in reality. However, there was a practice challenge inspection recently held by the United Kingdom and this provided an excellent opportunity for an inspection team to practice on a real site and under realistic conditions. A full report will be issued which will allow the Secretariat to review all procedures currently in place and assess their workability. Further, all inspectors in the course of their training receive separate instruction on the conduct of challenge inspections.

CHALLENGE INSPECTIONS UNDER THE CHEMICAL WEAPONS CONVENTION



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Inspections Under the Chemical Weapons Convention

- routine inspections
- challenge inspections
- on-site investigations of alleged use

Challenge Inspections

- Article IX.8 provides:

Each State Party has the right to request an on-site challenge inspection of any facility or location in the territory or in any other place under the jurisdiction or control of any other State Party for the sole purpose of clarifying and resolving any questions concerning possible non-compliance with the provisions of this Convention, and to have this inspection conducted anywhere without delay by an inspection team designated by the Director-General and in accordance with the Verification Annex

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The Distinctiveness of Challenge Inspections

- anytime
- anywhere
 - declared or undeclared sites or facilities
 - irrespective of ownership
 - irrespective of nature
- without delay

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Consultations, Cooperation & Fact-Finding Requests for Clarification

- consultation & cooperation amongst States Parties
- request clarification from another State Party, which has 10 days in which to provide clarification
- request for clarification through EC
 - a State Party may request the EC to assist in providing clarification
 - forwarded by EC to requested State Party within 24 hours
 - requested State Party to provide clarification within 10 days
 - EC forwards such clarifications to the requesting State Party
 - requesting SP may request further clarification within 24 hours
 - EC may call on DG to establish an Expert Group
 - if requesting SP is not satisfied, it may request a special EC session
 - if problem is not resolved within 60 days, the requesting State Party may request a special session of the CSP
- all these procedures are not prerequisites for a challenge inspection request: any State Party may request a challenge inspection

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The Challenge Inspection Request I: Obligations of the Requesting State Party

- keep within the required scope of the Convention
- provision of all appropriate information
- refrain from unfounded inspection requests
- avoid abuse
- requests for clarification must be for the sole purpose of clarifying and resolving any questions of possible non-compliance

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The Challenge Inspection Request II

- when requesting a challenge inspection, the requesting State Party must provide the following information:
 - the State Party to be inspected, and if applicable, the Host State
 - the Point of Entry to be used
 - the size and type of the inspection site
 - the concern regarding possible non-compliance including a specification of the relevant provisions of the Convention, the nature and circumstances of the possible non-compliance and all appropriate information on the basis of which the concern has arisen
 - the name of the observer of the requesting State Party
- the site location must be provided within 12 hours prior to the inspection team's arrival at the Point of Entry

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The Challenge Inspection Request III

- request submitted to the EC and the DG by the requesting State Party, which can also enquire beforehand if TS is in a position to take immediate action
- DG must acknowledge receipt within 1 hour and ascertain that request meets certain requirements
- EC takes cognisance of DG's action on the request
- EC may decide against conducting the challenge inspection:
 - within 12 hours of receiving the request
 - three-quarters majority needed
 - only if the request is considered frivolous, abusive or beyond the scope of the Convention

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Standard Procedure for the Designation of Inspectors for Routine Inspections

- provision of list of inspectors to States Parties
- States Parties have 30 days to reject any individual inspector on the list
- in the absence of written notification of rejections, the list is deemed to be acceptable to the States Parties
- any amendment to the list triggers the same procedure with the amended list

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Procedure for the Designation of Inspectors for Challenge Inspections

- designated from among the inspectors for routine inspections
- more experienced and qualified
- as wide a geographic basis as possible
- other procedures as for routine inspections

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Designation of “Qualified Experts” for Investigations of Alleged Use

- selected from among the designated inspectors for challenge inspections
- “qualified experts” recommended by States Parties
- individuals who have special expertise in particular fields
- standard procedure for acceptance by States Parties

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Notification of the Challenge Inspection

- if the EC does not decide otherwise, the DG notifies the inspected State Party, not later than 12 hours before the arrival of the inspection team at the Point of Entry
- the requesting State Party provides information on the location before the above notification
- the inspected State Party acknowledges the notification within 1 hour of its receipt

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Point of Entry Procedures

- inspection mandate submitted to inspected State Party
- inspection of equipment by inspected State Party
- negotiation of the perimeter of the inspection site initiated, which can last for a maximum of 108 hours from the arrival of the inspection team at the Point of Entry
- the inspected State Party provides information on health and safety at the inspection site
- discussion on administrative and logistical arrangements
- customs clearance
- the inspected State Party transports the inspection team to the site, must arrive within 36 hours of arrival at the Point of Entry

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Perimeter Activities

- site securing and exit monitoring
- verification of location
- pre-inspection briefing and inspection plan development
- other perimeter activities

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Site Securing and Exit Monitoring by the Inspected State Party

- not later than 12 hours after the arrival of the inspection team at the Point of Entry, the inspected State Party must start collecting factual information on all vehicular exit activity from all land, air and sea routes out of the site
- this information will be provided to the inspection team when it arrives at the inspection site

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Site Securing and Exit Monitoring by the Inspection Team

- upon its arrival at the site the inspection team will conduct:
 - identification of vehicular exits
 - traffic logs
 - photographing and videoing of exits and exit traffic
- the inspection team may inspect traffic leaving the site and patrol the perimeter, under escort

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Verification of the Location

- to ensure that it has been transported to the site specified by the requesting State Party, the inspection team may use approved location-finding equipment

Pre-inspection Briefing

- safety and logistical considerations
- map or sketch to scale of the site showing all structures and significant geographical features at the site
- indication of equipment, documentation, or areas considered sensitive and unrelated to the purpose of the inspection
- physical layout and other relevant characteristics of the site
- availability of facility personnel and records
- optional guided site tour and aerial overflight

Conduct of the Challenge Inspection

- inspection cannot exceed 84 hours, unless an extension is agreed with the inspected State Party
- fundamental approach is negotiation about the nature, and the extent of access, into the requested perimeter
- inspected State Party is obliged to cooperate and demonstrate its compliance with the Convention
- inspection team is in turn limited to gathering facts to clarify the concerns about non-compliance

Managed Access

- Convention clearly distinguishes between challenge inspections at declared and undeclared sites, and sets down different rules of access
- inspected State Party can invoke managed access at undeclared sites
- the inspected State Party can provide less than full and unimpeded access, while making every effort to demonstrate that areas to which access has been limited are not used for purposes related to the non-compliance concerns
- managed access can involve:
 - removal of sensitive papers
 - shrouding of displays
 - restrictions on sample analysis
 - random selective access techniques
 - other methods might also be utilised

The Role of the Requesting State Party's Observer

- Convention allows for a representative of the requesting State Party to be present during the inspection, unless refused by the inspected State Party
- observer's role is to observe and to make recommendations to the inspection team
- the inspected State Party has the discretion to decide on the level of access granted to the observer

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Post-inspection Activities

- prior to its departure, the inspected State Party has the right to inspect the inspection team's equipment
- if the inspected State Party is not confident that the equipment has been cleaned of all unrelated information, it can retain the equipment in question, but must pay for it
- upon the completion of the post-inspection activities, the inspection team must proceed to the Point of Exit
- maximum duration of the actual inspection is 84 hours, unless an extension is agreed with the inspected State Party

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The Challenge Inspection Report

- not later than 72 hours after its return to The Hague, the inspection team submits a preliminary inspection report to the DG, which is also transmitted to the requesting, State Party, the inspected State Party and the EC
- not later than 20 days after the completion of the challenge inspection a draft final inspection report is made available to the inspected State Party
- the inspected State Party can propose changes to the report which the Secretariat can accept or reject
- the final report must be submitted to the DG not later than 30 days after the completion of the inspection
- the report contains the factual findings and an assessment of the inspected State Party's cooperation

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The Review Process

- the final report is transmitted by the DG to the requesting State Party, the inspected State Party, the EC and all other States Parties
- also transmitted to the EC and all States Parties are the views of the requesting and inspected States Parties, along with the views of any other States Parties
- both the requesting and inspected States Parties can take part in the review process in the EC, the outcome of which is reported to all States Parties and the next CSP
- the EC must address whether:
 - any non-compliance has occurred
 - the request was within the scope of the Convention
 - the right to request a challenge inspection has been abused

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Possible Consequences of the Review Process

- if the EC views that the right to request a challenge inspection was abused, it can examine whether the requesting State Party should bear any financial implications of the inspection
- the EC can consult with the States Parties involved and require the situation to be resolved within a set timeframe
- the EC can make recommendations to the CSP and inform all States Parties
- in cases of particular gravity and urgency, the EC can bring the issue to the attention of the UN General Assembly and Security Council

