

### III. Allegations of use of chemical weapons in Syria

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In 2020 the conflict in Syria entered its ninth year and, as in previous years, the Technical Secretariat of the Organisation for the Prohibition of Chemical Weapons (OPCW) continued to work on issues relating to previous allegations of chemical weapon (CW) use and preparations for use.

The Fact-Finding Mission (FFM) continued its work investigating earlier allegations, including analysing information collected from deployments to Syria in November and December 2019.<sup>1</sup> On its investigation into an allegation made by Russia and Syria regarding toxic chemical use in Aleppo on 24 November 2018, the Secretariat continued to request information collected by a team of Russian chemical, biological, radiological and nuclear (CBRN) weapons specialists.<sup>2</sup> A technical meeting was held in The Hague between the Secretariat and the permanent representatives to the OPCW of Russia and Syria on this matter at the end of May 2020.<sup>3</sup>

At the beginning of October 2020, the Secretariat released two FFM reports, one of which concerned this same allegation of use of toxic chemicals in Aleppo in November 2018.<sup>4</sup> This FFM report noted that the information ‘obtained and analysed, the composite summary of the interviews, and the results of the laboratory analyses did not allow [it] to establish whether or not chemicals were used as a weapon in the incident’.<sup>5</sup> On the exchange of correspondence between the Secretariat and Russian and Syrian authorities noted above, the FFM report recorded that ‘access to requested information and evidence’, including interviews and meetings with the Russian team of CBRN specialists, was denied ‘on the basis of military secrecy’.<sup>6</sup> The other FFM report concerned an alleged use of toxic chemicals by Syrian govern-

<sup>1</sup> During these deployments, the FFM interviewed witnesses and collected further information regarding incidents that took place in Aleppo on 24 Nov. 2018; Yarmouk, Damascus on 22 Oct. 2017; Khirba Masasinah on 7 July 2017 and 4 Aug. 2017; Qalib Al-Thawr, Al-Salamiyah on 9 Aug. 2017; and Al-Balil, Souran on 8 Nov. 2017. See OPCW, Executive Council, ‘Progress in the elimination of the Syrian chemical weapons programme’, Note by the Director-General, EC-93/DG.3, 25 Nov. 2019, para. 17; and OPCW, Executive Council, ‘Progress in the elimination of the Syrian chemical weapons programme’, Note by the Director-General, EC-93/DG.5, 24 Dec. 2019, para. 15.

<sup>2</sup> OPCW, Executive Council, ‘Progress in the elimination of the Syrian chemical weapons programme’, Report by the Director General, EC-94/DG.12, 24 June 2020, para. 19. In Nov. 2018 the OPCW received a series of notes verbales from Syria that provided information about an incident reported to have occurred in several residential neighbourhoods in Aleppo on 24 Nov. 2018. See McLeish, C., ‘Allegations of use of chemical weapons in Syria’, *SIPRI Yearbook 2020*, pp. 439–45.

<sup>3</sup> OPCW, EC-94/DG.12 (note 2), para. 19.

<sup>4</sup> OPCW, ‘OPCW issues two Fact-Finding Mission reports on chemical weapons use allegations in Aleppo and Saraqib, Syria’, News, 2 Oct. 2020.

<sup>5</sup> OPCW, ‘Report of the OPCW Fact-Finding Mission in Syria regarding the incident in Aleppo, Syrian Arab Republic, on 24 November 2018’, Note by the Technical Secretariat, S/1902/2020, 1 Oct. 2020, para. 8.13.

<sup>6</sup> OPCW, S/1902/2020 (note 5), para. 7.19.

ment forces in Saraqib in August 2016. The FFM reported that it was not able to visit the location of the alleged incident and was also unable to visit the hospital that was reported to have admitted patients, although it did have access to available medical records. The results of the FFM's analysis of 'all available data obtained up until the issuance of this report did not allow the FFM to establish whether or not chemicals were used as a weapon' in this incident.<sup>7</sup>

The OPCW Declaration Assessment Team (DAT) also continued with its efforts to clarify and resolve all of the identified gaps, inconsistencies and discrepancies in the initial declaration submitted by Syria in 2013.<sup>8</sup> On 13 March 2020, the Secretariat informed Syria that in view of the Covid-19 outbreak, all scheduled deployments and missions were postponed until further notice.<sup>9</sup> This included the 23rd round of consultations, which had been scheduled to begin on 15 March; they eventually took place between 22 September and 3 October in Damascus. During the mission, the DAT collected samples to replace those taken during a previous deployment and held discussions on the current status of all outstanding issues.<sup>10</sup> These discussions came after the Syrian National Authority provided further information on eight outstanding issues and made two amendments to their initial declaration.<sup>11</sup> The DAT reported the outcomes of its mission, including that three outstanding issues relating to the initial declaration had been closed during those consultations, to the Executive Council in October 2020.<sup>12</sup> Of the 19 issues still outstanding, one concerned a production facility that had been declared as never having been used for the production of chemical weapons. After a DAT review of all information and other materials gathered since 2014 suggested this not to be the case, and that 'production and/or weaponisation of chemical warfare nerve agents took place' at this facility, the Secretariat requested the Syrian Arab Republic to declare 'the exact types and quantities of chemical agents produced and/or weaponised at the site'.<sup>13</sup>

<sup>7</sup> OPCW, 'Report of the OPCW Fact-Finding Mission in Syria regarding the incident of alleged use of chemicals as a weapon in Saraqib, Syrian Arab Republic, on 1 August 2016', Note by the Technical Secretariat, S/1901/2020, 1 Oct. 2020, paras 7.1–7.5.

<sup>8</sup> The OPCW established the Declaration Assessment Team (DAT) in 2014 to engage the relevant Syrian authorities in resolving the identified gaps and inconsistencies in the Syrian declaration. OPCW, 'Declaration Assessment Team', [n.d.].

<sup>9</sup> OPCW, Executive Council, 'Progress in the elimination of the Syrian chemical weapons programme', Note by the Director General, EC-94/DG.1, 24 Mar. 2020, para. 6.

<sup>10</sup> OPCW, Executive Council, 'Progress in the elimination of the Syrian chemical weapons programme', Note by the Director General, EC-96/DG.2, 26 Oct. 2020, para. 11.

<sup>11</sup> OPCW, Executive Council, 'Progress in the elimination of the Syrian chemical weapons programme', Note by the Director General, EC-95/DG.19, 24 Sep. 2020, para. 10.

<sup>12</sup> OPCW, Executive Council, 'Progress in the elimination of the Syrian chemical weapons programme', Note by the Director General, EC-96/DG.3, 24 Nov. 2020, paras 10–11.

<sup>13</sup> OPCW, EC-96/DG.3 (note 12), para. 11.

In December 2020 the OPCW director-general issued the final report for 2020 on progress in eliminating the Syrian chemical weapons programme, which stated: ‘the Secretariat assesses that the declaration submitted by the Syrian Arab Republic still cannot be considered accurate and complete’.<sup>14</sup> The 96th Session of the Executive Council will consider the director-general’s progress report when it meets in March 2021.

### **Civil society activities**

At the beginning of October, three international human rights non-governmental organizations (NGOs)—the Open Society Justice Initiative, the Syrian Archive and the Syrian Center for Media and Freedom of Expression—jointly lodged a criminal complaint relating to chemical weapons use in Syria, including evidence from a detailed investigation into the sarin attacks on Ghouta in 2013 and Khan Shaykhun in 2017. The complaint, filed with the Office of the German Federal Prosecutor, is the first attempt to hold the Syrian Arab Republic accountable in court for chemical weapons use.<sup>15</sup> Criminal complaints of this type are permitted in Germany because they have universal jurisdiction laws, which provide national prosecutors and courts with the authority to investigate and prosecute international crimes committed on foreign territory by foreign nationals. Reporting on the filing, the German state-owned international broadcaster Deutsche Welle explained that ‘key to the criminal complaint is the diverse array of witness testimony’, which includes information provided by ‘high-ranking military personnel and scientists at Syria’s Scientific Studies and Research Center’.<sup>16</sup> The evidence apparently indicates that it was Maher al-Assad, President Bashar al-Assad’s younger brother, who gave ‘the official order at an operational level’ to use sarin in Ghouta, but also that ‘deployment of strategic weapons, such as sarin nerve gas’ required the president’s approval.<sup>17</sup>

Later the same month, on 20 October, the Open Society Justice Initiative and the Syrian Archive also released a report on the Scientific Studies and Research Center (SSCR) in Syria. The report claims to identify SSCR branches responsible for Syria’s chemical weapons use: Institute 3000 for producing chemical weapons; Branch 450 for storing, mixing and loading warheads with chemical munitions; and Institute 2000 and Institute 4000

<sup>14</sup> OPCW, Executive Council, ‘Progress in the elimination of the Syrian chemical weapons programme’, Report by the Director General, EC-96/DG.4, 24 Dec. 2020, para. 12.

<sup>15</sup> Open Society Justice Initiative, ‘Chemical weapons attacks in Syria’, [n.d.]; and Syrian Archive, ‘Criminal complaint filed on behalf of sarin attack victims’, Press release, 6 Oct. 2020.

<sup>16</sup> Sanders, L., Schülke-Gill, B. and Bayer, J., ‘How Germany could indict Syria’s Assad for war crimes’, Deutsche Welle, 27 Nov. 2020.

<sup>17</sup> Sanders et al. (note 16).

for producing barrel bombs. The two NGOs submitted the report to the OPCW and to the International, Impartial and Independent Mechanism for Syria, as well as to prosecutors in Germany and France ‘for use in support of criminal accountability’.<sup>18</sup>

### **Investigation into possible breaches of confidentiality**

In May 2019 an internal document entitled ‘Engineering Assessment of Two Cylinders Observed at the Douma Incident: Executive Summary’ was disseminated outside of the OPCW and subsequently appeared online. The OPCW launched an investigation into possible breaches of confidentiality, which ended in February 2020 with the release of a report to states parties detailing its findings. A ‘modified version’ of the report is published on the public website.<sup>19</sup> In a statement accompanying the release of the investigation report, the OPCW director-general explained that the word ‘modified’ related to the process of anonymization.<sup>20</sup> The public version of the report records the investigators as interviewing 29 individuals, collecting documents, and examining email records and other electronic evidence.<sup>21</sup> The investigation identified two former OPCW officials, designated as ‘Inspector A’ and ‘Inspector B’, as being responsible for the breach. With regard to the severity of these breaches, the investigators concluded:

Inspector A’s assessment purports to be an official OPCW FFM report that relies upon and contains confidential information. However, it is a personal document created without authorisation through the misuse of incomplete confidential information by a staff member who had ceased to provide support to the FFM seven months prior to the release of the final FFM report on Douma. It was during this seven-month period that the majority of the investigative work was conducted. Inspector A’s assessment has thus been misused to call into question the Organisation’s competence and credibility. Therefore, the deliberate and premeditated breaches of confidentiality committed by Inspectors A and B are considered to be serious.<sup>22</sup>

In his statement, the director-general told states parties that inspectors A and B were not whistle-blowers but, ‘individuals who could not accept that their views were not backed by evidence. When their view could not gain

<sup>18</sup> ArcticWind, ‘Syria’s Scientific Studies and Research Centre’, 21 Oct. 2020.

<sup>19</sup> OPCW, Technical Secretariat, ‘Report of the investigation into possible breaches of confidentiality’, Note by the Technical Secretariat, S/1839/2020, 6 Feb. 2020; and OPCW, ‘Independent investigation into possible breaches of confidentiality report released’, News, 6 Feb. 2020.

<sup>20</sup> OPCW Director-General, Statement on the Report of the Investigation into Possible Breaches of Confidentiality, 6 Feb. 2020, p. 1.

<sup>21</sup> OPCW, S/1839/2020 (note 19), paras 4–5.

<sup>22</sup> OPCW, S/1839/2020 (note 19), para. 29.

traction, they took matters into their own hands and committed a breach of their obligations to the Organisation'.<sup>23</sup>

This investigation report was released 17 days after an open UN Security Council Arria-formula meeting on the Douma FFM report.<sup>24</sup> The meeting, held at the request of Russia who held the presidency of the Security Council that month, included a video statement from Ian Henderson, a former Technical Secretariat staff member, in which he described a chronology of events relating to the Douma investigation and report preparation, and gave his own perspective on the report.<sup>25</sup> A written version of the statement was later included as an annex to the Russian summary of the meeting.<sup>26</sup>

### **Investigation and Identification Team: First report**

On 8 April 2020 the Technical Secretariat submitted to the Executive Council the first report of the Investigation and Identification Team (IIT).<sup>27</sup> The IIT report presented findings on the investigation of three incidents where chemical weapons were used in the town of Ltamenah, located within the Hama governorate, on 24, 25 and 30 March 2017 respectively.

In a presentation made a few minutes prior to its release, the OPCW director-general underscored that the mandate of the IIT was 'to establish facts' and that it was 'not a judicial or quasi-judicial body with the authority to assign individual criminal responsibility', nor did it have 'the authority to make final findings on non-compliance with the Convention'; rather, it was for the Executive Council and the Conference of the States Parties to decide the next steps.<sup>28</sup> In summarizing the findings, the IIT coordinator said that the IIT concluded, after considering a range of potential scenarios, that

<sup>23</sup> OPCW Director-General, Statement, 6 Feb. 2020 (note 20), p. 8.

<sup>24</sup> United Nations, Security Council, 'Arria-formula meeting—implementation of UNSCR 2118: OPCW FFM Report on Douma', UN Web TV, 20 Jan. 2020. 'Arria-formula' meetings are not formal meetings of the Security Council but are convened at the initiative of a Security Council member or members so that the views of individuals, organizations or institutions on matters within the competence of the Security Council can be heard and engaged with. The first such meeting was in March 1992 and was organized by the then-president of the Security Council, Ambassador Diego Arria (Venezuela). See United Nations, Security Council, 'UN Security Council working methods: Arria-formula meetings', 16 Dec. 2020.

<sup>25</sup> United Nations, Security Council, 'Arria-formula meeting—implementation of UNSCR 2118' (note 24), 0:57:27.

<sup>26</sup> United Nations, General Assembly and Security Council, Identical letters dated 4 February 2020 from the Permanent Representative of the Russian Federation to the United Nations addressed to the Secretary-General and the President of the Security Council, A/74/686-S/2020/96, 13 Feb. 2020, pp. 9–15.

<sup>27</sup> OPCW, Technical Secretariat, 'First report by the OPCW Investigation and Identification Team pursuant to paragraph 10 of Decision C-SS-4/DEC.3 "Addressing the threat from chemical weapons use": Ltamenah (Syrian Arab Republic) 24, 25 and 30 March 2017', Note by the Technical Secretariat, S/1867/2020, 8 Apr. 2020.

<sup>28</sup> Arias, F., 'Director-General's Statement on the First Report by the OPCW Investigation and Identification Team', OPCW Statement, 8 Apr. 2020, p. 4.

‘there are reasonable grounds to believe that the perpetrators of use of sarin as a chemical weapon in Ltamenah on 24 and 30 March 2017, and of chlorine as a chemical weapon on 25 March 2017, were individuals belonging to the Syrian Arab Air Force’.<sup>29</sup> More specifically, there were ‘reasonable grounds’ for each of the following findings:

(a) On 24 March 2017, an Su-22 military airplane belonging to the 50th Brigade of the 22nd Air Division of the Syrian Arab Air Force, departing from Shayrat airbase, dropped an M4000 aerial bomb containing sarin in southern Ltamenah, affecting at least 16 persons.

(b) On 25 March 2017, a helicopter of the Syrian Arab Air Force, departing from Hama airbase, dropped a cylinder on the Ltamenah hospital; the cylinder broke into the hospital through its roof, ruptured, and released chlorine, affecting at least 30 persons.

(c) On 30 March 2017, an Su-22 military airplane belonging to the 50th Brigade of the 22nd Air Division of the Syrian Arab Air Force, departing from Shayrat airbase, dropped an M4000 aerial bomb containing sarin in southern Ltamenah, affecting at least 60 persons.<sup>30</sup>

On the Ltamenah attacks, the report noted that ‘a comparison of the results of analysis of samples’ collected during these incidents and the 2017 Khan Shaykhun incident show ‘significant similarities’ and that the analytical results ‘are consistent with sarin resulting from a binary process using [difluoride] from the Syrian Arab Republic stockpile’.<sup>31</sup> The report also determines that the ‘strategic nature’ of these attacks could only have occurred ‘pursuant to orders from the highest levels’ but that the IIT ‘could not . . . draw definitive conclusions to the requisite degree of certainty’ regarding the specific chain of command.<sup>32</sup>

#### *Reactions to the release of the first report*

Following the release of the first report, a number of states parties submitted statements to the 94th Session of the Executive Council.<sup>33</sup> The Netherlands, the host country, called for the Executive Council to convene ‘as soon as is feasible to discuss our response’ and further stated:

Until now, the international community, including the Member States of the OPCW, have been unable to take action against Syria, in spite of all the evidence that shows Syria is in non-compliance of the CWC [Chemical Weapons Convention] . . . We, States Parties to the Chemical Weapons Convention, have the obligation to take our commitment to the CWC seriously. Now more than ever is the moment to shake off complacency. If we do not, we jeopardize the integrity and credibility of the global

<sup>29</sup> Oñate-Laborde, S., ‘IIT Coordinator’s remarks on the First Report by the OPCW Investigation and Identification Team’, OPCW Statement, 8 Apr. 2020, p. 2.

<sup>30</sup> OPCW, S/1867/2020 (note 27), para. 3.

<sup>31</sup> OPCW, S/1867/2020 (note 27), para. 11.8.

<sup>32</sup> OPCW, S/1867/2020 (note 27), para. 4.

<sup>33</sup> OPCW, ‘Ninety-fourth Session of the Executive Council: EC-94’ (OPCW EC-94).

**Table 12.1.** Voting record for Organisation for the Prohibition of Chemical Weapons Executive Council draft decision on ‘Addressing the Possession and Use of Chemical Weapons by the Syrian Arab Republic’, 9 July 2020

Voting record	State
For the decision (29 votes)	Argentina, Australia, Austria, Belgium, Brazil, Bulgaria, Cameroon, Chile, El Salvador, France, Germany, Ghana, Guatemala, Italy, Japan, Republic of Korea, Lithuania, Mexico, Morocco, Norway, Peru, the Philippines, Poland, Romania, Saudi Arabia, Senegal, Spain, United Kingdom, United States
Against the decision (3 votes)	China, Iran, Russia
Abstentions (9 votes)	Algeria, Bangladesh, India, Kenya, Nigeria, Pakistan, South Africa, Sudan, United Arab Emirates

Source: OPCW, Executive Council, Report of the 94th Session of the Executive Council, EC-94/4, 9 July 2020, para. 6.31.

system of chemical non-proliferation and of the global norm against the use of Chemical weapons.<sup>34</sup>

Eight other states parties and the European Union (EU) expressed similar sentiments in the week that followed.<sup>35</sup> However, Russia and Iran questioned the reliability of the report.<sup>36</sup> Syria rejected the report ‘in form and in substance’ and considered it ‘a translation of the desires of the United States of America and its Western allies to target Syria’.<sup>37</sup>

As part of its statement on the issue, the United States, as member of ‘a cross-regional group of responsible States Parties seeking to address directly these unconscionable actions of the Syrian regime’, suggested that the Executive Council should give the Syrian regime ‘a prescribed time frame to take certain actions in order to redress’ the non-compliance outlined in

<sup>34</sup> Netherlands Permanent Representative to the OPCW, ‘Statement on the First Report by the OPCW Investigation and Identification Team (IIT)’, 8 Apr. 2020.

<sup>35</sup> Between 8 and 15 Apr. 2020 the following states parties made statements expressing similar views to the Netherlands: Belgium, Canada, France, Germany, Japan, Switzerland, the UK and the USA. High Representative Josep Borrell also made a statement on behalf of the European Union. See OPCW EC-94 (note 33).

<sup>36</sup> Russian Delegation to the OPCW, ‘On the OPCW investigations into incidents of the alleged use of chemical weapons in Ltamenah, Syrian Arab Republic, on 25, 26, and 30 March 2017’, OPCW EC-94/NAT.17, 19 June 2020; Shulgin, A. V., Statement of the Russian Permanent Representative to the OPCW at the 94th Session of the Executive Council, OPCW EC-94/NAT.40, 7 July 2020; and Iranian Delegation to the OPCW, ‘Statement on the First Report by the OPCW Investigation and Identification Team (IIT)’, OPCW EC-94/NAT.3, 15 Apr. 2020, p. 1. See also Russian Ministry of Foreign Affairs, ‘Comment by the Information and Press Department on the release of the first report by the OPCW Investigation and Identification Team (“Syrian Chemical Dossier”)’, 9 Apr. 2020.

<sup>37</sup> Sabbagh, B., ‘Statement by the Permanent Representative of the Syrian Arab Republic to the OPCW on the First Report of the OPCW Investigation and Identification Team issued on 8 April 2020’, OPCW EC-94/NAT.5, 16 Apr. 2020, p. 1.

the IIT report.<sup>38</sup> Among the actions listed for Syria to take were declarations of facilities which developed, produced, stockpiled and stored for delivery the chemical weapons used in Ltamenah; the declaration of its remaining chemical weapons stockpile and production facilities; and the resolution of all outstanding issues with its initial declarations. In the event that Syria did not complete these measures, the US statement suggested ‘the Executive Council should recommend that the Conference of the States Parties take action’.<sup>39</sup>

Forty delegations submitted a draft decision entitled ‘Addressing the possession and use of chemical weapons by the Syrian Arab Republic’ for consideration by the Executive Council. When states parties were unable to achieve consensus, a vote was taken; the voting record is provided in table 12.1.

With the decision adopted (EC-94/Dec.2), the Executive Council requested Syria to take the following steps within 90 days: (a) declare to the Secretariat the facilities where the chemical weapons, including those used in Ltamenah were developed, produced, stockpiled and operationally stored for delivery; (b) declare to the Secretariat all of the chemical weapons it currently possesses as well as production facilities and other related facilities; and (c) resolve all of the outstanding issues regarding its initial declaration.<sup>40</sup>

Decision EC-94/Dec.2 also directed the OPCW director-general to report to the Executive Council on whether Syria had completed all of those measures within 100 days of the adoption of the decision; and recommended that, if Syria failed to complete the measures within the deadline, the Conference of the States Parties at its next session adopt a decision ‘which undertakes appropriate action pursuant to paragraph 2 of Article XII’ of the 1993 Chemical Weapons Convention (CWC).<sup>41</sup>

On 20 July, the OPCW director-general sent a letter to the Syrian deputy foreign minister, Dr Faisal Mekdad, to outline Syria’s obligations under this decision and to indicate the readiness of the Technical Secretariat to assist Syria in the fulfilment of these obligations.<sup>42</sup>

At the start of the Executive Council’s 95th session on 6 October 2020, the director-general informed members that 89 days had passed since the

<sup>38</sup> Dinanno, T. G., Statement by the US Deputy Assistant Secretary of State for Defence Policy, Emerging Threats and Outreach at the 94th Session of the Executive Council, OPCW EC-94/NAT.37, 7 July 2020, p. 3.

<sup>39</sup> Dinanno (note 38), p. 3.

<sup>40</sup> OPCW, Executive Council, ‘Addressing the possession and use of chemical weapons by the Syrian Arab Republic’, Decision, EC-94/Dec.2, 9 July 2020, para. 5.

<sup>41</sup> OPCW, EC-94/Dec.2 (note 40), paras 6–7.

<sup>42</sup> OPCW, Executive Council, ‘Implementation of EC-94/DEC.2 on addressing the possession and use of chemical weapons by the Syrian Arab Republic’, Report of the Director-General, EC-96/DG.1, 14 Oct. 2020, para. 3. On the CWC see section V in this chapter; and annex A, section I, in this volume.



adoption of the decision and the Technical Secretariat had not yet received any submission from Syria.<sup>43</sup> Eight days later, on 14 October, the director-general informed states parties that the situation remained as previously reported, and that consequently Syria had not fulfilled the requirements of Decision EC-94/Dec.2.<sup>44</sup> The Conference of the States Parties will now consider the ‘appropriate action’ to be taken under Article XII of the CWC.

### **Divided views in the United Nations Security Council**

The UN Security Council continued its meetings on Syria and chemical weapons during 2020. Its regular meetings on 15 April, 2 June, 14 July and 5 August were in a closed format; its other meetings—on 10 September, 5 October, 5 November and 11 December—were either open or in mixed format and so generated public meeting records.

At the September meeting, the briefing of the UN High Representative for Disarmament Affairs, Izumi Nakamitsu, to Security Council members stressed ‘once again’ that until outstanding issues on Syria’s initial declaration were closed, the international community ‘cannot have full confidence’ that the Syrian chemical weapons programme has been eliminated.<sup>45</sup> In the debate that followed, delegates roundly condemned the use of chemical weapons ‘by any actor’, ‘under any circumstances’.<sup>46</sup> All but a small number of members also strongly supported the OPCW and the credibility of its investigations, and urged Syria to fully cooperate by providing the requested information. Calls were also made for Security Council unity on efforts to resolve all outstanding issues relating to Syria’s initial declaration.

However, long-standing divisions among Security Council members were visible during their meetings. An instance of discord during the meeting on 5 October, on the situation in the Middle East, centred on Russia, as president of the Security Council, proposing to invite the former OPCW director-general, José Bustani, to brief members.<sup>47</sup> Belgium, Estonia, France, Germany, the United Kingdom and the USA objected to this invitation,

<sup>43</sup> OPCW, Executive Council, ‘Opening statement by the Director-General to the Ninety-fifth Session of the Executive Council (full version)’, EC-95/DG.29, 6 Oct. 2020, para. 22.

<sup>44</sup> OPCW, EC-96/DG.1 (note 42), 14 Oct. 2020, paras 4–6.

<sup>45</sup> Nakamitsu, I., Statement by the High Representative for Disarmament Affairs, annex I, p. 2, in United Nations, Security Council, Letter dated 14 September 2020 from the President of the Security Council addressed to the Secretary-General and the Permanent Representatives of the members of the Security Council, S/2020/902, 15 Sep. 2020.

<sup>46</sup> See e.g. statements by China (annex II), South Africa (annex X) and the UK (annex XI), in United Nations, Security Council, Letter dated 14 September 2020 from the President of the Security Council, ‘Debating Syria’s chemical weapons programme, delegates in Security Council roundly condemn use of such armaments by “any actor under any circumstances”’, Press release, SC/14298, 10 Sep. 2020.

<sup>47</sup> United Nations, ‘The situation in the Middle East (Syria): Security Council, 8674th meeting’, UN Web TV, 5 Oct. 2020; and United Nations, Security Council, Provisional minutes of the 8764th meeting, S/PV.8764, 5 Oct. 2020.

arguing that Mr Bustani's tenure as director-general (1997–2002) predated the use of chemical weapons in Syria and so he would not be able to provide members with relevant information. The issue of inviting Mr Bustani to brief the Security Council was eventually put to a vote, with six votes against (Belgium, Estonia, France, Germany, the UK, the USA), three in favour (China, Russia, South Africa) and six abstentions (Dominican Republic, Indonesia, Niger, Saint Vincent and the Grenadines, Tunisia, Viet Nam). As a consequence of the outcome of the vote, the Russian ambassador, speaking in his national capacity, read Mr Bustani's statement to Security Council members, after suggesting that Western governments only wanted to hear confirmations of their allegations.<sup>48</sup>

In December, during the open part of the Security Council briefing on the implementation of Resolution 2118, Director-General Fernando Arias informed the Security Council that he had notified the OPCW Executive Council and other CWC states parties on 14 October that Syria's initial declaration could not be considered accurate or complete, and that Syria had not fulfilled any of the requirements called for in Decision EC-94/Dec.2.<sup>49</sup> The ensuing debate in the public session again displayed division among Security Council members on alleged use of chemical weapons by Syria.

## Conclusions

While differing views on the 'Syria file' are highly likely to persist into 2021, the OPCW Technical Secretariat's mandated activities in Syria relating to the full elimination of their chemical weapons programme continue. The second part of the Conference of the States Parties will, among other things, consider 'appropriate action' following Syria's failure to fulfil the requirements of EC-94/Dec.2 and is likely to be a focusing event for states parties in the first quarter of 2021.

<sup>48</sup> United Nations, Security Council, S/PV.8764 (note 47), pp. 7–9.

<sup>49</sup> United Nations, Security Council, 'Middle East (Syria)', S/2020/1152, UN WebTV, 11 Dec. 2020, 00:10:21–00:26:55; United Nations, Security Council, 'Syria's chemical weapons declaration cannot be considered accurate, complete, Director-General tells Security Council', Press release, SC/14380, 11 Dec. 2020; and UN Security Council Resolution 2118, 27 Sep. 2013.