

III. Allegations of chemical weapons use in Syria

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The Organisation for the Prohibition of Chemical Weapons (OPCW) continued to investigate allegations of the use of chemical weapons in Syria and to clarify the status of Syria's chemical weapons programme. All chemical weapons facilities and stockpiles which Syria had declared upon its accession to the 1993 Chemical Weapons Convention (CWC) in 2013 were destroyed under OPCW verification by 2016.¹ However, since OPCW inspections have yielded indications that the initial declarations by the Syrian Arab Republic were neither complete nor accurate, and since chemical weapons attacks in Syria continued even after the destruction of the declared chemical weapons programme was completed, the OPCW has undertaken a number of activities to address the chemical weapons issue in Syria.² These activities are carried out by the Fact-Finding Mission (FFM), the Declaration Assessment Team (DAT) and the Investigation and Identification Team (IIT), and through inspections at sites that previous OPCW and United Nations investigations have found to be involved in Syria's chemical weapons activities (see table 12.1).³

Ongoing work of the FFM and DAT, and other activities

No new instances of chemical weapons use were reported in 2021. The governments of Russia and Syria continued to warn that terrorist organizations, allegedly supported by Western governments, were planning to stage chemical attacks in Syria in order to discredit the Syrian government.⁴ However, the OPCW Technical Secretariat reported in March 2021 that none of the allegations brought forward by Syria could be independently verified.⁵ The FFM continued its activities with regard to past alleged chemical weapons use in Syria but did not publish a new report in

¹ For a summary and other details of the Chemical Weapons Convention see annex A, section I, in this volume.

² See e.g. Arms Control Association, 'Timeline of Syrian chemical weapons activity, 2012–2021', Fact sheets & briefs, last reviewed May 2021.

³ Organisation for the Prohibition of Chemical Weapons (OPCW), Executive Council, 'Progress in the elimination of the Syrian chemical weapons programme', Report by the Director-General, EC-98/DG.1, 23 July 2021, para. 24.

⁴ See e.g. the note verbale in OPCW, Executive Council, 'Request for circulation of a document at the Ninety-Seventh Session of the Executive Council', EC-97/NAT.7, 23 June 2021, annex; Dabin, B., Al Ashkar, S. and Eyon, M., 'Foreign ministry: Attempts of fabricating chemical scenarios in Idlib won't affect Syria's stance in combating terrorism', SANA, 22 June 2021; and Ibrahim, M. H. D. and Eyon, M., 'Russian Defense Ministry: Al-Nusra terrorists with help of "White Helmets" fabricate chemical attack in Idlib', SANA, 3 July 2021.

⁵ OPCW, Technical Secretariat, 'Information provided by the Syrian Arab Republic for consideration by the Technical Secretariat: Overview of processing', S/1934/2021, 10 Mar. 2021.

2021. The FFM had to date investigated a total of 80 allegations of chemical weapons use and confirmed such use or likely use in 20 cases.⁶ The pandemic situation complicated the planning for further on-site activities. Moreover, the OPCW command post in Syria could not be continually staffed because the Syrian government delayed issuing visas for incoming staff members.⁷ In spite of these impediments, the FFM travelled to Syria between 29 March and 13 April to collect information on ‘an incident that took place in Kafr Zita, Hama, on 1 October 2016’.⁸ The pertinent FFM report confirming the use of an industrial chlorine cylinder as a weapon in this incident was published on 1 February 2022.⁹ Between 28 November and 10 December the FFM again deployed to Syria to gather information on four incidents that allegedly took place in the Hama governorate in 2017: in Khirbat Masasinah on 7 July and 4 August, in Qalib Al-Thawr, Al-Salamiya on 9 August, and in Al-Balil, Suran on 8 November.¹⁰

The DAT likewise continued its work to clarify concerns about the completeness and accuracy of Syria’s initial declaration of its chemical weapons programme. According to the director-general’s report in December 2021, these concerns include ‘undeclared research, production, and/or weaponisation of unknown quantities of chemical weapons, and significant quantities of chemical warfare agents or precursors and chemical munitions whose fate has not yet been fully verified by the Secretariat’.¹¹ Of the 24 outstanding issues identified by the DAT since 2014, 4 have been resolved, and Syria has amended its initial declarations several times. However, by the end of 2021, 20 issues still remained unresolved, and Syria’s declarations continued to contain ‘identified gaps, inconsistencies, and discrepancies’.¹²

The 24th round of consultations of the DAT with representatives of the Syrian government took place in February 2021 but failed to resolve any outstanding issues.¹³ The 25th round was initially scheduled for May but was

⁶ OPCW Director-General, Opening remarks at ‘Ten years of chemical weapons use in Syria: A look back and a look ahead’, CWC Coalition webinar, 22 Feb. 2022, 00:13:20. See also OPCW Director-General, Statement at the United Nations Security Council, 3 June 2021, The Hague, Netherlands.

⁷ OPCW, Executive Council, ‘Progress in the elimination of the Syrian chemical weapons programme’, Report by the Director-General, EC-98/DG.24, 24 Sep. 2021, para. 27.

⁸ OPCW, Executive Council, ‘Progress in the elimination of the Syrian chemical weapons programme’, Report by the Director-General, EC-97/DG.3, 23 Apr. 2021, para. 20.

⁹ OPCW, Technical Secretariat, ‘Report of the OPCW Fact-Finding Mission in Syria regarding the incident of the alleged use of chemicals as a weapon in Kafr Zeita, Syrian Arab Republic, 1 October 2016’, Note by the Technical Secretariat, S/2020/2022, 31 Jan. 2022.

¹⁰ OPCW, Executive Council, ‘Progress in the elimination of the Syrian chemical weapons programme’, Report by the Director-General, EC-99/DG.3, 23 Dec. 2021, para. 29.

¹¹ OPCW, EC-99/DG.3 (note 10), para. 15.

¹² OPCW, Executive Council, ‘Progress in the elimination of the Syrian chemical weapons programme’, Report by the Director-General, EC-96/DG.13, 24 Feb. 2021, para. 13; and OPCW, EC-99/DG.3 (note 10), para. 29.

¹³ OPCW, Executive Council, ‘Progress in the elimination of the Syrian chemical weapons programme’, Report by the Director-General, EC-97/DG.2, 24 Mar. 2021, para. 11.

Table 12.1. Overview of ad hoc mechanisms of the Organisation for the Prohibition of Chemical Weapons to address the issue of chemical weapons in Syria

Mechanism	Duration	Mandate	Source
Declaration Assessment Team (DAT)	Since 2014	Resolve identified gaps and inconsistencies in Syria's declarations	Established by OPCW director-general
Fact-Finding Mission (FFM)	Since 2014	Establish facts surrounding alleged chemical weapons use in Syria	Established by OPCW director-general, endorsed by OPCW Executive Council and UN Security Council
OPCW–UN Joint Investigative Mechanism (JIM)	2015–2017	Identify perpetrators of chemical weapons attacks established by the FFM	UN Security Council Resolution 2235
Investigation and Identification Team (IIT)	Since 2018	Identify those involved in cases of chemical weapons use established by the FFM but not investigated by the JIM	Decision by OPCW conference of states parties

OPCW = Organisation for the Prohibition of Chemical Weapons; UN = United Nations.

Sources: OPCW, Executive Council, 'Reports of the OPCW Fact-Finding Mission in Syria', Decision, EC-M-48/DEC.1(2015), 4 Feb. 2015; UN Security Council Resolution 2235, 7 Aug. 2015; OPCW, Conference of the States Parties, 'Addressing the threat from chemicals weapons use', Decision, C-SS-4/DEC.3, 27 June 2018; UN Security Council Resolution 2209, 6 Mar. 2015; and OPCW, 'Syria and the OPCW', [n.d.].

postponed several times and ultimately did not take place in 2021, as Syria at first did not confirm the meeting dates and later denied the visa for one DAT member.¹⁴ In response, the Secretariat 're-emphasised that the Syrian Arab Republic cannot intervene in the selection of experts by the OPCW and reiterated that, in the absence of fulfilment of these obligations by the Syrian Arab Republic, the Secretariat will not be in a position to deploy the DAT to Damascus and will duly report on this situation through existing mechanisms'.¹⁵

One of the outstanding issues concerns a site which Syria declared as never having been used for chemical weapons production but where the DAT found indications for the presence of a nerve agent.¹⁶ By December 2021, Syria had not yet fulfilled the Technical Secretariat's request to explain and fully declare

¹⁴ OPCW, Executive Council, 'Progress in the elimination of the Syrian chemical weapons programme', Report by the Director-General, EC-97/DG.7, 25 May 2021, para. 14; OPCW, Executive Council, 'Progress in the elimination of the Syrian chemical weapons programme', Report by the Director-General, EC-98/DG.6, 24 Aug. 2021, para. 13; OPCW, EC-98/DG.24 (note 7), paras 14–17; and OPCW, EC-99/DG.3 (note 10), para. 29.

¹⁵ OPCW, EC-99/DG.3 (note 10), para. 18.

¹⁶ E.g. OPCW, EC-96/DG.13 (note 12).

all chemical weapons activities at this site.¹⁷ Another issue yet to be clarified relates to a military attack which Syria reported in July 2021 to have taken place on 8 June 2021. This was of concern to the OPCW since the targeted site had housed a declared former chemical weapons production facility and was related to an outstanding issue on the DAT list. Moreover, Syria informed the Secretariat of the destruction in that attack ‘of two chlorine cylinders related to the chemical weapon incident that took place in Douma, Syrian Arab Republic, on 7 April 2018’.¹⁸ The FFM confirmed the use of chlorine as a chemical weapon in this incident in its report of March 2019.¹⁹ After the report’s publication, an intense debate developed over these findings and the process by which they were reached.²⁰ OPCW experts had last inspected the cylinders at a different site in November 2020, and the Technical Secretariat had ‘advised the Syrian Arab Republic that it was not to open, move, or alter the containers or their contents in any way without seeking the prior written consent of the Secretariat’. Syria had not obtained such consent, nor had it, as of December 2021, provided the explanations requested by the Secretariat.²¹

The director-general also informed the OPCW Executive Council of analysis results of several samples collected in the course of earlier inspections. Inspections carried out in November 2020 at two facilities of the Syrian Scientific Studies and Research Centre (SSRC) did not reveal any ‘substances or activities inconsistent with’ Syria’s obligations under the CWC.²² However, samples taken from large-volume storage containers during the 23rd round of DAT consultations in September and October 2020 contained a ‘neat chemical warfare agent’ which Syria had not previously declared, and the circumstances in which the samples were found ‘may imply undeclared production activities’.²³ Since Syria did not provide sufficient explanation, the DAT took this up as a new outstanding issue to be pursued in the next round of consultations.²⁴ While Syria claimed it had

¹⁷ E.g. OPCW, Executive Council, ‘Statement by the Director-General following discussions under agenda item 6(c) on the elimination of the Syrian chemical weapons programme’, EC-96/DG.17, 9 Mar. 2021, p. 3; and OPCW, EC-99/DG.3 (note 10), para. 17.

¹⁸ OPCW, EC-98/DG.1 (note 3), paras 20–21. See also OPCW, EC-98/DG.6 (note 14), para. 19; and OPCW, EC-99/DG.3 (note 10), para. 24.

¹⁹ OPCW, Technical Secretariat, ‘Report of the Fact-Finding Mission regarding the incident of alleged use of toxic chemicals as a weapon in Douma, Syrian Arab Republic, on 7 April 2018’, Note by the Technical Secretariat, S/1731/2019, 1 Mar. 2019.

²⁰ McLeish, C., ‘Allegations of use of chemical weapons in Syria’, *SIPRI Yearbook 2020*, pp. 442–45.

²¹ OPCW, EC-98/DG.1 (note 3), paras 22–23; and OPCW, EC-99/DG.3 (note 10), para. 24.

²² OPCW, EC-97/DG.7 (note 14), para. 17.

²³ OPCW, EC-97/DG.3 (note 8), para. 12. See also e.g. OPCW, Executive Council, ‘Progress in the implementation of decision C-SS-4/DEC.3 on addressing the threat from chemical weapons use’, Report by the Director-General, EC-97/DG.13, 22 June 2021, para. 3.

²⁴ OPCW, EC-97/DG.13 (note 23), para. 4.

been cooperating with the DAT and complained about unfair treatment,²⁵ the Secretariat stated that the Syrian Arab Republic's submitted declarations 'still cannot be considered accurate and complete' as required by the CWC, the Executive Council decision of 2013, and UN Security Council Resolution 2118.²⁶

Second report of the Investigation and Identification Team

The IIT was established within the OPCW Technical Secretariat pursuant to a decision at a special session of the conference of the states parties (CSP) in June 2018.²⁷ This decision, while supported by a majority of those OPCW member states present at the CSP, was and remains highly contested.²⁸ On 12 April 2021 the IIT published its second report, which covered a chemical weapons attack with chlorine that occurred on 4 February 2018 in Saraqib, Syria. The report presented a detailed account of the incident, the methodology applied in the investigations, and the results of its investigations, and concluded that:

there are reasonable grounds to believe that at approximately 21:22 on 4 February 2018, during ongoing attacks against Saraqib, a military helicopter of the Syrian Arab Air Force under the control of the Tiger Forces hit eastern Saraqib by dropping a least one cylinder. The cylinder ruptured and released a toxic gas, chlorine, which dispersed over a large area affecting 12 named individuals.²⁹

This was the fourth chemical incident for which the IIT identified the Syrian Arab Air Force as the responsible party.³⁰ For its report, the IIT also

²⁵ Syrian Arab Republic, 'Statement by Ms Rana Alrifaiy, Chargé d'Affaires of the Permanent Mission of the Syrian Arab Republic to the OPCW, at the Ninety-seventh Session of the Executive Council under agenda item 6(c)', EC-97/NAT.47, 6 July 2021.

²⁶ OPCW, EC-99/DG.3 (note 10), para. 19; OPCW, Executive Council, 'Destruction of Syrian chemical weapons', Decision, EC-M-33/DEC.1, 27 Sep. 2013; and UN Security Council Resolution 2118, 27 Sep. 2013.

²⁷ OPCW, Conference of the States Parties, 'Addressing the threat from chemical weapons', Decision, C-SS-4/DEC.3, 27 June 2018.

²⁸ McLeish, C., 'Chemical weapons: Arms control and disarmament', *SIPRI Yearbook 2019*, pp. 425–26; and McLeish, C., 'Chemical arms control and disarmament', *SIPRI Yearbook 2020*, pp. 452–55.

²⁹ OPCW, Technical Secretariat, 'Second 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", Saraqib (Syrian Arab Republic)—4 February 2018', Note by the Technical Secretariat, S/1943/2021, 12 Apr. 2021, Executive Summary, para. 3.

³⁰ For the first three incidents see OPCW, Technical Secretariat, 'First report by the OPCW Investigation and Identification Team (IIT) 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. The OPCW–UN Joint Investigative Mechanism (JIM) identified Syria as perpetrator in another four incidents and the Islamic State in two cases. See United Nations, Security Council, Seventh report of the OPCW–UN JIM, S/2017/904, 26 Oct. 2017; Fourth report of the UN-OPCW JIM, S/2016/888, 21 Oct. 2016; and Third report of the OPCW–UN JIM, S/2016/738, 24 Aug. 2016.

considered and investigated alternative scenarios such as Syria's suggestion that the incident in Saraqib had been staged by terrorist groups to discredit the Syrian government. However, the IIT did not find evidence in support of this or any other alternative scenario.³¹

Due to the pandemic situation and restrictions on travel and physical meetings in place at the time, the 25th conference of the states parties (CSP25) was split into two parts, the first part being held from 30 November to 1 December 2020, and the second part from 20–22 April 2021.³² The issue of chemical weapons in Syria was addressed during the latter. A large number of states parties referred to the IIT's conclusions then and especially at the 97th session of the Executive Council in July 2021 (EC97). Many of them expressed their support for and confidence in the work of the Technical Secretariat.³³ Many states parties also linked their comments to Decision C-25/DEC.9 taken at CSP25 to invoke the compliance procedure under Article XII of the CWC in relation to Syria (see below).³⁴ Some states parties, including China and India, while unequivocally condemning chemical weapons use, noted the pertinent OPCW reports and called for a cooperative solution to the outstanding problems.³⁵ Some others, notably Iran, Russia and Syria, continued to reject the IIT as illegitimate and the FFM and IIT findings as arrived at through flawed methodologies; they also stated that Syria was cooperating with the OPCW but was not being treated fairly or impartially.³⁶ Russia presented its own analysis of the IIT report to the Executive Council in which it questioned the IIT's methodology, the credibility of witnesses, and the scientific accuracy of some findings.³⁷ Syria continued to deny that it still possessed or had ever used chemical weapons and condemned chemical

³¹ OPCW, S/1943/2021 (note 29), 12 Apr. 2021, p. 12 and *passim*.

³² OPCW, 25th Conference of the States Parties (CSP25), 'Report of the Twenty-fifth Session of the Conference of the States Parties', C-25/5, 22 Apr. 2021. See McLeish, C., 'Chemical weapons: Arms control and disarmament', *SIPRI Yearbook 2021*, p. 495.

³³ For CPS25 see e.g. the statements of Estonia (C-25/NAT.123), the EU (C-25/NAT.103), France (C-15/NAT.119), Lithuania (C-25/NAT.93), Romania (C-25/NAT.105), San Marino (C-25/NAT.122), the UK (C-25/NAT.111) and the USA (C-25/NAT.97). For EC97 see e.g. the joint statement of Australia, Canada and New Zealand (EC-97/NAT.36); and the statements of Austria (EC-97/NAT.35), Chile (EC-97/NAT.38), Ecuador (EC-97/NAT.41), the EU (EC-97/NAT.22), Finland (EC-97/NAT.14), France (EC-97/NAT.51), Guatemala (EC-97/NAT.49), Republic of Korea (EC-97/NAT.17), Peru (EC-97/NAT.44), Poland (EC-97/NAT.13), Romania (EC-97/NAT.11), Saudi Arabia (EC-97/NAT.58), Slovakia (EC-97/NAT.20), Sweden (EC-97/NAT.9), Switzerland (EC-97/NAT.54), the UK (EC-97/NAT.57) and the USA (EC-97/NAT).

³⁴ OPCW, CSP25, 'Addressing the possession and use of chemical weapons by the Syrian Arab Republic', Decision, C-25/DEC.9, 21 Apr. 2021.

³⁵ OPCW, CSP25, Statements of China (EC-97/NAT.29) and India (EC-97/NAT.30). China also considered the establishment of the IIT as beyond the CWC's mandate.

³⁶ OPCW, EC97, Statements of Iran (EC-97/NAT.21), Russia (EC-97/NAT.42, pp. 1–2), and Syria (EC-97/NAT.48). See also OPCW, CSP25, statements of, e.g., Iran (C-25/Nat.107), Russia, and Russia on behalf of the Member States of the Collective Security Treaty Organisation (C-25/NAT.124).

³⁷ Russia, 'Analysis of the report by the Investigation and Identification Team of the Organisation for the Prohibition of Chemical Weapons on the chemical incident in Saraqib, Syrian Arab Republic on 4 February 2018', EC-97/NAT.8, 5 July 2021.

weapons use under any circumstance; it also repeatedly claimed that terrorist groups, supported by Western governments, had staged chemical weapons attacks in order to blame them on Syria.³⁸ The members of the UN Security Council expressed a similar range of views in response to a briefing by the UN high representative for disarmament affairs, Izumi Nakamitsu.³⁹

The decision to invoke the compliance procedure under CWC

Article XII

In response to the first IIT report in 2020, a group of 40 states tabled a draft decision at the 94th session of the Executive Council in July 2020 that was adopted by majority vote as Decision EC-94/DEC.2. Among other things, the decision condemned the use of chemical weapons by Syria, as reported by the IIT, and laid out a set of requirements that Syria was expected to fulfil within 90 days, including: declaring the facilities related to the chemical weapons used in the attacks which the IIT had investigated, declaring all current chemical weapons stocks and facilities, and resolving all outstanding issues identified by the DAT.⁴⁰ The 90-day deadline expired with Syria not having met any of the requirements.⁴¹

As recommended by the Executive Council in July 2020, CSP25 took up the issue mainly at its second session in April 2021. A group of 46 states parties tabled a draft decision to invoke CWC Article XII paragraph 2 for the first time, formally state Syria's non-compliance with the CWC, and suspend the right of Syria '(a) to vote in the Conference and the Council; (b) to stand for election to the Council; and (c) to hold any office of the Conference, the Council, or any subsidiary organs'.⁴² Syria's membership rights would be reinstated once the director-general reported that the country had fulfilled the requirements set by the Executive Council in Decision EC-94/DEC.2.

Since no consensus could be reached on the draft decision, a vote had to be taken at CSP25. Before and after the vote, several states parties elaborated on their positions. Whereas supporters of the decision emphasized that this reaction to Syria's activities was appropriate and necessary, others

³⁸ See e.g. Dabi, B. and Eyon, M., 'Syria: States that politicize chemical file should be held accountable', SANA, 30 Nov. 2021; and Eyon, M., 'Sabbagh: Some countries still politicize chemical file in Syria', SANA, 4 Oct. 2021.

³⁹ United Nations, Security Council, 'Letter dated 8 April 2021 from the President of the Security Council addressed to the Secretary-General and the Permanent Representatives of the members of the Security Council', S/2021/337, 9 Apr. 2021, annexes II–XVII.

⁴⁰ OPCW, Executive Council, 'Addressing the possession and use of chemical weapons by the Syrian Arab Republic', Decision, EC-94/DEC.2, 9 July 2020. See McLeish, C., 'Allegations of use of chemical weapons in Syria', *SIPRI Yearbook 2021*, pp. 483–86.

⁴¹ See e.g. OPCW, Executive Council, 'Implementation of EC-94/DEC.2 on addressing the possession and use of chemical weapons by the Syrian Arab Republic', Report by the Director-General, EC-96/DG.1, 14 Oct. 2020, paras 4–6.

⁴² OPCW, C-25/DEC.9 (note 34), para. 7.

emphasized the value of dialogue, cooperation and consensus in the work of the OPCW. Opponents criticized the decision because in their view it entailed a further politicization of the OPCW or because they rejected the IIT.⁴³ A majority of 87 states parties voted in favour of the decision, 15 voted against it and 34 abstained. CSP25 thus adopted the document as Decision C-25/DEC.9, 'Addressing the possession and use of chemical weapons by the Syrian Arab Republic'.⁴⁴

The debate at the 26th conference of the states parties in November showed a similar pattern as previous debates. Most states parties still supported the decision taken by CSP25 in April and called on Syria to fully restore its compliance and cooperate with the OPCW to that end. China and Russia stated once more that they did not consider the IIT, on whose work the decision was based, as legitimate; Russia even called its establishment a violation of the CWC and of the UN Charter. Syria repeated its unconditional condemnation of chemical weapons use and declared its willingness to further cooperate with the DAT, on the condition that one DAT team member be replaced. The Syrian representative also stated that Syria would not accept or work with the IIT which it, too, considered illegitimate, and that Decision EC-94/DEC.2 was drafted in a manner that made it impossible for Syria to comply with all of its terms.⁴⁵

⁴³ For statements and explanations of votes on this matter see OPCW, 'Twenty-fifth Session of the Conference of States Parties: Documents', [n.d.].

⁴⁴ OPCW, C-25/DEC.9 (note 34), 21 Apr. 2021; and OPCW, C-25/5 (note 32), para. 9.24.

⁴⁵ See discussion under agenda item 9(d) in OPCW, 'CSP-26–29 November 2021—afternoon', Webcast, 29 Nov. 2021; and Syria, 'Statement by HE Ambassador Bassam Sabbagh, Permanent Representative of the Syrian Arab Republic to the OPCW, at the 25th session of the CSP', C-25/NAT.39, 30 Nov. 2021, p. 3.