

Pursuing Syria to the fullest extent of the CWC

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*'The Resurgent Chemical Weapons Threat:
Current Challenges to the Chemical Weapon Convention'*

Webinar organised by the Schar School of Policy and Government
at George Mason University, Washington, DC – 17 November 2020

Decision OPCW Executive Council

9 July 2020

- **Invocation of CWC Article VIII, § 36**
 - Doubts or concerns about compliance with the CWC
 - EC shall consult with states parties involved
 - EC shall request, as appropriate, the state party to redress the situation within a specified time frame
- **The Executive Council thus decided:**
 - Within 90 days (i.e. 7 October 2020), Syria must
 - Declare all facilities where CW all used in the attacks against Ltamenah on 24, 25 and 30 March 2017 were prepared and stockpiled;
 - Declare all CW it possesses, including sarin, sarin precursors and chlorine not intended for non-prohibited purposes, as well as any other production facilities and related installations
 - Resolve all outstanding issues about its initial CW declaration
 - Within 100 days (i.e. 17 October 2020), the OPCW Director-General must
 - Inform the EC and all states parties whether Syria has complied with the above demands
 - If Syria has not completed all measures, report progress at all EC regular sessions

Director-General report

14 October 2020

- Within 90 days, Syria must
 - Declare all facilities where CW all used in the attacks against Ltamenah on 24, 25 and 30 March 2017 were prepared and stockpiled;
 - No declaration
 - Declare all CW it possesses, including sarin, sarin precursors and chlorine not intended for non-prohibited purposes, as well as any other production facilities and related installations
 - No declaration
 - Resolve all outstanding issues about its initial CW declaration
 - Not resolved all of the outstanding issues
- A copy of the report has been transmitted to the UNSC and UNGA
- *DG 100-day report not (publicly) available; required inspections at Ltamenah launch sites affected by COVID-19*

Decision OPCW Executive Council – 2

9 July 2020

- Invocation of CWC Article XII, § 2 in case of Syrian non-compliance with EC decision
 - Decision to be taken by the Conference of States Parties (30 November – 4 December 2020)
- *Article XII: Measures to Redress a Situation and to Ensure Compliance, including Sanctions*
 - §2: In cases where a State Party has been requested by the Executive Council to take measures to redress a situation raising problems with regard to its compliance, and where the State Party fails to fulfil the request within the specified time, the Conference may, *inter alia*, upon the recommendation of the Executive Council, *restrict or suspend the State Party's rights and privileges* under this Convention until it undertakes the necessary action to conform with its obligations under this Convention.
- Other actions possible under Article XII; not yet on the agenda right now

Issues to be resolved

- Gaps, inconsistencies and discrepancies in Syria's declarations
 - Work by the OPCW Declaration Assessment Team
 - No possibility to verify accuracy and completeness of Syria's CW programmes in accordance with the CWC and EC decision of 27 September 2013 (specific disarmament obligations)
- Allegations of CW use since becoming party to the CWC
 - Investigations by specially established Fact-Finding Mission
 - Verification of findings
 - UN-OPCW Joint Investigative Mechanism (until November 2017)
 - Investigation and Identification Team (established June 2018)
- Syria denies all allegations and claims full compliance

Will Syria ever be held to account? –1

- **Investigations**

- UN Secretary-General's Mechanism
- Human Rights Council, Independent International Commission of Inquiry on the Syrian Arab Republic
- OPCW: Fact-Finding Missions
- Civil society investigations

- **Validating investigations**

- UN – OPCW Joint investigative mechanism (JIM) (defunct since November 2017)
- OPCW Investigation and Identification Team (IIT) (established in June 2018)

- **Data collection**

- International, Impartial and Independent Mechanism (IIIM) (since 2016)
 - to assist in the investigation and prosecution of persons responsible for the most serious crimes under international law committed in the Syrian Arab Republic since March 2011
 - For instance, OPCW IIT reports transmitted to IIIM

Will Syria ever be held to account? –2

- History is no cause for optimism

- No country ever held accountable for CW use under international law, e.g.
 - World War 1
 - Italy in 1930s
 - Japan during World War 2
 - Egypt in Yemen
 - USA in Southeast Asia
 - Iraq against Iran / Kurds
- No individual ever held accountable for CW use

- Today

- Special criminal tribunal?
- International Criminal Court → Rome Statute does not refer to CWC
- Trials in individual countries for crimes against humanity (e.g. in preparation in Germany)

- Perennial problem

- If CW are used, then far worse war crimes are being committed (→ lesser issue for war tribunals)
- After end of conflict, other priorities take over (including reconstruction, national reconciliation, new geopolitical interests by outside parties, etc.)



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