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 Ltamah 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
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
  - 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.)