

IV. Allegations of and reactions to chemical weapon use

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This section discusses the ongoing investigations of previous allegations of chemical weapon use in Syria (2013–18) and follow-up actions in relation to the poisoning of Russian citizen Alexei Navalny with a novichok nerve agent in 2020, as well as multiple but unsubstantiated allegations of illegal chemical activities during the war in Ukraine in 2022.¹

Chemical weapon disarmament and investigations in Syria

The Organisation for the Prohibition of Chemical Weapons (OPCW) continued to investigate incidents of alleged chemical weapon use in Syria and to clarify concerns that Syria might not have fully disclosed its past and present chemical weapon activities. All declared Syrian chemical weapon facilities and stockpiles were destroyed under OPCW verification. However, several OPCW verification activities have indicated that the initial declarations as submitted by Syria were incomplete and inaccurate. Moreover, chemical weapon attacks occurred even though the chemical weapon programme was supposed to be terminated upon Syria's accession to the Chemical Weapons Convention (CWC) in 2013.² Activities of the OPCW to address the chemical weapon issue in Syria include those of the Fact-Finding Mission (FFM), the Declaration Assessment Team (DAT) and the Investigation and Identification Team (IIT), as well as inspections at sites identified as relevant by earlier OPCW and United Nations investigations (table 9.1).³ The activities are supported by the Trust Fund for Syria Missions, established in November 2015, which had received a total of € 37.7 million from 22 CWC states parties and the European Union (EU) as of December 2022.⁴

Syria regularly submitted its monthly reports on the destruction of its chemical weapon programme to the OPCW Technical Secretariat in 2022 but has otherwise cooperated with the secretariat and its dedicated bodies in a very limited way or not at all, including by denying inspectors access to

¹ See also Jakob, U., 'Allegations of chemical weapons use in Syria', *SIPRI Yearbook 2022*, pp. 496–503.

² For a summary and other details of the Chemical Weapons Convention (CWC) see annex A, section I, in this volume. For an update on the CWC see section V in this chapter.

³ See e.g. Arms Control Association, 'Timeline of Syrian chemical weapons activity, 2012–2022', Fact Sheets & Briefs, last reviewed May 2021; and 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-102/DG.3, 23 Dec. 2022.

⁴ OPCW, EC-102/DG.3 (note 3), para. 39.

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Table 9.1. 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 weapon use in Syria	Established by OPCW director-general, endorsed by OPCW Executive Council and UN Security Council ^a
OPCW–UN Joint Investigative Mechanism (JIM)	2015–17	Identify perpetrators of chemical weapon attacks established by the FFM	UN Security Council Resolution 2235 ^b
Investigation and Identification Team (IIT)	Since 2018	Identify those involved in cases of chemical weapon use established by the FFM but not investigated by the JIM	Decision by OPCW Conference of the States Parties ^c

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

^a OPCW, Executive Council, 'Reports of the OPCW Fact-Finding Mission in Syria', Decision, EC-M-48/DEC.1(2015), 4 Feb. 2015; and UN Security Council Resolution 2209, 6 Mar. 2015.

^b UN Security Council Resolution 2235, 7 Aug. 2015.

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

Sources: OPCW, 'Syria and the OPCW'; and Jakob, U., 'Allegations of chemical weapons use in Syria', *SIPRI Yearbook 2022*, p. 498, table 12.1.

relevant sites and by not providing information as requested.⁵ The Syrian government has submitted a document to the Technical Secretariat that, according to the title given in the director-general's November 2022 report, outlines Syria's perspective on its cooperation with the OPCW.⁶

Ongoing work of the FFM

During 2022, the FFM continued to investigate cases of alleged chemical weapon use in Syria. In fulfilling its mandate to determine 'whether toxic chemical have been used as weapons in the Syrian Arab Republic', as of 31 December 2022 the FFM had in total deployed to Syria 112 times, had interviewed more than 600 people and had collected more than 450 samples. Its 19 reports to date cover 71 instances of alleged chemical weapon use, and

⁵ See the director-general's regular reports to the OPCW Executive Council on 'Progress in the elimination of the Syrian chemical weapons programme', available at OPCW, 'Documents: Executive Council'.

⁶ OPCW, Executive Council, 'Progress in the elimination of the Syrian chemical weapons programme', Report by the director-general, EC-102/DG.2, 24 Nov. 2022, para. 17.

the FFM confirmed such use in 20 cases. Chlorine was used as a weapon in 14 cases, sarin in 3 cases and sulfur mustard in 3 cases.⁷

In January 2022, the FFM published two reports. The first covered two incidents that occurred in Marea on 1 and 3 September 2015. Regarding the incident on 1 September 2015, the FFM concluded that there are reasonable grounds to believe that sulfur mustard was used as a weapon.⁸ For the incident on 3 September 2015, the FFM could reach no conclusion as casualties were not available for interviews.⁹ In the second report the FFM concluded that there were reasonable grounds to believe that chlorine was used as a weapon in Kafr Zeita on 1 October 2016.¹⁰

Russia and Syria, while condemning chemical weapon attacks in principle, rejected the findings of the FFM reports and accused the FFM of having conducted its work in an unprofessional manner, including by not respecting established investigation and chain of custody protocols and moving outside the scope of the CWC.¹¹ Western and other countries condemned the attacks and expressed their confidence in and support for the work of the Technical Secretariat in investigating chemical weapon attacks in Syria; they also called on Syria to cooperate with the OPCW and fully comply with the CWC.¹² Some other states parties from other OPCW regional groups also spoke out against chemical weapon use in general terms, but did not explicitly address the cases at hand.¹³

⁷ OPCW, 'Fact-Finding Mission'.

⁸ OPCW, Technical Secretariat, Report of the OPCW Fact-Finding Mission in Syria regarding the incidents of the alleged use of chemicals as a weapon in Marea, Syrian Arab Republic, on 1 and 3 September 2015, S/2017/2022, 24 Jan. 2022, paras 1.14 and 8.10.

⁹ OPCW, S/2017/2022 (note 8), paras 1.15 and 8.11.

¹⁰ 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, S/2020/2022, 31 Jan. 2022, paras 1.11 and 8.15.

¹¹ Syria, Statement by HE Ambassador Milad Atieh, Permanent representative of the Syrian Arab Republic to the OPCW at the 99th session of the Executive Council under agenda item 7(c), EC-99/NAT.78, 8 Mar. 2022, pp. 4–6; and Russia, Statement by HE Ambassador A.V. Shulgin, Permanent representative of the Russian Federation to the OPCW at the 99th session of the Executive Council under agenda item 7(e), EC-99/NAT.51, 8 Mar. 2022.

¹² See e.g. Ireland, Statement by HE Ambassador Brendan Rogers, Permanent representative of Ireland to the OPCW at the 99th session of the Executive Council, EC-99/NAT.49, 8 Mar. 2022, p. 2; Japan, Statement by HE Ambassador Hidehisa Horinouchi, Permanent representative of Japan to the OPCW at the 99th session of the Executive Council, EC-99/NAT.35, 8 Mar. 2022, p. 2; United States, Statement by HE Ambassador Joseph Manso, Permanent representative of the United States of America to the OPCW at the 99th session of the Executive Council, EC-99/NAT.12, 8 Mar. 2022, p. 2; Argentina, Statement by the delegation of the Argentine Republic to the OPCW at the 27th session of the conference of the states parties, C-27/NAT.72, 28 Nov. 2022, p. 1; and France, Joint statement at the 27th session of the conference of the states parties under agenda item 9(d), 30 Nov. 2022.

¹³ See e.g. South Africa, Statement on behalf of the Group of African states parties to the Chemical Weapons Convention, delivered by HE Ambassador Vusumuzi Philemon Madonsela, Permanent representative of the Republic of South Africa to the OPCW at the 99th session of the Executive Council, EC-99/NAT.69, 8 Mar. 2022, p. 3. See also Azerbaijan, Statement on behalf of the member states of the Non-Aligned Movement that are states parties to the Chemical Weapons Convention and China, delivered by HE Ambassador Fikrat Akhundov, Permanent representative of the Republic of

A further FFM deployment to Syria had been planned from 22 January to 4 February 2022 but had to be postponed due to Covid-19-related events.¹⁴ The FFM deployed to Syria again between 6 and 12 November 2022 ‘to conduct interviews with witnesses regarding several of the incidents under review’.¹⁵

Clarification of Syria’s declarations and of subsequent inspection findings

Through the DAT, the Technical Secretariat continued its work to clarify all outstanding issues regarding the initial and subsequent declarations submitted by Syria.¹⁶ By the end of 2022 the DAT had visited Syria 25 times, holding over 150 technical meetings, carrying out more than 70 interviews with people who were involved in the Syrian chemical weapon programme, visiting chemical weapon sites and facilities over 40 times, and collecting more than 16 samples.¹⁷

However, the DAT’s work was still hampered by Syria’s refusal to fully cooperate with the OPCW in this respect.¹⁸ At the end of 2022 Syria had not provided any new information or additional declarations, consultations in Syria had still not taken place, and consequently none of the 20 outstanding issues that were unresolved at the end of 2021 could be clarified.¹⁹ Hence, the Technical Secretariat continued to assess that ‘the declaration submitted by the Syrian Arab Republic still cannot be considered accurate and complete’.²⁰

The 25th round of DAT consultations, which had been on hold since April 2021, could still not be carried out in 2022.²¹ The Technical Secretariat submitted several proposals throughout the year to enable at least some limited activities under the mandate of the DAT to take place. Consultations in Syria were initially planned for April 2022 but the Syrian government denied an entry visa for the lead technical expert on the team.²² In the course of 2022,

Azerbaijan to the OPCW at the 99th session of the Executive Council, EC-99/NAT.31, 8 Mar. 2022, p. 3; and India, Statement by the delegation of the Republic of India to the OPCW at the 99th session of the Executive Council, EC-99/NAT.66, 8 Mar. 2022, p. 2. For a more critical non-Western stance regarding the Syrian policy see e.g. Mexico, Statement by HE Ambassador José Antonio Zabalgoitia, Permanent representative of the United Mexican States to the OPCW at the 99th session of the Executive Council, EC-99/NAT.55, 8 Mar. 2022, p. 2.

¹⁴ OPCW, Executive Council, ‘Progress in the elimination of the Syrian chemical weapons programme’, Report by the director-general, EC-99/DG.13, 24 Feb. 2022, para. 29.

¹⁵ OPCW, EC-102/DG.2 (note 6), para. 28.

¹⁶ OPCW, EC-102/DG.3 (note 3), para. 10.

¹⁷ OPCW, ‘Declaration Assessment Team’, Status as at 23 Feb. 2023.

¹⁸ See e.g. OPCW, EC-102/DG.3 (note 3).

¹⁹ See Jakob, ‘Allegations of chemical weapons use in Syria’ (note 1), pp. 498–99.

²⁰ OPCW, EC-102/DG.3 (note 3), para. 18.

²¹ OPCW, EC-102/DG.3 (note 3), para. 11.

²² OPCW, Executive Council, ‘Progress in the elimination of the Syrian chemical weapons programme’, Report by the director-general, EC-100/DG.14, 23 June 2022, para. 12. For Syria’s perspective see Syria, Statement by HE Ambassador Milad Atieh, Permanent representative of the Syrian Arab Republic to the OPCW at the 99th session of the Executive Council under agenda item 7(c), EC-99/NAT.78, 8 Mar. 2022, pp. 2–4.

the Secretariat changed its approach and proposed to continue the work through a written exchange instead of consultations on the ground, even though it assessed that the results of such an approach would not be comparable to those reached through consultations.²³ The Secretariat invited Syria to submit all of the declarations and documents, including on previously undeclared activities, which the DAT had already requested from Syria but had not received to date.²⁴ In addition to the written exchange, the Secretariat proposed to hold a limited round of consultations in Beirut, Lebanon. Syria agreed to this procedure but continued to insist that one particular DAT member would have to be excluded from the consultations; later it requested that the Technical Secretariat cover the costs arising from these consultations for the Syrian delegation. The Technical Secretariat refused both requests as they were incompatible with the legal framework within which the DAT operates.²⁵ In a further effort to make progress, the Secretariat then proposed on 8 December 2022 to send a reduced team to conduct limited in-country activities in Syria in January 2023. Syria welcomed the proposal and ‘requested supplementary information in order to make the necessary arrangements’.²⁶

In June 2022 the Technical Secretariat provided Syria with its final report of the 2021 inspections of the Barzah and Jamrayah facilities at the Syrian Scientific Research Centre.²⁷ In September 2022, the Secretariat conducted the ninth round of inspections at these facilities, as mandated by an OPCW Executive Council decision in 2016 in response to earlier findings by the JIM.²⁸ Another round of inspections had been envisaged for December 2022 but had to be postponed for ‘operational reasons’ until 2023.²⁹

In December 2022 the Technical Secretariat reported that despite its requests it had still not received information that would allow it to clarify either of two other outstanding issues—a chemical listed in Schedule 2.B.04 that OPCW inspectors detected at the Barzah facility in November 2018 during the third round of inspections, and two chlorine cylinders related to the April 2018 chemical attack in Douma that Syria had reported to the OPCW as destroyed in July 2021.³⁰ On the latter issue, the cylinders were stored and inspected by the Technical Secretariat in November 2020 at a location a considerable distance from the site of the reported July 2021 attack. The Secre-

²³ OPCW, EC-100/DG.14 (note 22), para. 13.

²⁴ See e.g. OPCW, Technical Secretariat, ‘Progress in the elimination of the Syrian chemical weapons programme’, Report by the director-general, EC-101/DG.4, 24 Aug. 2022, para. 14.

²⁵ See e.g. OPCW, EC-101/DG.4 (note 24), para. 11.

²⁶ OPCW, EC-102/DG.3 (note 3), paras 15–16.

²⁷ OPCW, Technical Secretariat, ‘Progress in the elimination of the Syrian chemical weapons programme’, Report by the director-general, EC-101/DG.22, 23 Sep. 2022, para. 17.

²⁸ OPCW, EC-101/DG.22 (note 27), para. 17.

²⁹ OPCW, EC-102/DG.2 (note 6), para. 21.

³⁰ OPCW, EC-102/DG.3 (note 3), para. 21.

tariat had requested clarification from Syria on the ‘unauthorized movement’ of the cylinders from the inspected site to the site of the attack.³¹

The work of the IIT and efforts to restore Syrian compliance

The IIT also continued its investigations in 2022. Established by the conference of the states parties (CSP) in June 2018 as part of the OPCW Technical Secretariat under the director-general’s authority, the team is tasked with identifying the perpetrators of those chemical attacks in Syria which the FFM has confirmed and which were not investigated by the JIM.³² By end of December 2022, the IIT had deployed to Syria 16 times.³³ Prior to 2022, the IIT had identified the Syrian Armed Forces as perpetrators in three attacks in Ltamenah in March 2017 and one in Saraqib in February 2018.³⁴

In the course of 2022, the IIT continued to investigate a chemical attack that took place in Douma on 7 April 2018 and for which the FFM in 2019 established chlorine use, and concluded that there were reasonable grounds to believe that the Syrian Armed Forces used chlorine as a weapon in that attack.³⁵ This conclusion ties in with the earlier FFM findings on Douma which upon their release were highly contested, including by Syria and Russia who put forward alternative scenarios to explain the incident.³⁶ The IIT investigated these alternative scenarios in detail but could not corroborate any of them.³⁷ As in its previous reports, the IIT stated that it applied established standards of international fact-finding, and the ‘reasonable grounds’ standard used for the Douma findings represents a level of confidence that would allow the opening of a judicial investigation.³⁸ As in previous IIT investigations, the team members were not able to visit the site of the investi-

³¹ OPCW, Executive Council, ‘Progress in the elimination of the Syrian chemical weapons programme’, Report by the director-general, EC-101/DG.2, 22 July 2022, para. 23; and OPCW, EC-102/DG.3 (note 3), para. 23.

³² OPCW, ‘Investigation and Identification Team (IIT)’; and OPCW, Conference of the States Parties, ‘Addressing the threat from chemical weapons use’, Decision, C-SS-4/DEC.3, 27 June 2018, para. 10.

³³ OPCW, ‘Investigation and Identification Team (IIT)’ (note 32).

³⁴ 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’, S/1867/2020, 8 Apr. 2020; and 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’, S/1943/2021, 12 Apr. 2021.

³⁵ 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’, S/1731/2019, 1 Mar. 2019; and OPCW, Technical Secretariat, ‘Third 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”, Douma (Syrian Arab Republic)—7 April 2018’, S/2125/2023, 27 Jan. 2023, Executive summary para. 6.

³⁶ On the Douma attack see McLeish, C., ‘Allegations of use of chemical weapons in Syria’, *SIPRI Yearbook 2019*, pp. 400–404.

³⁷ OPCW, S/2125/2023 (note 35), Executive summary para. 6.

³⁸ OPCW, S/2125/2023 (note 35), para. 3.3.

gated attack because Syria did not grant them access despite its obligation to cooperate with the OPCW.³⁹

The Syrian government continues to deny its use of chemical weapons and has repeatedly stated that ‘it categorically rejects the use of chemical weapons by anyone, anywhere, and under any circumstances . . .’.⁴⁰ Syria justifies its refusal to cooperate with the IIT by claiming, along with Russia and Iran, that the IIT and its mandate go beyond the scope of the CWC.⁴¹ Other states have repeatedly emphasized Syria’s obligation to fully cooperate with any OPCW investigation, or expressed their confidence in and full support for the work of the Technical Secretariat.⁴² In their criticism of the IIT, Syria and Russia also objected to the transfer of information gathered in the course of the IIT investigations to other investigation bodies, in particular the UN International, Impartial and Independent Mechanism (IIIM), claiming this would be a violation of Article VIII, paragraph 34 of the CWC.⁴³ As part of its activities and in accordance with its mandate, the IIT prepares and preserves the evidence that it has collected in a way that makes it usable by other UN entities in potential future investigations or trials related to international law violations in Syria.⁴⁴

In response to the concerns about Syria’s non-compliance with the CWC, in 2020 the Executive Council requested Syria, under Article VIII, paragraph 36 of the CWC, to declare its facilities related to confirmed chemical weapon attacks and all remaining chemical weapon stockpiles, and to resolve all outstanding issues regarding its initial chemical weapon-related declarations, within 90 days of Decision EC-94/DEC.2.⁴⁵ Since this deadline passed without Syria having responded to any of these requirements, states parties invoked the compliance provision in Article XII and, by majority

³⁹ OPCW, S/2125/2023 (note 35), Executive summary para. 7.

⁴⁰ See e.g. Syria, Statement by HE Ambassador Milad Atieh, Permanent representative of the Syrian Arab Republic to the OPCW at the 100th session of the Executive Council under agenda item 6(f), EC-100/NAT.70, 5 July 2022, p. 1.

⁴¹ See e.g. Syria, Statement by HE Ambassador Milad Atieh, Permanent representative of the Syrian Arab Republic to the OPCW at the 100th session of the Executive Council under agenda item 9, EC-100/NAT.65, 6 July 2022, p. 2; Syria, EC-100/NAT.70 (note 40), p. 2; Iran, Statement by HE Ambassador Alireza Kazemi Abadi, Permanent representative of the Islamic Republic of Iran to the OPCW at the 101st session of the Executive Council under agenda item 6(g), EC-101/NAT.23, 4 Oct. 2022, p. 1; and Russia, Statement by HE Ambassador A. V. Shulgin, Permanent representative of the Russian Federation to the OPCW at the 100th session of the Executive Council under agenda item 9, EC-100/NAT.73, 6 July 2022, p. 1.

⁴² See e.g. Sweden, Statement by HE Ambassador Johannes Oljelund, Permanent representative of the Kingdom of Sweden to the OPCW at the 99th session of the Executive Council, EC-99/NAT.18, 8 Mar. 2022, p. 2; and Türkiye, Statement by HE Ambassador Şaban Dişli, Permanent representative of the Republic of Turkey to the OPCW at the 99th session of the Executive Council, EC-99/NAT.67, 8 Mar. 2022, p. 2.

⁴³ See e.g. Russia, EC-100/NAT.73 (note 41), p. 1.

⁴⁴ OPCW, S/2125/2023 (note 35), para. 2.4, Executive summary para. 8.

⁴⁵ OPCW, Executive Council, ‘Addressing the possession and use of chemical weapons by the Syrian Arab Republic’, Decision, EC-94/DEC.2, 9 July 2020, p. 4.

vote, in 2021 decided to suspend several of Syria's rights and privileges as an OPCW member.⁴⁶ Since Syria had not fulfilled any of the requirements by the end of 2022, the suspension of these rights and privileges remained in place.

At the March 2022 meeting of the Executive Council, Iran and Russia criticized this approach once more, with Iran deeming the decision to suspend Syria's rights and privileges as 'unfair and unacceptable'.⁴⁷ China also stated in its general statement that it viewed the establishment of the IIT as going beyond the scope of the CWC.⁴⁸ At the November 2022 CSP, other states—including in a statement by France on behalf of 57 states parties—reaffirmed their support for the OPCW and confidence in the findings of its investigations and called on Syria to restore its compliance with the CWC.⁴⁹ The EU considered the suspension of the voting rights and privileges 'an appropriate response' and announced the addition of two Syrian businesspersons and their company to the EU sanctions list.⁵⁰

Aftermath of the poisoning of Alexei Navalny

In August 2020, the Russian citizen Alexei Navalny was poisoned with a nerve agent from the novichok family on a domestic flight in Russia.⁵¹ He was subsequently transferred to Berlin, Germany, for medical treatment.⁵² The use of a novichok agent was first identified by a German laboratory and later independently confirmed by two other OPCW-accredited labs located in Switzerland and Sweden and by the OPCW laboratory. Germany requested

⁴⁶ OPCW, Conference of the States Parties, 'Addressing the possession and use of chemical weapons by the Syrian Arab Republic', Decision, C-25/DEC.9, 21 Apr. 2021. See Jakob, 'Allegations of chemical weapons use in Syria' (note 1), pp. 502–503.

⁴⁷ Iran, Statement by HE Ambassador Alireza Kazemi Abadi, Permanent representative of the Islamic Republic of Iran to the OPCW at the 99th session of the Executive Council under agenda item 7(e), EC-99/NAT.23, 8 Mar. 2022; Russia, EC-99/NAT.51 (note 11); and Syria, Statement by Ambassador Milad Atieh, Permanent representative of the Syrian Arab Republic to the OPCW for the 99th session of the Executive Council under agenda item 7(e), EC-99/NAT.77, 8 Mar. 2022.

⁴⁸ China, Statement by HE Ambassador Tan Jian, Permanent representative of the People's Republic of China to the OPCW at the 99th session of the Executive Council, EC-99/NAT.47, 8 Mar. 2022, p. 2.

⁴⁹ See e.g. New Zealand, Statement by HE Ambassador Susannah Gordon, Permanent representative of New Zealand to the OPCW at the 27th session of the conference of the states parties, C-27/NAT.7, 28 Nov. 2022, p. 2; Spain, Statement by the delegation of the Kingdom of Spain to the OPCW at the 27th session of the conference of the states parties, C-27/NAT.58, 28 Nov. 2022, p. 2; Slovakia, Statement by HE Ambassador Juraj Machác, Permanent representative of the Slovak Republic to the OPCW at the 27th session of the conference of the states parties, C-27/NAT.4, 28 Nov. 2022, p. 2; and France, Joint statement at the 27th session of the conference of the states parties under agenda item 9(d), 30 Nov. 2022.

⁵⁰ European Union, Statement on behalf of the European Union delivered by HE Ambassador Markus Leinonen, European External Action Service, at the 27th session of the conference of the states parties under agenda item 9(d), C-27/NAT.39, 29 Nov. 2022.

⁵¹ See also Jakob, U., 'Chemical arms control and disarmament', *SIPRI Yearbook 2022*, pp. 504–505; and McLeish, C., 'Use of novichok agents', *SIPRI Yearbook 2021*, pp. 489–93.

⁵² A detailed account of the case of Alexei Navalny can be found in Council of Europe, Parliamentary Committee on Legal Affairs and Human Rights, 'Poisoning of Alexei Navalny', Report, Doc. no. 15434, 10 Jan. 2022. See also McLeish, 'Use of novichok agents' (note 51), pp. 489–93.

and received a technical assistance visit (TAV) from the OPCW which confirmed its initial analysis. Western countries accused the Russian government of being involved in this incident, which Russia continues to deny.⁵³

France, Germany, Sweden and the United Kingdom, supported by a group of other countries, have engaged in an exchange with Russia of requests for clarification in accordance with Article IX of the CWC.⁵⁴ The exchange continued into early 2022 but neither side has so far expressed satisfaction with the replies received. Russia has continued to insist that it required the information requested from, but not provided by, the OPCW Technical Secretariat and Germany, France, Sweden and the UK, for it to open a domestic criminal investigation into the incident, and that it had in turn provided 'every detail of the steps taken . . . to explain all of the circumstances' of Navalny's case.⁵⁵ Germany, France, Sweden and others, however, repeatedly stated that the information requested by Russia was either irrelevant or could not be provided due to data protection and other regulations, and that Russia had still not addressed the requests it had received from a group of 45 countries.⁵⁶ They also continued to call on Russia to open an investigation into the Navalny case.⁵⁷

In a similar vein, on 26 January 2022 the Parliamentary Assembly of the Council of Europe issued a resolution on the 'Poisoning of Alexei Navalny' in which it called on Russia to, among other things, fulfil its obligations under the CWC, including by 'investigating the alleged development, production, stockpiling and use of a chemical weapon on Russian territory', and to agree to a TAV from the OPCW 'on the standard conditions that guarantee the independence of its technical secretariat . . . at the very earliest opportunity'.⁵⁸

⁵³ Jakob, 'Chemical arms control and disarmament' (note 51), p. 505.

⁵⁴ See Jakob, 'Chemical arms control and disarmament' (note 51), p. 506.

⁵⁵ Russia, Statement by HE Ambassador A.V. Shulgin, Permanent representative of the Russian Federation to the OPCW at the 99th session of the Executive Council in exercise of the right of reply to the statements of Ukraine and a number of other countries, EC-99/NAT.50, 8 Mar. 2022, p. 2; see also Russia, 'Request for circulation of a document at the 99th session of the Executive Council, EC-99/NAT.2, 15 Nov. 2021.

⁵⁶ See e.g. Germany, Statement by HE Ambassador Thomas Schieb, Permanent representative of the Federal Republic of Germany to the OPCW at the 101st session of the Executive Council, EC-101/NAT.15, 4 Oct. 2022, pp. 1–2; and Sweden, Statement by HE Ambassador Johannes Oljelund, Permanent representative of the Kingdom of Sweden to the OPCW at the 100th session of the Executive Council, EC-100/NAT.23, 5 July 2022, p. 2. See also Jakob, 'Chemical arms control and disarmament' (note 51), p. 506.

⁵⁷ See e.g. France, Statement by HE Ambassador Francois Alabrune, Permanent representative of the French Republic to the OPCW at the 27th session of the conference of the states parties, C-27/NAT.60, 28 Nov. 2022, p. 2; Germany, National Statement delivered by Ambassador Thomas Schieb, Permanent representative of the Federal Republic of Germany to the OPCW at the 27th session of the conference of the states parties, Nov. 2022, p. 2; and Germany, Joint statement on behalf of forty-nine member states of the OPCW delivered by the delegation of the Federal Republic of Germany to the OPCW at the 99th session of the Executive Council under agenda item 7(e), EC-99/NAT.36, 8 Mar. 2022.

⁵⁸ Council of Europe Parliamentary Assembly, 'Poisoning of Alexei Navalny', Resolution 2423 (2022).

In October 2022, the EU extended its existing sanctions pertaining to the proliferation and use of chemical weapons for another year, including sanctions against six Russian government officials allegedly involved in the preparation or execution of the attack on Navalny, and for similar reasons added another eight persons to its sanctions list on 14 November 2022.⁵⁹

Regarding the TAV which Russia had requested from the Technical Secretariat shortly after the Navalny incident but later made conditional on procedures that do not correspond to standard OPCW procedures, the director-general reported to the Executive Council in March 2022 that the Technical Secretariat could not deploy a TAV to Russia while ‘that country continues to request that the TAV be conducted in contravention of some of the basic rules and applicable procedures for these activities, such as guaranteeing the independence of the TAV team’.⁶⁰

Allegations of illegal chemical activities in Ukraine

Shortly after Russia’s invasion of Ukraine on 24 February 2022, Ukraine voiced concerns to the OPCW that Russia may be preparing ‘provocations’ by blowing up chemical facilities in the Donetsk region.⁶¹ Referring directly to the Ukrainian concerns, France on behalf of the 27 EU member states on 3 March 2022 condemned both the war and possible chemical ‘false flag’ provocations, a position which many states parties and the EU repeated multiple times throughout 2022.⁶² On 10 March, Russia conveyed the first of 39 communications to the OPCW (in the form of notes verbales) in which it accused Ukrainian groups, supported by the United States, of preparing

⁵⁹ Council of the European Union, ‘Chemical weapons: EU sanctions renewed for a further year’, Press release, 13 Oct. 2022; European Union, Statement on behalf of the European Union, delivered by Ambassador Markus Leinonen, European External Action Service, at the 27th session of the conference of the states parties under agenda item 9(d), C-27/NAT.40, 29 Nov. 2022, p. 2; and Council of the European Union, Council Implementing Regulation (EU) 2022/2228 of 14 November 2022 implementing Regulation (EU) No 2018/1542 concerning restrictive measures against the proliferation and use of chemical weapons, *Official Journal of the European Union*, L293, pp. 1–8, paras 4–5 and Annex.

⁶⁰ OPCW, Executive Council, Opening statement by the director-general to the Executive Council at its 99th session, EC-99/DG.17, 8 Mar. 2022, para. 36.

⁶¹ Ukraine, Note verbale no. 61219/30-196/50-3, 27 Feb. 2022. This note verbale and all others quoted in this section are contained in the ‘Compendium of correspondence shared by states parties on Ukraine’, compiled by the OPCW. See OPCW, ‘Ukraine’.

⁶² France, Note verbale no. 2022-0106026, 3 Mar. 2022. See e.g. Germany (on behalf of 53 states parties), Statement by HE Ambassador Gudrun Lingner, Permanent representative of the Federal Republic of Germany to the OPCW at the 100th session of the Executive Council, EC-100/NAT.51, 5 July 2022; Australia (on behalf of Canada, New Zealand and Australia), Statement by HE Ambassador Matthew Neuhaus, Permanent representative of Australia to the OPCW at the 99th session of the Executive Council under agenda item 7(e), EC-99/NAT.28, 8 Mar. 2022; Mexico, Statement by HE Ambassador José Antonio Zabalgoitia, Permanent representative of the United Mexican States to the OPCW at the 99th session of the Executive Council under agenda item 7(e), WC-99/NAT.64, 8 Mar. 2022; and European Union, C-27/NAT.40 (note 59).

chemical ‘provocations’.⁶³ This exchange of notes verbales marked the start of a series of diplomatic communications through the OPCW primarily between Russia and Ukraine accusing each other of disinformation about planned or actual intentional release of toxic substances. The Technical Secretariat compiled all notes verbales that it received in this context in a compendium of correspondence, which is publicly available on the OPCW website.⁶⁴ In August 2022, when the last entry was added to the compendium, the document comprised 121 pages.

Most of the Russian allegations concerned the claim that Ukrainian troops or fighters could be planning, preparing, provoking or carrying out deliberate detonations at chemical facilities or depots, or of vehicles loaded with chemicals, with the intention to blame such incidents on Russia or to secure more Western military assistance.⁶⁵ In one note, Russia accused the OPCW of being complicit in the ‘false flag’ strategy of Ukraine targeted against Russia, which prompted the Technical Secretariat to emphasize in its reply the impartial character of its work.⁶⁶ Russia subsequently backtracked from its direct accusation against the Technical Secretariat.⁶⁷

In addition to condemning the Russian actions in Ukraine and warning against the use of chemical weapons, the USA explicitly accused Russia of maintaining a chemical weapon programme in violation of its obligations under the CWC and rejected the Russian claims that the USA was supporting Ukrainian chemical ‘provocations’.⁶⁸ The UK also rejected such allegations and cited Russian disinformation in relation to Syria’s chemical weapons and the Novichok poisonings.⁶⁹ Russia in turn dismissed the UK accusations as part of a UK and Ukrainian disinformation campaign.⁷⁰

Through its notes verbales, Ukraine repeatedly warned of imminent Russian chemical attacks, denied that it had the means or intention to carry out chemical attacks itself (and countered Russian allegations regarding specific locations or planned incidents), and cautioned against Russian disinformation.⁷¹ Later in the process, Ukraine reported on Russian attacks on civilian chemical infrastructure in Ukraine that released chemicals such as

⁶³ Russia, Note verbale no. 01/22, 10 Mar. 2022.

⁶⁴ ‘Compendium of correspondence shared by states parties on Ukraine’ (note 61).

⁶⁵ For Russian notes verbales on the intention to blame, see e.g. no. 5, 10 Mar. 2022; no. 17, 7 May 2022; no. 19, 18 May 2022; no. 23, 30 May 2022; no. 28, 6 June 2022; and no. 39, 12 Aug. 2022. For an example claiming the intention to secure military assistance, see Russia, Note verbale no. 18, 12 May 2022.

⁶⁶ Russia, Note verbale no. 29, 9 June 2022; and OPCW, Note verbale no. NV/ODG-290/22, 10 June 2022.

⁶⁷ Russia, Note verbale no. 30, 14 June 2022.

⁶⁸ United States, Note verbale no. 01/22, 11 Mar. 2022.

⁶⁹ United Kingdom, Note verbale no. 63/2022, 1 June 2022.

⁷⁰ Russia, Note verbale no. 27, 6 June 2022.

⁷¹ Ukraine, Note verbale no. 61219/35-196/50-18783, 11 Mar. 2022; Ukraine, Note verbale no. 61219/35-196/50-28451, 25 Apr. 2022; and Ukraine, Note verbale no. 61219/35-196/50-34885, 24 May 2022.

ammonia and nitric acid, and accused Russia of having used toxic substances in Mariupol, among other places.⁷²

In many of the notes, Russia seemed to use ‘chemical attacks’, ‘chemical provocations’, ‘intentional release of toxic substances’ and ‘chemical weapon use’ as interchangeable terms. Since the definition of chemical weapons is based on the general purpose criterion and not dependent on specific chemical substances or means of dissemination, the intentional release of toxic chemicals could fall within the purview of the OPCW, depending on the exact circumstances. No formal CWC procedures related to alleged chemical weapon use or other treaty violations have been invoked so far with respect to the situation in Ukraine. Ukraine did, however, request bilateral assistance from CWC states parties under Article X for protection against possible chemical weapon attacks.⁷³ It also requested, and received, assistance from the Technical Secretariat.⁷⁴

The Technical Secretariat published a statement expressing concern at the reports of chemical weapon use in Mariupol. The statement also reiterated the comprehensive nature of the chemical weapon prohibition and emphasized that the Secretariat ‘has also uninterruptedly been monitoring the situation around declared chemical industrial sites in Ukraine’, and reaffirmed its readiness to provide assistance to states parties in case of the use or threat of use of chemical weapons.⁷⁵

⁷² See e.g. Ukraine notes verbales no. 61219/35-196/50-21493, 22 Mar. 2022; no. 61219/35-196/50-24179, 7 Apr. 2022; no. 61219/35-196/50-25231, 12 Apr. 2022; no. 61219/35-196/50-31834, 11 May 2022; no. 61219/35-196/50-36735, 30 May 2022; no. 61219/35-196/50-37431, 31 May; and no. 61219/35-196/50-55446, 28 July 2022.

⁷³ Ukraine, Note verbale no. 61219/35-196/50-20231, 18 Mar. 2022.

⁷⁴ OPCW, Executive Council, Opening statement by the director-general to the Executive Council at its 101st session, EC-101/DG.28, 4 Oct. 2022, para. 5.

⁷⁵ OPCW, Statement on Ukraine from the OPCW spokesperson, OPCW News, 12 Apr. 2022.