

# Resurgence of Chemical Weapons Use: Issues for Congress

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With increasing numbers of incidents, the use of chemical weapons (CW) has become a growing international concern two decades after the international community decided to ban them under the 1997 [Chemical Weapons Convention \(CWC\)](#). The nerve agent sarin and chlorine bombs [continue](#) to be used by the Syrian regime on the battlefield in that country's civil war; the Islamic State used mustard gas in that conflict in 2015 and 2016. The nerve agent VX was used to assassinate the brother of the North Korean leader in a Malaysian airport in 2017. Also, an attempted assassination of a former Russian spy in the United Kingdom in March 2018 involved the Soviet-developed "Novichok" nerve agent. Prior to the Syrian civil war, major use of chemical weapons had not been seen since the 1995 terror attack by the Aum Shinrikyo in Tokyo and by Iraq in the 1980s during its war with Iran. Some [argue](#) that recent use and lack of accountability for such incidents undermine the international norm against chemical weapons.

Recent CW use has posed new challenges to the Organization for the Prohibition of Chemical Weapons (OPCW), the international organization established by the CWC to verify the destruction of existing CW stocks and monitor the peaceful use of chemicals. Article X of the CWC also provides the OPCW authority to investigate and assist with reported incidents of CW use.

In an unprecedented event, VX nerve agent was [used](#) at Kuala Lumpur International Airport on February 13, 2017 to assassinate Kim Jong Nam, the half-brother of North Korean leader Kim Jong-Un. While the OPCW [assisted](#) the Malaysian government in its investigation. The U.S. government [determined](#) that North Korea's government ordered the VX attack, and it imposed sanctions on Pyongyang under the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (CBW Act). North Korea is not a signatory to the CWC and maintains an active chemical weapons program.

This year, in another unprecedented event, an advanced nerve agent was used in Salisbury, UK in an attempted

assassination attempt of a former Russian intelligence officer, Sergei Skripal, and his daughter. A local first responder was also exposed to the nerve agent. At the UK government's request, the OPCW sent a Technical Assistance Visit (TAV) team to assist with the investigation. A second TAV was sent to the UK in late June when two UK citizens, one now deceased, were contaminated by a nerve agent. UK Prime Minister Theresa May [said](#) that a Soviet-era nerve agent known as Novichok was used and that the likely perpetrators were affiliated with the Russian government. The OPCW inspectors, supported by a network of OPCW-affiliated laboratories, concurred with the UK technical analysis, although the OPCW [report](#) did not assign blame for the CW attack, a step beyond its mandate. The U.S. State Department [concurred](#) that Russia was responsible and is violating the CWC, while Moscow rejected the claims.

The Islamic State of Iraq and the Levant (ISIL) had reportedly used mustard gas against Iraqi and coalition forces on a number of occasions in Iraq. The OPCW aided Iraqi security forces' investigations of CW use by terrorist groups, such as ISIL, on their territory. The TAV teams [confirmed](#) after a June 2017 visit that a non-state actor had used sulfur mustard blister agent in northern Iraq.

In Syria, sarin and chlorine have been used dozens of times on the battlefield and against civilian targets. OPCW and United Nations (UN) investigators have concluded least 44 CW incidents since April 2014. Humanitarian groups have documented even [more](#) attacks. The OPCW has sent two investigatory teams to Syria in response since 2013: a Declaration Assessment Team (DAT), which is responsible for verifying whether the Syrian government is in compliance with the CWC, and a Fact-Finding Mission (FFM), tasked with confirming reported incidents of CW use. Additionally, the UN Security Council (UNSC) established a Joint Investigative Mechanism (JIM) which, for the first time, was mandated to attribute CW incidents identified by the FFM.

Despite facing constraints in resources, time, and access, the JIM was able to attribute CW use to the Syrian Armed Forces on several occasions: three instances of chlorine-filled barrel-bombs dropped in 2015, and one case of sarin deployed on April 4, 2017 in Khan Shaykhun. The JIM also concluded that ISIL employed sulfur mustard blister agent in Syria on three occasions. Although the JIM was widely supported, Russia, Syria, and Iran—which deny Syrian use of chemical weapons—criticized the JIM as politicized and Russia blocked its renewal by the UNSC past 2017.

With the cancelation of the JIM, the [United States](#) and others felt that since investigators did not have explicit authority to assign blame, it would likely be increasingly difficult to hold violators to account and norms could further erode. In a push for greater accountability for CW use, the International Partnership against Impunity for the Use of Chemical Weapons ([#NoImpunity](#)) was announced by like-minded foreign ministers in Paris in January 2018. These states—including the [United States](#)—pledged in a Declaration of Principles to cooperate to identify publicly those assisting Syria in chemical weapons production, share information to document chemical weapons use, and strengthen states' capacity to prosecute violators.

After the use of nerve agent on its territory, the United Kingdom also called for a Special Session of the OPCW Executive Council in June 2018 with the aim of highlighting the gravity of chemical weapons use and to call for giving investigators the mandate to attribute an attack when possible. With a vote of 82 to 24, States Parties decided to grant the FFM the added [authority](#) to attribute chemical attacks under investigation. Yet, it is unclear how this may impose constraints on the FFM's capacity to identify incidents, how frequently the FFM will be able to attribute incidents, and how any attributed incident may elicit an international response to a state's possible non-compliance with the CWC.

Congress may consider how best to respond to the use of chemical weapons, including how future use could be deterred, and whether U.S. forces are adequately protected. Congress may consider whether the OPCW has adequate resources for investigations, and it may also examine the success of efforts to curb proliferation of chemical-weapons-related material and technology, such as interdictions, international sanctions, and export-control assistance programs.