

OPCW MEMBER STATES MUST COUNTER RUSSIAN OBSTRUCTION

BY ANDREA STRICKER

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INTRODUCTION

The Russian Federation is working to prevent the Organization for the Prohibition of Chemical Weapons (OPCW) from holding Moscow and Damascus accountable for their use of chemical weapons. Thus far, the OPCW's voting process, which features open ballots and requires a two-thirds majority to approve decisions, has allowed the organization to operate more effectively than many other international bodies, which often allow small minorities or even a single member to block decisions. Russia since 2017 has been successful in delaying OPCW decisions but not in halting the organization's work altogether.

This memorandum provides the first publicly available analysis of the voting patterns of the OPCW's 193 member states.¹ It identifies two main groups of non-cooperative states: first, U.S. adversaries and the lesser powers in their orbit, which actively side with Russia in OPCW voting; and second, member states that frequently abstain, thereby making it harder to reach the two-thirds threshold needed to pass decisions in one of the OPCW's key decision-making bodies, the Executive Council (EC), and stifling decisive action by the all-member Conference of States Parties (CSP). This analysis places 27 member states in the adverse-voter category and 38 in the frequent-abstainer category. The United States has positive relations with many countries that often abstain. Washington should leverage these relationships to secure votes that uphold the integrity of the Chemical Weapons Convention (CWC) and the OPCW, whose members will next convene on April 20 in The Hague.

THE CWC AND OPCW

The OPCW implements the 1993 Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons, also known as the Chemical Weapons Convention, or CWC. The CWC aims to achieve the worldwide elimination of chemical weapons under international verification, and to establish strong monitoring and control of toxic chemicals, precursors, and facilities that could be used for such weapons.

A state party to the CWC commits, *inter alia*, never to “develop, produce, otherwise acquire, stockpile or retain chemical weapons”; “to destroy chemical weapons it owns or possesses”; and “to destroy any chemical weapons

1. See Appendix 1 for available voting data. The author wishes to thank Dr. Gregory D. Koblentz and Mr. John Walker for their comments on this paper.

Andrea Stricker is a research fellow at the Foundation for Defense of Democracies, where she conducts research on nonproliferation, Iran, North Korea, and other security policy topics. She is an expert on nuclear weapons proliferation and illicit procurement networks.

production facilities it owns or possesses.”² As such, state parties must declare their existing chemical weapons stocks, locations, and production facilities and provide a general plan for their destruction. They must also declare annually their stocks and the locations of sensitive chemicals and precursors listed in the CWC’s control annex. All these commitments and activities are subject to OPCW monitoring, reporting, and on-site verification.

The CWC established the OPCW upon the convention’s entry into force in 1997, aiming “to ensure the implementation of [the CWC’s] provisions, including those for international verification of compliance with [the convention], and to provide a forum for consultation and cooperation among States Parties.” The OPCW maintains a Technical Secretariat to conduct inspections, verify states’ chemical weapons declarations, and ascertain whether states are complying with their CWC obligations.³ The OPCW is led by a director-general, who delivers reports to the organization’s two main governing bodies.

The OPCW’s governing bodies meet at its headquarters in The Hague, Netherlands. Those two bodies are the all-member CSP, the organization’s principal and plenary body, and the EC, an elected organ of 41 member states. The EC advises the CSP and makes major decisions to enforce the CWC. The EC can launch investigations into suspected chemical weapons use. The OPCW and its director-general cannot, on their own authority, ask to investigate suspicious activities or facilities in member states.

The CSP plans to hold the second part of its annual gathering from April 20 to 22, 2021. The CSP held the first part from November 30 to December 1, 2020, but delayed several matters due to COVID-19. The EC will hold the second of its three regular annual meetings in July.

The CSP and EC pass decisions by simple majority on procedural issues and by consensus on substantive matters, each via a simple show-of-hands vote.⁴ When unable to reach consensus, the bodies hold formal votes and pass decisions by two-thirds majority on substantive issues. In the CSP, countries present and voting when there is a quorum can pass decisions with a two-thirds vote; abstentions do not count toward the vote total but reflect an unwillingness of countries to act decisively. In the EC, two-thirds of its 41 members must vote affirmatively, so an abstention can effectively count as a “no” vote due to the body’s smaller membership. If the EC is unable to pass decisions, it sends them to the CSP for a vote or revisits the matters at a subsequent meeting.

Since 2017, Russia’s polarization of the OPCW has forced the CSP and EC to hold more formal votes to pass substantive decisions. The bodies began publishing voting results in official meeting reports in October 2018.

RUSSIAN OBSTRUCTION AND PROTECTION OF THE ASSAD REGIME

Russia’s obstruction has hindered OPCW efforts to investigate Moscow’s use of a military-grade chemical nerve agent called Novichok to poison enemies of the state. Since 2013, Russia has also tried to block investigations into

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2. Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons, Paris, January 13, 1993. (https://www.opcw.org/sites/default/files/documents/CWC/CWC_en.pdf)

3. Organization for the Prohibition of Chemical Weapons, “Technical Secretariat: Facilitating the implementation of the Convention,” accessed March 2, 2021. (<https://www.opcw.org/about/technical-secretariat>)

4. Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons, Paris, January 13, 1993, Article VIII. (<https://www.opcw.org/chemical-weapons-convention/articles/article-viii-organization>)

the use of chemical weapons against civilians by the Bashar al-Assad regime in Syria starting.⁵ Russia similarly attempted to stymie joint OPCW-UN investigations in Syria, including an initiative between the two bodies to assign responsibility for chemical weapons use to specific Assad regime officials. Moscow's obstructionism escalated following the September 2015 launch of Russia's military intervention on behalf of the Assad regime.

Syria briefly paused its chemical weapons attacks following a Russian-brokered agreement for Damascus to ratify the CWC and join the OPCW in September 2013. Gaining membership required Syria to allow the verification of its dismantling, destruction, or removal of its declared weapons and production capabilities. An OPCW-UN Joint Mission stated in June 2014 that this process was complete.⁶ However, Damascus did not declare all its capabilities and stockpiles, and the OPCW later determined that Assad had resumed using chemical weapons in April 2014. The OPCW director-general reiterated this finding as recently as February 2021.⁷

Following an OPCW mission that found evidence of the Assad regime's use of chlorine barrel bombs in 2014 and 2015, the UN Security Council unanimously passed Resolution 2235 in August 2015 to establish an OPCW-UN Joint Investigative Mechanism (JIM).⁸ The JIM sought to identify "individuals, entities, groups or Governments" responsible for the use of chemical weapons in Syria, and to hold them accountable under Chapter VII of the UN Charter. The JIM released several detailed reports, including eyewitness interviews about specific attacks, reinforcing the Syrian regime's culpability.⁹ In 2017, however, Russia used its UN Security Council veto to prevent the renewal of the JIM's mandate.

At a specially convened session in June 2018, the CSP voted to establish its own unit devoted to determining the perpetrators of chemical weapons attacks in Syria: the Investigation and Identification Team (IIT).¹⁰ In April 2020, the IIT released its first report on Damascus' chemical weapons use, attributing three attacks in March 2017 to several Syrian air force officers.¹¹ Moscow denounced the report. The IIT will likely issue additional reports, reflecting how the OPCW has managed to continue its work despite Russian and Syrian obstruction. The OPCW director-general and Technical Secretariat have also released reports establishing the Assad regime's continued use

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5. Anthony Deusch, "After UN Veto, Russia Moves Against Chemical Weapons Watchdog," *Reuters*, November 21, 2017. (<https://www.reuters.com/article/us-mideast-crisis-chemicalweapons/after-u-n-veto-russia-moves-against-chemical-weapons-watchdog-idUSKBN1DL1UF>); Organization for the Prohibition of Chemical Weapons, "Syria and the OPCW," accessed March 2, 2021. (<https://www.opcw.org/media-centre/featured-topics/syria-and-opcw>)

6. United Nations, "Removal of Syria's Chemical Weapons Material Complete, Announces OPCW-UN Joint Mission," June 23, 2014, (<https://news.un.org/en/story/2014/06/471392-removal-syrias-chemical-weapons-material-complete-announces-opcw-un-mission>)

7. Organization for the Prohibition of Chemical Weapons, "OPCW to Undertake Fact-Finding Mission in Syria on Alleged Chlorine Gas Attacks," April 24, 2014. (<https://www.opcw.org/media-centre/news/2014/04/opcw-undertake-fact-finding-mission-syria-alleged-chlorine-gas-attacks>); Organization for the Prohibition of Chemical Weapons, Executive Council, Report by the Director-General, "Progress in the Elimination of the Syrian Chemical Weapons Programme," EC-96/DG.13, February 24, 2021, (<https://www.opcw.org/sites/default/files/documents/2021/02/ec96dg13%28e%29.pdf>)

8. Organization for the Prohibition of Chemical Weapons, "Fact-Finding Mission," accessed March 2, 2021. (<https://www.opcw.org/fact-finding-mission>); United Nations, Press Release, "Security Council Unanimously Adopts Resolution 2235 (2015), Establishing Mechanism to Identify Perpetrators Using Chemical Weapons in Syria," August 7, 2015. (<https://www.un.org/press/en/2015/sc12001.doc.htm>)

9. See, for example: UN Security Council, "Seventh Report of the Organisation for the Prohibition of Chemical Weapons-United Nations Joint Investigative Mechanism," S/2017/904, October 26, 2017. (<https://reliefweb.int/sites/reliefweb.int/files/resources/N1734930.pdf>)

10. Organization for the Prohibition of Chemical Weapons, Conference of States Parties, "Decision: Addressing the Threat from Chemical Weapons Use," C-SS-4/DEC.3, June 27, 2018. (https://www.opcw.org/sites/default/files/documents/CSP/C-SS-4/en/css4dec3_e_.doc.pdf)

11. Organization for the Prohibition of Chemical Weapons, 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, April 8, 2020. (<https://www.opcw.org/sites/default/files/documents/2020/04/s-1867-2020%28e%29.pdf>)

of chemical weapons, including the regime's failures both to fully declare its ongoing programs and to demonstrate compliance with the CWC, as required by the EC in 2020.¹²

RUSSIA'S ATTACK IN THE UK

Russia consistently calls into question the validity of the OPCW's technical conclusions on Syria and has thrown up obstacles to the OPCW investigation of Moscow's March 2018 Novichok attack in Salisbury, England, against a former Russian double agent, Sergei Skripal.¹³ Moscow even attempted to hack the OPCW headquarters in 2018.¹⁴

Novichok, a lethal neurotoxin, was originally developed by the Soviet Union in the 1980s and 1990s. Russia's use of the substance is therefore rather brazen due to its attributability.¹⁵ In 2017, Moscow claimed to have completed its efforts to declare and dismantle its chemical weapons stocks and production capabilities under OPCW verification.¹⁶ Russia's continued possession, production, and use of chemical weapons such as Novichok therefore constitute serious violations of the CWC.

In the UK attack, contact with Novichok resulted in the hospitalization of Skripal, his daughter, two police officers, and two civilians, one of whom was a mother of three and later died.¹⁷ The OPCW issued technical reports on the botched attack, but member states, including the United Kingdom, did not put forth or vote on any proposals condemning Moscow or requesting inspections of Russian sites related to Novichok production.¹⁸ The United Kingdom called on Russia to explain its actions, but Moscow failed to do so. The United Kingdom then built a multinational coalition of states to impose sanctions on Moscow and expel Russian diplomats.¹⁹ London subsequently issued international arrest warrants for Russian intelligence officers believed to be responsible for the attack. The European Union and United States joined the UK sanctions campaign, reflecting a united effort to penalize Moscow where the OPCW fell short.

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12. Organization for the Prohibition of Chemical Weapons, Report by the Director-General, "Progress on the Elimination of the Syrian Chemical Weapons Programme," EC-96/DG.2, October 26, 2020. (<https://www.opcw.org/sites/default/files/documents/2020/10/ec96dg02%28e%29.pdf>)

13. "Russia and Syria Criticize OPCW Report on the Alleged Chemical Attack in Douma, 2018," *Diplomat Magazine*, March 19, 2019. (<https://diplomatmagazine.eu/2019/03/12/russia-and-syria-criticize-opcw-report-on-the-alleged-chemical-attack-in-douma-2018/>)

14. "Russia Tried to Hack OPCW, Says Netherlands," *Deutsche Welle* (Germany), October 4, 2018. (<https://www.dw.com/en/russia-tried-to-hack-opcw-says-netherlands/a-45749683>)

15. Sabine Siebold and Andrea Shalal, "West's Knowledge of Novichok Came from Sample Secured in 1990s: Report," *Reuters*, May 16, 2018. (<https://www.reuters.com/article/us-britain-russia-chemicalweapons-german/wests-knowledge-of-novichok-came-from-sample-secured-in-1990s-report-idUSKCN1IH2HC>)

16. Organization for the Prohibition of Chemical Weapons, Press Release, "OPCW Director-General Commends Major Milestone as Russia Completes Destruction of Chemical Weapons Stockpile Under OPCW Verification," September 27, 2017. (<https://www.opcw.org/media-centre/news/2017/09/opcw-director-general-commends-major-milestone-russia-completes>)

17. Bill Chappell, "2 Russian Agents Carried Out Skripal Poison Attack, U.K. Says; Arrest Warrants Issued," *NPR*, September 5, 2018. (<https://www.npr.org/2018/09/05/644782096/u-k-charges-2-russians-suspected-of-poison-attack-on-skripals>); Steven Morris and Kevin Rawlinson, "Novichok Victim Found Substance Disguised as Perfume in Sealed Box," *The Guardian* (UK), July 24, 2018. (<https://www.theguardian.com/uk-news/2018/jul/24/novichok-victim-ill-within-15-minutes-says-partner-charlie-rowley>)

18. Organization for the Prohibition of Chemical Weapons, "Incident in Salisbury," accessed March 2, 2021. (<https://www.opcw.org/media-centre/featured-topics/incident-salisbury>)

19. Julian Borger, "Western Allies Expel Scores of Russian Diplomats over Skripal Attack," *The Guardian* (UK), March 27, 2018. (<https://www.theguardian.com/uk-news/2018/mar/26/four-eu-states-set-to-expel-russian-diplomats-over-skripal-attack>); Richard Perez-Pena and Ellen Barry, "U.K. Charges 2 Men in Novichok Poisoning, Saying They're Russian Agents," *The New York Times*, September 5, 2018. (<https://www.nytimes.com/2018/09/05/world/europe/russia-uk-novichok-skripal.html>)

In November 2019, for the first time in CWC history, the CSP successfully moved to amend the CWC's Schedule 1 control list to include some Novichok family substances.²⁰ Unexpectedly, Moscow put forth its own proposal to add Novichok substances to the control list, and ultimately joined a consensus CSP decision to make the addition. Russia likely did so to feign compliance with the CWC and prevent further backlash.²¹

Previously, at a special session of the EC in April 2018, Russia put forth a draft decision to establish a joint UK-Russian investigation into the Skripal poisoning. London called the idea "ludicrous" and dismissed it as a deliberate effort "to undermine the independent, impartial work of the international chemical weapons watchdog."²² Among those present and voting, six member states voted in favor of the Russian proposal, while 15 voted against and 17 abstained.²³ The high number of abstentions during that vote underscores the unwillingness of many states to take a firm position or stand up to Moscow.

WHO HELPS RUSSIA AT THE OPCW?

Moscow and the countries that vote with it have attempted to prevent the OPCW from tending to basic organizational business such as passing annual budgets, agendas, and programs of work. These efforts have sometimes delayed EC decisions to subsequent meetings, since every EC-member abstention makes reaching a two-thirds majority more difficult. Moscow and its supporters have also put forth numerous draft decisions relating to Syria that do not receive support but waste valuable time. Typically, member states do not put forth decisions for a vote unless they know they have secured the required majority.

Despite Russia's best efforts, the organization's two-thirds majority voting rule – and more importantly, the open ballot system – have helped to pass constructive measures at the EC and CSP. There is now a public record of votes cast on 29 occasions from October 2018 to March 2021.²⁴

Two groups of problematic countries emerge from the voting data: those that consistently vote with Russia, and those that often abstain contrary to the wishes of the United States and its partners.

Countries that vote with Moscow include former Soviet republics such as Armenia, Belarus, Kazakhstan, Kyrgyzstan, Tajikistan, and Uzbekistan. In the Middle East, Russia has found allies in Algeria, Sudan, the Palestinian Authority, Syria, and Iran. In Asia, Moscow's allies include China, Cambodia, Laos, Myanmar, Pakistan, and Vietnam. In Latin America, Bolivia, Cuba, Nicaragua, and Venezuela also vote with Russia. A large African group that votes with Russia includes Angola, Burundi, Comoros, the Democratic Republic of the Congo, Mozambique, South Africa, and Zimbabwe.

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20. Organization for the Prohibition of Chemical Weapons, Conference of States Parties, "Decision: Technical Change to Schedule 1(A) of the Annex on Chemicals to the Chemical Weapons Convention," C-24/DEC.4, November 27, 2019. (<https://www.opcw.org/sites/default/files/documents/2019/11/c24dec04%28e%29.pdf>)

21. Organization for the Prohibition of Chemical Weapons, Press Release, "Conference of the States Parties Adopts Decisions to Amend Chemical Weapons Convention Annex," November 27, 2019. (<https://www.opcw.org/media-centre/news/2019/11/conference-states-parties-adopts-decisions-amend-chemical-weapons>); see also: "A Historical Event: Chemicals Added to the CWC Schedule 1," *Costanzi Research*, September 3, 2020. (<https://costanziresearch.com/cw-nonproliferation/cw-control-lists/cwc-schedule-1-amendment/>)

22. UK Foreign and Commonwealth Office, Press Release, "Foreign Secretary Boris Johnson Responds to Defeat of Russia's Proposals at OPCW," April 4, 2018. (<https://www.gov.uk/government/news/foreign-secretary-boris-johnson-responds-to-defeat-of-russias-proposals-at-opcw>)

23. A UK press release provided this voting tabulation, which is not included in the vote count used in this memorandum, because the OPCW did not begin providing voting records until October 2018.

24. The CSP did not issue a report for the first part of its 2020 meeting, which took place from November 30 to December 1, 2020. Therefore, that voting data is not included in this memorandum's analysis.

Top Adverse Voters in the Conference of the States Parties | 7+ adverse votes out of 15



Top Adverse Voters in the Executive Council | 5+ adverse votes out of 14



Some of these states, such as South Africa and Vietnam, may be amenable to U.S. persuasion. The Palestinian Authority and Pakistan may also be persuaded to vote with the United States because they seek renewed U.S. economic funding from the Biden administration. Similarly, Sudan is part of a U.S.-assisted normalization process with Israel and is in dire need of U.S. funds.

Many countries that abstain from OPCW votes maintain positive relationships with the United States. Abstainers that have significant trade, economic assistance, development, and military or security relations with the United States include Algeria, Argentina, Bangladesh, Benin, Bhutan, Bosnia and Herzegovina, Brazil, Brunei, Burkina Faso, Cameroon, El Salvador, Ethiopia, Ghana, India, Indonesia, Iraq, Jordan, Kenya, Malaysia, Mongolia, Morocco, Nepal, Nigeria, Saudi Arabia, Senegal, Suriname, Thailand, and Tunisia. Washington may be able to convince these countries to vote affirmatively to uphold international norms and laws against the use of chemical weapons.

The data also show that nearly all the countries that abstained or voted with Russia are members or observers of the Non-Aligned Movement (NAM), a 120-member body formed during the Cold War that also includes observers from 17 states and 10 organizations. Today, NAM members sometimes vote as a bloc in international organizations and hesitate to side with the United States or Europe.

The NAM's 120 member states and 17 observers all belong to the OPCW, except for North Korea and Egypt.²⁵ Of the 135 NAM members or observers that are also in the OPCW, 60 (44 percent) have voted with Russia or abstained a large number of times. The good news, of course, is that 75 NAM members or observers (56 percent) have not voted adversely or abstained frequently to Russia's advantage.

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 25. "Non-Aligned Movement," *Nuclear Threat Initiative*, February 25, 2021. (<https://www.nti.org/learn/treaties-and-regimes/non-aligned-movement-nam/>)

Top Abstained Voters in the Conference of the States Parties | 4+ abstained votes out of 8



Top Abstained Voters in the Executive Council | 4+ abstained votes out of 11



An analysis of voting patterns by region shows that most Russia-favorable voters or abstainers are located in the former Soviet Union, Asia, and the Middle East and North Africa. If a threshold of at least four problematic abstentions or Russia-favorable votes is used, we can make the following observations:

- The former Soviet Union leads with eight of 15 countries (including Russia) having voted adversely or abstained (53 percent).
- Eighteen of 38 member states in Asia (47 percent) have voted adversely or abstained.
- In the Middle East and North Africa, 10 of 17 have voted adversely or abstained (59 percent).
- Next are African states, with 18 of 48 states (38 percent) having voted adversely or abstained.
- In Latin America and the Caribbean, nine of 33 states (27 percent) voted adversely or abstained.
- In Eastern Europe, one (Bosnia and Herzegovina) of 13 states (1 percent) has voted adversely or abstained.
- Finally, in Western Europe and elsewhere, no state met the threshold of four adverse votes or abstentions.

The precedent set by states abstaining on Russian and Syrian use of chemical weapons could, in the future, prevent member states from holding others to their CWC obligations. The United States and its partners therefore must consolidate and grow their voting bloc.

RUSSIA AND SYRIA ON THE NEXT AGENDA

At the second part of the upcoming CSP meeting that begins on April 20, member states will discuss OPCW technical reports on the Assad regime's use of chemical weapons in Syria and on the regime's failure to declare its chemical weapons stocks and production facilities before the October 2020 expiration of the EC's 90-day deadline to demonstrate compliance with the CWC.²⁶ The CSP could vote to "restrict or suspend" Syria's "rights and privileges," including its voting rights at the OPCW, as stipulated under Article XII of the CWC.²⁷

The CSP will also review an OPCW technical report indicating that a military-grade nerve agent was used in an attempted assassination of Russian dissident Alexei Navalny.²⁸ After the 2018 Salisbury attack, the incident marks the second time that the OPCW has considered a Russian chemical weapons attack using an agent from the Novichok family. Furthermore, recent information indicates Moscow likely maintains a domestic program for assassinations with chemical weapons.²⁹

On August 20, 2020, Navalny fell gravely ill while on a flight in Russia. Under international pressure, Moscow permitted his evacuation to Germany for treatment at a hospital that specializes in treating poison victims. On September 2, Berlin requested an OPCW technical evaluation, as Germany is entitled to do under Article VIII of the CWC.³⁰ The OPCW's technical arm collected samples and ultimately determined Navalny was poisoned by an agent from the Novichok family. German, French, and Swedish laboratories supported the finding.

Navalny recovered and returned to Moscow, where he was promptly arrested and sentenced to prison. Moscow denies any involvement in his poisoning, despite extensive evidence that the Russian Federal Security Service was culpable.³¹ Russia tried to cover up the incident, called Navalny a CIA agent, and even blamed him for his own poisoning.³²

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26. Organization for the Prohibition of Chemical Weapons, "OPCW Issues Two Fact-Finding Mission Reports on Chemical Weapons Use Allegations in Aleppo and Saraqib, Syria," October 2, 2020. (<https://www.opcw.org/media-centre/news/2020/10/opcw-issues-two-fact-finding-mission-reports-chemical-weapons-use>); Organization for the Prohibition of Chemical Weapons, Executive Council, "Decision: Addressing the Possession and Use of Chemical Weapons by the Syrian Arab Republic," EC-94/DEC.2, July 9, 2020. (<https://www.opcw.org/sites/default/files/documents/2020/07/ec94dec02%28e%29%282%29.pdf>)

27. Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons, Paris, January 13, 1993, Article XII. (https://www.opcw.org/sites/default/files/documents/CWC/CWC_en.pdf)

28. Organization for the Prohibition of Chemical Weapons, "OPCW Issues Report on Technical Assistance Requested by Germany," October 6, 2020. (<https://www.opcw.org/media-centre/news/2020/10/opcw-issues-report-technical-assistance-requested-germany>); "Putin Rival Alexei Navalny in a Coma After Alleged Poisoning," *Associated Press*, August 20, 2020. (<https://www.cnbc.com/2020/08/20/russian-opposition-politician-navalny-poisoned-hospitalized.html>)

29. "Poisons, Patents, and Phone Logs: Records Reveal Russian Scientists' Ties to Military Intelligence," *Radio Free Europe/Radio Liberty*, October 23, 2020. (<https://www.rferl.org/a/exclusive-poisons-patents-phone-logs-records-reveal-russian-scientists-ties-to-military-intelligence/30908850.html>)

30. "Statement by the Federal Government on the Navalny Case (Germany)," September 14, 2020. (<https://www.bundesregierung.de/breg-en/news/statement-by-the-federal-government-on-the-navalny-case-1786624>)

31. "Putin Critic Navalny Sentenced to Prison," *Associated Press*, February 2, 2021. (<https://www.foxnews.com/world/russia-navalny-putin-court-hearing>); Tim Lister, Clarissa Ward, and Sebastian Shukla, "Russian Opposition Leader Alexey Navalny Dupes Spy into Revealing How he was Poisoned," *CNN*, December 21, 2020. (<https://edition.cnn.com/2020/12/21/europe/russia-navalny-poisoning-underpants-ward/>)

32. Andrew E. Kramer, "Russia Spins Alternative Theories in Poisoning of Navalny," *The New York Times*, September 3, 2020. (<https://www.nytimes.com/2020/09/03/world/europe/russia-navalny-novichok-theories.html>)

The OPCW Technical Secretariat issued an initial report on the incident at the October 2020 meeting of the EC, but the full report is available only to member states. The initial report indicated that biomedical samples taken from Navalny showed the presence of toxic chemicals with “similar structural characteristics” to the Novichok family. The CWC identifies Novichok chemicals in Schedule 1, Parts 1.A.14 and 1.A.15 of its annex. Schedule 1, Part A lists agreed-upon toxic chemicals that can be used in chemical weapons and therefore must be monitored and declared.³³

The Navalny attack occurred after an amendment to the CWC Schedule 1 took effect on June 7, 2020, requiring member states to declare their production capabilities and stocks of certain chemicals in the Novichok family.³⁴ The OPCW’s Technical Secretariat determined that the specific Novichok agent used against Navalny was not one contained on the Schedule 1 list. The agent was a novel or closely related type, which underscored that Moscow continues a secret Novichok program for assassinations.³⁵

Forty-four countries, including the United States, the United Kingdom, and all EU members, issued a statement at the October 2020 EC meeting, condemning this second Russian attack. The United Kingdom and European Union announced sanctions against six senior Russian officials and a state chemical laboratory that the United Kingdom and European Union believe were responsible.³⁶ The European Union also extended sanctions it enacted against Moscow in response to the Skripal attack.³⁷

At the March 2021 EC meeting, 16 countries issued a joint statement calling on Russia to “disclose the full circumstances surrounding this confirmed use of a chemical weapon.” They were supported by 29 other countries that are not currently members of the EC.³⁸ That month, the United States announced its own sanctions package in response to Navalny’s poisoning and unlawful arrest, expanding prior export restrictions placed on Russia over the Skripal attack. The sanctions also targeted Russian officials and entities associated with Russia’s ongoing chemical weapons program, responsible for Russia’s failure to dismantle that program, or responsible for Navalny’s mistreatment. In a press statement, Secretary of State Antony Blinken declared: “The U.S. government has exercised

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33. Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons, Paris, January 13, 1993, Annex on Chemicals, Section B, Schedule 1. (<https://www.opcw.org/chemical-weapons-convention/annexes/annex-chemicals/schedule-1>)

34. Organization for the Prohibition of Chemical Weapons, Technical Secretariat, “Guidance for States Parties on Article VI Declaration,” S/1821/2019/Rev. 1, January 14, 2020. (<https://www.opcw.org/sites/default/files/documents/2020/01/s-1821-2019r1%28e%29.pdf>)

35. Michael Schwartz, “Nerve Agent Was Used to Poison Navalny, Chemical Weapons Body Confirms,” *The New York Times*, October 6, 2020. (<https://www.nytimes.com/2020/10/06/world/europe/navalny-opcw-russia-novichok.html>)

36. UK Foreign and Commonwealth Office, “UK Sanctions Alexey Navalny’s Poisoners,” October 15, 2020. (<https://www.gov.uk/government/news/uk-sanctions-alexey-navalnys-poisoners>); Council of the European Union, Press Release, “Use of Chemical Weapons in the Assassination Attempt Against Alexei Navalny: EU Sanctions Six Individuals and One Entity,” October 15, 2020. (<https://www.consilium.europa.eu/en/press/press-releases/2020/10/15/use-of-chemical-weapons-in-the-assassination-attempt-on-alexei-navalny-eu-sanctions-six-individuals-and-one-entity/>)

37. Council of the European Union, Press Release, “European Sanctions Regime for Chemical Weapons Renewed for One Year,” October 12, 2020. (<https://www.consilium.europa.eu/en/press/press-releases/2020/10/12/eu-sanctions-regime-for-chemical-weapons-renewed-for-one-year/>)

38. Organization for the Prohibition of Chemical Weapons, “Statement by Lithuania at Executive Council 96, agenda item 6(f), on behalf of 45 states parties,” March 10, 2021. (<https://www.opcw.org/sites/default/files/documents/2021/03/20210309%20joint%20statement%20EC96%206f%20FINAL.pdf>)

its authorities to send a clear signal that Russia’s use of chemical weapons and abuse of human rights have severe consequences. Any use of chemical weapons is unacceptable and contravenes international norms.”³⁹

THE CHALLENGE OF HOLDING RUSSIA ACCOUNTABLE

At the April 2021 meeting of the CSP and at the planned July 2021 meeting of the EC, states should vote to establish a full technical investigation into the Navalny attack, which would help both prove that a Novichok agent was used and clarify the events surrounding the incident. At the July EC meeting, the EC should pass a decision calling on Russia to declare and dismantle its Novichok production facilities and stockpiles. It should model the decision on the EC’s July 2020 decision on Syria, which set a 90-day deadline for Damascus to demonstrate CWC compliance.

Russia will use its traditional playbook of attempting to delay or defeat any vote on Moscow’s chemical weapons use and may also attempt to negate the practical impact of OPCW actions by obfuscating and refusing to cooperate. But these votes are important markers to determine where OPCW member states stand on eliminating the use of chemical weapons. Even if the United States and its partners cannot obtain the necessary votes to pass these decisions, tabling them for a formal vote would force countries to be on the record regarding whether they prefer holding Russia to account. Formal votes would also serve to highlight those countries that choose to abstain rather than vote to uphold the CWC.

In the future, Washington or a U.S. ally could also request a “challenge inspection” of relevant Russian facilities, including undeclared facilities, a right the CWC endows to any state party. Doing so would make clear the seriousness surrounding Russia’s continued use of chemical weapons. Only an EC vote of three-quarters of member states, excluding the “requesting” and “inspected” states parties, could overturn a request.

Of course, Moscow can simply choose to ignore its legal obligations. It is also possible that a challenge inspection may not reveal anything if Moscow successfully relocates or hides its chemical weapons stockpiles and production capabilities beforehand. If Russia pulled off such a feat, Moscow could point to the fruitless investigation to claim exoneration, providing it with additional ammunition to disrupt and delegitimize the OPCW. Therefore, Washington and its OPCW allies should judiciously consider unintended effects and whether a challenge inspection will accomplish their aims.

Similarly, if OPCW member states seek to symbolically refer the Navalny matter to the UN Security Council, Russia would use its veto to block any UNSC sanctions for CWC non-compliance or chemical weapons use. A Security Council referral is therefore unlikely to have the desired effect.

Eventually, the United States and its partners may decide to bring before the OPCW bodies a decision on whether to admonish Russia by restricting and suspending its CWC rights and privileges, which would also pause its OPCW

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39. Secretary of State Antony Blinken, U.S. Department of State, Press Statement, “Imposing Sanctions on Russia for the Poisoning and Imprisonment of Aleksey Navalny,” March 2, 2021. (<https://www.state.gov/imposing-sanctions-on-russia-for-the-poisoning-and-imprisonment-of-aleksey-navalny/>); U.S. Department of State, Office of the Spokesperson, Fact Sheet, “U.S. Sanctions and Other Measures Imposed on Russia in Response to Russia’s Use of Chemical Weapons,” March 2, 2021. (<https://www.state.gov/u-s-sanctions-and-other-measures-imposed-on-russia-in-response-to-russias-use-of-chemical-weapons/>); U.S. Department of the Treasury, Press Release, “Treasury Sanctions Russian Officials in Response to the Novichok Poisoning of Aleksey Navalny,” March 2, 2021. (<https://home.treasury.gov/news/press-releases/jy0045>)

voting rights.⁴⁰ Since many states are against voting for moves that would upset Moscow or taking a position in what some view as “great power politics,” laying the groundwork to suspend Russia may take time and should be considered after first giving Moscow time to comply with member-state demands.

Suspending Russia could have the effect of pushing Moscow to leave the CWC, thereby easing the limited pressure Moscow now faces regarding its continued use and production of chemical weapons, as well as suspending the OPCW’s verification and monitoring mechanisms. However, if Russia does not comply with its CWC obligations and actively obstructs the work of the OPCW, there may be little practical value to retaining Moscow as a member. Unfortunately, given the duration of the OPCW’s experience with Syria, attempts to hold Russia accountable could drag on for many years. This becomes more likely if states abstain in votes and refuse to take a strong position or side with Moscow.

AMERICA’S RECOURSE

Washington should launch a concerted campaign to convince its partners and allies, as well as other states over which it has significant economic, military, or other influence, to vote at the upcoming CSP and EC meetings in favor of action against both Russian and Syrian violations. Specifically, the United States should urge habitual abstainers to come off the sidelines and vote against Moscow’s violations or those perpetrated by its client in Damascus. This will require high-level U.S. diplomatic engagement, such as calls by Secretary Blinken and National Security Advisor Jake Sullivan.

Following OPCW meetings, Washington should publicize problematic abstentions and pro-Russia votes. Those countries must be named and shamed for failing to uphold international norms and laws against the use of chemical weapons.

While the CSP may not be ready to suspend Moscow, Washington should lead the push for a decision restricting and suspending Syria’s OPCW rights and privileges. Such a move could also help build support for an eventual suspension of Russia if Moscow continues to undermine the OPCW rather than upholding its legal obligations as a CWC signatory.

Washington can amplify its multinational outreach by coordinating with its closest OPCW partners. The United Kingdom, for example, has been strong OPCW ally, pushing for special EC sessions following Syria’s continued chemical weapons use, Moscow’s attack in Salisbury, and North Korea’s 2017 assassination of Kim Jung Un’s half-brother in Malaysia using a VX nerve agent. France and Germany have also been important partners.

The United States should urge the OPCW’s director-general to assume more responsibility when faced with compliance failures. One model is the diplomatic effort pursued by the director-general of the International Atomic Energy Agency (IAEA). During compliance crises, the director-general and other IAEA staff personally meet with offending countries’ highest-ranking officials to push for commitments to redress the matters. The IAEA director-general also speaks openly but diplomatically to the media about compliance concerns.

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⁴⁰. Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons, Paris, January 13, 1993, Article XII. (<https://www.opcw.org/chemical-weapons-convention/articles/article-xii-measures-redress-situation-and-ensure-compliance>)

The OPCW's director-general must assume a more public role, and the United States should support future candidates who pledge to do so. The next election for director-general will occur in the fall of 2021, with a new director-general assuming leadership in mid-2022. Washington and its partners should identify and support the best candidate.

Given that Russia may stymie OPCW accountability measures, America and its allies and partners must consider other ways to prevent revisionist states from stockpiling or using chemical weapons. They can support efforts at the OPCW with multilaterally negotiated penalties and unilaterally imposed sanctions, as the United States, United Kingdom, and European Union did after the Salisbury and Navalny attacks. Recent initiatives, such as the International Partnership Against Impunity for the Use of Chemical Weapons, may also enable the United States and its partners to coordinate sanctions efforts with smaller states.

Secretary Blinken recently called for “no impunity” for Russia’s and Syria’s use of chemical weapons. He stated, “We must preserve international law against the use of chemical weapons – or we risk normalizing their use.”⁴¹ Blinken’s statement, as well as others by Biden administration officials, signal a determination to prevent future chemical weapons attacks. Their words must now be matched by deeds. A key element of the U.S.-led international order is at stake.

CMPP values diversity of opinions and the independent views of scholars, fellows, and board members. The views of the author do not necessarily reflect the views of FDD, its staff, or advisors.

This report was updated on April 12, 2021, to clarify that abstentions in the OPCW’s Conference of States Parties do not count toward the two-thirds majority needed to pass decisions in that body.

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41. Secretary of State Antony Blinken, U.S. Department of State, “Secretary Blinken’s Remarks to the Conference on Disarmament,” February 22, 2021. (<https://www.state.gov/video-remarks-to-the-conference-on-disarmament/>)

APPENDIX 1: OPCW VOTE RECORDS BY COUNTRY

Country	Abstentions in CSP	Adverse Votes in CSP	Absentions in EC	Adverse Votes in EC
Afghanistan	5			
Algeria*	7	6	10	3
Angola	1	7		
Argentina*			5	
Armenia		8		
Azerbaijan		5		2
Bangladesh*	5		5	1
Belarus		14		
Benin	4			
Bhutan	4			
Bolivia	1	13		
Bosnia & Herzegovina	6			
Botswana		1		
Brazil*	7		8	
Brunei	4			
Burkina Faso	8			
Burundi		12		
Cambodia	1	6		
Cameroon*	4		4	1
Chile*			2	
China*		15		13
Comoros		7		
Congo		7		
Cuba		14		
DR Congo		3		
Ecuador	7			
El Salvador*	7		2	
Eritrea		2		
Eswatini	2			
Ethiopia	8			
Ghana*	4		3	1
Guatemala*	1	1	1	
India*	4	5	10	2
Indonesia	4	1	3	
Iran*		15		13
Iraq	7		7	
Japan*			1	
Jordan	8			
Kazakhstan		14		
Kenya*	6	1	11	2
Kyrgyzstan		8		

Country	Abstentions in CSP	Adverse Votes in CSP	Absentions in EC	Adverse Votes in EC
Laos	1	13		
Lebanon	1			
Libya	4			
Malaysia	7			
Mexico*			1	
Mongolia	7	1		
Morocco*	1		4	
Mozambique	1	7		
Myanmar		15		
Namibia		1		
Nepal	8			
Nicaragua		15		
Nigeria*	4		6	1
Pakistan*	1	10	9	4
Palestinian Authority		8		
Panama			1	
Peru*			2	
Philippines*	7	1	5	
Russia*		15		14
Rwanda	1			
Saudi Arabia*			4	
South Africa*	1	12	10	2
South Korea*			1	
Senegal*	4		4	1
Sri Lanka	8			
Sudan*		14	6	3
Suriname	7			
Sweden	1			
Syria		15		
Tajikistan		14		
Thailand	6			
Togo	1			
Tunisia	4			
UAE*			2	1
Uganda	8	1		
Uzbekistan		14		
Vietnam	4	7		
Venezuela		15		
Zimbabwe		8		

Asterisks (*) denote current EC member states as of March 2021