



Council of the
European Union

Brussels, 16 April 2018
(OR. en)

7862/18

CONOP 30
CODUN 16
CSDP/PSDC 174

OUTCOME OF PROCEEDINGS

From:	General Secretariat of the Council
To:	Delegations
No. prev. doc.:	7778/18 CONOP 29 CODUN 14 CSDP/PSDC 167
Subject:	Council Conclusions on chemical disarmament and non-proliferation with a view towards the Fourth Special Session of the Conference of the States Parties to Review the Operation of the Chemical Weapons Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, The Hague, 21-30 November 2018

Delegations will find in the Annex the Council Conclusions on chemical disarmament and non-proliferation with a view towards the Fourth Special Session of the Conference of the States Parties to Review the Operation of the Chemical Weapons Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, The Hague, 21-30 November 2018, adopted by the Council at its 3613rd meeting held on 16 April 2018.

Council Conclusions on chemical disarmament and non-proliferation with a view towards the Fourth Special Session of the Conference of the States Parties to Review the Operation of the Chemical Weapons Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction, The Hague, 21-30 November 2018

1. The European Union stands united in its support for the total prohibition and elimination of chemical weapons worldwide. The Council strongly believes that use of chemical weapons, including the use of any toxic chemicals as weapons, by anyone, be it a State or a non-State actor, anywhere, and under any circumstances is abhorrent and must be rigorously condemned. The use of chemical weapons is unacceptable, constitutes a breach of international law and may amount to a war crime or a crime against humanity. There can be no impunity and those responsible for such acts must be held accountable. The most recent reports from Syria, which are truly shocking and must be urgently and independently investigated, only serve to reinforce our shared determination.

2. The Council considers the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (CWC), which entered into force on 29 April 1997, to be a key disarmament and non-proliferation instrument, the integrity and strict application of which must be fully guaranteed in order to participate in safeguarding international peace and security. In this regard, the EU recalls the importance of full observance of the CWC and the vital role the Organisation for the Prohibition of Chemical Weapons (OPCW), established pursuant to the CWC, plays in its implementation. All EU Member States are States Parties to the CWC.

3. The Council considers that the CWC has proven to be a very successful instrument in that near universal accession has been achieved and most possessor States have already destroyed their declared chemical weapons stockpiles while the remaining one is making progress to this effect. At the same time, and while destruction remains a priority for the OPCW, new challenges and threats present themselves to which the OPCW must adapt itself to preserve and protect the integrity of the CWC and prevent the re-emergence of CW.
4. The Council finds it deeply shocking that the international community is still confronted with the use of chemical weapons, as confirmed by the OPCW FFM and the 2013 UN report pursuant to the Secretary-General's Mechanism. The Council reiterates its strong condemnation of the use of chemical weapons by the Syrian Arab Republic and the Islamic State in Iraq and the Levant (ISIL) as confirmed by the OPCW-UN Joint Investigative Mechanism (JIM) in its reports issued in 2016 and 2017 and condemned by the Executive Council in 2016 in its decision EC-83/DEC. The reports of the Declaration Assessment Team show that the Syrian declaration cannot be fully verified as accurate and complete in accordance with the CWC. The use of the nerve gas sarin by the Syrian Arab Republic in Khan Shaykhoun, Syria, on 4 April 2017, indicates that Syria has failed to fully dismantle its chemical weapons programme and is willing to continue using chemical weapons.

5. The Council strongly supports the view that those individuals, entities, groups or governments responsible for such illegal and abhorrent acts must be identified and held to account. The High Representative, Vice-President Frederica Mogherini, has made numerous statements to this effect. The Council deeply regrets that the mandate of the JIM, established by UNSC Resolution 2235 (2015) to identify perpetrators of chemical attacks, has not been renewed in November 2017. Restoring an independent mechanism for attribution is particularly important in this regard. To underline its strong conviction that it is the international community's responsibility to identify and hold accountable perpetrators of any chemical weapon attack, the European Union was present at the Launching Conference of the International Partnership against Impunity for the Use of Chemical Weapons held in Paris on 23 January 2018, which aims to support and complement the relevant multilateral mechanisms.

6. On 22 March 2018, the European Council condemned in the strongest possible terms the attack against Sergei and Yulia Skripal on 4 March 2018 in Salisbury, expressed its deepest sympathies to all whose lives have been threatened and lent its support to the ongoing investigation. It agreed with the United Kingdom government's assessment that it is highly likely that the Russian Federation is responsible and that there is no plausible alternative explanation. We stand in unqualified solidarity with the United Kingdom in the face of this grave challenge to our shared security. Member States will coordinate on the consequences to be drawn in the light of the answers provided by the Russian authorities. Against this background, the European Union must strengthen its resilience to Chemical, Biological, Radiological and Nuclear-related risks, including through closer cooperation between the European Union and its Member States as well as NATO.

7. The Council believes that close engagement of the OPCW with other International Organisations, the chemical industry, academia and civil society on a regular basis is beneficial for the work of the OPCW. Therefore, the EU is of the firm opinion that ECOSOC accredited NGOs should be given access to the annual and review Conferences of the OPCW.
8. On 17 November 2003, the Council adopted Common Position 2003/805/CFSP on the universalisation and reinforcement of multilateral agreements in the field of non-proliferation of weapons of mass destruction and means of delivery. Under that Common Position, the CWC is included as one of those multilateral agreements.
9. On 12 December 2003, the Council adopted the EU Strategy against Proliferation of Weapons of Mass Destruction, which reaffirms the commitment of the Union to the multilateral treaty system and underlines, inter alia, the crucial role of the CWC and the OPCW in creating a world free of chemical weapons.
10. On 28 April 2004, the United Nations Security Council unanimously adopted Resolution 1540 (2004), reaffirming that the proliferation of weapons of mass destruction and their means of delivery as a threat to international peace and security. Subsequently, the Security Council adopted Resolutions 1673 (2006), 1810 (2008) and 1977 (2011), which reiterated the objectives of Resolution 1540 (2004) and expressed the interest of the Security Council in intensifying its efforts to promote full implementation of that Resolution. Implementation of the CWC and implementation of Resolution 1540 (2004) and subsequent related Resolutions are mutually reinforcing.

11. The Council warmly welcomes the comprehensive review process in 2016 of UN Security Council Resolution 1540 (2004) whose centrality, importance and authority was reaffirmed by UN Security Council Resolution 2325 (2016) and reiterates its view that continued vigilance by all States is required to prevent and deter non-State actors from obtaining weapons of mass destruction, their means of delivery or related materials. The latest EU Council Decision, adopted on 11 May 2017, provides further assistance to interested States to enhance their national capabilities in implementing UNSCR 1540 (2004) and to facilitate greater cooperation among all relevant stakeholders.
12. On 19 November 2012, the Council of the European Union adopted Council Decision 2012/712/CFSP relating to the 2013 Review Conference of the Convention on the Prohibition of the Development, Production, Stockpiling and Use of Chemical Weapons and on their Destruction (CWC).
13. On 8 September 2006, the UN General Assembly adopted the Global Counter-Terrorism Strategy in which the States Members of the UN resolved, inter alia, to implement all UN Security Council Resolutions related to international terrorism and to cooperate fully with the counter-terrorism subsidiary bodies of the Security Council in the fulfilment of their tasks. The Council welcomed this Strategy, which also encouraged the OPCW to continue its efforts, within its mandate, in helping States to build capacity to prevent terrorists from accessing chemical materials, to ensure security at related facilities, and to respond effectively in the event of an attack using such materials. In this regard, the Council welcomes the decision “Addressing the Threat Posed by the Use of Chemical Weapons by Non-State Actors” taken by the Executive Council of the OPCW on 13 October 2017.

14. The Council welcomes the adoption on 4 December 2017 by the UN General Assembly of Resolution (A/RES/72/43) on the Implementation of the CWC.
15. The Council stresses the imperative of ensuring the high level representation and effective protection of the EU's interests on chemical issues in international fora and in particular within the OPCW. To this end, the Council recalls that it is essential that all relevant EU actors, including the EEAS, continue their active engagement with and representation at the OPCW.

Position of the European Union relating to the Fourth Special Session of the Conference of the States Parties to Review the Operation of the CWC, The Hague, 21-30 November 2018

16. The Council welcomes the upcoming Fourth Special Session of the Conference of the States Parties to Review the Operation of the Chemical Weapons Convention (hereinafter “the Fourth Review Conference”) to take place in The Hague on 21-30 November 2018, which represents an opportunity to review the progress of the implementation of the CWC and to help defining future priorities for the OPCW in the upcoming years.
17. The Council considers that the Review Conference should have the ambition to ensure the relevance and increase the effectiveness and capacity of the CWC, including to address current and future challenges.

18. The Council will contribute constructively to a consensus outcome of the Fourth Review Conference of the CWC during 2018, while pursuing the following key objectives to be reflected in the Review Conference outcome document, under the broader chapeau of strongly highlighting the non-use norm, the integrity of CWC/OPCW and accountability:
- a) to strengthen the CWC by building on the progress achieved so far in destroying declared stockpiles of chemical weapons and the prevention of their re-emergence, through inter alia enhancement of the CWC's verification regime, improvement of national implementation as well as efforts towards achieving universality and giving adequate attention to the issue of chemical security and safety;
 - b) to strengthen the CWC by considering ways and means to deal with the use of chemical weapons in violation of the Convention;
 - c) to strengthen the CWC by ensuring effective implementation of the CWC in light of the changing security environment and developments in the global chemical industry and in science and technology, and by emphasising that the Fourth Review Conference should provide political support and broad guidance for the work to be undertaken in the inter-sessional period on the future priorities of the OPCW;
 - d) to contribute to a full review of the operation of the CWC taking into account in particular scientific and technological developments including convergence of chemistry and biology, new production technologies and in verification instrumentation, as well as building a solid foundation for addressing future challenges that the CWC will face;
 - e) to promote, inter alia, the following essential issues:

- (i) reaffirmation of the comprehensive nature of the prohibition of chemical weapons as laid down in the General Purpose Criterion by:
 - i. reconfirming that the CWC's prohibitions apply to any toxic chemical, except where such chemical is intended for any purpose not prohibited by paragraph 9 of Article II and as long as the types and quantities are consistent with such a purpose, and thus take into account the developments in science and technology since the Third Review Conference in 2013,
 - ii. underlining the obligation of States Parties to reflect the General Purpose Criterion in their national implementation legislation and administrative enforcement practice.
- (ii) emphasis on the full and timely implementation by the States Parties of all declaration obligations under Article III, especially those relating to chemical weapons, and including also those relating to riot control agents;
- (iii) development and implementation by the CWC Technical Secretariat ("Technical Secretariat") of targeted, tailor-made approaches on achieving the universality of the CWC, in close coordination and cooperation with States Parties;

- (iv) reaffirmation of the obligation of a chemical weapons possessor State to destroy its chemical weapons and recognition of the achievements so far in eliminating chemical weapons through:
- iii. welcoming the efforts undertaken and the progress made by possessor States to destroy declared stockpiles and highlighting the fact that we are well under way towards a world free of chemical weapons;
- iv. recognising the successful resolution of the issue of the final extended deadline for the destruction of chemical weapons by possessor States;
- v. calling upon chemical weapons possessor States to complete destruction of their chemical weapons stockpiles in accordance with the CWC and its Verification Annex as well as the decision of the Sixteenth Session of the Conference of the States Parties on the issue of the final extended deadline for destruction of the remaining stockpiles;
- vi. reiterating the importance of systematic verification of destruction by the Technical Secretariat as prescribed by the CWC and its Verification Annex;

- vii. emphasising that expertise and capacity to deal with chemical weapons, old chemical weapons and abandoned chemical weapons should be retained, and that the OPCW must also continue to develop expertise necessary to deal with modern day challenges in the new security environment;
- (v) strengthening the verification regime with regard to activities not prohibited under the CWC, with a view to strengthening prevention of re-emergence of chemical weapons by:
- viii. highlighting the obligation of all States Parties to submit adequate and timely declarations under Article VI and encouraging them to use the SIX system ;
- ix. conducting a sufficient number of inspections under Article VI with appropriate geographical coverage and frequency, in accordance with the agreed guidelines;
- x. increasing the relevance of inspections under Article VI to the object and purpose of the CWC and ensuring effective site selection, including through the evaluation of the results of the interim Other Chemical Production Facilities site selection methodology and through a risk-based approach;
- xi. improving the information basis for industry verification by, inter alia, encouraging the Technical Secretariat to use information already available, including information voluntarily submitted by States Parties and information from previous inspection reports as well as appropriate publicly available information;
- xii. emphasising that the Schedules of Chemicals ('Schedules') of the CWC were designed primarily for the application of different verification measures;
- xiii. maintaining the relevance of the Schedules in light of developments in science and technology by, inter alia, examining the merits of reviewing the Schedules at regular intervals between Review Conferences;

- xiv. promoting further engagement and interaction with the chemical industry and supporting the Technical Secretariat's efforts in that direction;
 - xv. considering additional quality and efficiency measures for the inspection process, such as appropriate increases in the flexibility and the streamlining of the conduct of inspections;
 - xvi. reflecting on the need to keep the OPCW capable of undertaking its duties effectively by providing it with the human and financial resources required including maintaining an adequate verification expertise.
- (vi) continuous improvement of national implementation measures, recalling that full implementation of the obligations of Art. VII by the States Parties that have yet to adopt domestic legislation covering all initial measures and additional measures, and compliance with Article VII, are vital for the present and future effectiveness of the CWC regime, including through:
- xvii. adopting a targeted and tailor-made approach to encourage and assist States Parties which have yet to adopt comprehensive national implementing legislation;
 - xviii. offering assistance to States Parties in need, as exemplified by the Joint Actions and Decisions adopted by the Council of the European Union in support of OPCW activities and in particular to the Africa Programme;
 - xix. taking advantage of the capacity building services provided by the Technical Secretariat (supported also by the European Union) and other initiatives (e.g. the Mentorship Programme) focused in particular on the Africa Programme;
 - xx. strengthening national export and import controls which are required to prevent the acquisition of chemical weapons, and improving the OPCW's capability to assist with the establishment of national mechanisms for control of international transfers;

- xxi. implementing appropriate measures to enhance chemical safety and security ensuring the safety of people and protecting the environment;
 - xxii. developing synergies between the OPCW and other relevant international organisations to support implementation and capacity building. The OPCW should continue to engage industry and other concerned stakeholders to advance and promote the goals of the Convention, e.g. by improving the verification process. The OPCW should support the promotion of best practices in the enhancement of safety and security at chemical facilities. In this respect the role of the Scientific Advisory Board should be reviewed;
 - xxiii. reviewing the mechanisms of the Convention aiming at preventing the re-emergence of chemical weapons, taking into account scientific and technological advances in chemistry and biology, including possible consequences of the convergence of chemistry and biology.
- (vii) implementation of the provisions of the CWC on consultations, cooperation and fact-finding, in particular the challenge inspection mechanism which remains a viable and usable tool of the OPCW's verification regime, stressing the legal right of States Parties to request a challenge inspection without prior consultation and encouraging the use of the mechanism as required for clarifying and resolving any questions concerning possible non-compliance with the CWC; in this respect, underlining the importance of the Technical Secretariat maintaining and further developing the technical capabilities, expertise and necessary preparedness to conduct challenge inspections as well as the obligation of States Parties to continuously be ready and able to receive challenge inspections;

- (viii) continued strong support of OPCW activities related to assistance and protection, in particular retaining the OPCW's capabilities and expertise and enhancing the capacity of the Technical Secretariat and the States Parties to prevent, respond to and mitigate misuse or attacks involving toxic chemicals, notably by:
- xxiv. underlining the importance placed on the Technical Secretariat developing a strategic plan to implement Art X (Assistance and Protection) of the CWC and for this to be agreed by the States Parties, with regular evaluation made of its implementation, and efficient best use of resources to ensure value for money;
- xxv. encouraging all States Parties to submit adequate and timely information about National protective programmes under Art X as required by the CWC
- xxvi. encouraging States Parties to increase offers of assistance;
- xxvii. emphasising the importance of the Technical Secretariat retaining and enhancing up to date capabilities and expertise, as well as maintaining and further developing the necessary preparedness to conduct investigations of alleged use, to operate in hazardous environments, to support States Parties in an appropriate Assistance and Protection response, and to provide appropriate support to States Parties facing increased risk of chemical attack;
- xxviii. underlining the importance of continued OPCW support for national, regional and sub-regional protective programmes, and of enhancing the ability of the OPCW to encourage and mediate offers of expertise and assistance;
- xxix. underlining the importance of continued OPCW support for effective command and control training for national first responders to ensure that any case of chemical weapons use, or potential chemical weapons use, is dealt with appropriately and promptly;

- xxx. encouraging increased cooperation with regional and sub-regional organisations, including by taking part in international efforts to establish regional centres of excellence for assistance and protection;
- xxxi. ensuring that there is effective coordination, within the Technical Secretariat and with external stakeholders, on work being undertaken under Articles VII and XI to maximise efficiency and ensure the best use of resources;
- xxxii. developing further the Instructor Exchange and Development Programme put in place since the Third Review Conference and encouraging further exchange of expertise to raise regional awareness, fostering analysis of chemical risks and threats;
- xxxiii. requesting the Technical Secretariat to enhance its cooperation with other relevant international organisations on emergency response to the use or threat of use of chemical weapons, including with respect to co-operation with the UN in relation to investigation of possible use of chemical weapons;
- xxxiv. working to strengthen the role of, and interaction with, chemical industry, academia and civil society in terms of the peaceful uses of chemistry and to raise public awareness through education and outreach. The role and contribution of the Advisory Board on Education and Outreach should be evaluated and its focus on practical outcome-focused activity enhanced;
- xxxv. proposing ways to maintain the OPCW as a centre of knowledge on chemical weapons issues in the broadest sense;
- xxxvi. considering ways of enhancing the OPCW's ability to deal with conflict and post-conflict situations involving chemical weapons and to this end drawing on lessons learned from the elimination of the declared Syrian chemical weapons programme, the removal and destruction of the remaining Libyan precursor chemical weapons, and the completion of the destruction of chemical weapons remnants in Iraq;

xxxvii.developing further the Rapid Reaction Assistance Mission (RRAM).

(ix) fostering international cooperation in accordance with the CWC by:

xxxviii.making use of concrete and practical proposals which take account of existing initiatives, as exemplified by the Joint Actions and Decisions adopted by the Council of the European Union, in particular proposals concerning issues such as chemical safety and security and the management of chemicals, in accordance with the decision on Article XI taken by the Sixteenth Session of the Conference of the States Parties;

xxxix.encouraging the Technical Secretariat to assist States Parties in implementing their national obligations through tailored and sustainable technical assistance, in order to facilitate enhanced international cooperation in the field of chemistry;

xl. encouraging the Technical Secretariat to work in collaboration with other organisations in this field, to avoid unnecessary duplication and encouraging the Technical Secretariat to evaluate its programmes in line with best RBM practice to ensure that they are effective, sustainable and results focused;

xli. encouraging the OPCW to provide a forum for consultation and cooperation among States Parties.

(x) enhancement of the OPCW's contribution to global counter-terrorism efforts by:

xlii. continuing and intensifying work in the OPCW Open-Ended Working Group on Terrorism and the Sub Working Group on the role of the Non-State Actors;

- xlili. in an environment of increased security challenges, including in particular the threat of use of chemical weapons by non-state actors including terrorists, exploring ways to better respond to these and other security issues, such as non-state actors access to chemicals of concern and the means to produce and transfer such chemicals that affect the implementation of the Convention;
- xliv. reflecting on OPCW's capacity to respond at short notice to emergencies and deploy the necessary staff. Lessons learned from the Syria operation should be used as guidelines in this respect, especially as to the functioning of the Fact Finding Mission (FFM) and the Declaration Assessment team (DAT). Experience gathered from the Libya operation should also be taken into consideration;
- xlv. emphasising compliance with obligations under UN Security Council Resolution 1540 (2004) as well as other relevant UN Resolutions, in particular to call for practical cooperation between the OPCW and relevant organisations with the aim of eliminating the risk of chemical weapons being acquired or used for terrorist purposes, including possible terrorist access to materials, equipment and knowledge that could be used in the development and production of chemical weapons;
- xlvi. implementing and making best use of the decision "Addressing the Threat Posed By the Use of Chemical Weapons by Non-State Actors" taken by the Executive Council of the OPCW on 13 October 2017;
- xlvii. underlining the need to work towards strengthening global chemical safety and security and the national control of international transfers, including assisting States Parties with the implementation of practical and targeted measures, which at the same time could contribute to enhancing peaceful use of chemistry as well as assistance and protection.

(xi) maintaining the OPCW as a centre of knowledge on chemical weapons issues in the broadest sense and enhancing OPCW's robustness by continued contribution to maintaining the professional, objective, and up-to-date capacity of the Technical Secretariat through, including, consistent recruitment and promotion policies based on merit with ensuring geographical and gender balance, and improvement of the tenure policy.

19. The Council supports the following actions to be taken by the European Union regarding the aforementioned purposes:

(a) Where appropriate, demarches:

1. With a view to promoting universal accession to the CWC;
2. To promote effective national implementation of the CWC by States Parties according to Art. VII;
3. To urge States Parties to support and participate in an effective and complete review of the operation of the CWC and thereby reiterate their commitment to this fundamental international norm against chemical weapons;
4. To promote agreed EU proposals aimed at further strengthening the CWC;
5. To promote visibility of EU action in support of the CWC.

(b) Statements and working papers in the run-up to and during the Fourth Review Conference for consideration by States Parties;

(c) Support to the participation in the preparatory works and attendance by representatives of International Organisations, the chemical industry, academia, and civil society, including relevant NGO's, at the Fourth Review Conference.

EU actions in support of the CWC and the OPCW

20. On 22 November 2004, the Council adopted the first Joint Action 2004/797/CFSP on support for OPCW activities in the framework of the implementation of the EU Strategy against proliferation of Weapons of Mass Destruction. That Joint Action was followed by Council Joint Action 2005/913/CFSP adopted on 12 December 2005, Council Joint Action 2007/185/CFSP adopted on 19 March 2007, Council Decision 2009/569/CFSP adopted on 27 July 2009, Council Decision 2012/166/CFSP, adopted on 23 March 2012, Council Decision 2015/259/CFSP adopted on 17 February 2015, Council Decision 2015/2215/CFSP adopted on 30 November 2015 in support of UN Security Council Resolution 2235 (2015), Council Decision 2017/1252/CFSP adopted on 11 July 2017 in support of the strengthening of chemical safety and security in Ukraine in line with the implementation of United Nations Security Council Resolution 1540 (2004) on the non-proliferation of weapons of mass destruction and their means of delivery, Council Decision 2017/2303/CFSP adopted on 12 December 2017 in support of the continued implementation of UN Security Council Resolution 2118 (2013), OPCW Executive Council decision EC-M-33/DEC.1 on the destruction of Syrian chemical weapons and Council Decision 2017/2302/CFSP adopted on 21 December 2017 in support of the OPCW activities to assist clean-up operations at the former chemical weapons storage site in Libya that were complemented by bilateral support from EU Member States. The European Commission has contributed to the OPCW operations for the elimination of the Syrian chemical weapons programme with two actions in 2013 and several EU Member States have also made contributions in support of the OPCW's missions related to Syria.
-