



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). Syrian government forces have **used** the nerve agent sarin and chlorine bombs dozens of times since 2013 in that country's civil war. The Islamic State used mustard gas in northern Iraq in 2015 and 2016. North Korean agents **used** the nerve agent VX to assassinate Kim Jong Nam, the half-brother of the North Korean leader, at the Kuala Lumpur International Airport in February 2017. Russian agents **used** the Soviet-developed "Novichok"-class nerve agent in an attempted assassination of a former Russian spy Sergei **Skripal** in the United Kingdom in March 2018. Russian opposition figure Alexei Navalny was also poisoned with a Novichok nerve agent in August 2020.

Prior to the Syrian civil war, there had been no major use of chemical weapons 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.

The Organization for the Prohibition of Chemical Weapons (OPCW), originally established to oversee the destruction of chemical weapons stocks under the CWC and promote the safe and peaceful use of chemicals, now has additional challenges and responsibilities. Article X of the CWC provides the OPCW authority to investigate and assist with reported incidents of CW use.

After the use of nerve agent on its territory, the UK called for a Special Session of the OPCW Executive Council in June 2018 to highlight the gravity of chemical weapons use and to call for giving investigators the mandate to attribute an attack when possible. CWC member states approved a decision that granted the OPCW the added **authority** to attribute chemical attacks under investigation. In addition, the CWC states in November 2019 **adopted** two decisions that **amended** Schedule 1 of the CWC's Annex on Chemicals, adding two classes of nerve agents developed during the Cold War—the Novichok class of nerve agents as well as some carbamate compounds to the schedule, subjecting them to the CWC's declaration requirements and other restrictions. Use of Novichok and carbamate compounds as a weapon was already prohibited under the CWC.

The most recent incident, the poisoning of Russian opposition figure and corruption investigator Alexei Navalny in Tomsk, Russia, on August 20 again highlights the challenge of responding to CW use.

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Navalny was med-evacuated to Germany on August 22 for treatment. The German Prime Minister Angela Merkel [stated](#) on September 2, “Alexei Navalny was the victim of an attack with a chemical nerve agent from the Novichok group.” The White House National Security Council twitter feed [stated](#), “We will work with allies and the international community to hold those in Russia accountable, wherever the evidence leads, and restrict funds for their malign activities. The Russian people have a right to express their views peacefully without fear of retribution of any kind, and certainly not with chemical agents.” [NATO](#) countries on September 4 strongly condemned the attack and called on Russia to cooperate with an OPCW investigation into the matter and to disclose the Novichok program in full. Russia is a party to the CWC.

The Director General of the OPCW Fernando Arias [said](#) on September 3 that under the CWC, “any poisoning of an individual through the use of a nerve agent is considered a use of chemical weapons,” and the organization would respond to any requests for assistance. Under Article 9, CWC states may request challenge inspections at facilities in member states suspected to be in violation of the convention. To date, the CWC challenge inspection provision has never been invoked. Articles 9 and 10 of the CWC provide for investigations into use of chemical weapons on the territory of a CWC State Party.

The OPCW could potentially investigate the Navalny poisoning as it has done in other recent cases. The OPCW [assisted](#) the Malaysian government in its investigation of the February 2017 use of VX there. OPCW Technical Assistance Visit (TAV) teams also aided Iraqi security forces’ investigations and [confirmed](#) after a June 2017 visit that a non-state actor had used sulfur mustard blister agent in northern Iraq. At the UK government’s request, the OPCW sent a TAV team to assist with the 2018 investigation of the Skripal poisoning in Salisbury. A second OPCW TAV returned when two other UK citizens, one deceased, were contaminated by the nerve agent. OPCW inspectors [concurred](#) with the UK technical analysis of Novichok use in Salisbury. The OPCW has sent multiple investigatory teams to [Syria](#): a Declaration Assessment Team (DAT), to verify Syrian government compliance with the CWC; a Fact-Finding Mission (FFM), tasked with confirming reported incidents of CW use; a UNSC-authorized Joint Investigative Mechanism until 2017; and the OPCW Investigation and Identification Team (IIT) established in 2018.

Recent CW use by Syria, North Korea, and Russia has triggered U.S. [sanctions](#) under the Chemical and Biological Weapons Control and Warfare Elimination Act of 1991 (CBW Act), which requires a determination of use. The U.S. State Department [determined](#) that North Korea’s government ordered the VX attack in 2017 in Malaysia. The U.S. also [concurred](#) with the UK that Russia was responsible for the Salisbury attack in violation of the CWC in 2018. [Sanctions](#) under the CBW Act were imposed on Russia, but waivers were invoked by the Trump Administration.

Congress may wish to 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.

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