

Briefing Memo

The Chemical Weapons Convention and the Use of Chemical Weapons in Syria

Kiwako Tanaka

Research Fellow

Society and Economy Division, Security Studies Department

Introduction

On August 21, 2013, the alleged use of chemical weapons against the population during the Syrian turmoil was highly publicized worldwide. Syria was at that time only one of seven countries not to have joined the Chemical Weapons Convention (CWC). In reaction to this incident, US President Barack Obama initially suggested military intervention in Syria. However, eventually, Syria acceded to the CWC, and agreed to destroy its chemical weapons under the supervision of the Organisation for the Prohibition of Chemical Weapons (OPCW). This incident thrust chemical weapons under the spotlight in the international security scene, and the OPCW was awarded the Nobel Peace Prize. This paper begins by reviewing the international responses against the use of chemical weapons in Syria. It then outlines the characteristics of chemical weapons and highlights the significance of the CWC as their control regime.

The Use of Chemical Weapons in Syria

The Syrian turmoil broke out in March 2011. It was March 2013 when allegations of the use of chemical weapons were raised in Syria, and both the Assad regime and the opposing forces pointed the finger at each other. In response to the Assad regime's official request to United Nations (UN) Secretary-General Ban Ki-moon to investigate the alleged use of chemical weapons, a UN Mission was dispatched to Syria on August 18. Soon afterward, on August 21 the National Coalition for Syrian Revolutionary and Opposition Forces announced that the Syrian Army had used chemical weapons against around 1,000 citizens in more than 10 areas, including Ghouta near Damascus. In response, the UN Mission hastily shifted its investigation to Ghouta, and affirmed in its report that chemical weapons had been used there but did not explicitly mention who had used them. However, on August 30, prior to the publication of this report, the US Government had concluded from its own assessment that the Assad government had used chemical weapons.

The August 21 chemical attack was highly suspected to have been committed by the Assad regime, President Obama indicated that he would not hesitate to conduct a military intervention in Syria. Meanwhile, the UK Government, which had initially

sided with the US, changed its mind on August 30 after the British Parliament rejected the idea of a British military intervention in Syria. Labour Party and Opposition leader Ed Miliband stated that while the British people were deeply concerned about the use of chemical weapons in Syria, they preferred to work with the international community rather than rushing into war. Following the British decision, President Obama announced on August 31 that he would ask the US Congress if it would approve or disapprove US military intervention in Syria. The prevailing view was that he would not get support from Congress because the Democratic Party was divided in their views and the Republican Party, which had once proposed US intervention in Syria, would regard Obama's intervention plan as insufficient. Furthermore, while French President Francois Hollande said on August 30 that France, irrespective of the British decision, would pursue the realization of military intervention in Syria along with the US, the majority of French people were reportedly against it. President Hollande also requested the support of the 28 EU member countries, but the majority of the heads did not actively support it the proposed military intervention, and German Chancellor Angela Merkel stated that she would not support any military intervention at the early stage.

Russian President Vladimir Putin was critical of the proposed military intervention in Syria, and argued that Syria's chemical weapons should be destroyed under international supervision. It was reported on September 9 that he discussed the issue of placing Syria's chemical weapons under international control with President Obama, who was visiting Russia for a G20 Summit meeting. On the next day President Obama stated that he would withdraw a military attack plan against Syria if its chemical weapons were placed under international control. In addition, President Putin submitted an article to the *New York Times* on September 11, which suggested that anti-government forces might have used chemical weapons in Syria and appealed to US citizens that the issue should be managed in accordance with international law.

Eventually, the Assad government indicated its willingness to accede to the CWC, and consequently an agreement on the timeline to destroy Syria's chemical weapons under the supervision of the OPCW was reached at a meeting between US Secretary of State John Kerry and Russian Foreign Minister Sergey Lavrov held in Geneva, Switzerland on September 14. Syria, on the same day, deposited its instrument of accession to the CWC with the UN Secretary General. The timeline agreed upon by the US and Russia was adopted at a special meeting (the 33rd) of the OPCW Executive Council held on September 27 (EC-M-33/DEC.1, dated 27 September, 2013) and subsequently endorsed unanimously by the UN Security Council (S/RES/2118, dated 27 September, 2013). Hence, it was decided that the issue would be dealt with not through military intervention but by incorporating Syria into the framework of the CWC.

Through this decision-making process, the significance of multilateralism in responding to the issue of chemical weapons was seemingly proved. As President Assad stated in a Fox News interview on September 18, "What we have is not a civil war; what we have is a war, but it's a new kind of war," the Syrian situation could not simply be

resolved by an external military intervention. It is also said that, as many as 1,000 armed groups of various nationalities including neighboring countries are involved in the Syrian conflict. In addition, as the Russian Government asserted, chemical weapons were not only possessed by the Assad government but also possibly by anti-government forces, meaning that the weapons are easily proliferated. Thus, in order to respond to the use of chemical weapons in Syria, it is critical to bring Syria into the framework of the CWC, to destroy its chemical weapons, and to entirely prohibit the use of chemical weapon, instead of intervening militarily.

The Characteristics of Chemical Weapons

Chemical weapons were used widely during World War I, but the Vietnam War in the 1960s and the Iran-Iraq war in the 1990s were the two major inter-state wars in which chemical weapons were used after the World War II. During the Vietnam War, toxic chemical substances were used to rescue captured US soldiers, to prevent enemies from shooting near places where helicopters were to land, and to save women and children captured by the Viet Cong through underground tunnels. The US has claimed that the toxic chemicals were used to suppress riots, but not as “weapons”. Moreover, the use of chemical weapons in the Iran-Iraq war did not have a significant impact on the war; rather, they are considered to have served as part of a propaganda campaign by the Iranian government, which protested loudly against Iraq’s use of chemical weapons and thereby brought worldwide attention to the issue. Such cases illustrate how toxic chemical substances have been used for diverse purposes after World War II.

Furthermore, in the case of Syria, chemical weapons were allegedly used against its own citizens by a government that could not maintain public order and political stability, and not in an inter-state war. A similar instance was the government Iraqi government’s use of chemical weapons against its Kurdish residents in the northern town of Halabja in 1988. In addition, there were cases where a government used toxic chemical substances for a law enforcement purpose, but nonetheless injured its citizens. For example in 2002, a separatist militant movement from the Republic of Chechnya occupied a theater in Moscow, took the audience hostage, and demanded the withdrawal of the Russian army from Chechnya. To suppress this incident, the Moscow authority used special gas, killing all 42 militants as well as 129 hostages.

In addition to cases where toxic chemical substances were used by governments, there have also been criminal acts committed by terrorists and other non-state actors. Two sarin attacks in Japan in 1994 and 1995 are examples of such criminal acts by terrorists; the first occurred when the Aum Shinrikyo cult sprayed sarin gas to kill a judge who was in charge of a lawsuit demanding it to move out, causing eight deaths, and the second occurred on the Tokyo subway where sarin gas was diffused to disturb a criminal investigation against the Aum Shinrikyo and to disorder the Metropolitan area, causing 13 deaths. These criminal cases revealed that a chemist with ordinary skill and knowledge can produce chemical weapons easily, and that the

equipment to produce chemical weapons can be obtained easily.

As stated above, toxic chemical substances are now used for a wide range of purposes, not only as weapons for military purposes. In other words, with the advance of military technologies as well as the shifting security environment, toxic chemical substances now have a multi-use nature rather than simply have a dual-use (military v. non-military) nature.

The CWC's Efforts to Ban Chemical Weapons

The CWC, established in 1993, bans the use of these chemical substances which have various applications for destructive activities as weapons, and hence defines chemical weapons according to their intended purposes. That is, the CWC defines that chemical weapons mean “toxic chemicals and their precursors, except where intended for purposes not prohibited under this Convention, as long as the types and quantities are consistent with such purposes” (Article 2.1.(a) of the CWC). When intended purposes are diversified, the issue of how to ensure that a specific use is in accordance with the purposes not prohibited by the Convention arises. The CWC, therefore, obligates its member states to establish their domestic laws so that the obligations under the CWC shall also apply to activities of individuals as well as companies in their respective territories and under their respective jurisdiction. Furthermore, a detailed verification system has been established to secure member states' compliance to the CWC, and it also covers activities not prohibited under the CWC, such as industrial, agricultural, research, medical pharmaceutical or other peaceful purposes. If there is any suspicion about member states' compliance to the CWC, the CWC provides for a right for the member states to bring such suspicion to the attention of the UN Security Council and the UN General Assembly. At the same time, it has established a mechanism to conduct an inspection on the request of any member state, that is, a challenge inspection, in order to thoroughly reveal non-compliance to the CWC. By institutionalizing detailed mechanisms to ensure compliance of the member states, the CWC aims to realize its normative principles of the total ban of chemical weapons.

Syria was, until its ratification to the CWC on September 14, 2013, one of only seven countries not to have joined the CWC. Syria's ratification of the CWC and compliance to the obligations under it would not have only avoided further complication of Syrian turmoil by an external military intervention, but would help address the current chemical weapons issues and establish an international norm, which is a critical first step in the CWC's mission to completely eliminate chemical weapons.

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