



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** survived an August 2020 "Novichok"-class nerve agent poisoning, also likely **perpetrated** by Russian intelligence agents, according to the State Department. Prior to the Syrian civil war, there had been no major recent 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 the lack of accountability for such incidents undermines 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. States may request OPCW assistance in investigating cases of CW use. CWC states may also 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.

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.

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The most recent incident, the poisoning of Russian opposition figure and corruption investigator Alexei Navalny in Tomsk, Russia, in August 2020 again highlighted the challenge of responding to CW use. Navalny was med-evacuated to Germany on August 22 for treatment. 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 and 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.” The German government has [requested](#) technical assistance from the OPCW to help analyze evidence related to the Navalny case under Article 8 of the CWC. The OPCW outlined its investigation in an October 6 [statement](#) in which it concluded that a novichok-class agent was used. The Russian government requested that the OPCW send a technical assistance team to Russia. The OPCW has said it is [ready](#) to do so once legal requirements were met.

The OPCW has investigated other recent cases. It [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 for some categories. Members of Congress requested an investigation into the Navalny poisoning in a September 2020 [letter](#). On March 2, the Biden Administration [announced](#) additional sanctions against Russia for the use of a chemical weapon “against its own nationals, in violation of the Chemical Weapons Convention.” The Commerce Department added Russian, German, and Swiss chemical companies, as well as Russian Ministry of Defense facilities, to its [entity list](#), “based on their proliferation activities in support of Russia’s weapons of mass destruction programs.”

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 examine efforts to curb proliferation of CW-related material and technology, such as interdictions, international sanctions, and export-control assistance programs.

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