



What's In Blue

Syria: Vote on Two Draft Resolutions on the Joint Investigative Mechanism Renewal

Later today (16 November), the Security Council is expected to vote on two draft resolutions each of which would renew the mandate of the Joint Investigative Mechanism (JIM) of the Organisation for the Prohibition of Chemical Weapons (OPCW) and the UN, which ends on 17 November. At press time it did not seem likely that either of the two drafts in blue (one by the US and one by Russia) would receive the necessary Council support to be adopted. While the Russian draft is not expected to get nine votes, the US draft is likely to be vetoed by Russia.

There has been a great deal of activity around the renewal of the JIM and its final report in the last few weeks. The US put to a vote a resolution to renew the JIM with the same mandate for an additional year on 24 October, two days before the release of the JIM's final report. Russia vetoed the resolution arguing a need to evaluate the effectiveness of the JIM by assessing the final report before discussing its renewal. On 2 November, Russia and the US circulated competing drafts renewing the JIM's mandate. On 7 November, Edmond Mulet, head of the JIM's leadership panel, briefed the Council on its final report. During this briefing, the existing divisions in the Council were on full display. While most Council members, including the P3, publicly supported the conclusions of the JIM's final report attributing responsibility for the 15-16 September 2016 attack in Um Hawsh to the Islamic State in Iraq and the Levant (ISIL) and the 4 April 2017 attack in Khan Shaykhun to the Syrian government, Russia and others questioned its findings or highlighted areas where they felt the conclusions were not definitive. Russia has criticised the JIM for falling short of the standards of the Chemical Weapons Convention. In a 31 October letter, Ambassador Vassily Nebenzia raised questions about the JIM's conduct of investigations of incidents of alleged chemical use without on-site visits and criticised the non-observance of the chain of custody, the failure to use all available methods and methodologies of investigation, and the questionable credibility of the JIM's sources. These differences were reflected clearly in the US and Russian drafts circulated on 2nd November. The initial US draft characterised the information obtained by the JIM as constituting "sufficient, credible and reliable evidence to reach conclusions on those responsible for the use of chemical weapons" in Umm Hawsh and Khan Shaykhun, while the Russian text addressed the methodological concerns noted in Nebenzia's 31 October letter.

While Russia did not ask for a discussion on its draft, there were several rounds of negotiations on the US draft. In its draft, the US has attempted to address the concerns expressed by several Council members, including Russia. As a result, its draft takes note of the JIM's third, fourth and seventh reports instead of expressing grave concern at them; notes the Syrian request for both the OPCW Fact Finding Mission

(FFM) and the JIM to visit Khan Shaykhun; notes the importance of the JIM working in an independent, impartial and professional manner; and includes language encouraging the JIM to consult appropriate UN counter-terrorism and non-proliferation bodies in order to exchange information on attacks by non-state actors. The US draft also adjusted the initial renewal of the JIM from 24 to 12 months, and incorporated language from the Russian draft encouraging the JIM to inform the Council in case it is unable to safely access sites that it deems relevant to its investigation.

However, these changes do not appear to have been sufficient to address the concerns expressed by Russia, which circulated a new draft on 14 November. The draft that is now in blue supersedes an earlier draft circulated and put in blue by Russia last week which renewed the JIM for only six months. Presented as a compromise, this draft renews the JIM mandate for a year. It welcomes the “full and profound cooperation” extended by the Syrian government to the FFM and the JIM. Regarding the JIM reports it simply states the seventh and other reports of the JIM were considered, and requests the JIM to dispatch investigative teams to Khan Shaykhun and the Sha’yrat airbase. The draft text includes references to the criticisms regarding the chain of custody, remote investigations, evidentiary standards and professionalism previously highlighted by Russia and it places particular emphasis on the role of non-state actors. It requests the JIM to collect and analyse information on trends regarding use by non-state actors of chemical weapons, and to submit to the Council relevant analytical reports every three months.

On 31 October last year, when Council divisions previously threatened the JIM’s renewal, the US put to a vote a technical rollover resolution that was unanimously adopted. It extended the JIM’s mandate for two and a half weeks and allowed for more time for negotiations. Agreement was finally reached, and on 17 November 2016 resolution 2318 was adopted renewing the JIM for an additional year. Even though the uncertainty regarding the JIM’s future created difficulties in the planning and hiring of staff, which disrupted the JIM’s work for several months, it ensured its survival. At press time, it did not appear that any Council member had circulated an alternative draft that could preserve the mandate and allow the mechanism to continue.

Council dynamics in the negotiation process were dominated by the two original penholders who created the JIM in 2015: the US and Russia. The US has opposed language discrediting the previous work of the JIM, its independence and the professionalism of its staff. Russia has made clear its opposition to the current working methods of the JIM and refused to engage on a US draft that it argued did not address its concerns sufficiently. Even though elected members have been meeting regularly on this issue over the last few weeks, divergent views among them have prevented them from forming a unified front. While some considered that the E10 were well positioned to break the current impasse, others thought that tabling a third draft would undermine the then-ongoing negotiations on the US draft. Even though at least a couple of Council members tried to propose a compromise draft, it failed to secure the support of the US or Russia. Russia has publicly stated that it feels that it is important that the JIM be renewed but with an updated mandate. However, Russia’s rush to put its drafts in blue with no negotiation, even though it was well aware that the drafts would not be acceptable to most Council members, has led some Council members to question how serious it was about retaining the JIM.

Postscript: A procedural vote was called by Russia on the sequence of voting on the two draft resolutions after it had argued for having its draft resolution voted on after the US draft resolution. The vote was three in favour, seven against and five abstaining. Russia then withdrew its draft resolution. The vote on the US draft resolution was 11 in favour, two against (Bolivia and Russia) and two abstaining (China and Egypt), and it

was not adopted due to the veto by Russia. Following the vote on the US draft, Bolivia asked for a vote on the Russian draft. It received four votes in favour, seven against and four abstentions. and was not adopted as it did not receive the required nine votes. Following the vote on the Russian draft, Japan circulated a draft resolution that would roll over the mandate for a month. A vote was taken on the Japanese draft on 17 November. The vote was 12 in favour, two against (Bolivia and Russia) and one abstaining (China).

Tags: [Chemical weapons](#), [Insights](#), [Insights on the Middle East](#), [JIM](#), [Syria](#)
