

Syria: Vote on Competing Drafts*

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What's In Blue

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This afternoon (10 April), the Security Council is expected to meet to vote on possibly three draft resolutions: two competing drafts (by the US and Russia) aimed at establishing a UN Independent Mechanism of Investigation (UNIMI) and a Russian draft resolution regarding the investigation by the Organization for the Prohibition of Chemical Weapons (OPCW) into the reported use of chemical weapons in Douma in Eastern Ghouta on 7 April. The push for action on the draft resolutions establishing an investigation mechanism, which had been circulated earlier in the year, can be attributed to the alleged chemical attack in Douma, which was the subject of a Council meeting yesterday.

Establishing a new mechanism could fill the vacuum left by the failure to renew the mandate of the OPCW-UN Joint Investigative Mechanism (JIM), which attributed responsibility for the use of chemical weapons. While Council members are unified in condemning the use of chemical weapons and in stressing the need for a mechanism to hold those responsible accountable, they have well-known divisions regarding how to do so.

The Russian draft to establish a new mechanism was first circulated on 23 January. Council members met twice to discuss the draft earlier this year, but Russia did not revise it to address any of the issues raised by other Council members before putting it in blue in early March. The draft decides to establish the UNIMI for a period of one year from the date the Council approves the terms of reference recommended by the Secretary-General, in coordination with the OPCW. It urges the UNIMI to “fully ensure a truly impartial, independent, professional and credible way to conduct its investigations on the basis of credible, verified and corroborated evidence, collected in the course of on-site visits, and underlines that the Security Council will thoroughly assess the UNIMI’s conclusions”.

The draft does not appear to have support from the majority of Council members, who have raised concerns that it does not empower the proposed mechanism with the responsibility to assign accountability for the use of chemical weapons (instead leaving such decisions to the Council), and because it makes on-site visits a *sine qua non* for the reaching of conclusions. The Russian draft also stresses the need for UNIMI to establish its findings “beyond any reasonable doubt”. This raises the standard of proof previously required of the JIM which was that of “overwhelming”, “substantial” or “sufficient” evidence.

The US circulated an alternative draft in late February. Although it held several meetings with a select number of Council members, it only circulated an updated version to all fifteen members last week and held negotiations yesterday afternoon. The US draft would

also establish a UN Independent Mechanism of Investigation for one year, based on the recommendations provided by the UN Secretary-General, in coordination with the OPCW, “based on the principles of impartiality, independence and professionalism, to identify to the greatest extent feasible, individuals, entities, groups, or governments who were perpetrators, organizers, sponsors or otherwise involved in the use of chemical weapons, including chlorine or any other toxic chemical, in Syria”. The draft further acknowledges the dangers associated with investigating chemical weapon use in Syria. It highlights the importance of full coordination with the UN Department of Safety and Security and the OPCW, to ensure that the OPCW Fact Finding Mission (FFM) and UNIMI can safely travel to sites they deem relevant to their investigation, where there are reasonable grounds to believe access is justified, and when security conditions allow for safe access.

The US draft further condemns in the strongest terms the alleged use of chemical weapons in Douma and demands that all parties in Syria provide free and safe access without delay to any sites deemed relevant by the OPCW FFM. In an attempt to address some of the concerns expressed by Russia, the US deleted language specifying the obligations of Syria to provide information and be more transparent with the OPCW and the UN regarding air operations. This included access to flight plans and flight logs, names of all individuals in command of any helicopter squadrons, access to air bases from which the OPCW and the UN believe chemical weapons attacks may have been launched, and responding to meeting requests with generals and other officers. (Similar requests had been included in the draft resolution vetoed by Russia on 12 April 2017 regarding the Khan Shaykhun attack.)

Given current Council dynamics, it does not seem likely that either of these drafts could be adopted. In an attempt to find a compromise, ahead of yesterday’s meeting, Sweden circulated draft elements aimed at finding common ground in the Council for an outcome in support of the FFM investigation into the alleged chemical weapons incident in Douma.

This morning, Russia substantially amended those elements and presented them as a Russian draft, which it put in blue and requested that it be voted on after the other two. The amendments included a reference to the security assurances offered by the government of Syria and Russia to the FFM in accessing relevant locations in Douma. Language was removed regarding unfettered access of the FFM to individuals allegedly involved in the incident, as well as referring to measures in the event of non-compliance as per resolution 2118 and determining that the use of chemical weapons in Syria constitutes a threat to international peace and security. Even though Russia denied yesterday that chemical weapons had been used in Douma, the draft condemns the alleged use of “toxic chemicals as a weapon” in Douma.

Council members are also expected to address in their remarks and explanations of vote the prospect of action outside of the Council in the event of a veto. At yesterday’s meeting, US Ambassador Nikki Haley stated that “Russia’s obstructionism will not continue to hold us hostage when we are confronted with an attack like this one. The United States is determined to see that the monster who dropped chemical weapons on the Syrian people [is] held to account. You heard what the President of the United States has said about this.

Meetings are ongoing. Important decisions are being weighed even as we speak”. (President Trump indicated yesterday that he would make a decision on what action the US would take in the next 24 to 48 hours. Today he cancelled a trip abroad in order to follow closely developments in Syria.)

While Russia has expressed its intention to vote on its two drafts last, it is unclear whether that will be the case since it put its UNIMI draft in blue weeks ago (i.e. prior to the US draft). On 16 November 2017, as the Council was considering two competing drafts on the renewal of the JIM, a procedural vote was called by Russia on the sequence of voting. It argued for having its draft resolution voted on after the US draft resolution even though it was put in blue first. The vote was three in favour, seven against and five abstaining. Russia then withdrew its draft resolution. The US draft resolution was vetoed by Russia and then Bolivia asked for a vote on the Russian draft, which was put to a vote but failed to pass because the nine votes required to adopt it were not garnered.

*** Post-Script:** *The US draft was vetoed by Russia. It garnered twelve affirmative votes, two against (Bolivia in addition to Russia) and one abstention (China). This became the 12th veto on Syria since the beginning of the conflict.*

The Russian draft on UNIMI was not adopted because it only got six affirmative votes (Bolivia, China, Equatorial Guinea, Ethiopia, Kazakhstan and Russia). Seven Council members voted against (France, Netherlands, Peru, Poland, Sweden, the UK and the US) and two abstained (Côte d'Ivoire and Kuwait).

After the two votes, Sweden asked to suspend the meeting and hold consultations on the third draft proposed by Russia. While Sweden proposed an alternative text, the Russian draft was put to a vote unchanged after consultations. It failed to pass given the fact that it only garnered five affirmative votes (Bolivia, China, Ethiopia, Kazakhstan and Russia). There were also four votes against (France, Poland, the UK and the US) and six abstentions (Côte d'Ivoire, Equatorial Guinea, Kuwait, Netherlands, Peru and Sweden).

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