29 Morally Bankrupt Governments, Headed by Russia, Voted Against the OPCW’s Resolutions

Many States Worldwide Must Bring Cases Against the Syrian Regime Before the ICJ Over the Regime’s Repeated Violations of the CWC

The Syrian Network for Human Rights (SNHR), founded in June 2011, is a non-governmental, independent group that is considered a primary source for the OHCHR on all death toll-related analyses in Syria.
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I. The Syrian Regime Felt Emboldened to Use Chemical Weapons Against the Syrian People, With Some States Voting in its Favor

Ratified by 193 states worldwide, the Chemical Weapons Convention (CWC) is one of international law’s most effective prohibition instruments.\(^1\) In addition to the CWC, international humanitarian law\(^2\) and customary international law both explicitly prohibit the use of chemical weapons, a norm that applies to, and should be respected in both international and non-international conflicts.

Despite the Syrian regime’s ratifying the Convention in September 2013, the Syrian Network for Human Rights (SNHR) stresses that the regime has carried out 184 chemical weapon attack since then. The Independent International Commission of Inquiry on the Syrian Arab Republic (COI) has also established that chemical weapons have been used in dozens of incidents since 2013. In its 33\(^{rd}\) report released on February 18, 2021, the COI noted that a total of 38 chemical attacks have been documented in Syria. Of these attacks, the COI assigned culpability to the Syrian regime in 32 attacks, and to ISIS in one, while it failed to conclusively identify the perpetrator in the remaining five attacks. As the same report stresses, every one of those cases of chemical weapons use constitutes a war crime.

Moreover, the Joint Investigative Mechanism (JIM), which was established by the Organization for the Prohibition of Chemical Weapons (OPCW) and the UN in accordance with resolution 2235 adopted in August 2015\(^3\) with the mandate of the JIM being to basically identify those responsible for chemical weapons attacks. As such, the JIM investigated nine attacks, and identified the perpetrator in six of these (four by the Syrian regime and two by ISIS). The OPCW-UN JIM’s mandate ended in November 2017, with Russia blocking any renewal of the mandate, using its veto powers at the Security Council twice in a row, within 24 hours. All of this took place after the Syrian regime had ratified the CWC.

Meanwhile, the OPCW has issued 10 resolutions on Syria since the Syrian regime ratified the CWC. These resolutions aimed to remove the regime’s chemical weapons program, prevent more chemical weapons attacks, destroy the facilities used to produce, manufacture, and store chemical weapons, preserve the rights of the victims, and hold those responsible for the use of chemical weapons in Syria accountable. Therefore, we, at SNHR, have constantly monitored the implementation of those resolutions, and identified the states that voted against them, or in other words supported the continuation of the Syrian regime’s chemical weapon program. Through this action, these states are, in effect, encouraging the regime to use weapons of mass destruction - chemical weapons - and emboldening it to carry out more chemical weapons attacks against the Syrian people.

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2. “The use of weapons which are by nature indiscriminate is prohibited”. International Committee of the Red Cross (ICRC), Rule 71 of international humanitarian law. See: https://ihl-databases.icrc.org/en/customary-ihl/v1/rule71
Morally Bankrupt Governments, Headed by Russia, Voted Against the OPCW’s Resolutions

As Fadel Abdul Ghany, SNHR’s Executive Director, says:

“The Syrian regime has unequivocally contravened the CWC on 184 separate occasions, as proven by many domestic, international, and UN bodies, including the COI, the UN-OPCW JIM, the OPCW’s IIT, HRW, Amnesty International, and SNHR. This massive body of evidence warrants a renewal of our calls to bring a case against the Syrian regime before the ICC for contravening the CWC.”

II. Brief Background on the OPCW, the Executive Arm of the CWC

The Organization for the Prohibition of Chemical Weapons (OPCW) was established pursuant to Article VIII of the CWC in 1997. Based in The Hague in the Netherlands, the OPCW was entrusted with the task of implementing the convention, preventing the proliferation and use of chemical weapons, and ensuring the destruction of the existing chemical weapon arsenals worldwide in order to promote international safety, and actualize a world free of chemical weapons. The OPCW is the CWC’s implementing body, which works to achieve its objectives and ensure their implementation. The OPCW is composed of three organs:

1. The Conference of the State Parties

The Conference of the State Parties (henceforth referred to as the Conference) comprises all member states of the OPCW, with each member being eligible to have one representative in the Conference. Additionally, the Conference holds one annual regular session, unless it’s decided otherwise, on the assessment of the Conference itself, whether at the request of the Executive Council, at the request of a state party that attains the support of one-third of all the state parties, or to review or assess the progress of the convention’s operations.

The Conference is the OPCW’s principal and plenary organ. It looks into any issues that fall within the scope of the convention, including issues related to the powers and functions of the Executive Council and the Technical Secretariat. Moreover, the Conference has the power to submit recommendations and make decisions on any issues related to the convention brought forth by a state party or by the Executive Council. Moreover, the Conference oversees the implementation of the convention and is expected to act in a way that promotes its objectives and purpose. The Conference also reviews compliance with the Convention, as well as supervising the activities of the Executive Council and the Technical Secretariat, and may issue guidelines in accordance with the convention to either of them in the exercise of their functions.
The Conference has a number of powers and responsibilities, including electing the members of the Executive Council; appointing the Director-General of the Technical Secretariat; approving the rules of any procedure which is to be proposed by the Executive Council submitted by the latter, and establishing such subsidiary organs as it finds necessary for the exercise of its functions in accordance with this convention; fostering international cooperation for peaceful purposes in the field of chemical activities; reviewing scientific and technological developments that could affect the operation of this Convention and, in this context, taking the necessary measures to ensure compliance with this convention, as well as redressing andremedying any situation which contravenes the provisions of this convention, in accordance with Article XII.

2. The Executive Council

The Executive Council consists of 41 members, with each state party having the right to have a seat on the Executive Council on the principle of rotation. The Conference elects members of the Executive Council for a two-year term, after which the elected members of the Executive Council must elect a chairman from among the members. The Executive convenes in regular sessions, and may meet in between these as often as may be required to fulfill its powers and functions. Every member of the Executive Council has one vote.

On what the Convention calls ‘matters of substance’, the Executive Council adopts resolutions on the basis of a two-thirds majority, unless specified otherwise in the Convention, while a simple majority (50 percent) is required for adopting resolutions on ‘questions of procedure’.

Furthermore, as the executive organ of the OPCW, the Executive Council has a responsibility before the Conference, which means that the Executive Council is expected to carry out the powers and functions entrusted to it under this convention, as well as performing those functions delegated to it by the Conference. In carrying out these duties, the Executive Council is expected to act in conformity with the recommendations, decisions and guidelines of the Conference and to assure their proper and continuous implementation. Additionally, The Executive Council is expected to promote the effective implementation of, and compliance with, this convention. It also supervises the activities of the Technical Secretariat, cooperates with the national governing authority of each state party, and facilitates consultations and cooperation among state parties at their request.

The Executive Council has a number of powers, including considering and submitting to the Conference the OPCW’s draft reports on the implementation of the convention, and reports on the performance of its own activities, and any such special reports as it deems necessary or which the Conference may request, as well as making arrangements for the Conference’s sessions, including the preparation of the draft agenda. The Executive Council may also request the convening of a special session of the Conference.

Moreover, the Executive Council considers any issue or matter within its area of specialization affecting the Convention and its implementation, including concerns regarding compliance or non-compliance, and, as appropriate, informs state parties and brings the issue or matter to the attention of the Conference.
As part of its consideration of doubts or concerns regarding compliance or non-compliance, including, inter alia, abuse of the rights provided for under the convention, the Executive Council should consult with the state parties involved and, as appropriate, request the state party to take measures to redress the situation within a specified time period. To the extent that the Executive Council considers further action to be necessary, it shall take, inter alia, **one or more of the following measures**:

A. Inform all state parties of the issue or matter;
B. Bring the issue or matter to the attention of the Conference;
C. Make recommendations to the Conference regarding measures to redress the situation and to ensure compliance.

Lastly, in cases of particular gravity and urgency, the Executive Council must bring the issue or the matter, including relevant information and conclusions, directly to the attention of the UN General Assembly and the UN Security Council.

3. The Technical Secretariat

The Technical Secretariat comprises a Director-General, who serves as its head and chief administrative officer, along with inspectors and such scientific, technical and other personnel as may be required. The Director-General is appointed by the Conference upon the recommendation of the Executive Council for a term of four years, renewable for one further term. The Technical Secretariat is responsible before the Conference and the Executive Council for the appointment of the staff and for the organization and functioning of the Technical Secretariat.

The Technical Secretariat assists the Conference and the Executive Council in the performance of their duties. It is also expected to carry out the verification measures provided for in the convention, as well as other functions entrusted to it under the convention, in addition to those functions delegated to it by the Conference and the Executive Council.

**The Technical Secretariat has a number of functions, including**:

A. Preparing and submitting to the Executive Council the organization’s draft reports on the implementation of the convention and such other reports as the Conference or the Executive Council may request;
B. Providing administrative and technical support to the Conference, the Executive Council and subsidiary organs;
C. Addressing and receiving communications on behalf of the organization to and from state parties on matters pertaining to the implementation of this Convention;
D. Providing technical assistance and technical evaluation to state parties in the implementation of the provisions of the convention, including evaluation of scheduled and unscheduled chemicals.\(^5\)

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\(^5\) One of the annexes to the Convention includes one on chemicals, which contains three tables listing prohibited toxic chemicals and their precursors.
The Technical Secretariat also negotiates agreements or arrangements relating to the implementation of verification activities with state parties, subject to approval by the Executive Council. Furthermore, the Technical Secretariat is expected to inform the Executive Council of any problem that has arisen regarding the discharge of its functions, including doubts, ambiguities or uncertainties about compliance with the convention that have come to its notice in the performance of its verification activities and which it has been unable to resolve or clarify through its consultations with the state party concerned.

III. The OPCW’s Resolutions on Syria

SNHR has closely monitored all eight decisions that have been adopted by the OPCW on the use of chemical weapons in Syria. We have issued numerous comments on those decisions. In this report, we will be briefly outlining these decisions.

The OPCW adopted 10 decisions, through which it aimed to eliminate the Syrian regime’s chemical weapons program, prevent chemical weapons from being used again, preserve the rights of the victims, and hold those responsible for chemical weapons attacks in Syria accountable. These decisions are divided between:

- Decisions issued by the Executive Council: Eight.
- Decisions issued by the Conference: Two.

A. Decisions by the OPCW’s Executive Council

Since the Syrian regime ratified the CWC in September 2013, the Executive Council has issued eight decisions on the use of chemical weapons in Syria. These decisions condemned the use of chemical weapons, and devised a plan to destroy the Syrian regime’s chemical weapons program and to ensure its compliance with the Convention. Below is an outline of these decisions:

1. **EC-M-33/DEC.1 adopted by the 33rd meeting of the OPCW’s Executive Council on September 27, 2013:**

This decision condemns the broad use of chemical weapons. It welcomed the plan to destroy the Syrian regime’s chemical weapon arsenal agreed on by the US and Russia on September 14, 2013. The decision demands that the Syrian regime’s government “complete the elimination of all chemical weapons material and equipment in the first half of 2014.” To that end, the decision obliges the Syrian regime to fully cooperate on all aspects of this resolution’s implementation, including “by providing the OPCW personnel with the immediate and unfettered right to inspect any and all sites in the Syrian Arab Republic.”

The decision was adopted with no vote.

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2. **EC-M-34-/DEC.1 adopted by the 34th meeting of the OPCW’s Executive Council on November 15, 2013:**

This decision details a plan to destroy the Syrian regime’s chemical weapon arsenal, as well as all facilities used to produce Syrian chemical weapons. The decision establishes multiple stages to destroy the Syrian chemical weapons in line with fixed final dates, with the process being concluded by June 30, 2014.

The decision was adopted with no vote.

3. **EC-M-42/DEC.1 adopted by the 42nd meeting of the OPCW’s Executive Council on June 17, 2014:**

This decision requests that the OPCW’s Director-General submit an overall report to the Executive Council in its 76th session on the elimination and destruction of the chemical weapons program in Syria, including on whether or not the full elimination of the program was completed in the first half of 2014. The decision also asks the Director-General to specify which requirements of the Executive Council’s decisions have not yet been fulfilled by the Syrian regime.

The decision was unanimously adopted.

4. **EC-M-42/DEC.3 adopted by the 42nd meeting of the OPCW’s Executive Council on June 17, 2014:**

This decision establishes the Syrian regime’s responsibility for destroying 12 facilities used to produce chemical weapons in Syria. The decision also requests that this destruction is verified in coordination with the Executive Council and the Syrian government as per Article VII of the CWC.

The decision was unanimously adopted.

5. **EC-M-46/DEC.1 adopted by the 46th meeting of the OPCW’s Executive Council on November 19, 2014**

This decision adopted a plan to destroy and verify the destruction of al-Maliha Ricin Production Facility in the Syrian Arab Republic. The decision requests that the Technical Secretariat carries out an initial inspection prior to the implementation of the detailed plan in line with Part V of the Verification Annex of said plan.

The decision was unanimously adopted.
6. EC-M-48/DEC.1 adopted by the 48th meeting of the OPCW's Executive Council on February 4, 2015:

This decision discusses the third report by the OPCW’s Fact-Finding Mission released on December 18, 2014. In this, the decision expresses concern over the findings of the Fact-Finding Mission, which proved that “chlorine had been used as a weapon in Syria in the villages of Talmenes, Al Tamanah, and Kafr Zita from April to August 2014.” The decision also stresses that those responsible for the use of chemical weapons must be held accountable.

A total of 40 states voted in favor of this decision, while Iran voted against.

7. EC-83 /DEC.5 adopted by the 83rd meeting of the OPCW's Executive Council on November 11, 2016:

This decision addresses the reports released by the UN-OPCW JIM. It expresses “grave concern with the findings of the third and fourth reports... that the Syrian Arab Armed Forces had been involved in the use of toxic chemicals as weapons in three cases in the Syrian Arab Republic: Talmenes, on 21 April 2014; Qmenas, on 16 March 2015; and Sarmin, on 16 March 2015.” Similarly, it expresses “grave concern... that the so-called "Islamic State of Iraq and the Levant" (ISIL) had been involved in the use of sulfur mustard in Marea, Syrian Arab Republic, on 21 August 2015.” The decision also condemns the use of chemical weapons in Syria, as reported by the JIM, calling on “all parties identified in the report... having been involved in the use of toxic chemicals as weapons to immediately desist from any further use.” Furthermore, the decision requests that the Technical Secretariat carries out two inspections annually on the Syrian Scientific Studies and Research Centre (SSRC) facilities in al-Bazrah and Jamryah.

A total of 28 states voted in favor of the decision, while four states (Russia, China, Iran, and Sudan) voted against, with nine states abstaining.

8. EC-94 /DEC.2 adopted by the 94th meeting of the OPCW's Executive Council on July 9, 2020:

This decision discusses the first report by the OPCW's Investigation and Identification Team (IIT), which established that the Syrian regime used chemical weapons in al-Latamena city in rural Hama three times, two of them through the use of Sarin gas. The report condemns the use of chemical weapons by the Syrian regime, it stresses that the Syrian regime has “failed to declare and destroy all of its chemical weapons and chemical weapons production facilities.” The decision invokes Paragraph 36 of Article VIII of the convention, which gave the Syrian regime a period of 90 days from the date of this decision being issued to redress the situation. The Syrian regime was requested to declare all the procedures taken to develop and produce chemical weapons, declare all the weapons it possesses, and resolve all outstanding issues. The decision also stressed that the individuals responsible for the use of chemical weapons in Syria, including officers who ordered such attacks, should be held accountable.

A total of 29 states voted in favor of the decision, while three states (Russia, China, and Iran) voted against, with nine states abstaining.
SNHR released a statement welcoming the OPCW’s call to hold accountable those responsible for the use of chemical weapons in Syria, including those who ordered their use, while also lamenting that the Executive Council should have submitted recommendations to the UN Security Council and not given the Syrian regime a grace period of 90 days.

B. Decisions by the OPCW’s Conference

The Conference issued two decisions on the use of chemical weapons in Syria. The first of these provided for the expansion of the OPCW’s mandate to include the authorization to identify those responsible for chemical weapons use, which was the basis for the establishment of the IIT. The second decision, adopted by the state parties on April 21, 2023, suspended some of Syria’s rights and privileges as a state party. On April 29, 2021, SNHR released a report analyzing both decisions.

1. C-SS-4/DEC.3 adopted by the Conference’s Fourth Special Session held on June 27, 2018:

This decision provides for expanding the mandate of the OPCW to include the authorization to identify those responsible for the use of chemical weapons. Additionally, the decision condemns the use of chemical weapons by the Syrian regime, as confirmed by the JIM’s reports, adding that the use of chemical weapons by the Syrian regime “by direct implication, establishes that the Syrian Arab Republic failed to declare and destroy all of its chemical weapons and chemical weapons production facilities (CWPFs) and demands that the Syrian Arab Republic immediately cease all use of chemical weapons and declare all of the chemical weapons it possesses, including sarin and its precursors, as well as CWPFs.” The decision also notes that chemical weapons were used in Syria in al-Latamena on March 24, 25, and 30 of 2017, and in Saraqeb on February 4, 2018, yet the perpetrators in those attacks have not been identified.

A total of 82 states voted in favor of the decision, while 24 voted against.

We, at SNHR, believe that expanding the OPCW’s mandate to authorize it to identify those responsible for the use of chemical weapons was a landmark step from a legal and human rights standpoint. The greatest credit for this significant progress must go to the Syrian victims killed, injured or impaired by the Syrian regime’s use of chemical weapons.

Following the expansion of its mandate, the OPCW’s IIT released three highly accurate and extremely significant reports. These three reports established that the Syrian regime was responsible for five chemical attacks - three attacks that were detailed in the first report, which was released in April 2022, and which took place in al-Latamena on March 24, 25, and 30 of 2017. The fourth attack, which was detailed in the second report, released in April 2021, took place in Saraqeb on February 4, 2018, while the fifth attack, detailed in the third report, released on January 27, 2023, took place in Douma in Rural Damascus ‘Rif Dimshaq’ on April 7, 2018.

SNHR has signed a Principles of Cooperation Agreement with the OPCW’s Investigation and Identification Team (IIT) and has been cited as a reference in all of the reports released by the team.

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2. C-25/DEC.9 adopted by the Conference's Fourth Special Session held on June 27, 2018:

This decision provided for the suspension of some of the rights and privileges of the Syrian Arab Republic as a state party, namely the rights:

A. to vote in the Conference and the Council;
B. to stand for election to the Council;
C. to hold any office in the Conference, the Council, or any subsidiary organs.

The decision adds that the rights suspended shall be reinstated “by the Conference once the Director-General has reported to the Council that the Syrian Arab Republic has completed all of these measures;” specified in Paragraph 5 of the decision adopted by the Executive Council on July 9, 2020. The decision also notes that these suspensions do not contradict with Syria’s obligations under the convention.

Two-thirds of the state parties voted in favor of this decision, representing a total of 87 states, while 15 voted against.

IV. The Morally Bankrupt Governments that Voted One or Multiple Times in Favor of the Syrian Regime’s Use of Chemical Weapons in Syria

At SNHR, we try to raise awareness among the Syrian people, as well as the other peoples of the world, about who voted in favor of the Syrian regime’s use of chemical weapons, and thus emboldened the regime to use them repeatedly, even after ratifying the CWC. We also believe that those votes are a message of disapproval against the expansion of the OPCW’s mandate, against the reports released by the OPCW, which were based on rigorous methodology, and most importantly against the victims who were killed or injured by the Syrian regime’s unconscionable and repeated use of internationally outlawed chemical weapons, that is, weapons of mass destruction, against the Syrian people.

Tellingly, these states share a number of common characteristics, such as dictatorial and oppressive leadership, opposition to fundamental human rights, and, in some cases, absolute loyalty to Russia and Iran, i.e., the Syrian regime’s two main allies. Still, however, those states constitute a minority which has been consistently defeated many times in votes because they support a cause that contradicts the most basic and fundamental principles of human rights. Indeed, those states voting in support of the Syrian regime’s use of a weapon of mass destruction command the strongest possible condemnations.
A total of 29 states voted in support of the Syrian regime at the OPCW, including four who voted in support of the regime on decisions proposed both by the Executive Council and the Conference. Those 29 states are divided between:

A. Decisions proposed by the Executive Council

Four states voted against on one or more of the three decisions adopted by the Executive Council, divided between:

- 1. One state voted three times in favor of the Syrian regime’s use of chemical weapons.
- 2. Two states voted twice in favor of the Syrian regime’s use of chemical weapons.
- 3. One state voted twice in favor of the Syrian regime’s use of chemical weapons.

Map showing which states voted in support of the Syrian regime’s use of chemical weapons, and against decisions adopted by the OPCW’s Executive Council on this matter, and how many times each state voted:

B. Decisions proposed by the Conference

A total of 29 states voted in support of the Syrian regime on decisions by the Conference, divided between:

- 1. Twelve states voted twice in favor of the Syrian regime’s use of chemical weapons.
- 2. Seventeen states voted once in favor of the Syrian regime’s use of chemical weapons.
IV. Conclusions & Recommendations

Conclusions:

• A total of 29 governments voted against decisions adopted by the OPCW and against the expansion of the organization’s mandate, as well as against the suspension of some of the rights and privileges of Syria as a state party. This necessarily suggests that those governments sides with the Syrian regime whose violations of the convention have been well established, as reported by the reports by the OPCW, the JIM, and the COI. This stance is beyond shameful and deplorable!

• This report demonstrates the tendency of oppressive dictatorships to ally themselves with and vote for one another.

• The most recent decision adopted by the OPCW that stripped Syria of its privileges as a state party in the CWC will not be enough to deter the regime and its allies. More action must be taken by the UN General Assembly. In case the UN General Assembly is unable or unwilling to act, the democratic, liberal states of the world must demonstrate their adherence to international law in every way, shape, and form, and as such establish an alliance to achieve this.

• As a group dedicated to defending human rights in Syria, it is our duty to expose the states that sided with the Syrian regime and condemn their vote in the strongest possible terms. The position taken by the states that voted in support of the Syrian regime on the decisions adopted by the Executive Council and the Conference is a mark of shame that will forever taint those states’ history.
**Recommendations:**

**The Organization for the Prohibition of Chemical Weapons**

- The Promote and support the OPCW’s team on Syria, which is facing ruthless opposition from Russia and many dictatorships around the world. This is particularly vital since the OPCW’s work on the issue of chemical weapons in Syria is arguably the most important task that the OPCW has had to address to date since its establishment. There is still much work to be done with regard to Syria compared to the almost non-existent use of chemical weapons elsewhere in the world.

- Work towards modifying the voting mechanism in order to allow the presence of civil society organizations, especially those actively working on the issue of chemical weapons.

**OPCW State Parties**

- The OPCW member state parties must invoke their right, established in Paragraph 8 of Article IX of the Convention\(^\text{10}\), to request “an on-site challenge inspection” in the Syrian territories “for the sole purpose of clarifying and resolving any questions concerning possible non-compliance with the provisions of this convention”. We also recommend the invocation of the rights established in Paragraph 12(a)\(^\text{11}\) of the same article, by which a representative should be sent to “observe the conduct of the challenge inspection” and to ensure the inspection is being carried out with no stalling."

- Act on all levels to deter the Syrian regime and end all forms of cooperation with it.

- Take action in light of the Syrian regime’s contravention of the convention before the International Court of Justice (ICJ), similar to the case brought by Canada and The Netherlands over the application of the UN Convention Against Torture.

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10. “Each State Party has the right to request an on-site challenge inspection of any facility or location in the territory or in any other place under the jurisdiction or control of any other State Party for the sole purpose of clarifying and resolving any questions concerning possible non-compliance with the provisions of this Convention, and to have this inspection conducted anywhere without delay by an inspection team designated by the Director-General and in accordance with the Verification Annex.” Organization for the Prohibition of Chemical Weapons (OPCW) Chemical Weapons Convention (CWC), Article IX, Paragraph 8. See: https://www.opcw.org/chemical-weapons-convention/articles/article-ix-consultations-cooperation-and-fact-finding

11. “With regard to an observer, the following shall apply:
   (a) The requesting State Party may, subject to the agreement of the inspected State Party, send a representative who may be a national either of the requesting State Party or of a third State Party, to observe the conduct of the challenge inspection.” Organization for the Prohibition of Chemical Weapons (OPCW), Chemical Weapons Convention (CWC), Article IX, Paragraph 12(a). See: https://www.opcw.org/chemical-weapons-convention/articles/article-ix-consultations-cooperation-and-fact-finding