

Fifth Consultative Meeting of the EU Non-Proliferation Consortium (7-8 July 2016)

Session 1: Preventing CBRN Terrorism

EU support for preventing proliferation and use of biological, chemical, radiological and nuclear weapons, including by non-state actors

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1. Following developments in Syria and Iraq, **chemical terrorism** has become an urgent issue to address
2. **The facts:**
 - a. The OPCW Fact Finding Mission has reported compelling evidence of at least one chemical attack in Syria with all indications pointing to ISIS as the perpetrator. Other similar incidents are examined.
 - b. There has been compelling evidence of use of mustard gas by ISIS in Iraq.
3. **Assessment:**
 - a. ISIS has managed to acquire technology to fabricate mustard gas, fortunately in small quantities and low quality so far. It seems that ISIS has recruited chemists from the former Iraqi's regime CW programme. According to information ISIS tries to recruit chemists from all over the world.
 - b. It has been assessed that the use of CW by ISIS has little military value as such, but it might have a larger psychological impact on the battlefield if their use is perpetuated.
 - c. Considering ISIS's terror doctrine, it is certain that if it had the opportunity, ISIS would not hesitate to use it ruthlessly in European cities and elsewhere.
4. **International legislation:**
 - a. The CWC does not provide for prevention or legal accountability of the non-state actors as such, as this notion did not exist at the time of its conception.
 - b. However, acts of chemical terrorism are already covered by the CWC, in the sense that it bans in unequivocal terms the use of CW by anyone, anywhere, any time and under any circumstances.
 - c. It should also be noted that **Art VII** of the CWC provides that **States Parties must prohibit natural and legal persons anywhere on their territory or in any other place under their jurisdiction from undertaking any activity prohibited to a State Party** under this Convention. This includes enacting penal legislation with respect to such activity.
 - d. It is encouraging that the issue of chemical terrorism has acquired new impetus at the OPCW appropriate organs, namely the relevant OEWG and sub-WG which are expected to make practical recommendations thereof.
5. **EU action:**
 - a. The FAC Conclusions on CT of February 2015 commit the EU to putting greater emphasis on the prevention of terrorism. The EU Regional Strategy for Syria and Iraq as well as the ISIS threat and the EU Counter-Terrorism/Foreign Fighters Strategy are core elements of the EU approach. To implement these strategies the EU is closely cooperating with international partners especially in the framework of the UNSCR 1540 , as well as with regional and bilateral partners.

b. The EU has supported the core activities of the OPCW financially by means of 3 Joint Actions and 3 Council decisions (12, 5 million EUR since 2005) and by specific action such as demarches. These activities aim at enhancing the existing international mechanisms by means of improved national implementation, the implementation of existing legislation (CWC Art VII in particular), capacity-building and assistance as well as targeted universalisation efforts (in particular in the regions most concerned by chemical terrorism). The EU CBRN Centers of Excellence can play an important role in this respect. The generous EU assistance to the operation for the destruction of the Syrian CW has contributed to these weapons not falling into the hands of ISIS.

c. Regarding the Russian initiative for a stand-alone "International convention for the suppression of acts of chemical terrorism», there is general agreement that it addresses a real threat, but contrary to the Russian argument, there are not perceived legal gaps in the relevant international legal framework. In fact, efforts should turn towards the full implementation of the existing international norms.