

**Security Council**

Distr.: General
2 November 2016

Original: English

**Letter dated 26 October 2016 from the Permanent Representative
of the Syrian Arab Republic to the United Nations addressed to the
President of the Security Council**

Upon instructions from my Government, I have the honour to transmit herewith the observations of the Government of the Syrian Arab Republic regarding the fourth report of the Organization for the Prohibition of Chemical Weapons-United Nations Joint Investigative Mechanism (see annex).

It would be highly appreciated if the present letter and its annex could be issued as a document of the Security Council.

(Signed) **Bashar Ja'afari**
Ambassador
Permanent Representative



Annex to the letter dated 26 October 2016 from the Permanent Representative of the Syrian Arab Republic to the United Nations addressed to the President of the Security Council

[Original: Arabic]

Observations of the Syrian Arab Republic regarding the fourth report of the Organization for the Prohibition of Chemical Weapons-United Nations Joint Investigative Mechanism

In the fourth report of the Organization for the Prohibition of Chemical Weapons-United Nations Joint Investigative Mechanism ([S/2016/888](#)), which was issued on 21 October 2016, another accusation is levelled against the Syrian Arab forces in relation to the incident that is alleged to have occurred in Qmenas on 16 March 2015. Having reviewed the report in a scientific and objective manner, we should like to make the following observations:

1. It is clear that the report is simply a copy of the Mechanism's third report; it does not contain any new information or material evidence. The only basis offered for the accusation is that the Mechanism has sufficient evidence to make the accusation. The Mechanism does not make clear what that evidence is, nor does it offer any information as to the source of that evidence, its credibility or how it came to be accepted.
2. The Mechanism did not offer an assessment and analysis of why the armed terrorist groups moved material evidence from one location to another, and why those groups photographed the incidents days after they had occurred, although the terrorists were in complete control of the areas under consideration.
3. When deciding to use any type of weapon, one must consider its utility, the effect it will produce and its effectiveness against the enemy. Although we lost a number of military bases and regions and governorates, we used only conventional weapons against the terrorists, regardless of the names of their organizations (some of which are designated internationally as being terrorist organizations). Why, then, would we use chemical weapons against civilians, and without any strategic objective in mind?
4. The Mechanism did not follow the method and approach to its work that is set out in paragraphs 7 and 8 of the report, wherein it indicated that its conclusions would be based on credible and reliable supporting evidence, as well as the key elements that the Mechanism would need to consider in each case (time, date, weather conditions, impact location, munition, damage and medical effects). However, none of that can be found in the report. The Mechanism, instead, relied solely on witness testimony, weather conditions, medical effects and impact locations and their coordinates, without there being any reliable material evidence at all.
5. The Mechanism should have collected proper samples and analysed them, in order to verify whether chlorine had been used as a weapon in the incident, instead of randomly making accusations against the Syrian Arab Army.

6. **Witnesses**

- The statements recorded by the leadership of the Mechanism lack credibility because they were made by persons who are either members of the armed terrorist groups or their sympathizers. In addition, it is not clear how the witnesses were selected and how the Mechanism was able to reach them and verify that they had been at the location of the incident.
- The report relied fundamentally on witness statements, which are considered to be one of the weakest forms of testimony if the identity of the witnesses has not been verified. This is particularly relevant because the Mechanism is not a judicial body (paragraph 6 of the report).
- The alleged incident occurred at night on 16 March 2015. The witnesses confirmed that they had seen a helicopter hovering and two devices being dropped from an altitude of greater than 1,000 metres (according to analysis attributed to a defence research institute). Accordingly, it would not have been possible to see the helicopter at night.
- In paragraph 20 of the fourth report, it stated that witnesses who were near the location of the alleged incident reported eye and skin irritation, and a feeling of suffocation and coughing. Those witnesses were not taken to hospital. Their testimony, according to the report, is consistent with that of persons who were taken to the Sarmin hospital. This demonstrates that the witnesses are not credible, because they would have been taken to hospital had they had a feeling of suffocation, lest they should die.

7. **Weather conditions**

- In paragraph 20 of the report, it is stated that witnesses reported discolouration of vegetation at the location. However, from a scientific perspective, there are many factors that can affect the appearance of plants (sparsity of water, excessive use of pesticides, plant disease, etc.). The detonation of conventional weapons can also change the environmental features, particularly plants, in the area of the blast site because of the high heat generated by the explosion, in excess of 1,000° Celsius, and the by-products of the explosion, which, in most cases, include acidic oxides.
- Satellite imagery cannot determine the cause of this discolouration of vegetation.

8. **Medical effects**

- The Mechanism makes no mention of certified medical reports pertaining to the injured and the results of blood analyses.
- In its report, the Mechanism uses the term “forensic analysis”. This term is not clear and we do not know what is meant by it.

9. **Material evidence**

- In paragraph 29 of annex VII to its third report, the Mechanism states that the pictures of the site of the alleged incident “had been taken two days after the event”, not immediately afterwards. In paragraph 25 of that same annex, the Mechanism leadership clearly states that, given that the pictures were taken

two days after the attack, it (i.e., the Mechanism leadership) could not rule out that the remnants could have been placed at the location beforehand. The terrorist groups had both the means and the time needed to carry out the fabrication and accuse the Syrian Arab Army of the incident.

- In paragraph 56 of annex VII to its third report, it is stated that the “remnants of a device found near the impact crater resemble the remnants of barrel bombs found near other impact sites, most notably in Sarmin. Nevertheless, from the analysis of the remnants and the crater it was not possible to determine whether the device contained explosives or toxic chemicals.” In other words, according to the report, there is no material evidence that a chemical weapon was used.
- In paragraph seven of its report, the Mechanism states that it relied on supporting evidence that is of a credible nature, and that it developed specific standards in that regard. From a scientific perspective, evidence is classified as either material or circumstantial, and each type has its strengths. This perspective also does not favour material evidence over circumstantial evidence. With regard to this matter, the Mechanism introduced novelties and violated the basic rules of investigation.
- In paragraph 41 of its report, it is stated that, because of national security concerns, the Syrian Government did not provide additional information regarding the possession, transportation and storage of toxic chemicals by terrorist groups. This is not true. In all meetings with the Mechanism and all communications with the Mechanism or the Organization for the Prohibition of Chemical Weapons, the Mechanism was provided with information about the efforts of armed terrorist groups to acquire and possess toxic chemicals and to transport them. The Mechanism does not clarify what happened to that information and how it was dealt with, and whether it taken into account.
- We wonder why the Mechanism did not clarify what happened to the information that we had provided it about the terrorist cell that had been in possession of 2 kg of sarin when it was intercepted by the Turkish authorities on the Syrian-Turkish border. This information was subsequently suppressed by the Turkish authorities. We also wonder why that group had obtained such a quantity.
- In paragraph 50 of its report, the Mechanism states that it had looked into the possession and movement of chlorine by terrorist groups, but it does not state what the outcome of its efforts was. The Mechanism looked into that matter for information purposes only, and it does not make any indication as to what became of the hundreds of tons of chlorine that were in the Aleppo chlorine production facility that had been taken over by the Nusra Front terrorist organization and then by the Islamic State in Iraq and the Levant terrorist organization.
- The conclusion reached by the Mechanism regarding the allegation was based on the premise that it had not been proven that armed terrorist groups had been operating a helicopter at that time and that location, and thus suspicion falls on the Syrian air force. This is simply a conclusion and one that is not based on any direct and documented evidence.

10. **Conclusions**

- The report contains no material evidence that chlorine gas was actually used. It makes no reference to documents, certified analyses of samples, medical reports pertaining to the injured and blood analyses, and any remnants of a chemical projectile. It should be noted that it would have been very easy to obtain such information because the location of the incident was under the control of armed terrorist groups.
 - Contrary to what it states in paragraphs 7 and 8 regarding the use of credible and reliable evidence, the leadership of the Mechanism relied primarily and directly on the statements and testimony of witnesses, although their credibility is questionable, and other unscientific and undocumented factors.
 - In its report, the Mechanism fails to set out the new and sufficient evidence that led it to state that the incident had been the result of Syrian Arab Army helicopters dropping a device that contained a toxic substance from great altitude.
 - The report did not address the clarification that had been provided by Syria.
 - The conclusions are not consistent with the evidence that is in the possession of the Mechanism.
 - The Mechanism exceeds its mandate and the parameters that it set out in paragraph six of the report when it states, in paragraph 52, that those who control military units must be held accountable, etc. In so doing, it is making an allegation and call for accountability.
 - In paragraph 13 of the report, the Mechanism reiterates the challenges that it faced, including its inability to visit the locations of the alleged incidents and the fact that the incidents had occurred some time ago. In other words, it was unable to obtain actual documented material evidence. Accordingly, no party may offer any information without being able to determine its credibility for the reason that the Mechanism has set out, namely, that it is a weak basis for drawing a conclusion.
-