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Framework for Removing Syrian Chemical Weapons: Reasons for Skepticism

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The framework agreement for destroying Syria's chemical weapons (CW) arsenal and its supporting infrastructure¹ is imprecise, unrealistic, and unlikely to be fulfilled. On the basis of the requirements of the Chemical Weapons Convention (CWC), which Syria has now agreed to join, and historical experience in executing the CWC, even under ideal circumstances and assuming willing compliance, it will be years before Syria would likely eliminate all of its chemical weapons.

However, there will be ample opportunity for Syrian duplicity and non-compliance. The means for verifying and ensuring Syrian compliance are expected to be addressed in a Security Council resolution. Russia has opposed previous resolutions on Syria. Nonetheless, there are certain things the Obama Administration could do to enhance verification and pressure Syria and Russia to comply.

The CWC Time Line and the Framework Agreement. The following is a summary of the CWC time line for execution compared to what is described in general terms by the framework agreement²:

- The CWC enters into force for a state party 30 days after deposit of its instrument of accession. Syria will become a CWC party on October 14, 2013.³ The framework agreement notes that Syria has agreed to provisionally apply it prior to entry into force. This approach is workable, but provisional application does not necessarily require substantive steps for making declarations of CW and chemical weapons production facilities (CWPFs) and inspections and destruction of the same.
- Declarations of the CWs, CWPFs, and related facilities must be submitted within 30 days of entry into force. The framework agreement requires Syria to submit its initial declaration to the Organization for the Prohibition of Chemical Weapons (OPCW) "within a week."
- The CWC does not establish a specific time frame for conducting the initial inspections of declared items, only stating that there will be "an initial inspection promptly after the facility is declared." Those initial inspections are the basis for drafting agreements governing the destruction process to be completed within 180 days after entry into force. The framework agreement states that the initial inspections are to be completed "by November."
- States parties are required to start destroying Category 1 chemical weapons within two years after entry into force for the party. For original states parties, 1 percent of Category 1 weapons must be destroyed within three years, 20 percent

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within five years, 45 percent within seven years, and 100 percent within 10 years or by 2007. Original states parties were supposed to destroy their entire stockpiles by 2012, and, by implication, acceding states must do so 15 years after joining the CWC. The framework agreement states that Syria's CW material and equipment—making no distinction between Category 1 CW and the other categories—are to be destroyed “in first half of 2014.”

- The CWC requires parties to begin destroying Category 2 and 3 CW within one year and complete the process within five years after entry into force. The framework agreement fails to distinguish between the various categories of CW.
- Destruction of CWPFs capable of producing Schedule 1 chemicals must start within one year for a state party and be completed by 2007 for original states parties and, by implication, 10 years after entry into force for acceding states. The framework agreement states that destruction of undefined production and mixing/filling equipment is to occur “by November.”
- Destruction of other CWPFs must start within one year for a state party and be completed by 2002 for original states parties and, by implication, within five years for acceding states. The lack of appropriate definitions in the framework agreement makes a comparison regarding this deadline impossible.
- States parties may request to convert CWPFs to facilities for non-prohibited purposes. Once their requests are approved, conversion must be completed by 2003 for original states parties and, by

implication, within six years for acceding states. The framework agreement does not address this matter.

Most worrisome are the framework agreement's lack of precision and its significantly truncated time line versus Syria's legal obligations under the CWC. Hasty declarations and actions are more prone to error and omission.

Moreover, even if Syria acts in good faith, it is questionable whether it is capable of meeting these deadlines. The CWC timelines were established with an eye toward reasonable implementation under stable conditions, not during an active conflict.

In fact, neither the U.S. nor Russia is currently in compliance with the CWC even though the OPCW extended the CWC's deadlines due to “exceptional circumstances.”⁴ At least on the part of the U.S., this is due not to a lack of commitment but to the difficulties of disposing of CW. Thus, even if Syria commits to fulfilling its responsibilities, the very real complexities of this process could lead to delay. If Syria is not committed, the complexities of verifying declarations disposing of chemical weapons provide ample opportunity for duplicity.⁵

Relying on Russia. The overarching flaw behind the Administration's framework agreement is that it relies on the cooperation and goodwill of Syria and Russia. The CWC has no enforcement provision. Instead, “cases of particular gravity and urgency” are to be brought to the attention of the U.N. General Assembly and the U.N. Security Council. General Assembly resolutions are non-binding, and Russia and China have repeatedly blocked the Security Council from taking action on Syria.

The framework agreement states that both the U.S. and Russia will work to adopt a Security Council resolution reinforcing the OPCW “special

1. U.S. Department of State, “Framework for Elimination of Syrian Chemical Weapons,” September 14, 2013, <http://www.state.gov/r/pa/prs/ps/2013/09/214247.htm> (accessed September 16, 2013).

2. The text of the CWC is available at http://www.cwc.gov/cwc_treaty_full.html (accessed September 16, 2013).

3. News release, “Secretary-General Receives Syria's Instrument of Accession to Chemical Weapons Convention,” United Nations, September 14, 2013, <http://www.un.org/News/Press/docs//2013/sgsm15279.doc.htm> (accessed September 19, 2013).

4. Baker Spring and Michaela Dodge, “The Folly of the State Department's Assessment of U.S. Arms Control Compliance,” Heritage Foundation *Issue Brief* No. 3737, September 20, 2012, <http://www.heritage.org/research/reports/2012/09/arms-control-obligations-assessment-of-us-compliance>.

5. For instance, Libya was considered remarkably cooperative in declaring and destroying its chemical weapons program. After Muammar Qadhafi was ousted, the interim Libyan government revealed that it had identified previously undeclared chemical weapons. See Organization for the Prohibition of Chemical Weapons, “Libya: Facts and Figures,” <http://www.opcw.org/the-opcw-and-libya/libya-facts-and-figures/> (accessed September 19, 2013).

procedures for expeditious destruction of the Syrian chemical weapons program and stringent verification thereof” and containing steps to “ensure its verification and effective implementation.”

However, the U.S. and Russia fundamentally disagree on the particulars of these provisions. The U.S. has insisted that the resolution on the framework agreement be adopted under Chapter VII of the U.N. charter, which implies that violations could result in punishment such as sanctions or the use of force. Even under Chapter VII, however, use of military force is not considered approved unless explicitly stated or the resolution authorized “all necessary means” or “all necessary measures” to enforce its provisions.

Russia insists that the initial resolution should not be adopted under Chapter VII but that Syrian non-compliance should lead the Security Council to impose additional measures under Chapter VII. Russia would, of course, be in a position to veto such measures.

Minimum Criteria for the Resolution. By choosing to return to the Security Council, President Obama has created an expectation that he will achieve a resolution that will apply strong pressure on Syria to declare and destroy its CW in an incredibly rapid manner. Such a resolution would, at a bare minimum:

- **Not prohibit the use of force.** As a matter of principle, the U.S. should never support Security Council language that bolsters claims that legitimate or legal use of force requires Security Council approval.
- **Block CW materials into Syria.** The resolution should prohibit sale or transfer into Syria any chemicals, arms, or equipment that could be used for CW development, manufacture, or deployment.
- **Establish an arms embargo for the Syrian regime.** The resolution should explicitly state that the embargo could be postponed by a subsequent Security Council resolution after December 1 if the Syrian government cooperates and

is compliant with the terms of the framework agreement and its CWC obligations. This timing is appropriate, because Syria is supposed to meet its first benchmarks for disarmament in November. Critically, this approach would reverse the current Security Council dynamic by allowing the U.S. to block attempts to postpone or remove the sanctions that will be critical incentives for Syrian compliance.

- **Include independent U.S. inspectors in the inspection teams.** The OPCW should not be the sole authority for supervising Syrian government actions and verifying its compliance. Independent U.S. inspectors would bolster the inspection and verification regimes, because they would be focused on the threat Syria poses to the U.S. and its allies.

Avoiding a Security Council Charade. The Syrian saga makes clear that the CWC has not lived up to its promise to eliminate chemical weapons. The CWC is a flawed instrument lacking enforcement mechanisms, and Syria’s accession to that treaty does little to assuage U.S. concerns over its chemical weapons programs. There are substantial reasons to doubt Syria’s ability to comply with the terms of the framework agreement and ample opportunities for Syria to obfuscate or conceal the true extent of its CW program.

By agreeing to engage Russia and Syria in the framework agreement, the Obama Administration assumed responsibility for ensuring that the resulting Security Council resolution will be effective. A resolution with the above provision would not ensure Syrian compliance, but it would enhance verification and establish tangible incentives for compliance. Anything less would be a charade.

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