



## Evaluating Mechanisms to Investigate Attacks on Healthcare

UN Secretary-General's Mechanism for Investigation  
of Alleged Use of Chemical and Biological Weapons

UNSG-MICBW

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### ORIGINS AND SUMMARY

The UN secretary-general has been authorized by the General Assembly and the Security Council to carry out prompt investigations in response to allegations brought to his attention concerning the possible use of chemical, bacteriological (biological), and toxin weapons (CBT weapons). The [secretary-general's Mechanism for Investigation of Alleged Use of Chemical and Biological Weapons](#) (UNSG-MICBW) is a non-judicial, ad hoc, investigative mechanism. Since the adoption of the Chemical Weapons Convention (CWC) and the creation of the Organisation for the Prohibition of Chemical Weapons (OPCW), the UNSG-MICBW can be seen as a complementary mechanism, to be used when the state concerned is not a party to the OPCW and the investigation would therefore not fall within the OPCW's mandate.

The UNSG-MICBW conducts investigations in order to "ascertain in an objective and scientific manner facts of alleged violations of the [1925 Geneva Protocol](#), which bans the use of chemical and biological weapons, or other relevant rules of customary international law" and, as such, is an important deterrent against the use of such weapons. Investigations are often carried out in close cooperation and coordination with other relevant international organizations, in particular the OPCW (where there is an alleged use of chemical weapons) and the World Health Organization (WHO).

So far, the UNSG-MICBW has never been used to investigate attacks against healthcare. However, inasmuch as such attacks are conducted with the alleged use of CBT weapons, they could fall under the mandate of this mechanism.

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### LEGAL BASIS AND FRAMEWORK, RELEVANT GUIDELINES

#### Legal basis and framework

- The UNSG-MICBW was established by General Assembly [Resolution 42/37C](#) (1987), which grants the secretary-general the authority to carry out investigations in response to reports that may be brought to his or her attention by any UN member state concerning the possible use of CBT weapons. This authority was endorsed in Security Council [Resolution 620](#) (1988), which "encourages" the secretary-general to use the mechanism in a specific case (Iran/Iraq). The mandate is further informed by General Assembly [Resolutions 43/74A](#) (1988), [44/561](#) (1989), [45/57C](#) (1990), and [60/288](#) (2006).
- The UNSG MICBW assesses the facts under investigation and the circumstances in which these facts occurred to determine whether violations of the [1925 Geneva Protocol](#), or other relevant rules of customary international law, have occurred.

## Relevant rules, guidelines, and methodology

- [Guidelines and Procedures for the Timely and Efficient Investigation of Reports of the Possible Use of Chemical and Bacteriological \(Biological\) or Toxin weapons](#), Annex I to General Assembly Resolution 44/561 (1989), and the updated [Appendices to these Guidelines and Procedures](#).

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## SCOPE OF MANDATE AND INVESTIGATIVE ACTIVITIES

### Substantive scope: type of incidents within purview of Res 2286 the mechanism can investigate

<b>FULL</b> <i>The mechanism can look into all incidents that Res 2286 seeks to address</i>		N/A
<b>PARTIAL</b> <i>The mechanism can only look into some but not all incidents that Res 2286 seeks to address</i>		N/A
<b>CONDITIONAL</b> <i>The mechanism can only look into incidents where a certain condition related to the mechanism's mandate is met</i>	✓	The UNSG-MICBW can only be used to investigate incidents of violence against healthcare that allegedly involved the use of CBT weapons.
<b>SINGLE INCIDENTS</b> <i>The mechanism can be used to investigate single incidents within the purview of Res 2286</i>	✓	The UNSG-MICBW could be used to investigate a single incident of violence against healthcare, as long as it involved an alleged use of CBT weapons.

### Geographic scope

<b>GLOBAL</b> <i>The mechanism can be activated to look into incidents regardless of where these occurred</i>	✓	The UNSG mechanism can be activated to investigate incidents of violence against healthcare involving the alleged use of CBT weapons regardless of where these occurred.
<b>REGION-SPECIFIC</b> <i>The mechanism can only be activated to look into incidents that occurred in a specific region</i>		N/A
<b>COUNTRY-SPECIFIC</b> <i>The mechanism can only be activated to look into incidents that occurred in a specific country</i>		N/A

## Type of investigative activities

<b>MONITORING AND REPORTING</b> <i>Actively monitoring conflict to identify and report on trends/patterns of violations of IHL/IHRL</i>			The UNSG-MICBW does not proactively monitor the use of CBT weapons. It is established in reaction to allegations of use brought to the secretary-general's attention by a member state.
<b>FACT-FINDING &amp; INVESTIGATING</b>	<b>Identify possible violations</b> <i>Establish facts and circumstances of specific incidents or series of incidents and assess against relevant legal framework (IHL/IHRL)</i>	✓	The UNSG-MICBW investigates the possible use of CBT weapons that may constitute a violation of the 1925 Geneva Protocol and relevant rules of customary international law. Investigative teams investigate the nature and extent of an alleged attack to ascertain whether such a violation has occurred.
	<b>Identify those responsible</b> <i>Identify entities/persons responsible for or with influence over facts/circumstances</i>	✓	UNSG-MICBW investigations can and usually do identify those who have used the prohibited weapons, but it is not directly about attribution. It reports any information obtained on the possible origin of CBT weapons used to the secretary-general.
	<b>Identify perpetrators of crimes</b> <i>Identify entities/persons allegedly responsible for war crimes or crimes against humanity</i>		The UNSG-MICBW does not seek to identify alleged perpetrators of criminal acts.
<b>COLLECTING EVIDENCE OF ALLEGED CRIMES</b> <i>Collecting (and corroborating) evidence of alleged war crimes or crimes against humanity</i>		✓	While the UNSG-MICBW collects physical evidence of the use of CBT weapons, as well as biomedical samples, it does not seem to gather or corroborate evidence for the purpose of criminal prosecutions, nor does its reporting indicate it intends or is equipped to do so.
<b>ASSESSING VICTIMS' GRIEVANCES</b> <i>Identify direct/indirect consequences of attacks and assess need for reparations</i>		✓	The UNSG-MICBW looks at the consequences of an attack and its effect on victims. As soon as possible, the investigative team provides an estimate on the possible victims and types of injuries to the secretary-general for the provision of aid ( <a href="#">UNSG-MICBW Guidelines and Procedures</a> , para. 72).
<b>RECOMMENDATIONS TO</b>	<b>Prevent future incidents</b> <i>Identify/propose corrective measures to prevent future incidents</i>		The investigative team does not make recommendations.
	<b>Ensure accountability for violations of IHL/IHRL</b> <i>Identify appropriate avenues and concrete actions to ensure accountability</i>		The investigative team does not make recommendations.
	<b>Ensure reparations and/or address other victims' grievances</b>		The investigative team does not make recommendations.

Members	Election/appointment	Guarantees of independence & impartiality
<p>UNSG-MICBW panels can be composed of an individual or a group of experts but are generally composed of three expert consultants.</p>	<p>Expert consultants are appointed by the secretary-general and may be proposed by UN member states (<a href="#">UNSG-MICBW Guidelines and Procedures</a>, paras. 57–63).</p>	<p>Members of UNSG-MICBW panels enjoy UN privileges and immunities as experts on mission that allow them to carry out their functions in an independent manner (<a href="#">UNSG-MICBW Guidelines and Procedures</a>, para. 65). The UNSG-MICBW Guidelines and Procedures also include other provisions to ensure the independence, impartiality, and effectiveness of the investigations, such as experts being provided with the funds, means, and resources required to maintain their freedom of action and judgment (<a href="#">UNSG-MICBW Guidelines and Procedures</a>, paras. 64–75).</p>

Activator/Creator	Authorization/Enabler	Average duration to activate/create/function
<p>The UNSG-MICBW is an ad hoc mechanism that can be activated by any UN member state possessing information on the possible use of CBT weapons by bringing a report of alleged use to the secretary-general's attention (<a href="#">UNSG-MICBW Guidelines and Procedures</a>, para. 16).</p>	<p>If the information provided by the member state requesting activation of the UNSG-MICBW is sufficient, conclusive, and credible, the secretary-general can undertake an investigation. This assessment can be made independently or in consultation with expert consultants (<a href="#">UNSG-MICBW Guidelines and Procedures</a>, paras. 28–29).</p> <p>Although not legally required, the secretary-general in</p>	<p>The decision to conduct an investigation should be taken no later than twenty-four hours after receipt of the report. A team of qualified experts should be dispatched to the site of the alleged incident as quickly as possible, no later than forty-eight hours after the decision to carry out an investigation is taken (<a href="#">UNSG-MICBW Guidelines and Procedures</a>, para. 32).</p>

	practice seeks the consent of the member state receiving the investigation. The UNSG-MICBW Guidelines and Procedures provide that the secretary-general should contact that member states to make arrangements to receive the team ( <a href="#">UNSG-MICBW Guidelines and Procedures</a> , para. 90(a)).	
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**6 RESOURCES**

	<b>Pre-existing</b>	<b>To be established when activated/created</b>
<b>Human resources</b>	<p>The secretary-general maintains and updates a roster of qualified experts (and laboratories) whose services may be required on short notice to facilitate the prompt initiation of any investigation. Any member state can designate an expert whose name should be placed on this list (<a href="#">UNSG-MICBW Guidelines and Procedures</a>, para. 35).</p> <p>The UN Office for Disarmament Affairs (UNODA) is the focal point within the UN Secretariat to facilitate administrative and substantive support and to coordinate the mechanism.</p> <p>The secretary-general can rely on OPCW staff and experts and on WHO staff, as was the case, for example, for the investigation of alleged use of CBTs in Syria in 2013.<sup>1</sup></p>	<p>Any member state may propose to the secretary-general, on his request, an expert consultant to advise and assist in the investigation (<a href="#">UNSG-MICBW Guidelines and Procedures</a>, para. 34).</p> <p>The investigative team is accompanied by substantive and administrative staff, security personnel, interpreters, and others, as deemed necessary by the secretary-general and appointed by him or her (<a href="#">UNSG-MICBW Guidelines and Procedures</a>, para. 92(a)).</p> <p>Other organizations can provide additional personnel. A <a href="#">memorandum of understanding</a> was signed in 2011 with WHO concerning its technical support to the mechanism. The secretary-general can also request the support of the OPCW (as was the case for the 2013 Syria investigation), according to the <a href="#">UN-OPCW Relationship Agreement</a>. If so requested, the OPCW shall put its resources at the disposal of the secretary-general, and the OPCW director-general decides who should be part of the mission, depending on the request. Inspectors from the OPCW</p>

<sup>1</sup> At that time, Syria was not yet a party to the CWC, and thus the OPCW’s own investigative capacities could not be used. Later on, when Syria became a party to the CWC, a separate investigation was carried out—the OPCW Fact-Finding Mission on Syria, established by the OPCW director-general (see the [fact sheet](#) on the OPCW).

		Inspectorate Division are among those who may be assigned. Other partners include the International Police Organization (INTERPOL), Food and Agriculture Organization (FAO), and World Organisation for Animal Health (OIE).
<b>Financial resources</b>	The cost of investigations conducted under the UNSG-MICBW, including investigative capacities provided by the OPCW and the WHO for a specific investigation, is covered by the Office of the Secretary-General (unforeseen expenses account).	N/A
<b>Other</b>	<p>The secretary-general maintains and updates a roster of laboratories for the conduct of investigations. Any member state can designate laboratories whose names and capabilities should be placed on the secretary-general's list and whose services may be required to test for CBT agents (<a href="#">UNSG-MICBW Guidelines and Procedures</a>, para. 37).</p> <p>The secretary-general can rely on resources of the OPCW (experts, specialized equipment, protocols for maintaining chain of custody, laboratories, etc.) and of WHO, as was the case, for example, for its investigation of alleged use of CBT weapons in Syria in 2013.<sup>2</sup></p>	N/A

## 7 OUTCOME AND FOLLOW-UP

<b>Confidential reporting to and dialogue with parties to the conflict</b>	✓	The secretary-general can conduct consultations with member states on questions related to the possible use of weapons ( <a href="#">UNSG-MICBW Guidelines and Procedures</a> , para. 21).
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<sup>2</sup> See also note 1 and the [fact sheet](#) on the OPCW.

<b>Public reporting to UN and/or other international organizations</b>	(✓)	Investigations are confidential, but a final report is published ( <a href="#">Appendix B CWC</a> ). The team of experts submits the final report to the UNSG ( <a href="#">UNSG-MICBW Guidelines and Procedures</a> , para. 102), who in turn reports to all member states ( <a href="#">General Assembly Resolution 42/37C</a> ).
<b>Transmissibility to judicial mechanisms</b>		N/A
<b>Possible follow-up mechanisms</b>	✓	The secretary-general can facilitate provision of aid to the affected states by the international community ( <a href="#">UNSG-MICBW Guidelines and Procedures</a> , para. 72).  The secretary-general can also transmit the report of the UNSG MICBW panel to the Security Council (e.g., <a href="#">Azerbaijan in 1992</a> , <a href="#">Iran/Iraq in 1986</a> , <a href="#">Syria in 2013</a> ) or take any other action that falls within his or her powers.
<b>Available enforcement measures</b>	✓	If a UNSG-MICBW report is transmitted to the Security Council, the latter could potentially take enforcement measures such as passing a resolution imposing sanctions. This has never been done in this context, although the Security Council has passed resolutions calling on states to cease hostilities (e.g., Resolutions <a href="#">582</a> , <a href="#">588</a> , <a href="#">598</a> , following the <a href="#">report on Iran/Iraq in 1986</a> ).

**8 PRECEDENT OF USE FOR ATTACKS ON HEALTHCARE**

The UNSG IMCBW has so far been used on five occasions: [Syria in 2013](#), [Mozambique in 1992](#), [Azerbaijan in 1992](#), [Iraq/Iran from 1984 to 1988](#), and [Thailand/Pakistan from 1981 to 1982](#). So far, it has never been used to investigate attacks on healthcare.

	<b>Investigated alleged violations of IHL</b>		<b>Investigate alleged attacks on healthcare</b>	
<a href="#">Syria</a> (2013)	✓	Activated to investigate the alleged use of chemical weapons in Syria.		N/A

<a href="#">Mozambique</a> (1992)	✓	Activated to investigate the alleged use of chemical weapons against government forces.		N/A
<a href="#">Azerbaijan</a> (1992)	✓	Activated to investigate the alleged use of chemical weapons in Azerbaijan.		N/A
<a href="#">Iraq/Iran</a> (1984–1988)	✓	Activated to investigate the alleged use of chemical weapons in the conflict between Iraq and Iran.		N/A
<a href="#">Thailand/Pakistan</a> (1981–1982)	✓	Activated to ascertain the facts pertaining to reports regarding the alleged use of chemical weapons in Thailand and Pakistan.		N/A