



UNITED NATIONS SECURITY COUNCIL

*Agenda : Délibération on the use of lethal force with
emphasis on the conduction of Syrian airstrikes*

Message from the Executive Board

Honourable Member State Representatives,

Greetings,

It gives the Secretariat and the Executive Board an immense pleasure to be welcoming you to the simulation of UNSC at PMUN 2021. In this edition of PMUN, the UNSC is going to discuss on the agenda “*Délibération on the use of lethal force with emphasis on the conduction of Syrian airstrikes*”. While this agenda may sound like diplomatic jargon, it has taken a whole new in light in recent times.

We believe that taking part in this conference will broaden your horizons, whilst keeping you up to date with current events around the world. We are hoping for an amazing committee with active delegates, fruitful debate, and resolutions which embody the potential to have a positive impact on the world and fully address pertinent issues if implemented. In order for the committee work to be an unforgettable experience a crucial requirement is to be well-acquainted with the rules of procedure and respect diplomatic courtesy.

Please note that this background guide will act as a comprehensive introductory information material for the delegates and is only the starting point of your research. We advise you to undertake much more detailed research so that you are aware of the committee’s proceedings, and are able to gain an edge over other co delegates. At no point in time can any statement in this background guide be used as substantial evidence in committee, although you can very well use it to frame your arguments in a structured manner. Also understand that we as the Executive Board will remain to be the mere facilitators of debate, so we expect you to use this background guide as a starter to your research and give direction to the committee with fruitful debate.

If you have any inquiries or concerns, do not hesitate to Contact us!

We look forward to two days of deliberations, and possibly solutions, to the question at hand.

Best Regards,

President: Shayer Majumdar

Vice President: Aaditya Das

Substantive Director : Shantanu Aggarwal

Introduction

The current conflict in Syria is one of the most dynamic and complex items on the United Nations Security Council's (UNSC) agenda. It poses a serious threat to regional stability, represents a massive and growing humanitarian crisis, and has proved to be an extremely divisive issue within the Council itself. What began as an example of a peaceful protest in the middle of March 2011, has grown into a full-fledged conflict spreading across the region, costing more than 100,000 lives, forcing over 2 million Syrians to flee their country, and displacing another 4.25 million within Syria itself. Numerous organized fighting forces from Lebanon, Iraq, and Iran have also entered the conflict, further spreading the consequences and complicating the dynamics of this constantly evolving crisis.

The UN plays a crucial role in any conflict threatening international peace and security; thus it is vital to present an overview of the UN's involvement within the crisis thus far – with a particular focus on the SC. Whenever SC Member States address a failed state situation of spiraling violence like Syria, they often divide and conceptualize it in terms of its political, security, and humanitarian factors. In order to facilitate this type of thinking, this topic will also be divided into political, security, and humanitarian sections, beginning with an understanding of the international framework and role of the UN system. The dynamic nature of the Syrian conflict should also be at the forefront of delegates' minds as they delve into this topic. While the situation as it is presented below is accurate and up-to-date at the time of writing, it is also constantly changing. Delegates should approach the following topic simply as a primer to be followed up rigorously with current and evolving information.

In international law, the legal regimes governing the use of force against persons are found in IHL and in human rights law. In IHL, the rules and principles regarding the use of force can primarily be found in the 1907 Hague Regulations, the Additional Protocols to the Geneva Conventions and customary IHL. In international human rights law, the legal regime governing the use of force against individuals is mainly derived from the right to life, which is protected in every general human rights treaty and under customary law.

In terms of their scope of application, IHL is limited to situations of armed conflicts, while human rights law applies in peacetime and also in situations of armed conflict. In order to be covered by IHL, the use of force must take place in an armed conflict situation and must have a nexus with the armed conflict. Moreover, as stated by the International Criminal Tribunal for the former Yugoslavia (ICTY) in the Tadić decision, IHL applies "in the whole territory of the warring States or, in the case of internal armed conflicts, the whole territory under the control of a party, whether or not actual combat takes place there." Finally, IHL rules bind equally States and non-State armed groups.

International Regulations

The rules of international law on the use of force are relatively easy to state, though they may be difficult to apply in practice. The rules are to be found in the Charter and in customary international law. The Charter contains, among the Principles of the United Nations, a prohibition of the threat or use of force (Article 2, paragraph 4). The Charter refers to two not unrelated circumstances in which the prohibition does not apply. First, forcible measures may be taken or authorised by the Security Council, acting under Chapter VII of the Charter. Second, force may be used in the exercise of the right of individual or collective self-defence, as recognised in Article 51 of the Charter. A further possible exception that has been suggested, is the use of force to avert an overwhelming

humanitarian catastrophe (referred to as 'humanitarian intervention'). This is not mentioned in the Charter, and so must be found, if at all, in customary international law. Force used at the request or with the consent, duly given, of the government of the territorial State does not give rise to an issue under the jus ad bellum. The use of force in retaliation (punishment, revenge or reprisals) is illegal. Such terms are best avoided, even in political rhetoric.

A more important question is whether there are significant shortcomings in the traditional body of rules on the use of force by States. Is the law as it is, the law as it ought to be? Are existing rules adequate to meet current threats, especially from non-State actors and weapons of mass destruction?

The General Assembly of the United Nations, at the level of Heads of State and Government, responded to this question in its 2005 World Summit Outcome document. The Heads of State and Government reaffirmed:

"that the relevant provisions of the Charter are sufficient to address the full range of threats to international peace and security. We further reaffirm the authority of the Security Council to mandate coercive action to maintain and restore international peace and security. We stress the importance of acting in accordance with the purposes and principles of the Charter".

Article 51 recognizes the inherent right of self-defence under customary international law. It is sometimes suggested that the right of self-defence as recognized in the Charter is too restrictive for the modern age. Suggestions of this kind tend to overlook, or downplay, the potential role of the Security Council in authorizing States to use force preventively to avert terrorist threats.

Three main questions arise in connection with self-defence against terrorist attacks. Does the right of self-defence apply at all in response to attacks by non-State actors, including transnational terrorist groups? Is there a right of 'anticipatory' self-defence? And, if these questions are answered in the affirmative, how does the requirement of imminence apply in relation to attacks by terrorists or with weapons of mass destruction? (As can be seen in the case of the use of Chemical Weapons in Syria)

The Use of Chemical Weapons

The issue of chemical weapons use in Syria has been at the forefront of the international community's concerns, and the UN has been involved in investigating these allegations. In late March 2013 accusations began to circulate that chemical weapons had been used in Syria. Responding to the initial accusations on 20 March 2013 that it used chemical weapons against its own people, the Syrian government requested that the Secretary-General investigate the use of chemical weapons by opposition forces in the Kafr Da'il region of the Aleppo governorate. But as the UN chemical weapons investigation team was trying to gain access to the country in April 2013, a time when fellow Member States began to claim they had evidence of their use by the Assad regime, the Syrian government denied the UN access to the region. It was not until August 2013 that the investigation team was finally able to begin their investigations. Soon after being granted access into Syria, however, there was another reported attack on 21 August 2013. This second instance produced weeks of political posturing and threats of international military response. In the end, however, the SC unanimously adopted a Security Council resolution 2118 (2013), which set in motion a process of verification and destruction of Syria's chemical weapons stockpiles. The SC also asked the Secretary-General (SG) to consult with the Organization for the Prohibition of Chemical Weapons (OPCW) and make recommendations on how the UN should be involved in the

process of destroying Syria's chemical weapons. In response, the SG submitted a three-phased plan that would create a joint UN-OPCW mission to Syria to identify and eliminate chemical weapons stockpiles. The SC promptly adopted the plan.

Timeline

August 2013

Hundreds of civilian suffocate and exhibit the symptoms of nerve agent poisoning. United Nations investigators conclude victims were exposed to sarin gas. US President Obama seeks military action, however lacks support from lawmakers.

September 2013

UN Security Council orders Syria to destroy its chemical weapons stockpile, following an agreement reached between the US and Russia.

October 2013

Syria signs the Chemical Weapons Convention, prohibiting it from creating or using chemical weapons.

June 2014

The Organization for the Prohibition of Chemical Weapons (OPCW) says the chemical weapons possessed by the Syrian government have been removed, however the Syrian opposition maintains the government's stock was not fully accounted for.

September 2014

A US-led coalition launches 14 airstrikes against ISIL targets in Syria.

August 2015

UN Security Council authorizes probe into reports of chemical weapon use in Syria, as government forces reportedly use chlorine gas in opposition-held areas.

August 2016

The UN and OPCW conclude Syrian military helicopters dropped chlorine gas on rebel-held territories in Syria. The joint panel also concludes ISIL used mustard gas against a town north of Aleppo.

February 2017

Russia and China veto UNSC resolution to sanction the Syrian government for its alleged use of chemical weapons. China's ambassador called the draft resolution an example of "Western hypocrisy".

April 6, 2017

Trump orders a Tomahawk cruise missile attack on Syria's Shayrat Air Base in response to the chemical weapon attack on civilians. Syria denies using chemical weapons.

June 18, 2017

The US downs Syrian fighter jet close to Raqqa after alleging it targeted the US-backed Syrian Democratic Forces with bombs.

July 7, 2017

US President Trump and Russian President Putin reach an agreement on curbing violence in southwest Syria during their meeting at the G20 in Hamburg, Germany. The ceasefire took effect in the de-escalation zone from 12 p.m. Damascus time on July 9.

December 2017

Russian President Putin visits Syria, says Russian forces have completed their mission in the country against ISIL.

Feb. 24, 2018

UNSC adopts resolution demanding 30-day ceasefire in Syria to allow for humanitarian aid to reach those trapped in eastern Ghouta by heavy fighting between the Syrian government and rebel forces.

April 7, 2018

Syrian activists, rescuers and medics say a poison gas attack on the rebel-held town of Douma has killed dozens of people. The Syrian government and Russia reject the allegations, saying the purported evidence of a chemical weapons attack was fabricated.

April 9, 2018

Trump says he will decide on a US response to the Douma attack within 48 hours.

April 10, 2018

Syria says it has invited the OPCW to send a fact-finding mission into the country, as government forces across Syria go on high alert in anticipation of a possible US strike.

April 13, 2018

US President Donald Trump orders precision strikes on Syria in response to the alleged gas attack six days ago. The action involves countries including the UK and France.

March 1, 2019

The OPCW Fact-Finding Mission released a final report concluding that a toxic chemical, likely chlorine, was used as weapon on April 7, 2018 in Douma, Syria. The OPCW had issued an interim report on the incident in July 2018.

July 9, 2020

At the 94th Session of the Executive Council of the OPCW, the council passed EC-94/DEC.2"Addressing the Possession and Use of Chemical Weapons by the Syrian Arab Republic." The decision was in response to the 8 April 2020 Investigation and Identification Team (IIT) report. It gave Syria 90 days to declare any chemical weapons and CW facilities - in particular, those related to the March 2017 CW attacks - and resolve all outstanding issues regarding its initial declaration of its chemical weapons stockpile and program.

April 20-22, 2021

At the second session of the 25th Conference of the States Parties to the Chemical Weapons Convention, the member states passed a decision that suspended Syria's rights and privileges under the Convention. This means that, until Syria completes the measures laid out in EC-94/DEC.2, Syria is not able to vote or hold any office in the Conference or Executive Council.

The Air Strikes

At the time they occurred, most international legal scholars considered the strikes to be unlawful on two bases. First, they were not a lawful humanitarian intervention. While there is an ongoing debate as to whether the doctrine of jus ad bellum contains an exception for humanitarian interventions, the

dominant view is that it does not. A humanitarian intervention by military means is permissible only if the U.N. Security Council determines that the human rights violations constitute a threat to peace and calls for an enforcement action, or if the intervention was carried out in individual or collective self-defense. However, the Syrian operations were not carried out with Security Council authorization and were not conducted on the basis of self-defense. Second, the strikes were not a legitimate countermeasure, given that they involved the use of force. In the event of breaches of obligations erga omnes, every state may resort to countermeasures against the responsible state. However, countermeasures must not involve the threat or use of armed force. Accordingly, and even assuming that the obligation not to use chemical weapons was of an erga omnes nature, the Syria strikes still would not constitute a lawful countermeasure because they involved a use of force.

States broadly condoned the 2017 operation in Syria. In fact, ten states expressly endorsed it at the U.N. Security Council the day after it occurred, even though the operation did not receive previous authorization. A different group of states neither supported nor criticized the U.S. operation, and only Iran, Syria and Russia expressly condemned the operation as unlawful. As regards the 2018 strikes, only the United Kingdom expressly asserted that the strikes were lawful. However, a large number of states expressed explicit political support while another large group neither supported nor condemned the strikes. A smaller group expressly asserted that the strikes were unlawful.

Applicability of the Gross Model

Understanding the Applicability of Use of Force

As a preliminary matter, the use of chemical weapons by the Assad regime must constitute an exception or emergency before Gross 'model can apply to the Syria strikes. Gross supports a wide concept of "emergency," referring to it as a "crisis" that is inherently linked to, and that operates as an exception to, the concept of "normalcy." Thus, it is possible that the use of chemical weapons by a state against its people might constitute an emergency or exceptional situation.

Gross 'Extra-Legal Measures Model assumes that admitting the unlawfulness of certain sovereign actions is the best way to preserve respect for the rule of law. The model consists of two parts. First, the sovereign may take an unlawful action where it promotes the greatest good for the greatest number of people. Encompassed in this factor is the sovereign's admission that its behavior is unlawful. This step is the "obvious question." Second, the sovereign's citizens must decide how to respond to such actions, either directly—for example, through the passing of legislation designed to immunize public officials from liability, or indirectly—for example, through the re-election of public officials. This is called the "tragic question," which considers whether any alternative open to the sovereign is free from serious moral wrongdoing. Therefore, the people may conclude in particular instances that acting in a certain way is the right thing to do to promote the greatest good for the greatest number of people, but in other situations may decline to approve such action from legal, political, social, or moral standpoints. Fundamentally, Gross 'model provides a compelling explanation for the reactions of states to the strikes in that it promotes respect for the rule of law, while also allowing for highly circumscribed, but effective, escape mechanisms.