

Syria: What Role for the Security Council?

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What's In Blue

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Following a week of fast changing events related to Syria, the Security Council, long stalemated on this issue and on the verge of being sidelined by unilateral military strikes on Syria, may be poised to take centre stage on Syria's chemical weapons. The game-changer has been the surprise proposal made by Russia on Monday (9 September) to put the chemical weapons stocks in Syria under international control with the aim of eventually dismantling them. Soon thereafter, on Tuesday (10 September) French Foreign Minister Laurent Fabius announced that France would bring a draft resolution under Chapter VII to the Council. Russia then called for Council members to meet in consultations to discuss its proposal amidst rumours that it might produce its own draft resolution that afternoon. Russia subsequently postponed the consultations, apparently after US Secretary of State John Kerry reached out to Russian Foreign Minister Sergei Lavrov for a bilateral discussion of the proposal. Although there were no further attempts to have a discussion with the full Council, on 10 and 11 September the P3 held discussions on the French draft, with the US introducing a number of substantial additions. On 11 September, an informal meeting of the P5 took place at the Russian mission to discuss the Russian proposal.

Although diplomatic maneuvering continued in New York, action on Syria moved to Geneva by the end of the week. On Tuesday (10 September) the US announced that Kerry and Lavrov would meet in Geneva on 12 and 13 September to discuss the details of the Russian proposal. Despite the flurry of diplomacy this week, it is unclear whether any of the activity in New York has had any bearing on the Russia-US talks in Geneva. For example, it is unknown if the revised P3 draft resolution is being used in the discussions in Geneva or whether Council members might be presented with an entirely different text in the coming days or weeks.

Council members are expecting Secretary-General Ban Ki-moon to brief next week on the results of the investigation by a UN team, led by Swedish arms expert Åke Sellström, into the alleged use of chemical weapons in Syria during the 21 August attack. Media reports indicate that the Secretary-General today (13 September) said that he believes the report will show that chemical weapons were used. Although the UN inspectors' mandate does not cover the attribution of blame for the attacks, Council members are expecting detailed information on delivery systems which could point to government culpability. However, now that negotiations have shifted to Geneva, it is possible that the forthcoming UN inspectors' report will not have the previously anticipated impact on the Council's approach to the situation. Instead the outcome of the Kerry-Lavrov talks is likely to be the key factor in determining the contours of any potential Security Council outcome on the issue.

This has led to mixed feelings among some Council members. While they believe that serious Russia-US talks on a substantive component of the Syrian crisis are a step in the right direction, there is concern that an agreement on the chemical weapons issue could result in a Russia-US “fait accompli” text. In such a scenario, the other 13 Council members are likely to be sidelined with the text being circulated in New York for a rubber-stamp adoption without any real negotiations.

Alternatively, if there is no agreement reached in Geneva very few Council members expect negotiations to shift back to New York. There seems scant appetite in the Council for protracted negotiations over a Chapter VII resolution which may set the stage for a potential fourth veto by Russia and eventually China. Elected members are also wary of being caught up in ongoing P5 divisions or being put in the position of being asked to endorse a plan which may be perceived as little more than delaying tactics and small concessional gestures from Syria.

It seems the original French draft, which has been seen by elected members although it was not formally circulated to them, condemned the 21 August chemical weapons attack by the Syrian authorities; demanded the cessation of chemical weapons use and decided that the chemical weapons stocks in Syria would be put under international control for dismantling; contemplated an international inspections regime; established a Security Council sanctions committee including the possibility to apply targeted measures; and warned of further measures under Chapter VII in the case of non-compliance by Syria. The draft resolution also included a referral of the situation in Syria since March 2011 to the International Criminal Court (ICC). During 10 and 11 September P3 discussions of the French text, the US added a significant number of operational paragraphs apparently related to any potential inspection mechanism and on sanctions-related issues. However, it does not seem that the wider Council membership has seen this revised draft text.

Although there have been no formal discussions among the Council as a whole, a key area that has generated lively informal discussion among Council members is whether a draft resolution on this issue should be under Chapter VI or Chapter VII. Although a Chapter VI resolution can be binding, pursuant to Article 25 of the UN Charter and the intent of the Council as expressed in the operative wording of the decision, only Chapter VII resolutions are enforceable. (Whereas Chapter VI is on the pacific settlement of disputes, Chapter VII addressed threats or breaches to the peace and acts of aggression. Only a Chapter VII resolution can specifically authorise force.)

Many Council members are of the view that any effective and positive impact on the Syrian crisis broadly, and on the chemical weapons in particular, would require a resolution tabled under Chapter VII with language specifying enforceable consequences such as the use of force and other measures in the event of non-compliance. However, there are already clear indications that Russia is not open to this. It is possible Russia would agree to a Chapter VI resolution but could also argue for a decision of lesser weight, such as a presidential statement.

There are concerns that a Chapter VI resolution or a presidential statement would be insufficient to send a strong signal to Syria of the seriousness with which the Council views this matter. On the other hand, elected Council members supportive of a Chapter VII resolution in order to send a strong signal to the Bashar al-Assad regime are also keen to ensure it is not interpreted as a carte blanche for the use of force and underscore the need for Council authorisation of any potential military action for non-compliance with the resolution.

A number of Council members, frustrated after two and half years of not being able to take action on the Syrian crisis, see this as a potential opportunity to impact the situation on the ground positively and possibly create momentum towards a negotiated political solution. These members would like to ensure that any Council action on the chemical weapons issue not sideline other aspects of the crisis such as the humanitarian track or the still unscheduled Geneva II peace talks. Kerry and Lavrov met with UN-Arab League Joint Special Representative Lakhdar Brahimi in Geneva yesterday and another meeting is planned on the sidelines of the opening of the General Assembly at the end of September. However, many Council members see this meeting as a sign that the political option is still on the table rather than a substantive indication that the Geneva II peace talks are imminent. There are also concerns that the focus on chemical weapons may leave the impression that the Council is not concerned about the use of conventional weapons, which have caused significantly more deaths since the conflict started.

With Russia and China showing support for the idea of international supervision of chemical weapons stockpiles, Iran and Syria apparently welcoming the initiative and the US open to exploring the possibilities for a credible and verifiable plan, it seems that some sort of Council action on this may be possible. However, divisions in the Council, particularly in relation to consequences for the Syrian government for its actions, which have stymied action on Syria for two and a half years, will be difficult if not impossible to overcome. In addition, the details regarding consequences for non-compliance, sanctions related issues as well as issues like the ICC referral will be challenging to negotiate. It is clear that although the Council may be back in the picture in the coming days, the real decisions may be made in Geneva and unless agreement can be found quickly the Council may soon revert to being powerless to influence events in Syria.

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