



What's In Blue

Syria: Draft Resolutions and Briefing on the Humanitarian Situation*

Tomorrow morning (19 September), Assistant Secretary-General for Humanitarian Affairs Ursula Mueller is expected to brief Council members during the monthly meeting on the humanitarian situation in Syria. Members are expected to make statements following the briefing.

After the meeting, the Council is expected to vote on competing draft resolutions deciding on a ceasefire in Idlib: one draft produced by the humanitarian penholders on Syria (Belgium, Germany and Kuwait) that Council members have been negotiating since late August, and a second China-Russia draft that was put in blue earlier today without prior negotiations among the full Council. The Belgium-Germany-Kuwait draft will be voted on first, prior to the China-Russia draft, because it was put into blue first. (Under Rule 32 of the provisional rules of procedure, “draft resolutions shall have precedence in the order of their submission”.) While it appears that the first draft is not acceptable to China and Russia, it does not currently appear that the second draft has enough support to be adopted.

Belgium-Germany-Kuwait Draft Resolution

Three rounds of negotiations on 30 August, 6 September, and 13 September were convened on the Belgium-Germany-Kuwait draft, in addition to intensive bilateral negotiations. In spite of differences of view, it seems that members tried to engage constructively during the negotiations. While efforts were made by the penholders to accommodate the various positions—including by incorporating agreed language from previous resolutions—it seems that some of the differences could not be bridged. In this regard, it appears that a number of members were wary of softening the language on accountability and international humanitarian law to the point that, in their view, the resolution would become ineffectual.

The Belgium-Germany-Kuwait draft “decides” that all parties shall immediately cease hostilities in Idlib by noon on 21 September 2019. It reiterates the Council’s demand that all parties comply immediately with their obligations under international law. This includes immediately ending indiscriminate aerial bombardments leading to civilian casualties, taking all feasible precautions to avoid and minimise harm to civilians and civilian objects, and respecting and protecting medical and humanitarian personnel engaged exclusively in medical activities, their means of transport and equipment, and medical facilities. The draft calls on all parties to respect and fulfill their commitments to existing ceasefire agreements, including by implementing fully resolutions [2254](#), [2268](#) and [2401](#) on Syria.

This draft contains considerable language on humanitarian access. It demands that all parties allow and facilitate safe, unimpeded and sustained humanitarian access for the UN and its implementing partners to requested areas and populations in Syria. It further demands that all parties facilitate safe and unimpeded passage for medical and humanitarian personnel engaged exclusively in medical duties, as well as their equipment and means of transport.

The draft calls on all parties, particularly the Syrian authorities, to undertake confidence-building measures, including by releasing arbitrarily detained persons, providing information on missing persons, and handing over the bodies of deceased persons to their families.

The application of the cessation of hostilities to counter-terrorism operations became a controversial issue very early in the negotiations, given that Russia and Syria have justified military operations in response to the threat of terrorist groups. In contrast to the Russian position, some members were concerned that a carve-out provided for counter-terrorism operations could cloak indiscriminate attacks on civilian targets. Russia had wanted the language on such a carve-out included, and in an apparent effort to find a compromise, the penholders incorporated language in the draft text stating that all counter-terrorism measures, including in Idlib, must comply with international humanitarian law. This language was drawn from resolution [2482](#), a thematic resolution on the nexus between terrorism and organised crime, which reaffirms that “Member States must ensure that any measures taken to counter terrorism must comply with...their obligations under international law, in particular international human rights law, international refugee law and international humanitarian law”. It does not appear that this language was acceptable to Russia. It seems that China also noted, during the negotiations, the threat posed by terrorist groups in Idlib.

Another important issue in the negotiations was how to calibrate the resolution’s language on non-compliance, and whether to make explicit reference to Chapter VII of the UN Charter. It appears that the US advocated a Chapter VII reference, but the penholders decided not to incorporate it, as such a reference would have been unacceptable to Russia and to some others.

Instead, the draft refers to Article 25 of the UN Charter (Chapter V), which states that UN member states “agree to accept and carry out the decisions of the Security Council in accordance with the present Charter”. This formulation has been used in past Syria resolutions, including those authorising cross-border humanitarian access in Syria, as a way of emphasising the importance of adherence to the resolution, without referring to Chapter VII. (Chapter VII addresses threats or breaches to the peace and acts of aggression, and only a Chapter VII resolution can specifically authorise force.) More controversial was the language in the draft in blue reaffirming that the Council will take further measures in the case of non-compliance with the resolution, in accordance with the UN Charter. Russia reportedly had reservations with regard to this provision, which is commonly used to indicate the possibility of a stronger resolution in the future, typically authorising Chapter VII measures such as sanctions or the use of force.

An additional contentious issue pertained to the language around a ceasefire monitoring, verification and reporting mechanism and requesting the Secretary-General to report to the Council on options for such a mechanism. This provision is based on agreed language from Resolution 2254 of 18 December 2015, which focused on the political situation in Syria. However, it does not appear that the language on a monitoring, verification and reporting mechanism was acceptable to Russia in the draft resolution in blue.

The draft has some similarities with resolution 2401 of February 2018, which failed in its goal of a Syria-wide ceasefire for at least 30 consecutive days. However, there are some notable differences. In addition to the narrower geographic focus on Idlib, this draft “decides” that all parties shall immediately cease hostilities, a more forceful verb in Council parlance than “demands”, the operative verb used in resolution 2401. Unlike the current draft, a clear start date and time of the ceasefire was not given in resolution 2401, which instead demanded that the ceasefire commence “without delay”. Moreover, unlike the earlier resolution, this draft lacks a clear exemption for attacks on terrorist targets.

China-Russia Draft

There are key differences between the China-Russia and the Belgium-Germany-Kuwait drafts. While both documents decide that all parties shall immediately cease hostilities in Idlib, the China-Russia draft focuses heavily on the threat of terrorism in general, including in Idlib. In this regard, a paragraph is included in the China-Russia draft expressing the Council's “serious concern over the dominance of terrorists in the Idlib de-escalation zone, controlling more than 90% of its territory”.

The China-Russia draft, consistent with resolution 2401, reaffirms that “the cessation of hostilities shall not apply to military operations against individuals, groups, undertakings and entities associated with terrorist groups, as designated by the Security Council.” Russia had suggested including this language in the Belgium-Germany-Kuwait draft, but it was unacceptable to a number of members.

China and Russia omitted other provisions that had been in the Belgium-Germany-Kuwait draft. For example, while a reference to Article 25 remains, there is no affirmation in the China-Russia draft that the Council will take further measures in the case of non-compliance with the resolution. Nor is there any mention of a potential ceasefire monitoring, verification and reporting mechanism.

An element of this draft that is not in the Belgium-Germany-Kuwait draft is an expression of “dismay over discrepancies in the coordinates and purposes of the facilities, submitted to the parties for de-confliction”. This appears to be related to Russia's claim that it is being falsely accused of bombing medical facilities based on inaccurate information provided to the UN from unreliable sources.

Humanitarian Briefing

While Mueller is likely to discuss the humanitarian situation in Syria generally, she may focus a significant portion of her statement on Idlib, where fighting has displaced several hundred thousand people and claimed the lives of over 500 civilians since late April. She may welcome the unilateral ceasefire announced by Russia on 30 August, which has generally held, and call for it to be extended.

While members are generally likely to express concern for civilians affected by the fighting in Idlib, members can be expected to present different interpretations of the fighting. In this regard, the P3 and others have traditionally expressed concerns about violations of international humanitarian law, including attacks on schools and hospitals, while Russia has pointed to the threat of terrorism in the region.

Mueller may emphasise the veracity of the information provided to the Council on attacks on healthcare facilities in Idlib. She may reiterate that the UN reviews reports from its partners on the ground against at least two other independent sources, echoing words to this effect by Under-Secretary-General Mark Lowcock during his 29 August Council briefing on the humanitarian situation in Syria. This issue is particularly relevant, given Russia's claims in this connection: Russian ambassador Vassily Nebenzia held a press conference on 16 September at UN headquarters in which he stated in reference to Syria that the "deliberate manipulation of information has become one of the most important weapons of this war" and that "claims came from people connected to listed terrorist groups". In contrast to the Russian view, some Council members may express their confidence in the information provided by the UN.

Some Council members may welcome the Secretary-General's 13 September announcement of the composition and start date of the internal UN Headquarters Board of Inquiry (BOI), which is tasked with investigating the "destruction of, or damage to facilities on the deconfliction list and UN-supported facilities" in north-western Syria. The BOI was established following a demarche by ten Council members—Belgium, the Dominican Republic, France, Germany, Indonesia, Kuwait, Peru, Poland, the UK and the US—to the Secretary-General on 27 July to request the launch of an investigation. The board, which will commence its work on 30 September, will be led by Lieutenant General Chikadibia Obiakor (Nigeria) and will include Janet Lim (Singapore) and Marta Santos Pais (Portugal). Two senior experts—Major General Fernando Ordóñez (Peru) and Pierre Ryter (Switzerland), former ICRC Head of Delegation—will support its work.

In tomorrow's meeting, members may also raise the need to improve the difficult humanitarian situation in Al-Hol camp in northeast Syria and Rukban camp in southern Syria. With respect to Al-Hol camp, which is located in an area formerly occupied by the Islamic State in Iraq and the Levant and whose population consists mainly of foreigners, Mueller may reiterate the concern expressed by Lowcock at last month's humanitarian briefing in the Council that inhabitants could be deprived of the opportunity to repatriate and could face the possibility of statelessness.

* Postscript (20 September 2019): Votes were held on both draft resolutions. The Belgium-Germany-Kuwait draft was vetoed by China and Russia. Twelve members supported it (Belgium, Côte d'Ivoire, the Dominican Republic, France, Germany, Indonesia, Kuwait, Peru, Poland, South Africa, the UK and the US) and one abstained (Equatorial Guinea). The China-Russia draft also failed to be adopted. It received two votes in favour (China and Russia), nine against (Belgium, the Dominican Republic, France, Germany, Kuwait, Peru, Poland, the UK and the US) and four abstentions (Côte d'Ivoire, Equatorial Guinea, Indonesia and South Africa).

Tags: [Insights on the Middle East](#), [Syria](#)