



US Government and Congress Response to Syria

Standard Note: SNIA 6721

Last updated: 3 September 2013

Author: Vaughne Miller

Section International Affairs and Defence Section

In the United States there has been no political consensus either on arming the Syrian rebels or on US military intervention in Syria following allegations of chemical weapons attacks on civilians by the Syrian regime. Views in Congress range from those who think the Obama Government is not doing enough to tackle Syrian atrocities, to those who do not want to see any military action at all.

President Obama announced on 31 August 2013 that the US *should* take military action against the Syrian regime in retaliation for its use of chemical weapons following a particularly serious attack on civilians near Damascus, but that he would ask Congress to authorise any US action. An authorisation request was drawn up in the form of a 'Draft Resolution to Authorize Use of Military Force in Syria', which will be debated in both Houses after Congress convenes on 9 September 2013.

This Note looks at US Government moves towards military intervention in Syria and Congressional responses.

For information on events in Syria, see the following Standard Notes:

SN 6714, [Intervention in Syria](#) 28 August 2013

SN 6716, [Conditions for using force in humanitarian intervention](#) 29 August 2013

SN 6717, [Sanctions on Syria: existing EU/UK measures](#) 29 August 2013 (amended 30 August 2013)

See also: SN 6715, [Military interventions: some comparisons](#) 29 August 2013

Contents

1	Introduction	2
1.1	Divisions in Washington	2
1.2	August chemical attack	4
2	US military intervention	4
2.1	Presidential powers	4
2.2	Congressional views on US military intervention	5
	Rigell letter	5
	Boehner letter	5
	Briefing and persuading Congress	6
2.3	Reports on use of chemical weapons and legal justification for war	7
2.4	Obama statement on US military intervention	8
2.5	The draft resolution	8
3	Prospects for approval	10
3.1	Increasing support?	10
4	Further reading	11

1 Introduction

1.1 Divisions in Washington

In the United States Congress there has been no political consensus either on arming the Syrian rebels or on military intervention in Syria. There is a Republican majority in the House of Representatives and a Democrat majority in the Senate, but there are divisions on the US response to Syria both within and between the main parties.

In August 2011, President Barack Obama [called for](#) the Syrian President Bashar al-Assad, to resign, and announced “unprecedented sanctions” against the Assad regime. In 2012 Democrat and Republican Congressmen called for more US involvement in Syria, possibly including a no-fly zone to protect civilians in rebel-held areas. The CIA expanded training, logistics and intelligence hubs to help Syrian rebels in Jordan and Turkey.

In March 2012 the Obama Administration said it would need to seek UN or NATO approval before intervening in Syria, but would not need the consent of Congress. This prompted Congressman Walter Jones (R-NC) to submit a [resolution](#) to impeach President Obama if he attacked Syria without receiving approval from Congress, on the grounds that it would constitute “an impeachable high crime and misdemeanor under article II, section 4 of the Constitution”. Just over a year later, Jones has again pledged to file articles of impeachment against the President if any US troops are killed in Syria in an action that has not been approved by Congress.

On 12 February 2013 Martin Dempsey, Chairman of the Joint Chiefs of Staff, testified before the Senate Armed Services Committee that he had advised President Obama to arm vetted units of the Syrian opposition. On 17 April 2013 he testified to the Committee that he no longer supported doing this.

On 26 April 2013, in a letter to senators, the White House stated that US intelligence believed “with varying degrees of confidence that the Syrian regime has used chemical weapons on a small scale in Syria, specifically the chemical agent sarin”.¹ President Obama warned President Assad that any use of chemical weapons in Syria’s civil war would be a “game changer”, but he did not endorse intelligence reports that such weapons had been deployed.

In May 2013 the Senate Foreign Relations Committee voted by 15 votes to 3 to arm elements of the Syrian opposition in a bill co-sponsored by Senator Robert Menendez (D-New Jersey) and Senator Bob Corker (R-Tennessee). There was disagreement over whether the US could ensure that weapons and body armour would not fall into the hands of extremist groups, such as the al-Nusra Front, which is linked to al-Qaeda.

On 13 June 2013, the US deputy national security adviser, Benjamin J Rhodes, [reported](#) to the US Congress on the on-going US investigation into the use of chemical weapons by the Syrian regime. The Syrian government’s refusal to grant access to United Nations chemical weapons experts had prevented a comprehensive investigation, but the intelligence community assessed that the regime of Bashar al-Assad had used chemical weapons, including the nerve agent sarin several times against the opposition over the last year, with the deaths of an estimated 100 to 150 people. Based on this “credible evidence”, President Obama announced an increase in the US provision of non-lethal assistance to the civilian opposition and authorised the expansion of US assistance to the Supreme Military Council (SMC) of the Free Syrian Army.

The Senate and House intelligence committees were divided about what the US could or should do to about the Syria situation. While some members wanted a more significant US commitment on Syria, others were concerned that arming the rebels would put weapons into the hands of Islamic terrorists. Several rejected any increased US involvement in Syria for fear of being dragged into another Middle East “quagmire”. In spite of objections to supplying arms to the rebels, the committees acquiesced.²

In June 2013 bipartisan bills were introduced requiring Congressional approval for any decision to arm the Syrian rebels or to intervene militarily in Syria.

By mid-August 2013 the Syrian rebels reported that they had not received any US arms deliveries, which some US analysts interpreted as a sign that President Obama was reluctant to become involved in the Syria situation.

There have been suggestions that the US response to the Syria situation might influence Iran’s potential development of nuclear weapons, another Obama ‘red line’. Some Democrats believe the US should only act in concert with an international coalition of NATO allies and Arab League members. Many in Congress have asked about Obama’s broader

¹ See [Press Briefing by Press Secretary Jay Carney, 26 April 2013](#)

² Although the intelligence committees and congressional leaders have to be informed, their approval and funding authorisation are not legal requirements. However, Congress has in the past used its budgetary powers to prevent funding intelligence activities, e.g. in 1980s it refused to fund the Contras seeking to overthrow the Nicaraguan government.

strategy in the region that addresses the US national security interests, and about the budget to support it. Others want to know what the Administration would do if Syria were to retaliate against US allies in the region, and whether the US would launch further military strikes if the initial ones proved ineffective.

1.2 August chemical attack

The Syrian opposition claimed that the chemical weapons attack in a Damascus suburb on 21 August 2013, which was reported to have killed 1,429 civilians, including over 400 children, was carried out by the Syrian Government. President Barack Obama had [indicated in August 2012](#) that such an act would cross a “red line” with regard to US foreign policy on Syria and would change his thinking on intervention.

In mid-August UN inspectors were allowed into Damascus to investigate alleged chemical weapons abuse.

On 24 August President Obama convened a meeting of his National Security Council. He received a detailed review of potential options for the US and the international community to respond to the use of chemical weapons. The Defense Secretary, Chuck Hagel, said the US was positioning naval forces and assets in anticipation of any decision by President Barack Obama to order military action on Syria.

On 31 August 2013 President Obama approved US military strikes against Syrian targets, but surprised even some of his close advisers by saying that he would seek authorisation from Congress first.

2 US military intervention

2.1 Presidential powers

President Obama has broad legal powers to undertake military action against Syria without Congressional approval. Under the 1973 [US War Powers Resolution](#),³ the president must notify Congress within 48 hours of launching military action, but forces can fight for 60 days before Congress has to approve any action. Although President Obama, as Commander-in-Chief, does not need Congressional approval for US military action in Syria, he conceded in a statement on 31 August (see below) that “our country will be stronger if we take this course”.

Under the [US Constitution](#), Congress has the authority to “declare War”, “raise and support Armies”, and “provide and maintain a Navy”, as well as general authority over the appropriations on which any military operation necessarily depends. A [CBS news report commented on 30 August 2013](#) that “The effectiveness of the War Powers Resolution ... is arguably negligible. Past administrations have pushed back against the law in various ways, including by arguing with Congress over the start of the 90-day countdown”.

In 2007, when he was a senator and presidential candidate, Barack Obama said that the president did not have power under the Constitution “to unilaterally authorize a military attack in a situation that does not involve stopping an actual or imminent threat to the nation”,⁴ but that “In instances of self-defense, the president would be within his constitutional authority to act before advising Congress or seeking its consent”. Senator Joe Biden, also a senator and

³ Also called the War Powers Act. For information on the US’s current use of the Resolution, see [letter from Barack Obama, 14 June 2013](#).

⁴ [Boston.com](#), 20 December 2007, “[Barack Obama’s Q&A](#)”

presidential candidate in 2007, said he would move to impeach President Bush if he bombed Iran without first gaining congressional approval.

However, in 2011 the US Administration took military action in Libya without Congressional approval. In its [legal justification for action in Libya, 1 April 2011](#), the Justice Department's Office of Legal Counsel (OLC) argued that Congress's authority to "declare war" was limited by the definition of war: "This standard generally will be satisfied only by prolonged and substantial military engagements, typically involving exposure of US military personnel to significant risk over a substantial period". The OLC noted that the operation in Libya would be limited to air strikes in support of a UN resolution, and justified the use of force in Libya as "in the national interest".

2.2 Congressional views on US military intervention

The chemical weapons attack near Damascus on 21 August 2013 triggered US Government proposals for a military response in Syria. Congressional opposition to US intervention also became more vocal, and there were renewed calls, particularly following the UK vote against intervention, for Congress to approve any US military action in Syria.

Rigell letter

By 28 August 2013 116 House members - 98 Republicans and 18 Democrats – had signed a [letter](#) from Republican Scott Rigell (R-Virginia) urging President Obama to convene Congress early to debate plans to use military force in Syria. The letter maintained that "engaging our military in Syria when no direct threat to the United States exists and without prior congressional authorization would violate the separation of powers that is clearly delineated in the Constitution". The letter referred to the war in Libya, in which the US had intervened without the authority of Congress because the US was supposedly not engaged in "hostilities" – which the signatories disputed. The Office of Legal Counsel (OLC) had also concluded in April 2011 that President Obama could "rely on his constitutional power to safeguard the national interest by directing the anticipated military operations in Libya—which were limited in their nature, scope, and duration—without prior congressional authorization".⁵ The Rigell signatories viewed as "unconstitutional" the precedent that "national interest" would be enough to engage in hostilities without Congressional authorisation.

Boehner letter

On 28 August the House Speaker, John Boehner (R-Ohio), [wrote to](#) President Obama requesting that the President clearly articulate to Congress and the American people his objectives, policy and strategy for any potential intervention in Syria. Boehner acknowledged that the US response to atrocities in Syria had implications not just in Syria, "but also for US credibility across the globe, especially in places like Iran". The US response would also affect the security and stability of US allies in the region coping with the exodus of Syrian refugees and any consequent ethnic and religious tensions. Boehner insisted that Obama now had to "provide a clear, unambiguous explanation of how military action – which is a means, not a policy – will secure US objectives and how it fits into [his] overall policy". He insisted it was essential to justify the legal basis for using force, linking this to the authority of Congress in Article 1 of the US Constitution.⁶

⁵ [OLC 1 April 2011](#)

⁶ "All legislative Powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives".

Boehner had 14 specific questions:

- What standard did the Administration use to determine that this scope of chemical weapons use warrants potential military action?
- Does the Administration consider such a response to be precedent-setting, should further humanitarian atrocities occur?
- What result is the Administration seeking from its response?
- What is the intended effect of the potential military strikes?
- If potential strikes do not have the intended effect, will further strikes be conducted?
- Would the sole purpose of a potential strike be to send a warning to the Assad regime about the use of chemical weapons? Or would a potential strike be intended to help shift the security momentum away from the regime and toward the opposition?
- If it remains unclear whether the strikes compel the Assad regime to renounce and stop the use of chemical weapons against the Syrian people, or if President Assad escalates their usage, will the Administration contemplate escalatory military action?
- Will your Administration conduct strikes if chemical weapons are utilized on a smaller scale?
- Would you consider using the United States military to respond to situations or scenarios that do not directly involve the use or transfer of chemical weapons?
- Assuming the targets of potential military strikes are restricted to the Assad inner circle and military leadership, does the Administration have contingency plans in case the strikes disrupt or throw into confusion the command and control of the regime's weapons stocks?
- Does the Administration have contingency plans if the momentum does shift away from the regime but toward terrorist organizations fighting to gain and maintain control of territory?
- Does the Administration have contingency plans to deter or respond should Assad retaliate against U.S. interests or allies in the region?
- Does the Administration have contingency plans should the strikes implicate foreign power interests, such as Iran or Russia?
- Does the Administration intend to submit a supplemental appropriations request to Congress, should the scope and duration of the potential military strikes exceed the initial planning?

Briefing and persuading Congress

Over the weekend of 31 August-1 September President Obama and his cabinet sought to persuade sceptics in Congress to back his approach and counter complaints that Congress was not being consulted about a potential US strike in Syria. Government Officials held private briefings with lawmakers, while President Obama, Joe Biden and White House Chief of Staff Denis McDonough made calls to individual members of the House and Senate.

Sunday afternoon intelligence briefings on Syria were held with Obama's national security team, the national security adviser and intelligence chief, Susan Rice and James Clapper, Secretary of State John Kerry, Defense Secretary Chuck Hagel and Admiral James Winnefeld, the vice chairman of the Joint Chiefs of Staff.

John Kerry told politicians about new evidence that sarin gas had been used in the August chemical attack near Damascus, but there was not much evidence of minds being changed.

Lawmakers questioned the effectiveness of limited strikes, the possible unintended consequence of dragging the United States into another open-ended Middle East conflict, the wisdom of acting without broader international backing to share the burden, and the war fatigue of the American public.⁷

President Obama made a major breakthrough on 2 September 2013, when he met former Republican presidential candidate, Sen. John McCain. McCain has been equivocal about his voting intentions, but told the press after the meeting that if Congress withholds authorisation for military action "The consequences would be catastrophic".⁸ Both he and Lindsey Graham (R-South Carolina) expressed confidence that the White House was developing a better strategy for dealing with Syria, both to "upgrade the capabilities of the Free Syrian Army and to degrade the capabilities of Bashar Assad".⁹

2.3 Reports on use of chemical weapons and legal justification for war

The US [Government Assessment of the Syrian Government's Use of Chemical Weapons on August 21, 2013](#) was published on 30 August 2013. It stated that the US Government assessed "with high confidence" that the Syrian government had carried out the Damascus chemical weapons attack and that that the regime had used a nerve agent in the attack. The assessments were based on 'human, signals, and geospatial intelligence as well as a significant body of open source reporting'.

President Obama also ordered an analysis of the legal justification for military strikes in Syria. Under customary international law a direct threat to the US could provide a legal justification for military intervention without authorisation from the UN or Congress, but the basis for the argument that Syrian action represented a direct threat to the US has been difficult to pin down. According to White House spokesman, Jay Carney, "Allowing the use of chemical weapons on a significant scale to take place without a response would present a significant challenge to, threat to the United States' national security."¹⁰ But he offered no explanation as to how the US was directly threatened by attacks contained within Syria's borders - nor absolute proof that the Syrian Government was responsible for them.

The [Washington Post reported on 28 August 2013](#) that President Obama was 'weighing a response focused narrowly on punishing Assad for violating international agreements that ban the use of chemical weapons, an act the president repeatedly has said would cross a 'red line'.' The Defence Secretary, Chuck Hagel, insisted that any military action would occur "within the framework of legal justification", but did not confirm that it would be sanctioned under international law.¹¹ There has been some debate as to whether the "red line" originally

⁷ [Chicago tribune, 1 September 2013.](#)

⁸ [Guardian, 2 September 2013.](#)

⁹ [USA Today, 2 September 2013.](#)

¹⁰ White House [Press briefing, 27 August 2013](#)

¹¹ [The Guardian, 28 August 2013](#)

referred to in 2011 actually meant the US would take military action against the Syrian regime.

2.4 Obama statement on US military intervention

The US Government relied largely on moral arguments for military intervention in a [statement](#) on 31 August, when President Obama announced that he would seek authorisation from Congress for limited military action in Syria:

This would not be an open-ended intervention. We would not put boots on the ground. Instead, our action would be designed to be limited in duration and scope. But I'm confident we can hold the Assad regime accountable for their use of chemical weapons, deter this kind of behavior, and degrade their capacity to carry it out.

The President repeatedly emphasised the potential Syrian threat to US national security and said his Administration was ready “to provide every member with the information they need to understand what happened in Syria and why it has such profound implications for America's national security”. He was “comfortable going forward without the approval of a United Nations Security Council that, so far, has been completely paralyzed and unwilling to hold Assad accountable”. He also referred to the possible impact in the US of the UK parliamentary vote against the principle of intervening in Syria.

He asked:

If we won't enforce accountability in the face of this heinous act, what does it say about our resolve to stand up to others who flout fundamental international rules? To governments who would choose to build nuclear arms? To terrorist who would spread biological weapons? To armies who carry out genocide?

He thought an “atrocities with chemical weapons” should not just be investigated by the UN investigation team, but confronted. Appealing to Americans not to turn a blind eye, he concluded:

... our security and our values demand that we cannot turn away from the massacre of countless civilians with chemical weapons. And our democracy is stronger when the President and the people's representatives stand together.

2.5 The draft resolution

The [draft resolution](#) the US President to the speaker of the House and president of the Senate regarding authorisation for the use of the US armed forces in connection with the conflict in Syria is worded as a response to the use of chemical weapons or other weapons of mass destruction. It will require approval in both houses of Congress.

Whereas, on August 21, 2013, the Syrian government carried out a chemical weapons attack in the suburbs of Damascus, Syria, killing more than 1,000 innocent Syrians;

Whereas these flagrant actions were in violation of international norms and the laws of war;

Whereas the United States and 188 other countries comprising 98 percent of the world's population are parties to the Chemical Weapons Convention, which prohibits the development, production, acquisition, stockpiling or use of chemical weapons;

Whereas, in the Syria Accountability and Lebanese Sovereignty Restoration Act of 2003, Congress found that Syria's acquisition of weapons of mass destruction threatens the security of the Middle East and the national security interests of the United States;

Whereas the United Nations Security Council, in Resolution 1540 (2004), affirmed that the proliferation of nuclear, chemical and biological weapons constitutes a threat to international peace and security;

Whereas, the objective of the United States' use of military force in connection with this authorization should be to deter, disrupt, prevent, and degrade the potential for, future uses of chemical weapons or other weapons of mass destruction;

Whereas, the conflict in Syria will only be resolved through a negotiated political settlement, and Congress calls on all parties to the conflict in Syria to participate urgently and constructively in the Geneva process; and

Whereas, unified action by the legislative and executive branches will send a clear signal of American resolve.

SEC.- AUTHORIZATION FOR USE OF UNITED STATES ARMED FORCES

(a) Authorization.- The President is authorized to use the Armed Forces of the United States as he determines to be necessary and appropriate in connection with the use of chemical weapons or other weapons of mass destruction in the conflict in Syria in order to-

- (1) prevent or deter the use or proliferation (including the transfer to terrorist groups or other state or non-state actors), within, to or from Syria, of any weapons of mass destruction, including chemical or biological weapons or components of or materials used in such weapons, or
- (2) protect the United States and its allies and partners against the threat posed by such weapons.

(b) War Powers Resolution Requirements. -

(1) Specific Statutory Authorization.- Consistent with section 8(a)(1) of the War Powers Resolution, the Congress declares that this section is intended to constitute specific statutory authorization the meaning of section 5(b) of the War Powers Resolution.

(2) Applicability of other requirements.- Nothing in this joint resolution supersedes any requirement of the War Powers Resolution.

The resolution needs to be approved by a simple majority in the House (217 Representatives) and 60 out of 100 Senators. The draft text can be amended, whereas under the *War Powers Act*, a use-of-force resolution would require only limited debate and a simple majority vote. Following the UK vote and the US decision to ask Congress, opposition members in the French Parliament are now calling on the French President, François Hollande, to allow a parliamentary to vote on intervention in Syria.¹²

Lawmakers in both parties found the President's draft resolution too broad and Senate members are preparing a revised resolution narrowing the terms of authorisation:

¹² See, for example, [Guardian](#), 1 September 2013.

Some of the options being considered for the revised Authorization for the Use of Military Force include a 60-day period for Obama to launch “narrow, limited” strikes against Assad’s regime with the potential for a 30-day extension of that deadline.

Language barring the insertion of U.S. ground troops — but crafted to allow special forces operations or the rescue of a downed American flier, for instance — is also being considered, the sources said.

And Obama would be prohibited from making the toppling of Assad’s government the goal of any U.S. military effort in Syria, as some hawkish lawmakers have supported.¹³

3 Prospects for approval

Reports suggest that in the House of Representatives the vote could be very close, and that the Senate, with its Democratic majority, is more likely to support President Obama.

The Senate Foreign Relations Committee will hold a hearing on 3 September to discuss the authorisation resolution. Congress returns on 9 September, and although there have been calls for it to reconvene as in the UK to discuss the draft resolution (Under Article II section 3 of the [US Constitution](#), the President can call Congress back in session “on extraordinary occasions”, as can the Congressional leadership), the resolution will be debated when Congress resumes.

Senate Democrats are drafting amendments to the resolution because they find the government proposal too open-ended. It is likely to be difficult to agree on language that will satisfy those in both parties who are willing only to authorise a very limited intervention, and hawks like Republican Senators John McCain and Lindsey Graham, who have said they could not support “isolated military strikes in Syria that are not part of an overall strategy that can change the momentum on the battlefield, achieve the President’s stated goal of Assad’s removal from power, and bring an end to this conflict, which is a growing threat to our national security interests”.¹⁴

3.1 Increasing support?

On 3 September, support for the President’s motion looked increasingly strong. The Senate Foreign Relations Committee agreed on a [draft motion authorising the use of force](#). The draft motion ruled out a land invasion and set a time limit of 60 days, extendible once by a further 30 days if authorised by Congress.

John Boehner, Republican Speaker of the House of Representatives, backed the call for military action, as did the House majority leader Eric Cantor. Mr Boehner said: “I am going to support the president’s call for action. I believe my colleagues should support this call for action.”¹⁵ Nancy Pelosi, House minority leader and from the left of the Democratic Party, was another significant politician to back the President. Also on 3 September, the second most senior House Democrat, Steny H. Hoyer of Maryland, added his support. One Senate aide said the Boehner-Cantor move: “is a game-changer for the House vote, and far more

¹³ [Politico.com, 2 September 2013](#).

¹⁴ [Statement, 31 August 2013](#)

¹⁵ ‘[John Boehner backs Obama on Syria. Will rest of GOP follow suit?](#)’, *Christian Science Monitor*, 3 September 2013

important than McCain and Graham, who lead a small minority seeking greater military involvement.”¹⁶

While there may be increasing support in Washington for a strike, the US public, like the British public, seems to be getting more hostile to the idea as it approaches reality. 59% opposed US strikes and 36% supported the move, in a poll conducted on 3 September. The divide was much narrower when the question mentioned the support of the UK and France.¹⁷ Public opposition to the strikes is one reason why President Obama has decided to seek Congressional approval.

4 Further reading

Foreign Policy, 27 August 2013, [The Limits of Action: Let's face it: Obama has limited interest, limited options, and limited reasons to get involved in Syria](#), Aaron David Miller.

International Crisis Group [Syria Statement](#), 1 September 2013

[Paul Salem, Bracing for Impact in Syria](#), Carnegie Middle East Center, 28 August 2013

[David Rothkopf, Too Little, Too Late](#), *Foreign Policy*, 27 August 2013

William A Galston, [Replaying History, Both Political Parties Debate Acting Against Syria](#), Brookings Institution, 3 September 2013

Steven Pifer, [No Way To Launch a War in Syria...or a Punitive Action](#), Brookings Institution, 3 September 2013

¹⁶ 'Obama lines up key support in Congress for Syria attack', *LA Times*, 3 September 2013

¹⁷ 'Post-ABC poll: Syria', *Washington Post*, 3 September 2013