



**BRIEFING PAPER**

Number CBP 8283, 22 August 2018

# Chemical weapons and Syria - in brief

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## Summary

This briefing paper looks at the UK response to allegations of chemical weapons usage in Syria. It draws upon previous Commons Library briefing papers, links to which are provided.

See also

[\*Parliamentary approval for military action\*](#), 16 April 2018

[\*The Chemical Weapons Convention\*](#), 26 March 2018

[\*Syria: Humanitarian Crisis\*](#), 23 March 2018

[\*Syria: what next?\*](#), 12 March 2018

[\*ISIS/Daesh: what now for the military campaign in Iraq and Syria?\*](#), 7 March 2018

[\*Syria and Iraq since the cruise missile attack\*](#), 25 April 2017.

[\*Legal basis for UK military action in Syria\*](#), 1 December 2015

[\*Intervention in Syria\*](#), 27 August 2013

## 1. Recent developments

The UK Government [holds](#) the Syrian regime responsible for an alleged chemical weapon attack in Douma, a city northeast of Damascus in the region of Ghouta, over the weekend of 8-9 April 2018. The US has strongly suggested that it intends to respond militarily to the attack – as it did in April 2017 when it fired Tomahawk cruise missiles at an airfield in Syria after reports of a sarin attack by the Syrian Government.

The UK's military operation in Syria and Iraq, [Operation Shader](#), is focused on combating ISIS, but the Douma attack has raised questions about whether the UK should respond militarily specifically to the alleged use of chemical weapons. It has also reignited the debate about Parliament's role in such decisions, especially when Parliament is in recess and President Trump is strongly [hinting](#) at an imminent US missile strike.

This latest alleged Syrian action has also again exposed divisions between the UK and the West, and Russia - visible in the failure of the UN Security Council to agree three [draft resolutions](#) on Syria when it met in response to the alleged attack in Douma on 10 April. An independent fact-finding mission will go to Syria to verify the use of chemical weapons in Douma but cannot apportion blame. The mandate of the earlier UN-backed team, the Joint Investigative Mechanism, responsible for investigating chemical weapons allegations and ascribing culpability, expired in December 2017 after Russia vetoed its extension; the Security Council has so far failed to agree a mandate for a new investigatory body.

The US, France and UK conducted airstrikes against three targets in Syria on 14 April. The Government published its [legal position](#) the same day. The OPCW's fact-finding mission arrived in Syria on 14 April 2018 to establish whether, and what type of, chemical weapons were used in Douma. They will not attempt to ascribe responsibility.

The Prime Minister made a [statement in the Commons](#) on 16 April. The OPCW's Executive Council [met on 16 April](#) to discuss the alleged use of chemical weapons in Syria.

## 4 Chemical weapons and Syria - in brief

The House of Commons [debated Parliamentary approval](#) for military action overseas on 17 April on an opposition motion.

On 27 June a [special session](#) of the conference of the States Parties to the Chemical Weapons Convention adopted a decision tabled by the United Kingdom to enable the Organisation for the Prohibition of Chemical Weapons (OPCW) to apportion responsibility for chemical weapons attacks. The then Foreign Secretary Boris Johnson said:

Most importantly, the Decision we secured empowers the OPCW to attribute responsibility for chemical weapons attacks in Syria, both past and if needed, in the future. The crucial gap left by the ending of the mandate of the OPCW-UN Joint Investigation Mechanism last November, due to a series of Russian vetoes in the UN Security Council, has been filled.<sup>1</sup>

## 2. Use of chemical weapons in Syria

That chemical weapons have been used during the war in Syria is not in dispute. The Organisation for the Prohibition of Chemical Weapons's fact-finding missions have established the use of chemical weapons or toxic chemicals as weapons on Syria on several occasions. UN investigators hold the Syrian Government responsible for three uses of chlorine and one use of Sarin, the UK Government has [said](#).

### Chemical weapons and the law

Syria is prohibited from using chemical weapons under customary international law and the 1925 Geneva Protocol, which it ratified in 1968. The Protocol was drawn up at a conference on the arms trade held by the then League of Nations. Although the arms trade convention that the conference adopted has not entered into force, the chemical weapons protocol has, and parties agreed to the 'universally accepted' prohibition of chemical weapons (and bacteriological weapons).

In [September 2013](#) Syria acceded to the 1992 [Chemical Weapons Convention](#), which prohibits the development, production, acquisition, stockpiling, retention, transfer or use of chemical weapons by States Parties. It entered into force in Syria in October 2014. The OPCW, which is responsible for enforcing the Convention, said in 2012 (before Syria had acceded to the Convention) that "as a party to the 1925 Geneva Protocol, Syria is obligated by international law not to use chemical weapons under any circumstances".<sup>2</sup>

The *Max Planck Encyclopaedia of Public International Law* explains that the use of chemical weapons is prohibited under customary international law (general practice accepted as law), which binds all states, including those that have signed no treaty on chemical weapons:

The prohibition on chemical warfare is supported by general rules on methods of warfare. Among these rules, the prohibition of attacks against the civilian population, of indiscriminate attack[s], and of attacks causing excessive damage to civilian populations or civilian objects (in relation to the military advantage anticipated) are particularly relevant.

The [Rome Statute](#) of the International Criminal Court specifically says that (a) using asphyxiating, poisonous or other gases, (b) Intentionally directing attacks against the civilian population and (c) launching attacks that risk civilian casualties and damage that is excessive in relation to military advantage are, as violations of the Geneva Conventions and written and customary IHL, war crimes.

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<sup>1</sup> [Written statement - HCWS835](#), 9 July 2018

<sup>2</sup> ["Statement by the OPCW on Syria"](#), OPCW, 5 December 2012

The Library examined the use of chemical weapons and the law, and Syria's chemical weapons arsenal, in Commons Briefing Paper [Intervention in Syria](#), 27 August 2013.

## 3. Chronology

### **21 August 2013: large-scale CW attack against civilians**

A UN inspection team confirmed the large-scale use of sarin nerve agent against civilians in the Ghouta area of Damascus on 21 August 2013.

### **August 2013: Parliament votes against action in Syria**

On 29 August 2013, the House of Commons voted against UK military action in Syria. The Government motion was focused on the use of chemical weapons by the Syrian Government (specifically the attack on 21 August 2013) and argued the principle of humanitarian intervention provided the legal basis for military action. The Prime Minister said: "the fact that the Syrian Government have, and have used, chemical weapons is beyond doubt". The Labour party opposed the motion and the motion was defeated by 13 votes.<sup>3</sup>

The Government's position is that humanitarian intervention without authorisation from the UN Security Council is permitted under international law if three conditions are met; this is discussed in the Commons Briefing Paper: [Conditions for using force in humanitarian intervention](#), 29 August 2013.

### **September 2013: deal to remove Syria's chemical weapons**

The Obama Administration in the US had threatened military action against Syria in response to the attack in August, having the previous year described the use of chemical weapons as "a red line". However, the lack of a political consensus, and the UK Parliamentary vote, prompted the President to postpone a Congressional vote authorising the use of force in order to seek a deal to remove the weapons from Syria instead of carrying out missile strikes.<sup>4</sup>

In September 2014 the US and Russia agreed a [deal](#) by which the Organisation for the Prohibition of Chemical Weapons would oversee and verify the destruction of Syria's chemical weapons programme. The UK contributed to the process (see OPCW [FAQ](#) for more on this). The OPCW confirmed that all of the chemicals declared by Syria that were removed from its territory in 2014 have now been [destroyed](#), as have 25 of the 27 chemical weapons production facilities declared by Syria (as of [September 2017](#)).

### **April 2014: OPCW sets up fact-finding mission**

In April 2014 the OPCW set up a [Fact-Finding Mission](#) (FFM) in Syria to "establish the facts surrounding allegations of the use of toxic chemicals, reportedly chlorine, for hostile purposes in the Syrian Arab Republic". The FFM has visited Syria numerous times. It is not responsible for ascribing responsibility for any attacks.

### **August 2015: OPCW-UN Joint Investigative Mechanism established**

The OPCW-UN Joint Investigative Mechanism (JIM) was established as an independent body by UN [Security Council Resolution 2235](#). The JIM's purpose was to identify the perpetrators of the chemical weapon attacks confirmed by the OPCW's Fact-Finding Mission. The JIM's mandate expired in December 2017.

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<sup>3</sup> [House of Commons debate on Syria](#), parliament.uk. The House of Commons voted against the Government motion on Syria by 285 votes to 272.

<sup>4</sup> ["Syria's chemical weapons: issues for Congress"](#), Congressional Research Service, 30 September 2013

### **December 2015: Parliament votes in support of airstrikes “exclusively against ISIL”**

In 2015, the UK Government successfully passed its motion in the House of Commons to carry out airstrikes “exclusively against ISIL in Syria”,<sup>5</sup> on the basis of [UN Security Council Resolution 2249](#). This enabled the expansion of Operation Shader, then focused against ISIL in Iraq, into Syria.

### **April 2017: US cruise missile attack**

The OPCW fact-finding mission [confirmed](#) the use of sarin or a sarin-like substance in the Khan Shaykhun area of southern Idlib on 4 April 2017. The JIM concluded it is confident that Syria “is responsible for the release of sarin at Khan Shaykhun” in a [letter](#) to the UN Security Council in October 2017.

On 17 April, the Trump Administration fired 59 Tomahawk cruise missiles at an airfield in Syria, in retaliation for the use in Syria of sarin-filled chemical weapons, allegedly by the Syrian government. The attack was widely regarded as contrary to international law,<sup>6</sup> but was also relatively well-received politically in the US and elsewhere.

The Syrian Foreign Minister denied that it had used chemical weapons and said that the US attack on Syria was an act of aggression breaching international law and the sovereignty of a UN member state, aimed at disabling the peace process.<sup>7</sup>

The UK Government was given advance notice of the attack but was not invited to participate. The Foreign Secretary updated the House on 18 April 2017, stating: “there is only one conclusion to be reached: that the Assad regime almost certainly gassed its own people, in breach of international law and the rules of war.” He added: “the Government believe that the US action was a necessary, appropriate and justified response to an awful crime”.<sup>8</sup>

Labour leader Jeremy Corbyn did not support the US airstrikes in 2017, saying that they were unilateral; that there was no investigation; that they had no UN authorisation and risked escalation.<sup>9</sup> Other senior Labour figures, including Hilary Benn and Tom Watson, supported them, however.<sup>10</sup>

Former Middle East Minister Alistair Burt (who has now returned to that job) asked specifically whether the Government remained bound by the 2013 vote of the House, authorising action only against ISIS, or whether it would have helped the US Administration if asked. Foreign Secretary Boris Johnson did not address this question but said it would be “difficult for the United Kingdom to say no”.<sup>11</sup>

Shortly after the debate, Boris Johnson confirmed in an interview his view that it would be difficult for the UK to refuse if the US asked for military help, mentioning the possibility of cruise missiles launched from submarines in the Mediterranean. He said that this was the Prime Minister’s view, too.<sup>12</sup>

For further information, see Commons Briefing Paper [Syria and Iraq since the cruise missile attack](#), 25 April 2017.

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<sup>5</sup> [HC Deb 2 December 2015, c323](#)

<sup>6</sup> Ben Saul, ‘[US Missile Strikes Expose the Untenable Status Quo in International Law](#)’ Chatham House, 26 April 2017

<sup>7</sup> ‘[Al-Moallem: US aggression on Syria breach of Int’l law](#)’, Syrian Arab News Agency, 13 April 2017

<sup>8</sup> [HC Deb 18 April 2017 c551](#)

<sup>9</sup> ‘[US missile attack risks escalation in Syria – Corbyn](#)’, Guardian, 7 April 2017

<sup>10</sup> ‘US airstrikes on Syria leave Labour hopelessly divided’, New Statesman, 7 April 2017

<sup>11</sup> [HC Deb 18 April 2017 c551](#)

<sup>12</sup> ‘[Johnson: Difficult to say ‘no’ to Syria strike](#)’, BBC News Online, 27 April 2017

### **December 2017: OPCW-UN Joint Investigative Mechanism's mandate ends**

In a sign of continuing commitment to the Assad government and opposition to Western powers over Syria, on 16 November 2017 Russia vetoed the extension of the mandate of the chemical weapons inspection team (the Joint Investigative Mechanism) in Syria.<sup>13</sup> Russia denied that it was responsible for the demise of the JIM, saying that Western powers were using the team against Damascus and had refused to entertain Moscow's draft of the resolution, which would have amended the JIM's mandate.

### **March 2018: alleged chlorine attacks**

There are continued reports of chlorine being used as a weapon in Eastern Ghouta and in Idlib. Because of its many peaceful uses, chlorine is not included in the substances banned by the Chemical Weapons Convention. It is, however, a chemical with disastrous effects and its use is prohibited by the Convention: it can cause permanent and sometimes fatal lung damage. Chlorine also affects the eyes and skin.

### **April 2018: Douma attack and UN Security Council fails to adopt new resolutions**

An alleged chemical attack on the rebel-held town of Douma on 8-9 April 2018 again exposed differences between Russia and the West. The UN Security Council met on 10 April to discuss the attacks but failed to agree on two competing [draft resolutions](#)<sup>14</sup> by the US and Russia, aimed at establishing a UN Independent Mechanism of Investigation (UNIMI). The US draft would have enabled the Mechanism to identify those responsible but was vetoed by Russia. The Russian draft would have given the Security Council the responsibility to assign accountability. The UK, US and France voted against. The UK also voted against a Russian proposed draft resolution about the work of the OPCW's fact-finding mission.

The Council also failed to agree on another Russian drafted resolution concerning a fact-finding mission.

Russia has used its veto on 12 occasions over Syria since 2011. Six of those 12 occasions concerned draft resolutions focused on the use of chemical weapons in Syria:

- 10 April 2018: The [draft would have](#) established a new investigation mechanism for Syria that would identify those responsible for the use of chemical weapons, after the demise of the Joint Investigative Mechanism (JIM) (see above).
- October-November 2017 to extend the mandate of the JIM: Russia vetoed three draft resolutions extending the mandate of the JIM. It circulated its own drafts, which the P3 Western permanent members of the Security Council did not accept. The 24 October [draft was presented](#) before the report on Khan Sheikhoun. The US wanted to extend the mandate before the Khan Sheikhoun report came out, Russia wanted to wait. The [16 November draft](#) was tabled by the US and would have extended the mandate for a further year. The [last of the vetoed](#) resolutions, on 17 November, was tabled by Japan and sought to extend the mandate for 30 days to allow for further negotiation on the Security Council.
- 12 April 2017: The [draft would have](#) condemned the reported chemical weapons attack on the Syrian town of Khan Shaykhoun and expressed its determination to hold the perpetrators accountable, and instructed the Syrian Government to provide access for investigators and information such as flight plans.

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<sup>13</sup> ['Syria: Russia blocks extension of chemical attacks probe'](#), BBC News Online, 17 November 2017

<sup>14</sup> Further analysis of the competing drafts is available in the non-UN affiliated [Whats in Blue](#) blog, 10 April 2018

- 28 February 2017: [The draft](#), presented by France, the UK and the US, would have imposed sanctions on entities and individuals deemed to be involved in the production or use of chemical weapons in Syria.<sup>15</sup>

### **OPCW fact-finding mission to Syria**

The OPCW said on 10 April it will deploy a fact-finding mission to investigate the alleged attack. The mission will [start](#) its work on 14 April 2018. However, its fact-finding mission will not apportion blame for the attack – that was the role of the now defunct JIM.

### **Cabinet meets**

The Cabinet met on 12 April 2018. A Downing Street [statement](#) said Cabinet agreed it was “highly likely” the Syrian regime is responsible for the attack in Douma, that the use of chemical weapons “did not go unchallenged”, to take action to alleviate humanitarian distress and to deter the further use of chemical weapons by the Assad regime. The statement concluded by saying “Cabinet agreed the Prime Minister should continue to work with allies in the United States and France to coordinate an international response.”

### **US, France and UK air strikes**

On Saturday 14 April the US, France and UK carried out air strikes in Syria in response to the chemical attack in Douma. Between then they launched 105 missiles at three targets. The [three targets](#) were the Barzeh chemical weapons research facility in Damascus, Him Sinshar chemical weapons storage facility near Homs, and a storage bunker about 7km from Him Sinshar. The US military assessed Syrian government forces fired more than 40 surface-to-air missiles but said most of these launches occurred “after the last impact of our strike was over”. The Russian government said Syria’s Soviet-era air defence system intercepted 71 cruise missiles. Russian air defence systems in Syria were not activated.

The UK [deployed](#) for Tornado GR4s and four Typhoon FG4s in support. The Tornados launched 8 Storm Shadow missiles at the Him Sinshar chemical weapons storage site. The aircraft took off from RAF Akrotiri in Cyprus. The UK also deployed a Sentinel aircraft, from Cyprus, to gather intelligence and surveillance imagery. The [Times](#) also reports the RAF also deployed the Airseeker (Rivet Joint) electronic surveillance aircraft.

The US fired 85 missiles from three warships, a submarine and two B-1 aircraft from the Red Sea, the Gulf and the Mediterranean. France sent five Rafale aircraft with Scalp missiles and four Mirage 2000s in support. The [Times](#) separately reported a Royal Navy Astute-class submarine was involved in a ‘cat and mouse’ pursuit with Russian submarines and warships. The Astute-class carry Tomahawk cruise missiles. No cruise missiles were reported to have been fired from a Royal Navy submarine.

### **16 April**

The UK Government published its [legal position](#). It states “the UK is permitted under international law, on an exceptional basis, to take measures in order to alleviate overwhelming humanitarian suffering.” The statement argues that the “repeated, lethal use of chemical weapons by the Syrian regime constitutes a war crime and a crime against humanity” and that it was “highly likely” the regime would seek to use chemical weapons again.

The UK’s Permanent Representative at the OPCW [spoke](#) at the OPCW’s Executive Council meeting. He restated the Government’s belief that the Syrian regime was responsible for the attack in Douma, citing evidence a regime helicopter seen above Douma and the use of a barrel bomb “the Opposition does not operate helicopters or use barrel bombs”. He

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<sup>15</sup> UN Security Council - [Veto List](#)

cited figures from the OPCW on allegations of chemical weapons in Syria and the findings of the OPCW-UN Joint Investigative Mechanism that Syria used chemical weapons four times between 2014-17, and that Syria has not provided the OPCW with a complete account of its chemical weapons programme.

### **16 May**

The OPCW [reported](#) that "chlorine, released from cylinders through mechanical impact, was likely used as a chemical weapon on 4 February 2018 in the Al Talil neighborhood of Saraqib."

### **13 June**

The OPCW Fact-Finding mission [reported](#) that sarin was probably used and that chlorine was probably used as a weapon at and around Ltamenah Hospital in Ltamenah, Syria in March 2017.

### **27 June**

A special session of the OPCW conference of states-parties [voted to grant the OPCW](#) the mandate to investigate **and** attribute responsibility for chemical weapons attacks in Syria confirmed by the Fact-Finding Mission. The conference was called partly at the UK's instigation.

#### **Box 1: Parliamentary approval for military action**

The decision to deploy the Armed Forces in situations of armed conflict is currently a prerogative power. In the event of a declaration of war or the commitment of British forces to military action, constitutional convention requires that authorisation is given by the Prime Minister, on behalf of the Crown. Decisions on military action are taken within the Cabinet with advice from, among others, the National Security Council and the Chief of the Defence Staff.

In constitutional terms Parliament has no legally established role and the Government is under no legal obligation with respect to its conduct, including keeping Parliament informed. In practice however, successive Governments have consulted and informed the House of Commons about the decision to use force and the progress of military campaigns, although there has been little consistency in how that has been achieved.

The Iraq conflict in 2003 was the first example in modern times of prior parliamentary approval having been sought, and granted. However, the deployment of forces in Libya in 2011 was not the subject of a prior parliamentary debate and vote. The defeat of the Government motion to deploy military forces in Syria in 2013 was widely viewed as an assertion of Parliamentary sovereignty and a direct challenge to the Royal Prerogative on such matters. It also led many commentators to suggest that any future significant deployment of the Armed Forces would now be inconceivable without prior recourse to Parliament.

That view gained further credence following the decision to seek parliamentary approval for offensive military action against ISIS in Iraq in September 2014 and Syria in December 2015, in line with the newly adopted convention. On that occasion the House supported the deployment of military forces. The 2010-15 Government had considered bringing legislative proposals forward to place the Convention in statute. However, in April 2016 the Government announced that it would not pursue this course of action after all because of concerns over freedom of action for the Government, and over giving the courts the power to rule on the lawfulness of a deployment decision. The Defence Secretary [said](#):

If we were to attempt to clarify more precisely circumstances in which we would consult Parliament before taking military action, we would constrain the operational flexibility of the armed forces and prejudice the capability, effectiveness or security of those forces, or be accused of acting in bad faith if unexpected developments were to require us to act differently.

It remains the case that Parliament has no *legally* established role in approving the deployment of the Armed Forces.

Read more: Library briefing paper [Parliamentary approval for military action](#), 16 April 2018 (first published 12 May 2015)

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