

CHEMICAL WEAPON USE BY SYRIAN REGIME - UK GOVERNMENT LEGAL POSITION

1. This note sets out the UK Government's position regarding the legality of military action in Syria following the chemical weapons attack in Eastern Damascus on 21 August 2013.
2. The use of chemical weapons by the Syrian regime is a serious crime of international concern, as a breach of the customary international law prohibition on use of chemical weapons, and amounts to a war crime and a crime against humanity. However, the legal basis for military action would be humanitarian intervention; the aim is to relieve humanitarian suffering by deterring or disrupting the further use of chemical weapons.
3. The UK is seeking a resolution of the United Nations Security Council under Chapter VII of the Charter of the United Nations which would condemn the use of chemical weapons by the Syrian authorities; demand that the Syrian authorities strictly observe their obligations under international law and previous Security Council resolutions, including ceasing all use of chemical weapons; and authorise member states, among other things, to take all necessary measures to protect civilians in Syria from the use of chemical weapons and prevent any future use of Syria's stockpile of chemical weapons; and refer the situation in Syria to the International Criminal Court.
4. If action in the Security Council is blocked, the UK would still be permitted under international law to take exceptional measures in order to alleviate the scale of the overwhelming humanitarian catastrophe in Syria by deterring and disrupting the further use of chemical weapons by the Syrian regime. Such a legal basis is available, under the doctrine of humanitarian intervention, provided three conditions are met:
 - (i) there is convincing evidence, generally accepted by the international community as a whole, of extreme humanitarian distress on a large scale, requiring immediate and urgent relief;
 - (ii) it must be objectively clear that there is no practicable alternative to the use of force if lives are to be saved; and
 - (iii) the proposed use of force must be necessary and proportionate to the aim of relief of humanitarian need and must be strictly limited in time and scope to this aim (i.e. the minimum necessary to achieve that end and for no other purpose).
5. All three conditions would clearly be met in this case:
 - (i) The Syrian regime has been killing its people for two years, with reported deaths now over 100,000 and refugees at nearly 2 million. The large-scale use of chemical weapons by the regime in a heavily populated area on 21 August 2013 is a war crime and perhaps the most egregious single incident of the conflict. Given the Syrian regime's pattern of use of chemical weapons over several months, it is likely that the regime will seek to use such weapons again. It is also likely to continue frustrating the efforts of the United Nations to establish exactly what has happened. Renewed attacks using chemical weapons by the Syrian regime would cause further suffering and loss of civilian lives, and would lead to displacement of the civilian population on a large scale and in hostile conditions.
 - (ii) Previous attempts by the UK and its international partners to secure a resolution of this conflict, end its associated humanitarian suffering and prevent the use of

chemical weapons through meaningful action by the Security Council have been blocked over the last two years. If action in the Security Council is blocked again, no practicable alternative would remain to the use of force to deter and degrade the capacity for the further use of chemical weapons by the Syrian regime.

- (iii) In these circumstances, and as an exceptional measure on grounds of overwhelming humanitarian necessity, military intervention to strike specific targets with the aim of deterring and disrupting further such attacks would be necessary and proportionate and therefore legally justifiable. Such an intervention would be directed exclusively to averting a humanitarian catastrophe, and the minimum judged necessary for that purpose.

29 August 2013