

May 2014 Monthly Forecast

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MIDDLE EAST

Syria

Expected Council Action

Sigrid Kaag, Special Coordinator of the Organization for the Prohibition of Chemical Weapons (OPCW)-UN Joint Mission, will brief Council members in consultations on the implementation of [resolution 2118](#) regarding the destruction of Syria's chemical weapons.

Separately, the Assistant Secretary-General for Humanitarian Affairs Kyung-wha Kang will brief Council members on the third monthly report about the implementation of [resolution 2139](#) on humanitarian access.

It also seems that UN-Arab League Joint Special Representative Lakhdar Brahimi may brief Council members in May.

Key Recent Developments

On 21 April, Syria announced that presidential elections would be held on 3 June. President Bashar al-Assad, whose current term ends on 17 July, declared on 28 April that he would seek another seven years in office. On 13 March, the last time Brahimi briefed Council members, he stressed that elections would mean the end of the Geneva process. In the regime's view, elections would render moot the requirement to form a transitional governing body.

High Commissioner for Human Rights Navi Pillay briefed Council members on 8 April at France's request and reiterated calls for the Council to refer the situation in Syria to the International Criminal Court (ICC). Pillay said that a political solution cannot trump justice and that the Commission of Inquiry has produced massive evidence that war crimes and crimes against humanity have been committed and that responsibility for those crimes reaches the highest level, including Assad. She added that the government was responsible for most violations and that her office could identify the perpetrators in the case of an ICC referral.

On 15 April, France convened an "Arria-formula" meeting for the authors of Report into the Credibility of Certain Evidence with regard to Torture and Execution of Persons Incarcerated by the Current Syrian Regime (codenamed the [Caesar Report](#)) to present their work to Council members.

Also at France's request, humanitarian chief Valerie Amos and Assistant Secretary-General for Political Affairs Oscar Fernández-Taranco briefed Council members on 17 April on the situation in Homs, where the local government and local opposition had

almost reached agreement on the evacuation of civilians and fighters from the besieged old city. However, the authorities abruptly stopped negotiations, and on 15 April the government renewed its assault on Homs. It seems the briefing and discussions in consultations focused on the coercive elements of localised ceasefires in besieged areas, in which the government uses bombardment and starvation tactics to bring communities to their knees.

Amos briefed Council members again on 30 April to present the Secretary-General's report on implementation of resolution 2139 (S/2014/295). The report said that the arbitrary denial of humanitarian access was a violation of international humanitarian law, and it called on the Security Council to take action. The report did not indicate significant progress in Syria's implementation of any of the key demands of resolution 2139, such as authorising cross-border aid operations, allowing access in besieged or hard-to-reach areas, observing medical neutrality, ceasing aerial bombardments or easing administrative hurdles. While both the government and opposition groups have blocked humanitarian access, the detail in the report demonstrated that most of the responsibility for non-compliance with resolution 2139 lies with the government.

Regarding chemical weapons, Kaag briefed Council members twice in April, reporting significant, but not yet complete, removal of declared chemical weapons material. On 3 April she warned that further delay would make it increasingly unrealistic to meet the 30 June completion deadline. The US requested an additional briefing on 23 April for an update on removal activity ahead of the 27 April deadline. During those consultations there was also a focus on allegations that the regime had used chlorine-filled bombs against civilians on 11 April—France, the UK and the US have reported preliminary intelligence potentially corroborating these allegations. While chlorine is not a prohibited chemical under resolution 2118 and the chemical weapons convention, to which Syria is a party, its use as a weapon is prohibited. On 27 April, Kaag said the OPCW would assess the allegations, but not within the mandate of the OPCW-UN Joint Mission. Further, France, the UK and the US have raised concerns that Syria has not made a full declaration of its chemical weapons arsenal. On 16 April, Syria submitted an amendment to its original 24 October 2013 declaration to the OPCW after inspectors on the ground reported discrepancies.

On 27 April, Kaag also said Syria had missed the extended deadline for removal of its declared chemical weapons materiel. 92.5 percent of declared materiel had been removed or destroyed in-country. Eighteen consignments of chemicals were shipped out of Syria, representing 96.7 percent of toxic priority-one chemicals and 82.6 percent of less hazardous chemicals. The OPCW is currently reviewing destruction plans for 12 chemical weapons production facilities that were to be destroyed by 15 March.

Human Rights-Related Developments

On 28 March, the Human Rights Council extended the mandate of the Commission of Inquiry for a year ([A/HRC/RES/25/23](#)). On 14 April, Pillay condemned the use of torture in detention facilities by both government forces and armed opposition groups. Torture constitutes a war crime in armed conflict and amounts to a crime against humanity when used in a systematic or widespread manner, which Pillay said is almost certainly the case in Syria.

Key Issues

Entering the fourth year of the conflict, the key issue is whether and when the parties, in particular the government, will meaningfully implement resolutions [2118](#) and [2139](#) on chemical weapons and humanitarian access, respectively. Both resolutions expressed the intent to take further steps in the case of non-compliance. In this regard, a related issue for the Council is what further steps it might take if substantive implementation continues to lag.

Another issue for the Council is moving beyond the failed Geneva peace talks to find other ways to resuscitate efforts for a political solution to the crisis.

Options

The announcement of presidential elections might revive some Council members' desire to stress in a statement that elections should only be organised in the context of a negotiated political solution.

Regarding accountability, the Council could vote on a resolution referring the situation in Syria to the ICC.

On humanitarian access, Council members could begin to build momentum towards a Chapter VII resolution authorising cross-border aid operations; giving blanket approval for humanitarian access; demanding the cessation of all violence, in particular aerial bombardment; and imposing sanctions for non-compliance with resolution [2139](#).

Concerning the chemical weapons track, given the increasing likelihood that the final deadline for all removal and destruction activities may not be met, Council members could begin informal discussions about the role of the joint mission beyond 30 June. The Council could also formally request that the OPCW present its assessment of the alleged use of chlorine bombs to the Security Council.

Council Dynamics

France has initiated what appears to be a strategy to bring accountability to the fore of Council action. France—along with Argentina, Australia, Chile, Lithuania, Luxembourg, Nigeria, South Korea and the UK—has voiced support for an ICC referral. To date the Council has not yet been able to agree on anything beyond a general call for justice. It seems that France is drafting a resolution to refer the situation in Syria to the ICC, and the US might be ready to vote for such a referral if language can be agreed that addresses some of its concerns regarding jurisdiction.

Russia has said the idea of an ICC referral is poorly timed and counterproductive, in that it may hinder progress on the Geneva negotiations. However, following the announcement of presidential elections in Syria, other Council members find this argument disingenuous. Council members seem to have tacitly accepted that the Geneva process has failed, and most have characterised the planned vote in the midst of a civil war as a sham election. Most would see value in the Council issuing a statement, in particular that free and fair elections can only be held in the context of a negotiated political solution. However, there is an expectation that any such draft text would be blocked by Russia.

There are extreme frustrations that resolution 2139 has not led to an appreciably improved humanitarian situation. Most Council members are not satisfied with incremental progress but will likely continue to defer to Amos's views on the matter, at least in the near term, before pressing ahead with any action for non-compliance. These members are sensitive to the concerns that the consensus achieved in adopting resolution 2139 should be maintained rather than risking another veto by acting too quickly. On the other hand, this concern is being balanced against a backdrop of abysmal implementation and increased human suffering. By waiting too long, the Security Council's credibility to follow through on its own decisions is at risk.

Several Council members continue to be circumspect in their predictions about whether the 30 June deadline for the removal and destruction of Syria's chemical weapons programme will be met. Some believe the process may drag out towards the end of the year, despite the significant pace of removal seen in April. These members are beginning to consider what role the OPCW-UN Joint Mission might play after the final deadline—though Russia will likely have a strong preference to move the issue out of the Council after 30 June so that the OPCW would deal with any remaining issues on a purely technical level.

France is the penholder on Syria. Australia, Jordan and Luxembourg are the penholders on the humanitarian track.

UN Documents

Security Council Resolutions

22 February 2014 <u>S/RES/2139</u>	This resolution demanded that all parties, in particular the Syrian authorities, allow humanitarian access in Syria across conflict lines, in besieged areas and across borders and expressed the intent to take further steps in the case of non-compliance.
27 September 2013 <u>S/RES/2118</u>	This resolution was adopted unanimously by the Council and required the verification and destruction of Syria's chemical weapons stockpiles, called for the convening of the Geneva II peace talks and endorsed the establishment of a transitional governing body in Syria with full executive powers.

Secretary-General's Reports

25 April 2014
S/2014/300 This was the seventh OPCW-UN Joint Mission monthly progress report.

23 April 2014
S/2014/295 This was the second report on implementation of resolution 2139 on humanitarian access.

Security Council Letters

16 April 2014
S/2014/285 This letter from the opposition Syrian National Coalition urged an investigation into the alleged use of chemical agents on 11 April.

2 April 2014
S/2014/244 This letter from France transmitted the “Caesar Report” regarding torture and executions in Syrian detention facilities.

Human Rights Council Document

28 March
2014
A/HRC/25/L.7 The Human Rights Council adopted a resolution to extend the mandate of the Commission of Inquiry for a year.