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US Fails to Recognize New Reality in Middle East

ALEX GORKA

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The United States is looking at whether Russia has violated a UN Security Council resolution on military dealings with Tehran by using an Iranian air base to carry out strikes inside Syria, the State Department said on August 17.

The Resolution 2231 governs some military interactions between Iran and other countries, including the supply, sale or transfer of military technologies or the provision of training or financial assistance related to the acquisition of new technologies.

«As I understand it, it's not just supplying the Iranians certain weapons or certain offensive weaponry. It's more complex than that», State Department spokesman Mark Toner said at a news briefing. «Our lawyers are looking at it».

Russia first used Iran as a base from which to launch air strikes in Syria on August 16.

Russian officials have rejected US criticisms that its use of the base could be in breach of the UN Security Council resolution. «There are no grounds to suspect Russia of breaching the resolution», Foreign Minister Sergei Lavrov said at a news conference in Moscow.

It should be noted that Russian aircraft are flying out of Iran as a part of anti-terrorist operation. No aircraft or supplies have been transferred to Tehran. Neither Russia, nor Iran has ever mentioned the transfer of combat planes. The operation is carried out with the consent of Iranian, Iraqi and Syrian governments. All Russia's military activities are conducted upon the request of Syria's government, while American intervention in the conflict is illegal in terms of international law.

For instance, to justify its operations in Syria the US refers to Resolution 2249, aimed at rallying the world behind the fairly obvious notion that Islamic State (IS) is an «*unprecedented threat to international peace and security*».

The document calls to action member states that have the capacity to do so «*to take all necessary measures, in compliance with international law, in particular with the United Nations Charter... on the territory under the control of ISIL also known as Da'esh, in Syria and Iraq*». The phrase «all necessary measures» is usually broadly interpreted, but it does not sanction the use of force in Syria.

The resolution calls for «*compliance with international law, in particular with the UN Charter*». This provides a clue to what «*all necessary measures*» implies. The lack of Chapter 7 language in the resolution pretty much means that use of force is not allowed unless states comply with international law.

The US officials also refer to Article 51 of the UN Charter.

It reads, «*Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken measures necessary to maintain international peace and security*».

This article does not say the US enjoys the inherent right to bomb IS targets in Syria as an act of self-defense to prevent further attacks. It also does not say that members of the US-led coalition, who cite the «collective self-defense» of Iraq (the Iraqi government has formally made this request), have the right to prevent further IS attacks from Syrian territory into Iraqi areas. Article 51 refers to attacks between territorial states, not non-state actors like IS or al-Qaeda. Syria, after all, has not attacked the US, Iraq, Turkey, Jordan or, for instance, Saudi Arabia. It has not attacked anybody. The US essentially argues that the Syrian state is unwilling and unable to target the non-state actor based within its territory that poses a threat to another state. Indeed, IS controls a significant amount of territory within Syria's borders that its national army has not been able to reclaim. Perhaps, this argument had made some sense until Russia stepped in to launch airstrikes against terrorist targets inside Syria. Evidently, as a major military power, Russia is 'able' to thwart IS. And it does it much more effectively than the US-led coalition.

The United States is in a precarious position. It is calling on Russia to stop attacking rebel groups and start attacking IS. But if Russia does, and if the Assad government commits to preventing IS

from attacking Syria's neighbors and delivers on that commitment, then the «unwilling and unable» theory for intervention in Syria would no longer apply. Other nations would be unable to legally intervene inside Syria against IS without the Syrian government's consent. Article 2 of the UN Charter states, for instance, *«All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the purposes of the United Nations»*.

Syria's sovereignty and territorial integrity have actually been systematically violated throughout the nearly six years of this conflict by the US-led coalition pouring weapons, funds, troops and assistance into undermining a UN member state. The Syrian government of Bashar al-Assad is viewed by the United Nations as the only legitimate government in Syria. Every official UN interaction with the state is directed at this government. Besides, control of surface territory doesn't count. The government of Kuwait in exile was still the legitimate government of the country when its entire territory was occupied by Iraq. The decision of the UN Security Council is all that matters from the perspective of international law. The US is also in violation of its own legislation. Under the War Powers Resolution (WPR), the President can introduce US troops into hostilities, or into situations *«where imminent involvement in hostilities is clearly indicated by the circumstances»*, only (1) after a Congressional declaration of war, (2) with *«specific statutory authorization»*, or (3) in *«a national emergency created by attack upon the United States, its territories or possessions, or its armed forces»*. None of three conditions that would allow the President to use military force in Syria is present at this time. First, Congress has not declared war. Second, the Authorization for the Use of Military Force (AUMF) does not provide a legal basis for an attack on Syria. Third, there has been no attack on the United States or its military. Thus, the military operations in Syria violate the WPR.

It should be noted that the US military operations in Libya, including air strikes launched since early August, are also illegal.

The 2001 AUMF limits the President to use force only against *«those nations, organizations, or persons he determines planned, authorized, committed, or aided the terrorist attacks that occurred on September 11, 2001»*. The 1973 War Powers Resolution restrains the administration's ability to independently wage war.

It requires that the *«President in every possible instance shall consult with Congress before introducing United States Armed Forces into hostilities»*. It says *«in every possible instance»*, which includes sending US military personnel to bomb targets in a foreign country, be it Libya, Syria, or any other state.

The US expresses humanitarian concerns over the situation in the Syrian city of Aleppo. At that civilians continue to suffer there as the United States has in fact acknowledged that it has been unable to separate the opposition in Syria from terrorists. There has been no effort on behalf of the US to lift the siege or even use its influence to push the parties to protect civilians. In the midst of the tragedy the US remains a bystander to a worsening situation. Russia and the United States have been discussing greater coordination in Syria, but they have been unable to reach agreement on what militant groups could be targeted. *«Regrettably, our partners in fact*

acknowledged that they cannot do this», said Russian Foreign Minister Sergey Lavrov. «But we are not making a tragedy out of this». «The directions of our work now allow switching to a coordinated and a more efficient cooperation in the fight against terrorists», he added.

Right now Russia and the US are engaged in talks to reach an agreement that would help defuse the crisis in the besieged Syrian city of Aleppo. There is no doubt that this step would be taken in strict accordance to international law – the UN Security Council’s Resolution 2268 (2016).

The success of the coalition to include Russia and Iran is a given fact. The use of the Iranian base comes on the heels of Mr Putin’s recent détente with Turkey and amid Russian-American talks on cooperating more in the fight against the Islamic State in Syria.

A new development has just taken place to greatly influence the situation in Syria. In the run-up to the major G20 meeting to be held on September 4-5 in Hangzhou, China has made a major public announcement about its role in the Syrian conflict.

China’s military will significantly increase its role in the Syrian conflict by upgrading the role of special advisers and adding military trainers for the Syrian personnel and increasing their numbers. China will also begin to directly supply the Syrian Arab Army with arms and equipment, while increasing humanitarian assistance. China has several legal and philosophical pretexts to enter into the fray. It has been invited by the Syrian government, and is assisting in an anti-terrorism action resulting from Chinese Uyghurs fighting on the side of IS. The recent announcement is a real breakthrough in China’s strategies in the Middle East. There will be more coordination with Russia. China and Russia are prominent members of what is called the Shanghai Cooperation Organization (SCO). Iran is to become a member. That’s 17 countries in all that are either prominent members, or partners, which also include Turkey, Iran, India, Pakistan and countries in Central Asia.

All these recent developments have greatly limited American options.

The United States should welcome the recent developments instead of denouncing Russia’s use of an airbase in Iran as it makes the fight against IS much more effective. The time is ripe to forge a broader coalition that includes countries of all stripes who are threatened by IS. With the approval of Syrian government, the operations conducted by such a coalition would be legal. Additionally, a coalition that includes Russia, Iran, and other Arab partners would blunt criticism of the war that fuels anti-US sentiments in the region. For the US, Islamic State is a far more serious problem than Russia, Iran, or Syria President Assad, and in fact, all three have fallen victim to IS’s brutality. Coordination by American, European, Russian, and regional partners would create a fighting force against which IS could not compete in the long run. Including a broader range of countries would also diversify tasks and increase burden-sharing.

By creating an expansive working coalition, the US can rely on Russian, Iranian, Kurdish, now Chinese and other countries expertise instead of taking on all the tasks and risks associated with defeating IS.

During WWII, the US and the Soviet Union were able to put aside differences to successfully fight and defeat Nazi Germany. Russia and the US can do it again. The ball is in the US court.