

## **Legal Basis for U.S. Military Operations in Syria**

The military operations taken by the United States against the Islamic State of Iraq and the Levant (ISIL) and Khorasan Group in Syria are consistent with domestic and international law. As a matter of domestic law, in addition to his constitutional authority to conduct U.S. foreign relations, and as Commander in Chief and Chief Executive, the President is relying on the 2001 Authorization for Use of Military Force (AUMF) to conduct airstrikes against ISIL and the Khorasan Group in Syria. In addition, the President has statutory authority to conduct airstrikes against ISIL in Syria under the 2002 Iraq AUMF at least to the extent that such operations are necessary to address the threat posed by ISIL's operations in Iraq. As a matter of international law, the United States is using force against ISIL in Syria in the collective self-defense of Iraq and in U.S. national self-defense, and the United States is using force against the Khorasan Group in Syria in U.S. national self-defense. The Syrian regime has shown that it cannot and will not confront the threat posed by either group effectively itself. The United States has notified the United Nations (UN) Security Council that it is taking these actions in Syria consistent with Article 51 of the UN Charter.

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**The military operations being undertaken against ISIL in Syria are consistent with domestic and international law.**

### **Background on ISIL.**

- ISIL's bloody history of terrorism began long before it expanded its safe haven from Syria into northern Iraq and slaughtered thousands of Iraqis on its way to seizing Iraq's second largest city, Mosul. In 2003, a terrorist group founded by Abu Mu'sab al-Zarqawi—whose ties to Usama bin Laden dated from Zarqawi's time in Afghanistan and Pakistan before 9/11—conducted a series of sensational terrorist attacks in Iraq. These attacks prompted bin Laden to ask al-Zarqawi to merge his group with al-Qa'ida. In 2004, al-Zarqawi publicly pledged his group's allegiance to bin Laden, and bin Laden publicly endorsed al-Zarqawi as al-Qa'ida's leader in Iraq. Al-Zarqawi renamed his group al-Qa'ida in Iraq in 2004, and for years the group conducted attacks under that mantle.
- Al-Qa'ida in Iraq conducted numerous deadly terrorist attacks against U.S. and Coalition forces, as well as Iraqi civilians, using suicide bombers, car bombs, and executions. In response to these attacks, U.S. forces engaged in conflict—at times, near daily conflict—with the group from 2004 until U.S. and Coalition forces left Iraq in 2011. Even after U.S. forces departed Iraq, the group (now calling itself ISIL) has continued to plot attacks against U.S. persons and interests in Iraq and the region – most recently, the kidnapping and brutal beheadings of American journalists James Foley and Steven Sotloff in Syria.
- Earlier this year, ISIL and al-Qa'ida's leadership in Afghanistan and Pakistan split over differences about how to achieve their strategic objectives. Following this split, ISIL has asserted that it is the true inheritor of bin Laden's legacy, and that it is al-Qa'ida's current leadership that has lost its way. Consistent with this view, ISIL has worked to convince al-Qa'ida's affiliates that they should align themselves with ISIL, and some individual

members and factions of al-Qa'ida-aligned groups, including members of al-Qa'ida in the Arabian Peninsula and al-Qa'ida in the Lands of the Islamic Maghreb, have publicly done so. ISIL has also continued to make public statements indicating that conflict with the United States is necessary to achieve ISIL's goals.

Domestic Law. The President may rely on the 2001 Authorization for Use of Military Force (AUMF) to conduct airstrikes against ISIL in Syria. In addition, the President would have the statutory authority to conduct airstrikes against ISIL in Syria under the 2002 Iraq AUMF in at least some circumstances.

#### *2001 AUMF*

- The 2001 AUMF authorizes the President to use “all necessary and appropriate force against those nations, organizations, or persons” he determines were responsible for the 9/11 attacks, and it is not limited to a specific country or geographic region. This authorization clearly covers Usama bin Laden and al-Qa'ida, and Congress and the federal courts have confirmed the Executive Branch's view that the AUMF also authorizes the use of force against associated forces of al-Qa'ida, which are organized, armed groups that enter the fight alongside al-Qa'ida and are co-belligerents with al-Qa'ida in hostilities against the United States or its coalition partners.
- The 2001 AUMF authorized the use of force against ISIL beginning in at least 2004, when ISIL, then known as al-Qa'ida in Iraq, pledged its allegiance to bin Laden. Bin Laden then publicly endorsed the group as al-Qa'ida's official affiliate in Iraq. After its formal affiliation with al-Qa'ida, the group conducted numerous terrorist attacks against the United States and its coalition partners, and in response, the United States engaged in extensive combat operations against it.
- The recent split between ISIL and al-Qa'ida's current leadership does not remove ISIL from coverage under the 2001 AUMF, because ISIL continues to wage the conflict against the United States that it entered into when, in 2004, it joined with bin Laden and al-Qa'ida in their conflict against the United States. ISIL had a direct relationship with bin Laden himself, waged that conflict in allegiance to him while he was alive, and claims that it, not al-Qa'ida's current leadership, is the true executor of bin Laden's legacy. There are now rifts between ISIL and parts of the network bin Laden assembled, but some members and factions of al-Qa'ida-aligned groups have publicly endorsed ISIL's claims. At the same time, ISIL continues to denounce the United States as its enemy and to target U.S. citizens and interests.
- In these circumstances, we do not believe the President is divested of authority to use military force under the 2001 AUMF against ISIL—a group that had been subject to that AUMF for nearly a decade—simply because of disagreements between the group and al-Qa'ida's current leadership. A contrary interpretation of the statute would allow al-Qa'ida and its co-belligerents—rather than the U.S. President and Congress—to control the scope of the AUMF by splintering into rival factions while still continuing to prosecute their same conflict against the United States.

- This is consistent with a cabined approach to the application of the 2001 AUMF. The factors that bring ISIL within the scope of that AUMF notwithstanding ISIL's recent split with al-Qa'ida's current leadership—ISIL's direct ties to bin Laden and its status for nearly a decade as Qa'ida's official affiliate in Iraq; its long history of conducting attacks against Americans; its continued desire to conduct such attacks; and its assertion that it is the rightful successor to bin Laden's legacy—are perhaps unique to ISIL.

#### *2002 AUMF*

- As an alternative, the 2002 Authorization for Use of Military Force in Iraq also provides statutory authority for U.S. military operations against ISIL in Syria in at least some circumstances. Among other things, this AUMF authorizes the use of force to “defend the national security of the United States against the continuing threat posed by Iraq.”
- Although the threat posed by Saddam Hussein's regime in Iraq was the focus of the 2002 AUMF, the statute, in accordance with its express goals, has always been understood to authorize the use of force for additional purposes. Those purposes include helping to establish a stable, democratic Iraq to succeed Saddam Hussein's regime and addressing terrorist threats emanating from Iraq. At a minimum, to the extent that military operations against ISIL in Syria are necessary in order to achieve these purposes, they are authorized by the 2002 AUMF.

International Law. The United States has a valid international law basis for using force in the collective self-defense of Iraq and U.S. national self-defense against the Islamic State of Iraq and the Levant (ISIL) in Syria, and it has notified the UN Security Council that is taking these actions in Syria consistent with Article 51 of the UN Charter.

- Under international law, states may defend themselves, in accordance with the inherent right of individual and collective self-defense, when they face armed attacks or the imminent threat of armed attacks and the government of the state where the threat is located is unwilling or unable to prevent the use of its territory for such attacks.
- Iraq has been clear, including in letters it has submitted to the UN Security Council, that it is facing a serious threat of continuing armed attacks from ISIL coming out of safe havens in Syria, and it has asked the United States to lead international efforts to strike ISIL sites and military strongholds in Syria in order to end the continuing armed attacks on Iraq, to protect Iraqi citizens, and ultimately to enable and arm Iraqi forces to perform their task of regaining control of Iraqi borders.
- ISIL is a threat not only to Iraq, but also many other countries, including the United States and our partners in the region and beyond.
- The Syrian regime has shown that it cannot and will not confront these terrorist groups effectively itself.

- It is worth noting that, on September 23, 2014, UN Secretary-General Ban Ki-Moon stated that “I am aware that today’s strikes were not carried out at the direct request of the Syrian Government, but I note that the Government was informed beforehand. I also note that the strikes took place in areas no longer under the effective control of that Government. I think it is undeniable – and the subject of broad international consensus – that these extremist groups pose an immediate threat to international peace and security.”

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**The military operations being undertaken against the Khorasan Group in Syria are consistent with domestic and international law.**

Background on the Khorasan Group.

- The “Khorasan Group” is a term sometimes used to refer to a network of Nusrah Front and al-Qa’ida core extremists who share a history of training operatives, facilitating fighters and money, and planning attacks against U.S. and Western targets. These operatives are seasoned and very dangerous individuals who have fought and lived together in Chechnya, Afghanistan, Pakistan, Iraq, Iran, Yemen, and North Africa. They have many years, if not decades, of experience conducting and planning attacks against innocents, and they have brought advanced skill sets to Syria.
- Intelligence indicated that these senior Syria-based al-Qa’ida operatives were nearing the execution phase for an attack in Europe or the homeland.

Domestic Law. The President may rely on the 2001 AUMF to conduct airstrikes against the Khorasan Group in Syria.

- The 2001 AUMF authorizes the use of force against al-Qa’ida, the Taliban, and associated forces, and it is not limited to a specific country or geographic region.
- The Nusrah Front, al-Qa’ida’s affiliate in Syria, including its Khorasan Group elements, is covered by the 2001 AUMF, because it is either a part, or an associated force, of al-Qa’ida for purposes of the 2001 AUMF.

International Law. The United States has a valid international law basis for using force in U.S. national self-defense against the Khorasan Group in Syria, and it has notified the UN Security Council that is taking these actions in Syria consistent with Article 51 of the UN Charter.

- As noted above, states may defend themselves, in accordance with the inherent right of individual and collective self-defense, when they face armed attacks or the imminent threat of armed attacks, and the Syrian regime has shown that it cannot and will not confront these terrorist groups effectively themselves.
- Intelligence indicated that the Khorasan Group was nearing the execution phase for an attack in Europe or the United States.

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

September 23, 2014

TEXT OF A LETTER FROM THE PRESIDENT  
TO THE SPEAKER OF THE HOUSE OF REPRESENTATIVES  
AND THE PRESIDENT PRO TEMPORE OF THE SENATE

September 23, 2014

Dear Mr. Speaker: (Dear Mr. President:)

In my reports of August 8 and 17 and September 1 and 8, 2014, I described a series of discrete military operations in Iraq to stop the advance on Erbil by the Islamic State of Iraq and the Levant (ISIL), support civilians trapped on Mount Sinjar, support operations by Iraqi forces to recapture the Mosul Dam, support an operation to deliver humanitarian assistance to civilians in the town of Amirli, Iraq, and conduct airstrikes in the vicinity of Haditha Dam.

As I noted in my address to the Nation on September 10, with a new Iraqi government in place, and following consultations with allies abroad and the Congress at home, I have ordered implementation of a new comprehensive and sustained counterterrorism strategy to degrade, and ultimately defeat, ISIL. As part of this strategy, I have directed the deployment of 475 additional U.S. Armed Forces personnel to Iraq, and I have determined that it is necessary and appropriate to use the U.S. Armed Forces to conduct coordination with Iraqi forces and to provide training, communications support, intelligence support, and other support, to select elements of the Iraqi security forces, including Kurdish Peshmerga forces. I have also ordered the U.S. Armed Forces to conduct a systematic campaign of airstrikes and other necessary actions against these terrorists in Iraq and Syria. These actions are being undertaken in coordination with and at the request of the Government of Iraq and in conjunction with coalition partners.

It is not possible to know the duration of these deployments and operations. I will continue to direct such additional measures as necessary to protect and secure U.S. citizens and our interests against the threat posed by ISIL.

I have directed these actions, which are in the national security and foreign policy interests of the United States, pursuant to my constitutional and statutory authority as Commander in Chief (including the authority to carry out Public Law 107-40 and Public Law 107-243) and as Chief Executive, as well as my constitutional and statutory authority to conduct the foreign relations of the United States.

I am providing this report as part of my efforts to keep the Congress fully informed, consistent with the War Powers Resolution (Public Law 93-148). I appreciate the support of the Congress in this action.

Sincerely,

BARACK OBAMA

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THE WHITE HOUSE

Office of the Press Secretary

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For Immediate Release

September 23, 2014

TEXT OF A LETTER FROM THE PRESIDENT  
TO THE SPEAKER OF THE HOUSE OF REPRESENTATIVES  
AND THE PRESIDENT PRO TEMPORE OF THE SENATE

September 23, 2014

Dear Mr. Speaker: (Dear Mr. President:)

As I have repeatedly reported to the Congress, U.S. Armed Forces continue to conduct operations in a variety of locations against al-Qa'ida and associated forces. In furtherance of these U.S. counterterrorism efforts, on September 22, 2014, at my direction, U.S. military forces began a series of strikes in Syria against elements of al-Qa'ida known as the Khorasan Group. These strikes are necessary to defend the United States and our partners and allies against the threat posed by these elements.

I have directed these actions, which are in the national security and foreign policy interests of the United States, pursuant to my constitutional and statutory authority as Commander in Chief (including the authority to carry out Public Law 107-40) and as Chief Executive, as well as my constitutional and statutory authority to conduct the foreign relations of the United States. I am providing this report as part of my efforts to keep the Congress fully informed, consistent with the War Powers Resolution (Public Law 93-148). I appreciate the support of the Congress in this action.

Sincerely,

BARACK OBAMA

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*Translated from Arabic*

Republic of Iraq  
Ministry of Foreign Affairs  
Office of the Minister

20 September 2014

Madam,

I should like to reaffirm the substance of the letter dated 25 June 2014 from the Minister for Foreign Affairs of Iraq addressed to the Secretary-General of the United Nations and the President of the Security Council, in which the international community was requested to support the effort to eradicate the Islamic State in Iraq and the Levant (ISIL) and restore stability to our country.

On 15 September 2014, at the Paris conference, the international community attested to the fact that ISIL represents a threat to Iraq. We welcome the commitment that was made by 26 States to provide the new Iraqi Government with all necessary support in its war against ISIL, including appropriate military assistance through the provision of air cover in coordination with the Iraqi armed forces and in accordance with international law, without endangering the safety of civilians, ensuring that populated areas are not struck and respecting Iraq's sovereignty.

Iraq is grateful for the military assistance it is receiving, including the assistance provided by the United States of America in response to Iraq's specific requests. Iraq and the United States have entered into a Strategic Framework Agreement, and that Agreement will help to make such assistance more effective and enable us to make great advances in our war against ISIL. Although Iraq is in great need of the assistance its friends in combatting this evil terrorism, it nonetheless attaches great importance to preserving its sovereignty and its ability to take decisions independently, both of which must be honoured in all circumstances.

As we noted in our earlier letter, ISIL has established a safe haven outside Iraq's borders that is a direct threat to the security of our people and territory. By establishing this safe haven, ISIL has secured for itself the ability to train for, plan, finance and carry out terrorist operations across our borders. The presence of this safe haven has made our borders impossible to defend and exposed our citizens to the threat of terrorist attacks.

It is for these reasons that we, in accordance with international law and the relevant bilateral and multilateral agreements, and with due regard for complete national sovereignty and the Constitution, have requested the United States of America to lead international efforts to strike ISIL sites and military strongholds, with our express consent. The aim of such strikes is to end the constant threat to Iraq, protect Iraq's citizens and, ultimately, arm Iraqi forces and enable them to regain control of Iraq's borders.

We are grateful for the international community's support and believe that the provision of additional assistance for the specific purpose of targeting ISIL will further help the Iraqi people and the security forces to turn the tide in the struggle against the terrorists, and thereby restore security and stability in our territory. Doing so will benefit the region and the entire world, from which ISIL must be completely eradicated.

Accept, Madam, the assurances of my highest consideration.

(Signed) Ibrahim al-Ushayqir al-Ja'fari  
Minister for Foreign Affairs of Iraq

Her Excellency Ambassador Samantha Power  
President of the Security Council



Unofficial Translation

Republic of Iraq  
Ministry of Foreign Affairs  
Minister's Office

**RECEIVED**

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**JUN 23 2014**

H.E. Ban Ki-Moon,  
Secretary-General, United Nations

**EXECUTIVE OFFICE  
OF THE SECRETARY-GENERAL**

**Greetings,**

On April 30 2014, the people of Iraq stood down terrorists and voted in record numbers, with a high sense of nationalistic resoluteness seen by the whole world, to elect its representatives in the new Council of Representatives and choose a new government pursuant to the constitution in order to sustain the momentum of the political and democratic commitment.

The Independent Electoral Commission has then, with the assistance of the United Nations Assistance Mission for Iraq announced the results that have recently been certified by the Supreme Federal Court.

On June 8, the internationally designated terrorist organization, the Islamic State of Iraq and Levant (ISIL), encouraged by multiple parties took control of the city of Mosul, capital of Ninewa Province, and pushed south through other towns and villages where Iraqis had expressed their democratic rights.

ISIL has since been terrorizing the populations, conducting mass executions, persecuting minorities and women and destroying mosques, shrines and churches. ISIL now constitutes a threat to more than one province including Baghdad thanks to the external support and entry of thousands of terrorists of different nationalities from the Syrian borders.

In other parts of our country especially the western province of Anbar, ISIL is launching military-style attacks from the Syrian borders and is in control of a number of crossings points.

The threat of ISIL is not new to us. Iraq has been suffering from terrorism for nearly a decade by Al-Qaida in Iraq (AQI) which has since rebranded itself as ISIL. The situation has grown significantly serious over the past two years, as Iraq has witnessed offensives by ISIL against our territory from eastern Syria. Hundreds of foreign suicide bombers have streamed into Iraq to murder our citizens in their markets, mosques, playgrounds and schools.

We have requested the assistance of the international community. We are grateful for what has been done to date. But it is not enough. We, therefore, ask the United Nations and the international community to recognize the serious threat our country and the entire global order are facing. These international terrorist groups seek to wipe out the borders and exacerbate the spiral of violence and civil wars whereas the Government of Iraq is determined to avoid plunging into the cycle of violence. To this end we need your support in order to defeat ISIL and protect our homeland and people. We are seeking in particular the member states to assist us by providing military training, advanced technology, necessary weapons as appropriate so as to deny terrorists staging areas and safe havens.

We would like to convey to your Excellency that this is an urgent need particularly at our western borders which have become a staging ground for the terrorists of the whole world.

The Government of Iraq, in its fight against the networks of ISIL, reiterates its commitment to respect human rights as stipulated in the constitution, the international conventions and the commitment of the constitutional process as the new Council of Representatives will meet soon. We are committed through the constitutional process to form a new government that represents all communities and components of Iraq. We are also committed to continue the democratic process as an example to the people of the Middle East that is witnessing political changes and become a base for international friendship that provides energy supply and build sound commercial relations with the world.

At this critical time, we face a serious threat from international terrorist threats. Therefore, we request urgent assistance from the international community. This assistance should be in accordance with bilateral and multilateral agreements and the full respect of the national sovereignty and the Iraqi constitution that have been approved by the government of Iraq through its constitutional institutions and in accordance with the Security Council resolution 770 that has given Iraq the right to request the United Nations as it deems appropriate for Iraq, its interests and sovereignty in a form that does not undermine its sovereignty.

Finally Mr. Secretary-General we appeal to all member states to act with urgency to cut off all recruitment facilitation and the huge financial and media support as well as the various support rendered to ISIL.

During the past year, Iraq suffered more than 300 suicide bombings which killed thousands of innocent Iraqis. We believe that such attacks were carried out by foreign recruits who were sent to Iraq from Syria by the networks of ISIL.

ISIL is proud of these attacks and proud to announce the nationalities of the suiciders from the Middle East, Europe and North America.

This attack of collective killing in Iraq and other countries in the region and the world is an international problem and requires a collective response. We hope that the United Nations would help in organizing the fight against this attack as soon as possible.

We also request the United Nations to consider what Iraq and other countries are going through on the hands of the gangs of ISIL and al-Qaeda as a genocide that requires the international community to stand by the member states of the United Nations.

Kind regards.

Signed by

Hoshyar Zebari

Foreign Minister

Republic of Iraq

25 June 2014



THE REPRESENTATIVE  
OF THE  
UNITED STATES OF AMERICA  
TO THE  
UNITED NATIONS

September 23, 2014

Excellency,

In Iraq's letter to the United Nations Security Council of September 20, 2014, and other statements made by Iraq, including its letter to the United Nations Security Council of June 25, 2014, Iraq has made clear that it is facing a serious threat of continuing attacks from ISIL coming out of safe havens in Syria. These safe havens are used by ISIL for training, planning, financing, and carrying out attacks across Iraqi borders and against Iraq's people. For these reasons, the Government of Iraq has asked that the United States lead international efforts to strike ISIL sites and military strongholds in Syria in order to end the continuing attacks on Iraq, to protect Iraqi citizens, and ultimately to enable and arm Iraqi forces to perform their task of regaining control of the Iraqi borders.

ISIL and other terrorist groups in Syria are a threat not only to Iraq, but also to many other countries, including the United States and our partners in the region and beyond. States must be able to defend themselves, in accordance with the inherent right of individual and collective self-defense, as reflected in Article 51 of the UN Charter, when, as is the case here, the government of the State where the threat is located is unwilling or unable to prevent the use of its territory for such attacks. The Syrian regime has shown that it cannot and will not confront these safe-havens effectively itself. Accordingly, the United States has initiated necessary and proportionate military actions in Syria in order to eliminate the ongoing ISIL threat to Iraq, including by protecting Iraqi citizens from further attacks and by enabling Iraqi forces to regain control of Iraq's borders. In addition, the United States has initiated military actions in Syria against al-Qaida elements in Syria known as the Khorasan Group to address terrorist threats that they pose to the United States and our partners and allies.

I request that you circulate this letter as a document of the Security Council.

A handwritten signature in black ink, appearing to read "S. Power".

Samantha J. Power

His Excellency  
Mr. Ban Ki-moon  
Secretary-General of the United Nations,  
New York, NY