

Closing Loopholes in the Proposed U.S.-Russian Agreement on Syria

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Brief Analysis

The agreement's currently proposed terms have far less chance of stemming the international terrorist threat, helping the Syrian people, or turning the cessation of hostilities into a viable ceasefire.

As Secretary of State John Kerry meets with Russian officials in Moscow beginning today, he should focus on closing the substantial loopholes in the [leaked American plan \(https://www.washingtonpost.com/r/2010-2019/WashingtonPost/2016/07/13/Editorial-](https://www.washingtonpost.com/r/2010-2019/WashingtonPost/2016/07/13/Editorial-Opinion/Graphics/terms_of_reference_for_the_Joint_Implementation_Group.pdf)

[Opinion/Graphics/terms_of_reference_for_the_Joint_Implementation_Group.pdf](https://www.washingtonpost.com/r/2010-2019/WashingtonPost/2016/07/13/Editorial-Opinion/Graphics/terms_of_reference_for_the_Joint_Implementation_Group.pdf)) for a "Joint Implementation Group" (JIG) against al-Qaeda affiliate Jabhat al-Nusra (JN) in Syria. While the United States has targeted both JN and the Islamic State (IS) during the course of the war, the type of direct "coordination" with Russia specified in the agreement's "Terms of Reference" (TOR) would damage not only U.S. Syria policy, but also the prospects of turning the "cessation of hostilities" into a true ceasefire. As currently written, the proposed agreement would likely allow JN and IS to spread out instead of wiping them out.

Fortunately, the gaping loopholes can be closed via firm, clear alterations on five points.

1. **Restrict Russian targeting to UN-designated terrorist groups in Syria.** At their core, the proposed TOR would lock the United States into a mechanism to coordinate intelligence and operational information during independent but synchronized strikes against the UN-designated terrorist groups JN and IS, mandating one day's notice for such strikes. In exchange, Russia would halt Assad regime air activities in "designated areas" agreed upon by the United States and Russia -- namely, areas where JN is "concentrated" or "significant," and areas where the non-JN opposition is dominant but "some possible Nusra presence" exists. Yet Russia's track record in Syria indicates that it would continue air operations against non-designated rebel groups under the proposed TOR. Its forces have

consistently bombed such groups, as witnessed in the ongoing siege of Aleppo and the recent raid on the U.S.-backed New Syrian Army in the south.

2. **Restrict regime and Russian artillery and ground operations.** While "destroying" groups like JN and ISIS, halting the regime's continued barrel bombing of opposition areas, and preventing its repeated use of chlorine gas would certainly be welcome, it is unclear how these measures would turn the cessation of hostilities into a true ceasefire. The most destructive operations that the regime, its Shiite militia allies, and Russian forces have launched against the opposition are artillery strikes. Such attacks are not included in the current TOR, however, allowing regime and allied ground operations to continue unabated. Therefore, in the wake of possible U.S.-Russian operations to destroy JN, Bashar al-Assad's forces would presumably be in the best position to retake the group's former areas of control. Yet given the regime's lack of reliable manpower and proven inability to hold territory, these areas would quickly return to a state of extremist-led insurgency. To avoid this scenario, the TOR should be expanded to halt regime artillery and ground operations while U.S.-backed "moderate" rebels take up former JN positions. Otherwise, the agreement will simply be a fig leaf to cover a regime "victory" in the northwest, which would simply generate further waves of extremist opposition.
3. **Close the "imminent threat" and "other circumstances" loopholes.** Section 2 of the TOR (titled "JIG Role in Military Operations") is very detailed in describing how U.S.-Russian cooperation would work in theory. But subsection (d), which covers "Emergent Circumstances," contains large loopholes that Russian and regime forces would likely use against non-UN-designated rebel groups. For example, when Russian or American forces are faced with "imminent threats" in which prior coordination is deemed "infeasible," they are allowed to strike these threats as needed, whether the targets in question are "named senior Shura council members" from JN or other "external plotters." This language is far too vague, putting both Russian and American commanders in a precarious position. Closing this loophole entails restricting these "imminent threats" to UN-designated terrorist organizations.
4. **Make the connection to the "Transitional Governing Body" and Geneva Communique more explicit.** Point 10 of the second leaked document (titled "Approach for Practical Russian-American Cooperation against Daesh and Jabhat al Nusra and Strengthening the Cessation of Hostilities") indicates that the TOR are intended as a "more comprehensive understanding between the U.S. and Russia, with a target date of July 31, 2016, on three inter-related issues designed to produce a durable end of the conflict and the defeat of Daesh and Nusra." These three issues are described as (a) "military and intelligence cooperation," (b) "translation of the CoH into a durable, nationwide ceasefire, phased with steps on the political transition," and (c) "a framework on political transition in Syria consistent with UNSCR 2254, to include provisions on how and when a transitional government with full executive authority formed on the basis of mutual consent will be established." These points paraphrase the text of the 2012 Geneva Communique, a document that laid out Washington's terms for a settlement in Syria and was agreed to by Russia. To avoid likely misunderstandings, however, the TOR should be revised to explicitly cite the Geneva Communique. Otherwise, the new agreement could be cited as "proof" of American consent for any number of unwanted scenarios, including outcomes that bolster the position of an increasingly defiant Assad, who claimed as recently as July 13 (<http://www.nbcnews.com/news/world/bashar-al-assad-says-u-s-not-serious-about-defeating-n609036>) that Russia has never discussed a transition with him.
5. **Spell out the consequences of noncompliance.** There is no clause in the TOR indicating what will happen if the Russians or the regime do not live up to the agreement, yet the risk of that happening is high given their track record of violating past agreements. Accordingly, language should be inserted explicitly stating that the United States would no longer be bound by the agreement in the event of a violation, and that all coordination would cease.

Thus far, the cessation of hostilities has reduced violence in Syria but hardly ended the war, so the best way to turn it into a viable ceasefire that facilitates a negotiated settlement is to restrict regime and Russian targeting to JN, IS, and

other UN-designated groups. Otherwise, the TOR will have the ancillary effect of giving the Assad regime a political "victory" -- an outcome that it lacks the manpower or political dexterity to maintain for very long. This in turn would ensure that millions of Syrian refugees who have fled regime bombardment and persecution will not return home, perpetuating the suffering for generations to come and making them ripe for terrorist recruitment. Instead of defeating and destroying groups like IS and JN, this approach would only diffuse their reach, as witnessed in recent attacks against targets in Turkey, Iraq, Jordan, Lebanon, Europe, and the United States.

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