April 24, 2017

The President
The White House
1600 Pennsylvania Avenue, N.W.
Washington, D.C., 20500

Dear Mr. President:

We write regarding the April 4 strike against the Shayrat military airbase in Syria. We share your horror at the chemical weapons attack on civilians carried out by the Syrian regime in Idlib province on April 4. This horrific act, in contravention of international law as well as human decency, is only the latest brutality visited upon the Syrian people by the Assad government, and its Russian and Iranian patrons.

It has now been over two weeks since you ordered the strike on the airfield, and your Administration has yet to put forward any detailed legal analysis or justification for that action under domestic and international law. While the Administration provided a notification to Congress, consistent with the requirements of the War Powers Resolution, that notice simply stated that the strike was authorized, "Pursuant to my constitutional authority to conduct foreign relations and as Commander in Chief and Chief Executive." The notification further informed Congress and the public that you might order, "Additional action, as necessary and appropriate, to further important national interests."

Those assertions of authority do not provide Congress with the information it needs to exercise our constitutional responsibilities. Nor do they provide comfort to a public that fears deeper involvement in a horrific civil war at a time when the U.S. troop presence in the region is already increasing. The legal justification for an attack on the Syrian government is not an afterthought, but rather a first order consideration, and something that is vital for the American people to understand at the outset.

The need for a full and complete explanation of your war-making authority under these circumstances is all the more necessary as tensions rise in the Korean Peninsula, with the suggestion that a preemptive military strike or a retaliatory strike against North Korea are among the options "on the table." While the President has the authority to use force to extend our service members and allies from an imminent threat, a preemptive strike could easily spiral into a full-blown war with a nuclear armed adversary. It is precisely because the decision to go to war is such an enormous one for any nation that the Constitution provides Congress alone with the power to declare war.

President Obama took an expansive view of the President's Article II authority and the scope of the 2001 AUMF. At times, we have been critical of his views, and the Congress for failing to exercise its constitutional duties in authorizing and overseeing the use of force. Indeed, when the Obama Administration considered launching military strikes against the Assad Regime in 2013, the President asserted independent authority to do so, even though he ultimately made the appropriate decision to seek Congressional approval. However, the Obama Administration, through the publications of analyses by the Office of Legal Counsel, in public speeches by senior administration officials, and statements by the President himself took care to provide the legal basis for his military actions, as well as the limits of those interpretations.

By articulating a legal basis for military action, as well as laying out a strategic vision for such action, a president provides a justification for the use of the enormous power to commit American lives to a cause, but also an understanding of the limits of those powers.

Accordingly, we ask that you provide a detailed analysis of the legal precedents and authorities supporting the action in Syria, and in particular an explanation of whether this action expands those precedents for action under Article II. We also ask that you instruct senior officials in the White House, Department of Defense, and Department of State to articulate the Administration's legal rationale for military action on an ongoing basis to better inform the public and Congress. Thank you for your quick action on this request.

Sincerely,

Adam B. Schiff
Member of Congress

Tim Kaine
U.S. Senator

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