



# SECURITY COUNCIL REPORT UPDATE REPORT



18 March 2008 No. 2

## MYANMAR

### Expected Council Action

The Council is expecting a briefing on 18 March by Ibrahim Gambari, the Secretary-General's Special Advisor on Myanmar, followed by Council consultations. He has just returned from a four day trip to Myanmar as well as earlier visits to a number of countries in the region. (In February, he met leaders in Beijing, Jakarta, Singapore and Tokyo.) This is Gambari's third visit to Myanmar since the protests last September. (He was last in Myanmar in November 2007.)

Unlike the last two briefings by Gambari, this one is expected to be a closed session. A presidential statement urging Myanmar to meet the requirements specified in the Council's 11 October statement is likely to be discussed after the briefing. That statement called for:

- inclusive national reconciliation;
- ongoing involvement of the United Nations;
- genuine dialogue with Aung San Suu Kyi;
- measures to address political and human rights issues; and
- measures to address the economic and humanitarian needs of the people.

### Recent Developments

On 19 February, the Myanmar government announced that in May this year it will hold a referendum on a new constitution written under military guidance, and "multi-party democratic" elections in 2010. These are the first specific dates for the fourth and fifth steps in the seven point "roadmap to democracy" which the Myanmar government announced in August 2003. The steps in the roadmap are:

- reconvening of the National Convention adjourned since 1996;
- implementation of the process necessary for "the emergence of a genuine and disciplined democracy;"
- drafting a new constitution;
- adoption of the constitution through a referendum;
- holding of free and fair elections for legislative bodies according to the new constitution; and
- building a "modern, developed and democratic" nation.

The National Convention, appointed by the military, drafted the new constitution under which the military has been given a leading political role. Full details are still not available but it appears that the military would be allocated a quarter of the seats in parliament and given a veto over many legislative decisions. The new charter bars Aung San Suu Kyi from national office because she was married to a foreigner. Her party, the National League for Democracy (NLD), which boycotted the National Convention because of Aung San Suu Kyi's continued house arrest, said that the constitution is likely to "worsen the political, economic and social crisis" in Myanmar. The US called it a sham conducted in a "pervasive climate of fear." Reports indicate that the government rejected Gambari's request for including Aung San Suu Kyi in the electoral process.

Following the announcement that the constitutional referendum would be in May, the Secretary-General on 11 February issued a statement calling on Myanmar to make the constitution-making process "inclusive, participatory, and transparent" and to engage in a substantive and time-bound dialogue with relevant parties. He also said that the UN was ready to support this process.

Gambari has said that the proposal to hold a constitutional referendum and a general election in 2010 represented significant steps forward as it was the first time specific dates have been given. However, he also indicated some frustration with the progress in responding to the issues raised by the UN.

Association of South East Asian Nations (ASEAN) members have indicated to Myanmar that barring Aung San Suu Kyi from elections because she was married to a foreigner was "odd" and not "in keeping with the times" but also have said that the people of Myanmar must decide for themselves in the referendum.

On 11 February, two dozen members of the National League for Democracy protested outside their headquarters calling for the release of political prisoners and asking for genuine dialogue towards reconciliation.

Gambari visited Myanmar from 6 to 9 March where he met Myanmar's foreign minister and several other ministers, members of the Convention involved in drafting the constitution, individuals planning the referendum and several political parties, including the NLD. He also had two meetings with Aung San Suu Kyi. Gambari was unable to meet with General Tan Shwe, the head of the ruling State Peace and Development Council. (The Myanmar government had not been pleased that Gambari had released a statement by Aung San Suu Kyi after his November visit and accused him of being biased in favour of her.)

The Myanmar press has reported that the government rejected Gambari's suggestion that Myanmar invite international observers to the referendum. It seems that the Myanmar government also told Gambari that they would not consider making any changes to the draft constitution.

Following his visit, Gambari briefed the Secretary-General on 13 March. The Secretary-General then issued a statement saying that although there was some progress less than what had been hoped was achieved.

In order to assist Gambari in his good offices efforts, the Secretary-General initiated a Group of Friends, made up of India, Thailand, Indonesia, Singapore, Vietnam, the five permanent members of the Council, Australia, Norway, Japan and the EU presidency (now Slovenia). The first meeting of the Group was held on 19 December with a second on 13 February. A third meeting is expected on 18 March ahead of Gambari's briefing.

On 25 February, the US expanded personal and business sanctions imposed on individual family members of Myanmar's ruling State Peace and Development Council (SPDC) after the crack-down last year.

The US State Department in its 2007 report on human rights said that Myanmar's human rights record had worsened over the year. The report said that the regime committed extrajudicial killings over the year and was responsible for disappearances, arbitrary and indefinite detentions, rape and torture. Human Rights Watch has reported that arrests and intimidation continued after the crack-down and that there are still 1,800 political prisoners, many gravely ill and receiving only basic health care.

On 19 February, nine Nobel peace laureates, led by Desmond Tutu, urged the Council and the international community to impose arms and banking sanctions on Myanmar for failing to move towards democracy. Their statement said that Myanmar's military rulers had "made no overtures and no progress on national reconciliation."

#### **Related Developments in the Human Rights Council (HRC)**

Paulo Sergio Pinheiro, the Special Rapporteur of the HRC on Myanmar reported to the HRC on 13 March that the Myanmar government had accelerated rather than stopped unlawful arrests and that around 1,850 political prisoners were behind bars as of January 2008. The Myanmar government rejected the report claiming that it was not objective and infringed on matters that fell within the government's domestic jurisdiction. They also claimed that there were no political prisoners in Myanmar—those in prison had broken the law. Last week, Pinheiro, who last visited Myanmar in November, and who was mandated by the HRC to conduct a follow up visit, was denied a visa to enter Myanmar.

#### **Key Issues**

The key issue is how the Council responds to the growing evidence that Myanmar intends to ignore the requirements laid out by the Council in its unanimously agreed statement on 11 October. A related issue is what it can do to support and strengthen Gambari's good offices role. Now that a referendum and election timetable have been announced, and it is clear that the Myanmar government is intent on pushing ahead quickly with its own roadmap without any concessions to either the Security Council or the Human Rights Council, there are questions about how best to influence the next steps.

Is it too late for the Council to ensure that the May referendum is credible and inclusive? A related issue is how to convince the Myanmar government that the UN is genuinely interested in assisting, rather than interfering, in the upcoming referendum.

Given the Council dynamics on Myanmar, a major question will be how to bridge the differences and convey a united front. The Myanmar government is likely to take a divided Council less seriously than one that speaks with a common voice and this may account for the procedural decision to have Gambari's briefing in a private meeting.

A continuing issue is whether it will be possible to keep players like India and ASEAN engaged and actively using their influence with the Myanmar government to bring about democratic change.

A connected issue is the deadlock over conclusions to the Secretary-General's report on Children and Armed Conflict in Myanmar which came out in November 2007. The Working Group on Children and Armed Conflict has been negotiating recommendations relating to Myanmar for the last month but there is no agreement. If there is no way of breaking the deadlock, the issue may have to be referred to the Council for a decision.

### **Options**

Following the Gambari briefing the most likely option is for the Council to start work on a presidential statement focused on recent developments such as the completion of the constitution and the announcement of the referendum in May and elections in 2010. Key elements likely to be proposed may include:

- calling on the Myanmar government to ensure the referendum is inclusive and transparent;
- allowing Aung San Suu Kyi and opposition parties to participate in the referendum;
- progress on elements in the Council's 11 October presidential statement, in particular on the need for genuine dialogue and national reconciliation; and
- expressing concerns about reports of continuing repression.

An option, if there are procedural concerns with issuing a presidential statement, may be a press statement containing common elements along the lines above acceptable to all members.

Other options include:

- requesting the Secretary-General to visit Myanmar as soon as possible and before the May referendum, to elevate the good offices mission and reinforce the offer of UN technical assistance for the referendum;
- initiating a mechanism based on the concept of the North Korea six-party talks—with key parties like China, the US, India, and some ASEAN countries—which would be able to offer a package of carrots and sticks to the Myanmar government if there is genuine progress on national reconciliation; and
- providing firm deadlines for the Myanmar government to meet the objectives set by the Council in its October presidential statement.

### **Council Dynamics**

While united in its support for Gambari's good offices, the Council is likely to contain a spectrum of views on how much pressure to put on the Myanmar government. The US, UK and France are keen on stronger UN action even to the level of a binding resolution that might hint at sanctions.

There is increasing frustration among these members in the Council as it has been difficult since Myanmar crushed the protests to keep up the level of interest.

China has also made it clear that it would reject sanctions on Myanmar and does not believe that pressure will solve the problems in Myanmar. This view is shared by the Asian countries on the Council, Vietnam and Indonesia, who are also members of ASEAN. They do not believe that Myanmar is currently a threat to international peace and security and believe that this issue might be better dealt with in other UN bodies such as the Human Rights Council. Indonesia is interested in involving regional players, possibly in a smaller version of the Secretary-General's Friends of Myanmar.

There are also differences among members on how to react to the announcement of a date for the referendum and whether there is actually real movement in the Myanmar government's roadmap. China, Indonesia and Vietnam seem to prefer to respect the Myanmar government's steps and to work with them. Some other members feel that the process is a sham and should not be encouraged.

## UN Documents

### Presidential Statement

- S/PRST/2007/37 (11 October 2007) was the presidential statement strongly deploring the use of violence against demonstrations and emphasising the importance of early release of prisoners.

### Selected Letters

- S/2007/591 (5 October 2007) was the letter from Japanese permanent representative to the UN conveying Japan's position on developments in Myanmar.
- S/2007/590 (3 October 2007) was the letter from US permanent representative to the UN requesting an urgent meeting of the Council to discuss Myanmar.

### Draft Resolution

- S/2007/14 (12 January 2007) was the draft resolution vetoed by China and Russia.

### Selected Press Statements

- SC/9228 (17 January 2008) was the press statement affirming the Council's support for the objectives set out in its October presidential statement and regretting the slow progress on meeting those objectives.
- SC/9171 (14 November 2007) was the press statement on Myanmar.

### Other Documents

- A/HRC/7/24 (7 March 2008) was the report by the Human Rights Council's special rapporteur on Myanmar.
- A/HRC/7/18 (5 March 2008) was the report by the Human Rights Council's special rapporteur on Myanmar.
- S/PV.5757 (11 October 2007) was the record of a meeting in which the October presidential statement (S/PRST/2007/37) was publicly read.
- S/PV.5753 (5 October 2007) was the record of the discussion following the crackdown in Myanmar.
- S/PV.5526 (15 September 2006) was the record of the discussion before putting the provisional agenda, that included the situation on Myanmar, to the vote.

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| <ul style="list-style-type: none"><li>• S/Agenda/5526 (15 September 2006) was the provisional agenda for the meeting that added Myanmar to the Council agenda.</li></ul>  |
| <b>General Assembly Resolution</b>  |
| <ul style="list-style-type: none"><li>• A/RES/59/263 (23 December 2004) requested the Secretary-General to provide his good offices and pursue his discussions with the government and people of Myanmar.</li></ul> |



**Useful Additional Source**

*Burma/Myanmar After the Crackdown*, International Crisis Group, Asia Report No. 144, 31 January 2008