



Somalia

Expected Council Action

Council members are currently negotiating two draft resolutions on Somalia. There are ongoing differences of view among members, and it is unclear when agreement will be reached on both drafts.

The first draft, prepared by the UK, responds to the proposed strategy for Somalia recommended by the Secretary-General in his 14 March report. After an initial round of expert-level discussions, a second version of the draft was circulated on Wednesday, 30 April.

The second resolution, prepared by France, the US, the UK and Panama, addresses piracy issues.

Addressing a “Comprehensive UN Strategy” for Somalia

A Council response to the Secretary-General’s 14 March recommendations on Somalia had been long-awaited. The UK draft expressly mentions Chapter VII of the Charter and its key elements include:

- strong support for the incremental approach proposed by the Secretary-General;
- a request that he submit an updated version within 90 days;
- continued contingency planning—but as yet no indication of commitment—on a UN peacekeeping role to replace the AU peacekeepers currently in Mogadishu;
- a request that the Secretary-general put in place the necessary security arrangements for the relocation of the UN Political Office for Somalia (UNPOS) and the country team headquarters from its current location in Nairobi to Somalia;
- a decision that UNPOS shall enhance its efforts to support the ongoing political process;
- a request that the Secretary-General develop options for assistance to the AU Mission in Somalia (AMISOM), including on channelling donor support and if necessary, additional UN support;
- a request to strengthen ongoing efforts to establish a UN-led mechanism to facilitate talks between aid organisations, the TFG, donors and other relevant parties;

- a request for the Secretary-General to establish a human rights and rule of law capacity within UNPOS, and to ensure coordination with the Office of the High Commissioner for Human Rights and the Human Rights Council Independent Expert;
- a call on member states to take action to protect shipping involved in the transportation of humanitarian aid, subject to prior agreement from the TFG and notification to the Secretary-General; and
- a request for the sanctions committee to submit recommendations on targeted measures against spoilers and breaches of the arms embargo.

Council Dynamics

Longstanding differences of view among members seem to have been behind the delay in moving forward with Council action in response to the Secretary-General's strategic recommendations. There now seems to be general agreement that the Secretariat is basically on the right track but that more work is required in developing a strategic approach to the situation in Somalia. There also seems to have been general support for a UN-led mechanism for dialogue on humanitarian issues. (This seems to have nonetheless attracted concern within the humanitarian community about recognising humanitarian principles of independence—the most recent draft seems to have reduced some of those concerns.)

The key point of disagreement is whether proceed with a decision on the deployment of a UN peacekeeping operation to succeed AMISOM. France, the UK, Russia and Belgium have maintained a more cautious approach and support contingency planning only. African members, China, the US and Italy appeared to prefer language expressing a clear Council determination to have a UN mission as part of the phased strategy. There seems to have been some support for language mentioning an interim UN deployment in Mogadishu, before a larger UN mission is deployed, but it is unclear whether it will emerge.

A second major issue is how best to address the AU request for UN assistance to AMISOM, as laid out in a 20 February letter from AU Commissioner Alpha Konaré (S/2008/178). (The request included an \$800 million financial package from the UN assessed budget, plus an appropriate number of management staff and logistical support. The proposal raised hesitancy given the UN's own shortage of resources and concern from major financial contributors about the use of UN assessed contributions for regional peacekeeping. For more details, please see our April 2008 *Forecast*.) African members and Italy apparently supported a Council decision supporting enhanced UN assistance. Others, including the permanent members, seemed to support the establishment of a multi-donor trust fund with voluntary contributions as the main mechanism for international assistance to AMISOM.

However, it is unclear whether dynamics will change given that the Secretary-General's response to Konaré's request was issued today. In the letter, the Secretary-General stressed that UN assistance to AMISOM would be premised upon assisting the AU to build its own long-term peacekeeping capacity and ensuring that AMISOM is deployed to the extent possible on the basis of UN standards. He proposed (i) sending seven additional technical advisers to the AU headquarters in Addis Ababa, pending budgetary approval from the General Assembly; (ii) holding a high-level donors' conference; and (iii) establishing a standing AU-UN coordination mechanism

to ensure updating of AMISOM's concept of operations and develop a programme of working-level meetings with troop contributors and donors to follow up on outstanding resource requirements.

Issues of human rights, justice and accountability appear to have attracted support from some, including European and Latin American members. Others—such as China, Russia, Indonesia and South Africa—appeared to reiterate traditional concerns about language on those issues, in particular human rights capacity for UNPOS and a previous proposal (now deleted from the draft) for a fact-finding mission to be established by the High Commissioner for Human Rights.

Surprisingly, the political process seems not to have been the main focus of discussions. Little attention has also been paid to the issue of AMISOM's discharge of its mandate and improving the Council's purview, for instance through regular reporting.

On the request for recommendations from the sanctions committee, it remains to be seen whether this is simply cosmetic because—as Council members are well aware—similar requests were made in past resolutions, most recently in resolution 1772, and committee members were unable to reach agreement on substantial recommendations. Some seemed sceptical about the feasibility of new measures, given their potential ineffectiveness. Others seemed to resist responses to alleged violations of the embargo, in part due to sympathies towards the concerns of some states.

Addressing Piracy

On 28 April, a draft resolution addressing piracy issues off the coast of Somalia was circulated to members. The draft was sponsored by the US, France, the UK and Panama. It came as a response to increasing reports of hijacking of vessels in the region of the Gulf of Aden, including humanitarian shipments and commercial navigation.

A number of requests for the Council to address this issue emerged in the past years, in particular from the International Maritime Organization (IMO). The TFG also sent a letter to the Council in February requesting assistance from the Council in securing the territorial and international waters off the Somali coast. Another letter by Spain was sent to the Council on 24 April detailing recent piracy against a Spanish vessel and stressing the need for joint international action under UN auspices

In July 2007, the IMO Council requested that the issue be brought to the attention of the Security Council “so that [it] requests the [TFG] to take appropriate action. Such action could include giving consent to ships... to enter the country's territorial waters when engaging in operations against pirates or suspected pirates and armed robbers endangering the safety of life at sea.” The IMO and the World Food Programme (WFP) also issued a joint communiqué in July emphasising the importance of the issue. Most recently, in November 2007, the IMO Assembly adopted a resolution on the issue as well.

So far, the Council has limited action to encouraging states to "take appropriate action [in international waters and airspace adjacent to Somalia's coast] to protect merchant shipping, in particular the transportation of humanitarian aid... in line with relevant international law." This position dates back to 2005, in presidential statement 2006/11 which also responded to an IMO request. The same language was employed most recently in February 2008 in resolution 1801.

Member states' responses to the problem of piracy have included temporary protection for WFP humanitarian shipments by France and Denmark, as well as individual action. Most recently, French troops reportedly arrested with TFG consent in Somali territory individuals suspected of involvement in piracy against a French yacht and flew them to Paris to face trial.

The draft resolution on piracy seems to reflect a desire to provide a clearer legal framework for action against piracy and also against armed robbery in all waters off the Somali coast (i.e., including the territorial sea as well as international waters). It provides an authorisation under Chapter VII for states "cooperating with the TFG" and which have notified the Secretary-General to:

- enter the territorial waters of Somalia for the purposes of identifying and pursuing pirates and armed robbers and of deterring, preventing and suppressing acts of piracy and armed robbery at sea, consistent with international law; and
- use, within the territorial waters of Somalia and consistent with international law, of all necessary means to identify, deter, prevent, and repress acts of piracy and armed robbery, including but not limited to boarding, searching, and seizing vessels engaged in or suspected of engaging in acts of piracy or armed robbery, and to apprehend persons engaged in such acts with a view to such persons being prosecuted.

The draft also:

- encourages states to increase their activities and coordination to deter acts of piracy and armed robbery at sea; and
- calls upon States and interested organisations, including the IMO, to provide technical assistance to Somalia and nearby coastal States upon their request.

France, the US, the UK and Panama seem to support the view that there is a need for a clear legal framework enabling international action, including a Chapter VII authorisation. There appears to be emphasis on the notion that elsewhere there are regional or national capabilities to address piracy issues, but that this is not the case regarding Somalia. It seems that they do not see the draft as a modification of existing international law since action is conditioned on consent from the TFG, which is seen as consistent with the UN Convention on the Law of the Sea (UNCLOS) provisions that recognise states' sovereignty over the territorial sea.

It seems that other members still await instructions from capitals. The issue is sensitive given the novelty and technical/legal nature of the matter.

However, there is potential for resistance on the basis that this could result in the Security Council effectively altering existing international law, especially the rules reflected in the UNCLOS. There may also be concern perhaps with possible precedents given the existing piracy problems elsewhere, in particular in the Gulf of Guinea and the Strait of Malacca, linking the Indian and the Pacific Oceans.

UN Documents

Selected Security Council Resolutions
<ul style="list-style-type: none">• S/RES/1811 (29 April 2008) renewed the mandate of the sanctions Monitoring Group.• S/RES/1801 (20 February 2008) renewed AMISOM for six months.• S/RES/1772 (20 August 2007) requested the sanctions committee to provide recommendations on strengthening the arms embargo.• S/RES/1744 (20 February 2007) requested options to strengthen UNPOS.• S/RES/733 (23 January 1992) imposed an arms embargo.
Selected Security Council Presidential Statements
<ul style="list-style-type: none">• S/PRST/2006/11 (15 March 2006) encouraged states to take action against piracy in waters adjacent to Somalia after the 2005 IMO request.
Latest Report of the Secretary-General
<ul style="list-style-type: none">• S/2008/178 (14 March 2008), which included an AU request for a \$800 million UN support package.
Selected Reports from the Sanctions Committee and the Monitoring Group
<ul style="list-style-type: none">• S/2007/761 (19 December 2007) was the latest sanctions committee report.• S/2007/436 (17 July 2007) was the latest Monitoring Group's report.
Other
<ul style="list-style-type: none">• S/2008/271 (23 April 2008) was the Spanish letter.• S/PV.5858 (20 March 2008) was the latest briefing by Special Representative Ahmedou Ould-Abdallah.• A/62/7/Add.37 (24 March 2008) was a report of the ACABQ on the Secretary-General's proposals for UNPOS.• A/62/512/Add.6 (26 February 2008) was a Secretary-General's report to the Fifth Committee outlining UNPOS' additional resource requirements.• S/2007/566 (20 September 2007) and S/2007/22 (27 August 2007) outlined the Secretary-General's proposals for strengthening UNPOS.

Other Relevant Facts

Special Representative of the Secretary-General and Head of UNPOS
Ahmedou Ould-Abdallah (Mauritania)
Chairman of the Sanctions Committee
Dumisani S. Kumalo (South Africa)
AMISOM: Size, Composition and Cost
<ul style="list-style-type: none">• Maximum authorised strength: 7,650 troops plus maritime and air components• Strength as of 14 March 2008: about 2,500 Ugandan and Burundian troops• Key financial contributors: EU, Italy, Sweden, China and the Arab League
AMISOM: Duration
February 2007 to present: AU mandate expires on 18 July 2008 and Council authorisation expires on 20 August 2008

Useful Additional Sources

- UN Convention on the Law of the Sea (UNCLOS), www.un.org/Depts/lost/index.htm
- Website of the International Maritime Organization, www.imo.org

