



# SECURITY COUNCIL REPORT

## UPDATE REPORT



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## PROTECTION OF CIVILIANS IN ARMED CONFLICT

### Expected Council Action

On 13 April 2006, in order to try to break the stalemate which had developed over the draft resolution on protection of civilians which has been under negotiation for four months, the UK circulated to all Council members a new draft resolution. It seems, after consultations amongst the P5, that the new draft has good prospects for wide acceptance in the Council. Adoption next week seems likely.

### Background

An open debate on the protection of civilians in armed conflict was held on 9 December 2005. A draft resolution submitted by the UK met opposition, particularly within the P5. As a result it was agreed that negotiations should be progressed at the bilateral level and among the P5 before a text came back to all Council members.

For full background on the Council's work on this issue, please consult our December 2005 Forecast Report.

For many Council members it was frustrating that the Council was having difficulties agreeing on language relating to the "responsibility to protect", especially since that concept had been endorsed by the Heads of State so recently in the September 2005 Summit Outcome Document.

### The New Draft

The new draft will address all of the key issues relating to civilians, including:

- The reaffirmation of the responsibility to protect, which will be kept in an operative clause. This is the main achievement of the new draft, which seems to have overcome Russian and Chinese reluctance to have this principle reaffirmed by the Council. It seems that the new approach first gained Chinese acceptance and then Russia's support.
- The draft reaffirms the importance of continuing the Council's practice of ensuring that all UN Peacekeeping mission mandates should have provisions aimed at protecting civilians in their mandates. New is the provision that the protection of civilians, particularly those under imminent threat, would be given priority in the decisions about the use of available resources.

The Council also directly expresses its intention, for the first time, of ensuring that those protection mandates be implemented.

- The Council reiterates the necessity to allow full unimpeded access to humanitarian personnel to conflict areas (a principle already mentioned in previous resolutions on the protection of civilians).
- The Council, in resolution 1296 (2000), emphasised the importance for humanitarian organisations to uphold the principles of neutrality, impartiality and humanity in their humanitarian activities. The new draft extends this provision to “all”, which implicitly also includes state actors.
- Finally, the Council reaffirms its readiness to respond to situations where the deliberate targeting of civilians and the commission of flagrant violations of international humanitarian and human rights law in situations of armed conflict constitute a threat to international peace and security. This provision, already contained in resolution 1265 (1999), while initially resisted by the US during consultations, now seems widely accepted.

But the new draft also inevitably presents some compromise on various points of contention:

- There is no specific reference to the International Criminal Court (ICC). Justice and reconciliation mechanisms mentioned include national, international and “mixed” criminal courts and tribunals and truth and reconciliation commissions. However, the text does not exclude the ICC and it emphasises that states have a responsibility to comply with their relevant obligations to end impunity (relevant to those who have ratified the Rome statute – currently nine members of the Council).
- The Russian proposal to include a provision on the prohibition of torture in occupied territories did not materialise. It seems, however, that a general condemnation of torture against civilians in armed conflict will be reaffirmed in the draft resolution.
- The new text addresses in general terms the issue of safeguards for internally displaced persons (IDPs). But there is no clear mention of the international community’s duty to assist and support states to fulfil their responsibilities with regard to IDPs. The text only refers to “other persons protected under international humanitarian law”. It seems that there remains some dispute as to whether IDPs are covered by international humanitarian law or whether that would infringe on the principle of non-interference in the domestic affairs of a state.
- Finally, the next Secretary-General’s report on the protection of civilians is called for in 18 months. This reflects some Council members’ reluctance to address the thematic issues too frequently.

The draft is currently being considered by all Council members and should be ready for adoption next week, subject to further input from the members. Whether the resolution will be adopted by the end of the month will depend in part on the availability of time – given the heavy pressure of issues already in the programme of work. It may also be affected by the preferences of the outgoing and incoming Presidents.