



SECURITY COUNCIL REPORT UPDATE REPORT



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MYANMAR

Expected Council Action

At the time of writing the Council was expected to meet this afternoon to discuss the situation in Myanmar and the implications of Aung San Suu Kyi being sentenced to a further 18 months of house arrest after an 86 day trial.

It is difficult to tell if the Council will be able to agree on an outcome today. Some members are not ready for a formal statement, and one option is to meet again once all 15 have gauged more closely each others' positions. Another possibility is an initial reaction from the Council in the form of a press statement perhaps combined with a decision to keep discussing a presidential statement over the next few days.

Key Recent Developments

Aung San Suu Kyi's Trial

On 11 August a Myanmar court sentenced Aung San Suu Kyi to three years hard labour. This was commuted to 18 months house arrest following an order signed by Myanmar leader, General Tan Shwe and no doubt reflected the impact of intensive but quiet diplomacy urging the regime to exercise clemency in view of the adverse impact of a sentence of detention on the process of democratisation.

Aung San Suu Kyi and two of her companions have been on trial for breaching her house arrest by giving shelter to John Yettaw, an American who swam to her lakeside home on 3 May. Yettaw was convicted for seven years. During her 86 day trial Aung San Suu Kyi, her companions and Yettaw were incarcerated in Insein prison. Final testimonies were given on 10 July and a verdict was anticipated by the end of the month. However, on 31 July the court postponed its verdict until 11 August saying they needed more time to review the case due to technical legal issues.

It is significant that Aung San Suu Kyi's home detention was previously due to expire on 27 May 2009 and if released she would have been free to play a role in the upcoming elections scheduled for 2010. The Myanmar government has renewed her house arrest annually since 2003 although, under Myanmar law, no one can be held for more than five years without being released or put on trial. Having flouted that law last year, a sixth renewal this year was likely to have resulted in strong international reactions.

There were immediate international reactions following the sentencing. The Secretary-General issued a statement saying he was deeply disappointed and deplored the verdict.

The EU was strongly critical of Aung San Suu Kyi's continued detention. In a statement issued by Sweden, the current EU chair, the EU stated it was ready to impose targeted sanctions against those involved. French President Nicolas Sarkozy called the sentencing brutal and unjust.

British Prime Minister Gordon Brown said he was saddened and angry. He called on the Security Council to impose a global prohibition on arms sales to Myanmar.

American Secretary of State Hillary Clinton called for the release of Aung San Suu Kyi and said she should not have been convicted.

Many members of the Association of Southeast Asia (ASEAN), the regional grouping that Myanmar belongs to, had also at press time indicated that they find the decision unacceptable. Malaysia said Aung San Suu Kyi should be released and called for an emergency meeting of ASEAN foreign ministers to discuss the issue. Indonesia expressed concern and said it was disappointed with the verdict. Singapore said it was disappointed to learn that Aung San Suu Kyi was found guilty and sentenced to three years hard labour, but it acknowledged that the Myanmar government had granted partial amnesty for her sentence. The strongest ASEAN reaction came from the Philippines which called the verdict "incomprehensible and deplorable".

The Secretary-General's Visit and Activities

The Secretary-General was in Myanmar from 3 to 4 July at the invitation of the Myanmar government. He had two meetings with Senior General Tan Shwe and also met other senior members of the State Peace and Development Council. During the meetings with Tan Shwe and senior government officials, the Secretary-General discussed the need for Myanmar to follow-up on a number of key areas including the:

- release of all political prisoners, including Aung San Suu Kyi;
- resumption of substantive dialogue between the government and the opposition; and
- creation of conditions conducive to credible and legitimate elections

The Secretary-General also had a private meeting with four leaders of Aung San Suu Kyi's party, the National League for Democracy (NLD) and exchanged views with the leaders of ten registered political parties. He also met with a group made up of NGOs, civil society groups and diplomats and travelled to the areas affected by Cyclone Nargis. However, his two requests to meet with Aung San Suu Kyi were refused.

On 5 August the Secretary-General met with the Group of Friends for Myanmar. (The Group of Friends includes the five permanent members of the UN Security Council; Indonesia, Singapore, Thailand and Viet Nam from ASEAN; the EU; India; Japan; the Republic of Korea; Australia and Norway.) He informed them that he had met with the Myanmar permanent representative on 30 July and conveyed two clear messages.

- That there were clear expectations from the international community that the Myanmar government would give careful consideration to the implications of any verdict in the trial of Aung San Suu Kyi and try to ensure her immediate release.

- That the international community has high expectations that the Myanmar government take timely and positive steps to support democratisation by following up specific proposals presented by the Secretary-General during his recent visit, such as the release of all political prisoners.

A second high-level meeting of the Group of Friends was expected to be held in September on the sidelines of the General Assembly, but in light of developments, a further such meeting at lower level at an earlier date is possible. .

Past Security Council Involvement

On 22 May, Council members released a press statement expressing their concern over the political impact of “recent developments” relating to Aung San Suu Kyi following her recent imprisonment and reiterated the importance of the release of all political prisoners and the need for the government to create the necessary conditions for a genuine dialogue with Aung San Suu Kyi, concerned parties and ethnic groups in order to achieve an inclusive national reconciliation.

The statement also reaffirmed earlier presidential statements on 11 October 2007 and 2 May 2008. The 11 October 2007 presidential statement:

- emphasised the need for early release of political prisoners;
- outlined what the Council expected of the government, including genuine dialogue with Aung San Suu Kyi, all concerned parties and ethnic groups; and
- called on the government to address political, economic, humanitarian and human rights issues.

The 2 May statement issued before the Myanmar government’s new referendum to adopt a new constitution:

- noted a commitment from the Myanmar government that the referendum would be free and fair; and
- underlined the need for the Government of Myanmar to establish the conditions and create an atmosphere conducive to an inclusive and credible process.

In his briefing to the Council on 13 July following his return from Myanmar, the Secretary-General called Myanmar’s refusal to grant him a meeting with Aung San Suu Kyi not only a deep disappointment but a lost opportunity. He felt that allowing such a meeting would have sent a constructive, conciliatory signal inside the country and abroad. He also said that he had made clear his expectation, and that of the international community, that the 2010 elections needed to be inclusive, free and fair. He had also stressed to the Myanmar government the importance of taking the necessary steps on his specific proposals in the very near future. While Council members were unanimous in their support for the Secretary-General’s advocacy while in Myanmar some expressed disappointment that the Secretary-General had not met Aung San Suu Kyi and that this undercut the impact. However, others said they understood why it was not possible for the Myanmar government to allow a meeting while she was on trial.

The Myanmar permanent representative told the Council that at the request of the Secretary General, the Myanmar government is preparing to grant amnesty to prisoners on humanitarian

grounds with a view to enabling them to participate in the 2010 general elections. However, to date no prisoners have been released.

Other Developments

At its foreign ministers meeting on 21 July, ASEAN reiterated its call on the Myanmar government to immediately release all those under detention including Aung San Suu Kyi so that they can participate in the 2010 elections.

On 7 August Myanmar police said that it had arrested 15 dissidents over a plot to carry out bombings during the Secretary-General's visit in early July.

There were press reports that Myanmar is building a secret nuclear reactor and plutonium facility in caves in a mountain in the northern part of the country. ASEAN Secretary-General Surin Pitsuwan has said that Myanmar would have to leave ASEAN if it was found to have a nuclear reactor as, like all ASEAN members, it has signed the Southeast Asia Nuclear-Weapon-Free Zone treaty.

Key Issues

The immediate issue for the Council is to react to the detention of Aung San Suu Kyi. Members held back from discussing the issue when she was first imprisoned in deference to colleagues who argued that it was preferable not to back the Myanmar government into a corner while the judicial process was underway and that it was better to use quiet diplomacy to lobby for eventual clemency and freedom. It remains to be seen now, whether, in the light of the widespread negative reaction, Council members as a whole share similar concerns, and are ready to convey this through a collective reaction.

A related issue is the possibility of resumed public protest in the days following the verdict and whether the Council's actions can in anyway help to deter further violence of the sort seen in 2007. The Myanmar government has issued warnings to opposition groups to refrain from rioting.

A key issue is whether the decision to continue Aung San Suu Kyi's detention indicates that the messages of the Secretary-General (and the international community generally) are not being heeded.

A related issue is finding an effective mix between carrots and sticks. While several Council members are now likely to want to go the sanctions route, there are some who may want to explore softer options to get the Myanmar government to grant amnesty for the rest of Aung San Suu Kyi's sentence ahead of the elections.

An issue that continues to be of concern is the possible instability on the border. Recent fighting between government forces has led to an influx of refugees into Thailand.

A potential issue is how to deal with the possibility that Myanmar may be trying to develop nuclear capability with the help of the Democratic People's Republic of Korea.

Options

The Council has the following options:

- react immediately with a press statement expressing concern and asking for Aung San Suu Kyi's release and reiterating the importance of this in the context of its previous two presidential statements;
- decide not to react immediately but to meet again in a short time to discuss a draft presidential statement, giving the Myanmar government the space to possibly give Aung San Suu Kyi amnesty for the rest of her sentence;
- convene an "informal interactive dialogue" meeting with Myanmar (following its earlier precedent with Sri Lanka) as a vehicle for conveying privately a collective message to Myanmar, possibly in combination with one or more other options; and
- start work on a strong presidential statement and perhaps a process of incremental pressures.

Other options include:

- invite the Secretary-General and the Group of Friends to an Arria style discussion; and
- ask the Secretary-General to form a high-level group of ASEAN elder statesmen like Singapore's Senior Minister Goh Chok Tong (who recently met with Tan Shwe and Razali Ismail) the former Special Envoy of the Secretary-General to Myanmar (who was instrumental in securing Aung San Suu Kyi's release in 2000) to provide advice on how to more effectively resolve the issues.

Council and Wider Dynamics

There are basically two groups within the Council with quite different views on how to deal with Myanmar. The Western permanent members, together with countries like Costa Rica and Mexico, are likely to favour strong public collective action denouncing Aung San Suu Kyi's continued detention. The other group, including China and Viet Nam is more likely to be influenced by the analysis that this is an internal matter and the Council should not react, at least not immediately and not vigorously.

The new US administration has undertaken a review of Myanmar policy meant to develop new ways of advocating for change in Myanmar. In speaking with the press the US has described its fundamental policy as one of encouraging the Myanmar government through public statements and private diplomacy to talk with opposition leaders, release political prisoners and open up to the outside world. But Aung San Suu Kyi's trial has somewhat diverted that approach and generated strong reactions among the public and media. The US publicly condemned the imprisonment of Aung San Suu Kyi and recently extended a ban on US investment first imposed in 1997 for another year and renewed sanctions targeting imports from Myanmar.

The UK has said that if there is an unjust outcome in Aung San Suu Kyi's trial a robust reaction would be needed from the international community. France said in the past that it would want the Council to respond firmly if Aung San Suu Kyi is condemned.

While advocating a strong reaction to a verdict of guilty, the UK, France and the US have indicated that they would respond positively to real progress and genuine reform. These countries have made it clear that the onus is now on the Myanmar government to take the steps that would allow them to do this.

China's fundamental position on Myanmar has not changed. It only reluctantly accepted inclusion of Myanmar on the Council agenda and believes current events within Myanmar are essentially internal affairs and do not pose a threat to international or regional peace and

security. It does not believe in either isolating or imposing sanctions on Myanmar. However, it continues to voice support for the Secretary-General's Good Offices and seems to be active in quiet diplomacy to encourage Myanmar to engage in reform but resists the idea that Myanmar's problems can be solved through Western-style problem solving.

Viet Nam, as a member of ASEAN, has preferred a regional and quiet diplomacy approach. This has led it to take the approach that the international community needs to cooperate with the Myanmar government's seven-step road map towards democracy and reconciliation. It is sensitive to giving the Myanmar government time to make decisions and is concerned that backing it into a corner would be counterproductive.

Japan, the other non-permanent Asian member, on the Council appears to advocate a firm approach but one based more on bilateral pressure than public Council denunciation.

Russia continues to be supportive of the Secretary-General's Good Offices and has stressed, together with China, that this is a process and patience is needed.

Non-permanent members like Costa Rica, Austria and Mexico share many of the concerns of the Western permanent members and have shown particular concern about human rights abuses in Myanmar.

UN Documents

Presidential Statements
<ul style="list-style-type: none"> • S/PRST/2008/13 (2 May 2008) noted the commitment of the Myanmar government that the referendum would be free and fair and underlined the need for the Government of Myanmar to "establish the conditions and create an atmosphere conducive to an inclusive and credible process". • S/PRST/2007/37 (11 October 2007) deplored the use of violence against demonstrations and emphasised the importance of early release of prisoners.
Selected Press Statements
<ul style="list-style-type: none"> • SC/9662 (22 May 2009) expressed the Council's concern about the political impact of recent developments in Myanmar following Aung San Suu Kyi's imprisonment. • SC/9228 (17 January 2008) affirmed the Council's support for the objectives set out in its October presidential statement and regretted the slow progress on meeting those objectives. • SC/9171 (14 November 2007) was a press statement on Myanmar.
Other
<ul style="list-style-type: none"> • S/PV.5753 (5 October 2007) was the record of the discussion following the crackdown in Myanmar.

SECURITY COUNCIL REPORT STAFF

Colin Keating, Executive Director

Joanna Weschler, Director of Research

Amanda Roberts, Programme Coordinator

Robert Afriyie, Research Analyst

Shamala Kandiah, Research Analyst

Nina Pregellio, Research Analyst

Astrid Forberg Ryan, Research Analyst

Troy Prince, Research Consultant

Brian Lockstone, Communications Consultant

Robbin VanNewkirk, Publications Coordinator

Jamaal A. Young, Programme Assistant

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