



SECURITY COUNCIL REPORT UPDATE REPORT



12 August 2008 No. 2

Georgia

Expected Council Action

A draft resolution on the conflict was circulated on Monday 11 August. The resolution, drafted by France (currently holding the EU presidency) is based on a three-point peace plan presented to the Georgians and Russians. It called for an immediate cessation of hostilities, a return to the status quo that existed before 7 August, a reaffirmation of Georgian territorial integrity, and a negotiating process for a durable peace. At the time of writing the Council was awaiting details of talks in Moscow between president Nicolas Sarkozy of France and Russia. Reports suggest that an agreement was reached which would require changes to the draft resolution.

Recent Developments

The tension between Georgia and Russia has been steadily escalating. In July Russian fighter jets flew into Georgian air-space in what the Russian foreign ministry described as a mission to “cool hotheads” in Tbilisi. On 4 August Russia complained that Georgia was resorting to force in South Ossetia and the South Ossetians accused Georgian forces of killing at least six people. Georgia complained that Ossetian separatists were attacking Georgian police and patrols. (S/2008/535)

On 7 August the Georgian military deployed a large force into South Ossetia in order to “neutralize” rebel forces in effect abandoning a sixteen year policy of restraint with respect to the situation in South Ossetia. In the process Russian peacekeepers deployed in South Ossetia were overrun.

South Ossetia has had de facto separation from Georgia since the end of the civil war in 1992. (In

1991- 1992 South Ossetia fought a war to break away from the newly independent Georgia.) The 1992 Sochi Agreement between Russia and Georgia committed the parties to take measures to halt the military confrontation and observe a ceasefire. It established a demilitarised zone and a security corridor along the border of South Ossetia. Under the agreement Russian peacekeepers were deployed in the disputed territory as an international force to guarantee the peace pending a negotiated settlement. In 1996 Georgia and South Ossetia, with the participation of Russia, the Republic of North Ossetia and the Organisation for Security and Cooperation in Europe (OSCE), signed the 1996 Memorandum on Measures to Provide Security and Strengthen Mutual Trust between the Parties to the Georgian-Ossetian conflict.

On 8 August, Russia responded to the Georgian military action and attacked Georgia's military in South Ossetia claiming a right to defend ethnic Russians in South Ossetia and to protect its peacekeeping units. The Georgian parliament declared a state of war for 15 days on 9 August. Unlike the situation in Abkhazia there was never any UN peacekeeping presence in South Ossetia and the lack of UN and international personnel has made it difficult to verify the details of the clashes between Russian and Georgian forces. Russian military operations quickly extended beyond South Ossetia including air attacks on the town of Gori which is outside the demilitarised zone and the port of Poti and an airfield in Senaki.

By 9 August fighting had spread to Abkhazia as Abkhaz separatists launched air and artillery strikes on Georgian forces in the Kodori Gorge. The UN Department of Peacekeeping Operations confirmed a buildup of Abkhaz troops and heavy weapons along the ceasefire line. The UN Observer Mission in Georgia (UNOMIG) withdrew its observers from the Upper Kodori Valley in Abkhazia after the Abkhaz de facto authorities said their safety could no longer be guaranteed.

On 11 August Russian ground forces from Abkhazia were reported to be in the vicinity of Senaki which is well inside Georgia.

On 12 August President Dmitry Medvedev of Russia ordered a halt to Russian military operations but said Russian troops will remain in current positions in Georgia. Georgia claimed that attacks were still continuing.

Council Meetings

Since 7 August the Council has met five times to discuss the unfolding situation in Georgia.

- On 7 August, at Russia's request, the Council held consultations at 11 pm followed by an open meeting at 1.15 am with Georgia attending. During consultations Council members discussed a press statement which would call for an end to hostilities but were unable to come to a consensus.
- On Friday 8 August the Council met in the afternoon at the request of both the US and Georgia. Again it held consultations to discuss a possible press statement and then held an open meeting with the participation of Georgia and a representative of the OSCE. Members received details of the situation from both the Georgian and Russian representatives and voiced their concern over the situation in Georgia. Members also expressed support for Georgia's sovereignty and territorial integrity.
- On Saturday 9 August the Council held consultations and was briefed by Assistant Secretary-General for Peacekeeping Edmond Mullet. In particular, the briefing focused on the expansion of the conflict to Abkhazia and the implications for UNOMIG.
- On Sunday morning at the request of Georgia and the United States the Council again held an open debate with Georgia's participation after having had private consultations. At this meeting both B. Lynn Pascoe, Under Secretary-General for Political Affairs, and Mullet briefed the Council. Heated words were exchanged between Georgia and Russia as well as Russia and the US while other members stressed the need for a political solution and expressed concern over the widening of the conflict.
- On Monday evening 11 August the Council held a closed meeting requested by Georgia. It heard from Georgia and was briefed by Mullet and Pascoe.

Response of the International Community

There have been many calls for a halt to the fighting including:

- On 7 August the Secretary-General expressed his serious concern about the mounting violence in South Ossetia and urged parties to refrain from actions that could escalate the situation and threaten the stability of the region. He issued a second statement on the evening of 9 August expressing his alarm over the escalation of hostilities and concern about the violence spreading outside the zone of the Georgian-Ossetian conflict and urged all parties to engage in negotiations towards a peaceful settlement.
- The European Commission on 11 August called on Russia to halt military activity on Georgian

territory and the NATO Secretary-General, Jaap de Hoop Scheffer, said he was concerned about the disproportionate use of force.

- The presidents of Poland, Estonia, Latvia and Lithuania issued a joint statement on 9 August as former Soviet bloc nations expressing their deep concern over Russia's actions and called on NATO and the EU to stand up to Moscow.
- The Group of 7 (US, UK, Italy, France, Germany, Canada and Japan) on 11 August urged Russia to accept an immediate ceasefire with Georgia and accept international mediation.

On 10 August French Foreign Minister Bernard Kouchner on behalf of the EU presidency, together with Finnish Foreign Minister Alexander Stubb, in his capacity as OSCE chairman, flew to Tbilisi and presented proposals to Georgia. Georgia accepted a proposal on 11 August which included:

- an immediate end to hostilities;
- the withdrawal of forces to positions held before August 7;
- respect for Georgian territorial integrity; and
- an international presence to accompany the implementation of the solution.

Kouchner and Stubb on 11 August went on to Moscow and were joined on 12 August by French President Nicolas Sarkozy. Following four-hour long talks Sarkozy and Medvedev endorsed six principles to end the conflict:

- refraining from the use of force;
- an effective end to all hostilities;
- provision of free access for humanitarian aid;
- the return of the Georgian armed forces to permanent bases;
- withdrawal of Russian forces to the line of deployment prior to the outbreak; and
- the start of an international process over the future status of South Ossetia and Abkhazia.

The EU and NATO foreign ministers will hold emergency meetings on 12 August to discuss a joint response on 13 August.

The humanitarian situation has become a matter of serious concern as the numbers of displaced and injured increase. UNHCR has estimated up to 100,000 internally displaced. Many refugees have

crossed the border into Russia. The UN began providing humanitarian aid to those displaced by the conflict in South Ossetia on 11 August. The EU has also offered US\$1.5 million in emergency aid to victims of the fighting.

Options

One option is to pursue the French draft resolution. However, to some extent this has already been overtaken by the agreement in Moscow between President Sarkozy and President Medvedev. Moreover Russia indicated on 11 August that it would find it hard to accept the draft as it was.

Another option is a revised draft incorporating the agreed elements from the Moscow agreement.

Another option is to request the Secretary-General to provide his good offices and support to the international process agreed to in Moscow and also to prepare recommendations on the role for the UN in monitoring the ceasefire – in effect extending UNOMIG’s role in the light of the changed circumstances to include South Ossetia as well as Abkhazia.

Key Issues

Since the apparent agreement in Moscow a voted resolution in New York seems unlikely – unless one side or the other tries to take advantage of ambiguity in the agreement and force the issue. However there are recent examples of apparent political level agreements unraveling (Zimbabwe and Iran) and therefore a key issue will be faithfully reflecting in New York what was agreed in Moscow.

A second issue is the future role of the United Nations. UNOMIG is a tiny (149 uniformed and 97 civilian personnel) observer mission with a mandate only for Abkhazia. At the time it was established in 1993 conflicts were under way in several states of the former Soviet Union. Russia was keen for UN peacekeeping to play a leading role in stabilisation of the area. The US was opposed arguing against UN presence on financial grounds and (because at that time it was facing Congressional pressure against the UN) its preference for regional organisations to play the leading role in peacekeeping. This led to a Russian decision to use the “Commonwealth of Independent States” as a cover for what was a series of essentially unilateral Russian peacekeeping deployments with very limited neutral oversight from the OSCE and in the case of Abkhazia, UNOMIG. UNOMIG has

acquitted itself well over the intervening years and it is therefore an interesting issue whether the permanent members may now find common ground on the utility of a wider and stronger UN presence in Georgia including an ongoing and strengthened role for the Secretary-General's good offices.

A further issue is the potential impact in the region as a result of this conflict. The Council will be concerned about the effects on surrounding countries as well as how this will affect the situation in Abkhazia.

A related issue is how with hindsight Georgia's decision to abandon peaceful resolution of the South Ossetia issue in favour of the use of force will affect the Georgian government and stability in Georgia.

Council Dynamics

Overall, most Council members share a grave concern over the way violence escalated and the consequential humanitarian situation in Georgia. However with a permanent member of the Council involved as a party to the conflict the Council has proceeded with great caution. Tensions increased between the US and Russia with often emotional exchanges taking place.

The French, who also have the EU presidency at the moment, played an active role taking on leadership on the drafting of the resolution in an attempt to find language that all members could agree to. The Belgians who have the Council presidency this month also played a key role in trying to get agreement from all members in the first few days of the conflict on a press statement.

Most of the other members showed genuine concern and desire for the Council to be able to take a united position on this issue.

A Footnote of Historical Relevance

A procedural issue might have arisen for the Council had the 11 August French draft resolution been put to the vote where the issue of "obligatory abstention" under Article 27(3) of the UN Charter would be raised. Article 27 (3) provides:

“Decisions of the Security Council on all other matters shall be made by an affirmative vote of nine members including the concurring votes of the permanent members; provided that, in decisions under Chapter VI, and under paragraph 3 of Article 52, a party to the dispute shall abstain from voting.”

Relevant factors include:

- whether the Council is dealing with a dispute rather than a situation;
- whether a member of the Council is a “party” to the dispute;
- whether the dispute is being dealt with under Chapter VI or VII of the UN Charter

There seems little doubt that in the case of Georgia the Council was dealing with both a situation and a dispute and that Russia, as a member of the Council, was a party to the dispute. The French resolution as drafted seemed to be under Chapter VI. An issue therefore could have arisen whether Russia would be obliged to abstain on voting and what might have happened had it tried to insist on a right to veto.

Since the 1960s it has become increasingly rare for Council members to invoke article 27(3). Since 1990 it has rarely been raised in discussion. But there were a number of examples of the use of Article 27(3) in the early days of the United Nations:

- In 1947 the UK abstained from voting on the Corfu Channel question in reference to whether a subcommittee should be appointed to report on the facts and on referring the dispute to the International Court of Justice and in the same year abstained from voting when the Council considered the question of the presence of UK troops in Egypt and Sudan being an infringement of Egypt’s sovereignty and contrary to the UN Charter.
- In 1950 -51, India, an elected member at the time, abstained on three resolutions related to the question of relations between India-Pakistan when it was on the Council.
- Argentina, an elected member in 1960, did not participate in a vote on whether Israel’s capture of Adolf Eichmann from Argentine territory was a violation of sovereignty rights.

UN Documents

Selected Security Council Resolutions

- S/RES/1808 (15 April 2008) extended UNOMIG until 15 October 2008.

Selected Secretary-General's Report

- S/2008/480 (23 July 2008) was the latest Secretary-General's report on the situation in Abkhazia, Georgia.

Selected Letters to the President of the Council

- S/2008/538 (10 August 2008) was the letter from the US requesting a meeting of the Council on 10 August.
- S/2008/537 (9 August 2008) was the letter from Georgia requesting a meeting of the Council on 10 August.
- S/2008/536 (8 August 2008) was the letter from Georgia requesting a meeting of the Council to discuss the Russian-Georgian conflict.
- S/2008/535 (7 August 2008) was the letter from Georgia transmitting a statement by the Georgian president.
- S/2008/533 (7 August) was the letter from Russia calling for a meeting of the Council.