



SECURITY COUNCIL REPORT

UPDATE REPORT



14 November 2006 No. 2

UGANDA

Expected Council Action

Council members are currently negotiating a presidential statement on Uganda. Adoption in the next few days is possible.

It seems that there is agreement that the statement should focus on the current peace talks and related issues, including the humanitarian situation.

It is unclear what position the Council will take on the justice and reconciliation dilemma and the related issue of arrest warrants from the International Criminal Court (ICC) against the leadership of the Lord's Resistance Army (LRA). The issue is complex and it is possible that, for now, members will only be able to agree on a more generic formulation showing support for accountability for those responsible for serious violations of human rights.

It is unclear whether the statement will refer to the recent agreement between the UN and the Ugandan government on the establishment of a position of a Special Envoy of the Secretary-General (the position has not officially been announced yet).

Key Recent Developments

Under the 26 August Cessation of Hostilities Agreement, hundreds of LRA fighters reportedly assembled in two sites in south Sudan, respectively along the borders with Uganda (Owiny-Ki-Bul) and the Democratic Republic of the Congo (DRC) (Ri-Kwangba). LRA commanders Joseph Kony and Vincent Otti seem to be hiding near Ri-Kwangba. The UN is currently providing logistical support to the talks through its mission in the Sudan (UNMIS), as well as observers for the cessation of hostilities monitoring team and financial support through the Juba Initiative Fund.

As a result of the cessation of hostilities and the improvement in the humanitarian situation, 300,000 internally displaced persons (IDPs) are reported to have begun returning in northern Uganda.

However, lack of trust between the parties and mutual accusations of violations of the agreement led to the stalling of the process, including a proposed visit from Ugandan President Yoweri Museveni on 21 October. A monitoring team investigation reportedly confirmed that LRA fighters had left the assembly sites and that Ugandan forces had deployed near Owiny-Ki-Bul in late September/early October. LRA rebels justified their departure on the basis that they feared that they would be surrounded and captured should talks fail. Observers note that government officials had made

statements indicating that Ugandan forces would indeed attempt to hunt down the LRA if the negotiations collapsed. Kampala for its part said that the deployments were made close to the assembly site by mistake and that the LRA was actually using the sites to regroup.

Further skirmishes in south Sudan between the parties in October led to the signing of an addendum to the Cessation of Hostilities Agreement on 1 November. It provided that the rebels will re-assemble in one week at Owiny-Ki-Bul and in four weeks at Ri-Kwangba, with security, food and water to be provided by the Government of South Sudan (with UN support) only at those sites. Ugandan forces are not to be deployed within a fifteen-kilometre radius of Owiny-Ki-Bul.

On 7 November, the Council received a briefing from Under Secretary-General for Political Affairs Ibrahim Gambari on the status of the peace talks in Juba, south Sudan. While underlining challenges the talks currently face, Gambari reportedly stressed that the current negotiations are the most promising initiative so far for a solution to the twenty-year conflict in Northern Uganda (there have been many failed negotiations in the past). He also suggested that the Council consider a statement expressing support for the talks.

Under Secretary-General for Humanitarian Affairs Jan Egeland visited south Sudan and Kampala (where he met with Museveni) on 11-13 November. Egeland's visit was reportedly aimed at bringing fresh momentum for the talks and identifying key immediate issues such as the humanitarian issues, the LRA's security concerns and need for the speedy redeployment of Ugandan forces. He also had an unprecedented meeting with Kony, during which the LRA reportedly committed to present measures to address the issue of women, children and non-combatants within one month, and to identify those in need of care by 22 November.

Negotiations will now focus on comprehensive solutions to the conflict, including power-sharing, development for northern and eastern Uganda and the resettlement of IDPs. But the talks face a number of challenges, including:

- the lack of trust between the parties and of clarity as to their commitment to ceasing hostilities, in particular the issue of abducted women and children;
- the need to address the disarmament, demobilisation and reintegration (DDR) of LRA fighters (Egeland also mentioned that the UN is ready to present a DDR package soon);
- the rebels' demand for the lifting of ICC arrest warrants as a precondition for a comprehensive agreement and for the participation of Kony and Otti in the talks. The government so far insists that the agreement must be signed first and that the LRA enter a traditional justice mechanism (known as *Mato Oput*). Only then could a petition for lifting warrants be filed before the ICC;
- the apparent disconnect between the LRA negotiating team and the LRA leadership in the bush, and the resulting lack of clarity on the former's negotiating mandate. The negotiators seem interested in addressing a broad political agenda including power-sharing and changes to the armed forces, while commanders seem more interested in guaranteeing a safe passage out of the bush and the lifting of warrants; and
- the distance between the parties' positions on substantive issues. The LRA has reportedly presented revised demands including the integration of fighters into downsized armed forces, a federal system and an independent ministry to supervise reconstruction. The government has so far rejected most of the demands and seems opposed to changing current constitutional structures or the armed forces. The current expectation is that talks will take months.

In a separate development, the Secretariat seems to have reached agreement with the Ugandan government on the terms of reference for a Special Envoy of the Secretary-General. The Special Envoy's proposed mandate seems to be fairly comprehensive. It is possible that it will address issues

related to the situation in northern Uganda, the regional dimension and the peace talks. It is unclear when the final announcement will be made.

Options

Members are likely to opt for a flexible approach that includes:

- supporting the efforts to bring the conflict to an end, calling on the parties to commit to this end and commending the efforts of the Government of South Sudan;
- welcoming the Cessation of Hostilities Agreement;
- demanding the release of women and children, perhaps as a gesture of goodwill from the LRA;
- calling on the international community to continue to support this process;
- mentioning the humanitarian issue and the Emergency Action Plan for northern Uganda (for background on this issue, please see our June 2006 *Forecast*); and
- perhaps expressing intention to continue to monitor developments closely.

Another option is whether to refer to the Special Envoy position, perhaps by stating that members look forward to the conclusion of the appointment process.

An important option relates to justice and accountability issue, including whether to deal with it in detail or more vaguely, perhaps calling on the government to abide by its obligations under domestic and international law. Explicit reference to the Rome Statute is another option, albeit more difficult in light of the reluctance of some members, particularly the US. Other options include:

- tasking the Council experts with separately following up the statement and coming up with a formula for later use regarding respect for international justice standards, including whether there is a role for the Council in requesting the suspension of ICC proceedings. (It seems, however, that the Court and the Ugandan government have agreed to put the issue on hold while the talks are taking place); and
- requesting periodic reporting from the Secretary-General's Special Envoy.

Key Issues

Council members seem to agree about the importance of the talks as perhaps the most promising initiative so far to solve the conflict in Northern Uganda. There is also awareness that the absence of a Council statement in support of the negotiations has itself already become an issue, and that silence could be interpreted as lack of support. Another issue is guaranteeing continuous international support—financial in particular—for the talks.

However, for at least one Council member, a key issue is ascertaining that the parties are committed to the talks prior to any clear expression of support for the Council. There is a perception that the LRA's refusal to release women and children and continuing abductions, as well as the reluctance of Ugandan forces to withdraw from current position in south Sudan, could be an indication of lack of goodwill.

Another issue is whether to include in the statement a reference to the appointment of a Special Envoy and how to address it. Members are aware that the process is not yet finalised. The Council has not been officially informed of the contents of the proposed mandate. However, there is also a sense that to remain silent on an important development, which is now very widely known, conveys the impression that the Council is out of the loop.

Another key issue relates to the ICC arrest warrants and the question of justice and accountability. Members are aware of the dangers to the Court's credibility and to perhaps long-term stability in northern Uganda if, in practice, what prevails is impunity. In theory, the domestic reconciliation

process, or *Mato Oput*—comprising mostly truth-telling and compensation—could be used for rank-and-file combatants and would meet the “domestic system” exception in the ICC statute. However, it seems it is not tailored for serious violators and that some kind of formal justice would be then required for some LRA violators if international standards are to be met. Council members are also aware of the issue that the warrants played a key role in bringing the LRA to the table and the need to preserve them, at least in the meanwhile.

Some see the justice issue as part of the question of finding the appropriate sequencing of steps to solve the conflict; starting with a comprehensive agreement and a peace process and only then moving into accountability measures. An issue would then be how best to put the ICC warrants on hold in the interim.

A consequential issue will be whether it is possible for the Council to express support for the ICC warrants taking into account the opposition of the US to the Court.

Council Dynamics

Members have previously been reluctant to discuss openly the situation in northern Uganda. Moreover, the Council’s attention has been focused on other situations in July and August. For both those reasons, members displayed a degree of caution at the outset of the Juba talks.

Momentum for a Council statement, however, seems to have increased with the signing of the addendum and Gambari’s briefing. On that occasion, the majority of members seem to have come out in support of a statement. The UK, in particular, seems to have made several attempts to have the issue included in a statement or a resolution. The US, while not opposing a statement, seems to have shown a degree of concern with the parties’ commitment to ending the conflict. The ICC issue may also be a complicating factor influencing the US position. The release of women and children and some limited withdrawal of Ugandan forces may become an important element in the Council dynamics.

There are also strong views in the Council on the implications of the talks’ outcome for accountability. Some members have already indicated that a solution that undermines justice and the ICC is unacceptable.

UN Documents

Selected Security Council Resolutions
• S/RES/1663 (24 March 2006) and 1653 (27 January 2006) requested the LRA report.
Selected Meeting Records
• S/PV.5525 (15 September 2006) was the latest Egeland briefing on the humanitarian situation in northern Uganda.
• S/PV.5474 (22 June 2006) was a debate on international law.
• S/PV.5415 (19 April 2006) was a briefing from the Ugandan government.
Selected Secretary-General’s Reports
• S/2006/478 (29 June 2006) was the LRA report.

Historical Background

1 November 2006 The parties signed an addendum to the Cessation of Hostilities Agreement.

mid-October 2006 Skirmishes between the parties took place in south Sudan.

28 September 2006 LRA fighters left Owiny-Ki-Bul.

26 August 2006 The parties agreed to a truce.

12 August 2006 ICC-indicted LRA commander Raska Lukwiya was reportedly killed.

4 August 2006 The LRA announced a unilateral ceasefire.

14 July 2006 Peace talks started.

4 July 2006 Kampala offered amnesty to LRA leaders in the event of a peace agreement.

For historical background and a complete list of UN documents, please refer to our *April Update Report*, and our *June and July 2006 Forecasts*.