



SECURITY COUNCIL REPORT UPDATE REPORT



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The 1267 (Al-Qaida/Taliban) Committee and The 1540 (WMD) Sanctions Committee

Recent Developments Regarding the 1267 Committee

In December the Chairman of the Sanctions Committee created by resolution 1267 (Al-Qaida/Taliban), submitted two letters to the Security Council (S/2005/760 and S/2005/761).

In the first letter, the Chairman outlined positions taken by the Committee on the recommendations contained in the third report of the Analytical Support and Sanctions Monitoring Team (MT) submitted to the Security Council on 2 September 2005 (S/2005/572). In the second letter, the Chairman submitted the Committee's response to the Council's request (paragraph 13 of resolution 1526 (2004)) to provide written analytical assessment of states' implementation of the measures set out in paragraph 1 of resolution 1526 (2004) with a view to recommending further measures for the Council's consideration. In particular, it addressed actions being taken by the Committee related to the Consolidated List, implementation of sanctions measures and non-reporting. The Committee's actions were based on an analysis provided by the MT on 11 July 2005 assessing the implementation of the sanctions on Al-Qaida, the Taliban and their associates. The MT's analysis was annexed to the letter.

These two documents gave a clear message that, despite ongoing internal disagreements on some key issues, the Committee will continue to try to find ways to improve its performance and also states' compliance with the sanctions measures.

Looking Ahead for the 1267 Committee

We expect the Committee's agenda to address the following key issues:

Listing/Delisting Issues

- The Committee is likely to try to resolve outstanding issues with regard to the Consolidated List (to be found on the 1267 Committee website <http://www.un.org/Docs/sc/committees/1267/1267ListEng.htm>) of sanctioned individuals, in particular listing and delisting procedures and guidelines. The listing and delisting procedures are proving to be contentious. An increasing number of states are expressing frustration with the Committee's lack of transparency in the way it conducts its work. This has exacerbated ongoing concerns about the lack of due process in the procedures employed by the Committee in the listing process, which is creating growing problems for states in domestic implementation

of the consequential assets freeze requirement. Over fifty states have concerns about the Committee's failure to address these issues when raised by them. During a public briefing of the Council, S/PV.5293 (26 October 2005), the Chairman acknowledged having received a letter from the Government of Liechtenstein dated 3 October 2005 attached to document S/2005/672 raising questions regarding the lack of, and the need for greater transparency in the Committee's practices. However, the Chairman did not offer any specific response to Liechtenstein's concerns. The Committee, having discussed the matter, failed to agree on a response.

- A number of law suits have challenged the sanctions in a number of states and before the European Court of Justice. In these proceedings litigants have complained about the lack of due process in designating individuals and entities to the Consolidated List thereby depriving them of their assets. Increasingly a human rights based case is being marshalled against the Committee in a number of jurisdictions.
- Support for the Committee's work is generally regarded to be of considerable importance in combating international terrorism. However, such support seems to be eroding due to these concerns over the lack of due process and transparency in the Committee's work. It is likely, therefore, that the Committee, as a matter of priority, will make renewed efforts to reach agreement on procedures and guidelines to address this.

As of 20 December 2005 the listing/delisting status was:

- Listed
Individuals belonging to or associated with the Al-Qaida organisation: 205
Entities belonging to or associated with the Al-Qaida organisation: 115
Individuals belonging to or associated with the Taliban: 142
Entities belonging to or associated with the Taliban: 1
- Delisted
Individuals belonging to or associated with the Al-Qaida organisation: 5
Entities belonging to or associated with the Al-Qaida organisation: 3
Individuals belonging to or associated with the Taliban: 1
Entities belonging to or associated with the Taliban: 8

Referrals to CTC

The Chairman of the Committee indicated that those recommendations from the MT which deal with counter-terrorism in the broader sense, and not exclusively to Al-Qaida and the Taliban, will be forwarded to the CTC. While he did not provide details of which recommendations fall within this category, these could include recommendations:

- bearing on the lack of capacity of states to implement counter-terrorism measures;
- relating to the need for technical assistance to implement the relevant sanctions measures; and
- improving the implementation of arms embargos.

Arms Embargo and Weapons of Mass Destruction

A number of the MT's recommendations relate to implementation and improvement of the arms embargo and the Committee has asked the MT to follow up, including those relating to the threat of chemical, biological, radiological or nuclear materials. The Committee is seeking advice on how measures can be targeted more effectively to address the specific threat posed by Al-Qaida and the Taliban. The MT in carrying out this task will work closely with the experts of the 1540 Committee (terrorism and weapons of mass destruction).

Collaboration between Counter-terrorism Committees

It is expected that there will be increased collaboration between the 1267 Committee, the 1540 Committee and the CTC, particularly as it relates to states' counter-terrorism capacity, which falls within the CTC's (and its CTED's) mandate under resolution 1373 and other related instruments of the Security Council. CTED will be able to address those issues more effectively now that it is fully operational. However, making such referrals would not absolve the 1267 Committee of its own responsibility to continue to monitor implementation of the sanctions measures by each state referred to the CTC, and to continue to assess each referred state's capacity to implement effectively the sanctions measures.

Reporting Gaps

A further issue is how to deal with those states that are yet to report to the Committee in compliance with resolution 1455 (2003). There are over forty such states. Démarches from the Chairman of the Committee or from members of the Monitoring Team can be expected during the ensuing period.

In as much as the issue of reporting gaps is related to capacity problems, the Committee will also examine with the CTC and the 1540 Committee means to reduce duplication of the reporting requirements, particularly on states with limited capacity. (In this regard, it is noteworthy that the Chair of the CTC, Ambassador Løj of Denmark has accepted an invitation to a meeting with South Pacific countries to discuss reporting requirements later in the year and to follow up on South Pacific concerns raised in the Council open debate on 26 October 2005 (S/PV.5293).)

Selected UN Documents Relating to the 1267 Committee

Security Council Resolutions

- S/RES/1617 (29 July 2005), significantly broadened the mandate of the Committee and the Monitoring Team and extended its mandate for an additional 17 months.
- S/RES/1526 (30 January 2004), strengthened the mandate of the 1267 Committee; made more specific the financial sanctions, travel ban and arms embargo imposed on those on the Consolidated List; established the Analytical Support and Sanctions Monitoring Team tasked with reporting at certain intervals and making recommendations for improving the effectiveness of the measures. Also, it reiterated "the need for close coordination and concrete exchange of information between" the 1267 Committee and the CTC, and urged "all States and encourage[d] relevant international, regional and sub-regional organizations to become more directly involved in capacity-building efforts and to offer technical assistance in areas identified by the Committee, in consultation with the CTC."
- S/RES/1455 (17 January 2003), enhanced the monitoring role of the 1267 Committee; urged states to report progress on implementation of the sanctions; stressed the "need for improved coordination and increased exchange of information" between the 1267 Committee and the CTC; and established further reporting requirements by states.
- S/RES/1452 (20 December 2002), provided humanitarian exemptions to assets freeze.
- S/RES/1390 (16 January 2002), extended the financial measures and broadened the travel ban and arms embargo; requested States to report on the measures taken to enforce them; and requested the 1267 Committee "to cooperate" with the Counter-Terrorism Committee (CTC).
- S/RES/1363 (30 July 2001), established the monitoring mechanism (the Monitoring Group (MG)) and the Sanctions Enforcement Support Team (up to 15 members with expertise in customs, border security and counter-terrorism). The MG was also tasked with offering assistance to states neighbouring Afghanistan to increase their capacity to implement the sanctions.

- S/RES/1333 (19 December 2000) imposed arms embargo on the Taliban, travel ban on its senior officials, and a freeze on the financial resources of Usama bin Laden and individuals associated with him.
- S/RES/1267 (15 October 1999) imposed an assets freeze on the financial resources of the Taliban for harbouring Usama bin Laden and established the 1267 committee.

Security Council Verbatim Transcript

- S/PV.5293 (26 October 2005) briefing of the Security Council by the Chairman of the 1267 committee Ambassador César Mayoral of Argentina.

Other

- S/2005/761 (6 December 2005) was the letter from the Chairman of the 1267 Committee to the President of the Security Council with an analytical assessment of states' implementation of measures with respect to Usama bin Laden and entities or individuals associated with him.
- S/2005/760 (6 December 2005) was the letter from the Chairman of the 1267 Committee to the President of the Security Council containing comments on the report of the Analytical Support and Sanctions Monitoring Team.
- S/2005/672 (25 October 2005) contained the 3 October 2005 letter from the Permanent Representative of Liechtenstein to the Chairman of the 1276 Committee.
- S/2005/572 (2 September 2005) contained the third report of the Analytical Support and Sanctions Monitoring Team.

Background on the 1540 (WMD) Sanctions Committee

Resolution 1540 (2004), which sought to limit the acquisition of weapons of mass destruction (WMDs) by terrorists, also established a Sanctions Committee known as the 1540 Committee.

1540 Committee Focus in Coming Months

The Committee will make a concerted effort to engage the more than sixty states that have yet to file their reports with the Committee before its mandate ends in April 2006.

By April, the Committee is required to provide the Security Council with a comprehensive report on the implementation of the provisions of resolution 1540. The missing reports are of concern because they relate to states' compliance with those provisions. However, the Committee has indicated that, based on information it has gathered so far, it is already in a position to provide a fairly comprehensive, though incomplete, report to the Council on the implementation of the provisions of the resolution. It has also indicated that it will be able to identify implementation gaps that will require further action by the Council to ensure that WMDs and their precursors are kept out of the hands of terrorists.

The Committee has indicated that it intends to:

- continue its outreach with regional groups to provide information to states on the reporting requirements of the resolution and, in that vein, has accepted China's offer to host a regional seminar on issues related to the resolution;
- enhance its cooperation with the Department of Disarmament Affairs on issues related to WMDs; and
- continue to identify assistance needs of states and to facilitate appropriate assistance to them, including through the provision of a legislative database as an evaluation tool.

Medium Term Outlook for the 1540 Committee

There is wide recognition, within and outside of the Council, that implementation of the provisions of the resolution 1540 is a long-term objective. Also, the Committee, with the support of its experts, is seen to be carrying out its mandate with reasonable effectiveness. Given the importance of the monitoring requirements of resolution 1540 and the Committee's facilitation role in building states' capacity to prevent terrorists from acquiring WMDs, it is likely that the Council will agree to keep the current committee operational beyond April 2006.

Longer Term Options for the 1540 Committee Mandate

While the Council might consider other alternatives over the longer term, such as assigning the Committee's responsibilities to the Counter-Terrorism Committee Executive Directorate (CTED), supplemented by WMD experts, the capability of the CTED to effectively undertake this additional responsibility so soon after becoming operational is unlikely at this time.

Selected UN Documents Relating to the 1540 Committee

Security Council Resolutions
<ul style="list-style-type: none">• S/RES/1540 (28 April 2004) sought to limit the acquisition of WMDs by terrorists.
Other
<ul style="list-style-type: none">• S/2005/799 (19 December 2005) was the latest report of the Chairman of the 1540 Committee.