



SECURITY COUNCIL REPORT

UPDATE REPORT



20 October 2006 No. 2

TIMOR-LESTE

Expected Council Action

On 27 October, the Council will hold consultations on Timor-Leste. Members are expected to receive a briefing on the UN Integrated Mission in Timor-Leste (UNMIT), established under resolution 1704 in August, and the arrangements regarding the Australian-led international forces. The Secretary-General's recommendations on this are still unknown.

Members seem inclined to favour the maintenance of the current military arrangements, especially given recent indications that Dili will not seek the conversion of Australian-led forces into a UN military component.

But the main looming issue for Council members is likely to be the report of the Independent Special Commission of Inquiry into the April-May violence, issued on 17 October. Members are currently in the process of assessing the implications of the report's findings and recommendations.

A presidential statement on 27 October marking the first phase of UNMIT operations and welcoming the Commission's report is possible.

Key Recent Developments

Earlier this month, Prime Minister José Ramos-Horta reportedly confirmed that the Timorese government will not ask the Security Council for Australian-led international forces to become a military component of UNMIT. Dili is aware of the current pressure on troop and police generation for UN peacekeeping in Lebanon, and possibly Darfur. This provides a rationale for continuing the status quo, despite ongoing reservations in the region and elsewhere.

The Special Commission's report into the April-May crisis was issued on 17 October. It presents facts that led to the crisis and clarifies responsibility for the violence, including recommendations for the prosecution of individuals. It points out that the origins of the crisis were related to:

- power struggles between the dominant party, *Frente Revolucionária de Timor-Leste Independente* (FRETILIN) and the political opposition (observers further note the tensions between former Prime Minister Mari Alkatiri and President Xanana Gusmão);
- tensions between the police and the armed forces; and
- an exacerbation and political exploitation of factionalism, particularly between east and west. This was reflected in practical terms in the complaints of unfair treatment of westerners in the armed forces and in the disintegration of the police force.

The report recommends the prosecution of several individuals for their role in the crisis. Some of them are key current or former position holders in the government and/or FRETILIN (which controls the parliament and the government) as well as of the armed forces, as well as key rebel leaders.

They include former Interior Minister Rogerio Lobato, former Defence Minister Roque Rodrigues, and armed forces commander Brigadier Taur Matan Ruak, especially for their role in illegal transfers of security forces' weapons during the crisis. The Commission recommended further investigation of the role of former Prime Minister Alkatiri regarding weapons offences.

Key rebel leaders such as Major Alfredo Reinado are also recommended for prosecution. There is concern that this could stir up protesters' grievances. (The rebels included troops discontented with the treatment given to western Timorese in the armed forces, also known as the "petitioners", whose protest was eventually joined by third parties such as disaffected youth, civilian and military police and others. The rebels, however, were not a cohesive or unified group. Each sub-group displayed varying sets of grievances, objectives and allegiances.)

The report also notes the institutional responsibility of those ministers and others for the problematic conduct of operations and the bypassing of legal procedures. Attention is also devoted to the government's responsibility for, *inter alia*,

- the lack of a proactive response to the problems within the security sector;
- the absence of a national security plan;
- the failure to address the emerging rift between armed forces and police; and
- the improper behaviour of former Minister Lobato.

It notes that President Gusmão, in handling the crisis, should have shown more respect for institutional channels, before making a public address to the nation (when he recognised some of the armed forces' grievances and criticised the government.)

As for accountability measures, the report recommends that international actors take the lead in the investigations and prosecutions. It recommends the appointment within the domestic system of a senior international prosecutor as deputy prosecutor general with a clear mandate to investigate and prosecute the cases related to events of April and May 2006.

For the eventual prosecutions, the report recommends that where, under the Criminal Procedure Code, trials will involve a panel, it should be comprised of two international judges and one national judge. Where the matter involves a single judge, that judge should be an international judge.

The response to the report in Timor-Leste, where its publication had been awaited with much concern, seems to have been calm so far. However, longer-term repercussions (especially given the potential for further instability in the country) are still unclear.

Options

The issuing of the Commission's report seems to have created a number of options for Council members, such as:

- inviting the Commission to brief the Council directly;
- using the report's findings and recommendations as a basis for Council action to provide guidance to UNMIT on eliminating deficiencies in Timor-Leste's security sector. (UNMIT is mandated to assist the government in conducting a "comprehensive review of the future role and needs of the security sector", including the armed forces, the Defence Ministry, the police

and the Interior Ministry.)

- using the report's findings and recommendations as a basis for Council action on accountability issues. (The solution proposed by the Commission resembles that of the former Serious Crimes Unit. The Unit was closed in 2005 under resolution 1543 after requests from Timor-Leste. This was mostly due to Dili's concerns about its relations with Indonesia.) In August 2006, UNMIT was tasked, under resolution 1704, with providing a team of investigators to assist the Timorese system with serious crimes prosecutions. The implementation of the Commission's recommendations may require a clear authorisation from the Council.
- seeking an interim Secretary-General's report, which could include the preparations for the upcoming May 2007 elections and the security arrangements in that regard (the next regular report of the Secretary-General is due by 1 February 2007); and
- discussing the possibility of a visiting mission to Timor-Leste. (It seems that members may envisage this in the first half of 2007.)

Key Issues

A key issue for the Council in past months has been the status of international military forces in Timor-Leste and their possible blue-hatting. However, with the recent adjustment in the Timorese position, the issue seems to have been settled for the time being around the current arrangements. Members, nonetheless, await the Secretariat's recommendations.

The Commission's report seems likely to turn the Council's attention to the issue of immediate and longer-term stability in Timor-Leste. Members are aware of the potential for further deterioration of security conditions on the ground due to the inclusion of key public figures and rebels in the Commission's recommendations for prosecution and/or investigation.

The issue is also particularly sensitive given the upcoming elections in 2007 and the potential for changes in the political balance in the government and parliament.

The recommended accountability measures may also raise the issue of whether a new resolution amending UNMIT's mandate will be necessary. A new mandate could include assisting Dili with the provision of prosecution and investigative teams (similar to the Serious Crimes Unit).

The issue is likely to raise complex questions, including the kinds of assistance UNMIT could provide with its current mandate, the financial implications of changing the mandate, and the political repercussions of a new UNMIT role. A related key issue is also likely to be the position Dili takes on the matter.

An additional key issue in the minds of Council members is the appointment of the new Special Representative of the Secretary-General (SRSG) to Timor-Leste. The issue is sensitive and members are conscious of the need to select an SRSG with sufficient experience and leadership skills to assist Timor-Leste with finding an appropriate solution to the security sector problems it is facing.

Council and Wider Dynamics

Positions on the Commission's report findings and recommendations are still being formed as members watch closely the implications of the report as events unfold on the ground.

Most members seem inclined for the Council to wait until at least preliminary positions are formed in Dili on the establishment of accountability mechanisms and the prosecution of those listed in the report.

The Commission's recommendations of a larger role for the international community may reawaken concerns by some members with financial and political implications for UNMIT. Others seem likely to support the UN assuming a reasonable role in addressing the issue of impunity and supporting accountability measures, including expanding UNMIT's mandate if necessary.

Past experience with the Serious Crimes Unit and related accountability issues is likely to be part of members' assessment.

On the issue of an UNMIT military component, members seem ready to acquiesce in leaving the current arrangements in place, given Dili's current position. Core Group members (Australia, Brazil, France, Japan, Portugal, New Zealand, the UK and the US) will be reluctant to repeat the heated arguments that preceded the adoption of resolution 1704. (The divisions inside the Core Group remain, with some key players continuing to prefer blue-hatting.)

Underlying Problems

A lingering problem is the issue of accountability for serious crimes committed in 1999. The closing of the Serious Crimes Unit left numerous arrest warrants pending and unfinished investigations. Not much progress appears to have been made with the resumption of investigations and trials. A related problem is that most of those indicted are in Indonesia and some are key Indonesian public figures.

So far, the Council has authorised the provision of international investigators through UNMIT in resolution 1704, but the Timorese judiciary's capacity to conduct trials for serious crimes is fragile.

Dili has in the past expressed a preference for focusing solely on the bilateral Commission of Truth and Friendship, but the Council has indicated that a formal judicial mechanism should also be part of the solution.

UN Documents

Selected Security Council Resolution
• S/RES/1704 (25 August 2006) created UNMIT.
Selected Security Council Meeting Record
• S/PV.5512 (15 August 2006) contained members' positions on an UNMIT military component.
Selected Secretary-General Reports
• S/2006/628 (8 August 2006) was the report with recommendations for the future UN presence in Timor-Leste.
• S/2006/580 (26 July 2006) was the report on justice and reconciliation.
Other
• Report of the Independent Special Commission of Inquiry (2 October 2006)
• S/2006/620 (7 August 2006) was a Timorese letter requesting, <i>inter alia</i> , that the military component be under UN command and control.
• S/2006/391 (13 June 2006) contained the Timorese request for a special inquiry into the May violence.

Historical Background

For the full background, please see our May, August and October 2006 *Forecasts*.

Other Relevant Facts

Special Representative of the Secretary-General
Finn Reske-Nielsen (Denmark) (Acting)
UNMIT: Size and Composition
<ul style="list-style-type: none">• Maximum authorised strength: up to 1,608 police and 34 military liaison and staff officers• Size as of 30 September 2006: 481 total uniformed personnel, including 463 police and 18 military observers• Key police contributors: Australia, Malaysia and Portugal
UNMIT: Duration
25 August 2006 to present; mandate expires 25 February 2007
UNMIT: Cost
Budget not yet appropriated at press time (the report of the Secretary-General to the General Assembly's Fifth Committee is still due)
Special Inquiry Commission
Paulo Sérgio Pinheiro (Brazil), Chair Zelda Holtzman (South Africa) Ralph Zacklin (United Kingdom)

Useful Additional Sources

- International Crisis Group, "Resolving Timor-Leste's Crisis", *Asia Report*, No. 120 (10 October 2006)