



# SECURITY COUNCIL REPORT UPDATE REPORT



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## 1267 Committee: Al-Qaida/Taliban Sanctions

### Expected Council Action

The Chairman of the Security Council's 1267 Committee that monitors sanctions imposed on the Taliban and Al-Qaida, Ambassador Johan Verbeke of Belgium, is expected to brief the Council in closed consultations on 24 April on nations suspected of avoiding compliance with the bans. Information to be presented for Council consideration will be based on a background paper prepared by the Committee's Analytical Support and Sanctions Monitoring Team (Monitoring Team).

The Committee, which includes all 15 council members, also is reviewing the 8<sup>th</sup> report of the Monitoring Team before releasing it next month. The next resolution on the Committee's procedures is due in June when the mandate of the Monitoring Team is expected to be renewed. A group of member states concerned with a lack of due process intend to present a proposal on an independent judicial panel to the Committee before the June resolution.

### Key Facts

The Committee was established by resolution 1267 of 15 October 1999, which imposed an air embargo and an assets freeze on the Taliban, then the de facto Afghan government, for refusing to extradite Usama bin Laden in connection with the 1998 bombings of US embassies in Kenya and Tanzania. The Committee's operations were expanded and modified in resolutions adopted in 2000, 2002, 2004, 2005 and 2006. The sanctions now cover Al-Qaida, Usama bin Laden and/or the Taliban, their associates or facilitators anywhere in the world. They include an assets freeze, an arms embargo and a travel ban. The targeted individuals and entities are placed on the consolidated list on the Committee's website.

All states are required to report to the Committee on actions they have taken to implement the measures. The Committee is supported by the Monitoring Team and a "focal point" official in the Security Council Subsidiary Organs branch of the Secretariat. The focal point can receive requests directly from petitioners, review them and pass them on to the Committee. The Monitoring Team has made extensive recommendations in its seventh report, issued on 29 November 2007. Many have not been adopted, in part due to the need for consensus within the Committee, which in effect gives each member veto power.

The Committee currently has a list of 482 individuals and entities subject to sanctions. Of this group 142 individuals are thought to be associated with the Taliban and 228 individuals and 112 entities are suspected of involvement with Al-Qaida. To date 11 individuals and 24 entities have been removed from the list. In 2007 two individuals (Al-Qaida) and 13 entities (one from the Taliban section and 12 from Al-Qaida) were delisted.

A new focal point process established in 2006 to improve transparency was responsible for recommending the removal of one individual and 12 entities. At least 16 names on the list are considered to be of dead people, but to remove them from the list a request is needed, which involves a number of criteria, sometimes including who would inherit the [assets](#).

Only one new name has been added to the Taliban list in 2007, the first since 2001, after it lost power in Kabul. The sanctions were originally seen to be preventative and therefore were treated differently than criminal procedures, with no one on the list presumed guilty. In practice, however, they have over time become punitive measures.

### **Key Issues and Developments**

A key issue for the Committee is developing recommendations on what could be done to prevent non-compliance, including addressing difficulties faced by nations in implementing the financial, arms and travel sanctions. Ambassador Verbeke told the Council in his 14 November briefing and in his 8 January report that the Committee had “developed a methodology to identify possible cases of non-compliance, to gather additional information if needed and to take action on specific cases.”

The Monitoring Team has and is still reporting on non-compliance. It says some states fear a legal challenge and are loathe to penalise those who are nationals of another country. Others hesitate to suggest a listing of their own nationals for fear this would suggest they have a problem with terrorism. Still others say they have legislative, technical and capacity problems. The Team said several states found they had no legal basis to freeze assets and therefore did not circulate the list to banks. The Team has also urged the Committee to put on its website the primary reason why an individual is on the list.

A second issue Verbeke is expected to stress is the need for additional briefings to member states, further visits to the field and possible technical help from other UN bodies on border monitoring and the implementation of relevant legislation. He led a delegation in June-July 2007 to Ethiopia, Djibouti and Kenya and another in October-November 2007 to Kazakhstan, Tajikistan and Uzbekistan. Verbeke noted states needed to develop “a better understanding of all the potential the al-Qaida and Taliban sanctions regime can offer to assist them in their fight against terrorism.”

Thirdly there is still discomfort with the 1267 Committee about list of individuals, businesses and other groups subject to sanctions. Although the Committee has enhanced its template, expanded its website, refined its guidelines and is now urging states who submitted names for the list to allow information to be made public as to why persons and entities were put on the list in the first place, a number of Committee members believe that still more should be done.

Although the Committee has generally widespread support, even from its critics, the list of individuals, businesses and groups subject to sanctions is a never-ending subject of dispute in the wider UN membership. It is far easier for a nation to place an individual or entity on the list than to take them off. For example, the US last year wanted to remove Abdul Hakim Monib, a former Taliban minister who switched sides and until recently served as the governor of Afghanistan's Uruzgan province, working with US and NATO troops. But Russia blocked it. In other cases, the US has prevented removal of names and entities it had submitted for suspected involvement with Al-Qaida.

Concerned about the procedures around the list, Liechtenstein, Denmark, Sweden and Switzerland organised a round-table on 8 November 2007 that discussed the appointment of an independent judicial review panel on delisting with a timetable for reviewing petitions. Proposals from this group are expected to be revised and refined before the June resolution in the hope Council members will seriously consider them. Several European nations have been in the forefront of advocating international legal procedures. (European courts have also heard petitions from individuals on the list, although no court has yet overturned the Committee's determination.)

At the same event, the representative of the Secretariat's focal point reported "a clear frustration" among petitioners, who want to know the reason they are on the list, which states designated them and how they could appeal, none of which the focal point is allowed to answer.

The Committee issued two reports in January—its annual report and another on recommendations from the Monitoring Team. The latter included:

- urging Committee members and member states to bring the list to wider attention, particularly to financial institutions;
- devising a new set of practical guidelines for member states on its website;
- urging states to give a primary reason for the new name or entity which can be revealed on the website without jeopardising intelligence;
- creating a new form that encourages states to update information without additional reporting requirements;
- agreeing in principle to separate the names individuals or entities that have been removed from the list from the rest of the list;
- considering a mechanism for more frequent reviews of the list; and
- making a "special effort" to identify and submit for listing names of people who provide forged documents to listed individuals.

## Options

The Council is unlikely to take any decisions in April at the briefing. However the briefing may give rise to a process leading to wider decisions in June at the time the Monitoring Team's mandate is renewed. Options at that time could include strengthening the sanctions and approving additional procedures for the Committee. Work in the interim on refining criteria for the listing and delisting process is also a possible option. A more comprehensive option would be for the Council to informally engage with the European members concerned about the legal issues and discuss a due process system in which judicial experts played a prominent role, and wherever possible, set timelines for decisions on delisting applications.

## Council Dynamics

Most Council members consider Al-Qaida and the Taliban to be serious threats to international peace and security. They believe the sanctions regime represents an essential tool for the prevention of terrorist acts and view the issues among the most important on the Council's agenda. But the fallibility of the list, including misspellings of names, and the process of listing and delisting has undermined support.

The five permanent Council members are cautious about accepting any procedure or an outside independent panel that would, as they see it, erode the authority of the Committee. Several non-permanent members are more receptive to changes. Belgium, as chairman, has remained neutral, seeking a balance between the various views and hoping for incremental changes, at minimum.

## Underlying Problems

The legitimacy of the Committee's role is being challenged despite the reforms of 2006, because the list, the center of its operations, is questioned as incomplete or unfair. The list gives international legitimacy for domestic legal measures against individuals or entities thought to be terrorists, including measures against those who associate with, finance or arm them. But there is no legal mechanism for checking the accuracy of the information of those on the list. And for an individual there is no independent review process divorced from the political process. The latter, in particular, seems to have contributed to the perception of unfairness.

The second problem for this group of sanctions and many others the Council has imposed is enforcement. Some nations do not have the means to enforce sanctions. However, it seems that some others ignore the measures. The general lack of information on what crime the individual or entity is suspected of carrying out seems to make it easier for some nations to not pursue many entries on the list.

It may be that the improved criteria, such as additional identifying information and reasons for the listing, will reduce errors. But the delisting process seems likely to continue to be the subject of controversy, even while the Committee is reaching out to help nations which lack the resources to enforce the sanctions.

## UN Documents

### Selected Resolutions

- S/RES/1735 (22 December 2006) further expanded the scope of the sanctions regime and the Committee's mandate, adopted new listing requirements, and extended and elaborated the mandate of the Monitoring Team
- S/RES/1730 (19 December 2006) established "a focal point" within the Secretariat to process submissions for de-listing under council resolutions involving targeted sanctions.
- S/RES/1617 (29 July 2005) significantly broadened the mandate of the 1267 Committee and the Monitoring Team, further defined the sanction's primary targets and elaborated on de-listing procedures.
- S/RES/1526 (30 January 2004) strengthened the mandate of the Committee, refined applicable sanctions measures and established the Analytical Support and Sanctions

Monitoring Team.

- S/RES/1455 (17 January 2003) enhanced the monitoring role of the Committee and urged states to report progress on implementation of the sanctions.
- S/RES/1390 (16 January 2002) extended the financial measures, broadened the travel ban and arms embargo, and requested states to report to the Committee.
- S/RES/1333 (19 December 2000) imposed an arms embargo on the Taliban, a travel ban on its senior officials, and a freeze on the financial resources of Usama Bin Laden and individuals and entities associated with him.
- S/RES/1267 (15 October 1999) established the Sanctions Committee and imposed an air embargo and an assets freeze on the Taliban.

### Security Council Meetings

- S/PV.5806 (17 December 2007) is the record of the open debate in which the chairmen of all counter-terrorism subsidiary bodies briefed the Security Council.
- S/PV.5779 (14 November 2007) the record of the open debate in which the chairmen of the counter-terrorism subsidiary bodies briefed the Security Council.

### Other Selected Documents

- S/2008/25 (8 January 2008) is the annual report of the Al-Qaida-Taliban sanctions Committee.
- S/2008/16 (8 January 2008) is the Committee's reaction to the recommendations in the November 2007 report of the Monitoring Team.
- S/2007/677 (15 November 2007) is the 7<sup>th</sup> report of the Monitoring Team.
- A/RES/60/1 (16 September 2005) is the World Summit Outcome document.

### Useful Additional Sources

- [http://www.un.org/sc/committees/1267/pdf/1267\\_guidelines.pdf](http://www.un.org/sc/committees/1267/pdf/1267_guidelines.pdf) is the website for the 1267 Committee guidelines.
- <http://www.newyork.liechtenstein.li/>: Mission of Liechtenstein website provides counter-terrorism discussion papers on delisting at round-table held on 8 November 2008 and Ambassador Wenaweser's Council speech of 14 November 2008.