



# SECURITY COUNCIL REPORT UPDATE REPORT



26 June 2008 No. 9

## Counter-Terrorism: Al Qaida and Taliban

### Expected Council Action

The Security Council intends to adopt a resolution by 30 June that would lead to states releasing publicly information on why a person or entity is placed on a sanctions list by the 1267 Committee on Al Qaida and the Taliban. In a move towards transparency, the resolution may also direct the Committee, composed of all 15 Council members, to review names on the list at regular intervals and for nations to inform the suspects. But it seems unlikely to address the proposals suggested by six European nations for some form of independent quasi-judicial review. The current list has 493 entries: 142 individuals associated with the Taliban, 238 individuals and 113 entities (groups, charities or businesses) associated with Al Qaida.

### Key Facts

The 1267 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 government in Afghanistan) 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—an assets freeze, an arms embargo and a travel ban—cover Al-Qaida, Usama bin Laden and/or the Taliban, their associates or facilitators anywhere in the world. The targeted individuals and entities are on the Committee's website in a "Consolidated List."

At least 16 names on the list are considered to be of dead people, and there are indications another 15 may have died. But to remove them from the list a formal request from a member state is needed, which involves addressing a number of criteria, sometimes including who would inherit the assets. Only one new name was added to the Taliban list in 2007, the first since 2001 when it lost power in Kabul.

The Committee since 2006 has been supported by a Group of Experts. In a first effort at

better transparency in 2006, a “focal point” was established in the Secretariat by resolution 1730 to receive requests directly from petitioners, and refer the information on to the relevant Committee members.

## **Key Issues and Developments**

The draft resolution under consideration by Council members:

- renews the mandate for 18 months of the Analytical Support and Sanctions Monitoring Team, which analyses the implementation of the embargoes for the Committee. (Its current mandate expires on 30 June.);
- asks states to identify information on each entry that can be publicly released;
- directs the Committee to make available on its website a “narrative summary” of reasons for the listing of any new names. For names already on the list, it directs the Committee to work with states to add information that can be released publicly. (Most entries on the Committee’s website do not state the reason for inclusion.);
- decides that the Secretariat should notify the permanent mission of the relevant country or countries within one week, rather than the previous two weeks, after a name is added to the list. The relevant country, according to its domestic laws and practices, should then notify the individuals involved. (Previously this was voluntary.);
- directs the Committee to conduct an annual review of names on the list that have not been updated or reviewed in four or more years and consider twice a year the removal of dead people from the list. (This was part of the Committee’s guidelines but not in a resolution.);
- encourages members to submit additional information, documents and updates, such as the movement, incarceration and death of listed individuals;
- directs the Committee to consider removal of individuals and entities associated with the Taliban who no longer meet the criteria.;
- underlines the need for a prompt update of the list on the Committee’s website and asks the Secretary-General to provide adequate support within existing resources;
- directs the Committee to identify cases of non-compliance with the sanctions and determine “the appropriate action” to be taken on each case; and
- calls on states to submit updated reports to the council on measures to implement the resolution. (The date for the reports is still under discussion.)

The Committee on 4 June approved nine additional Al Qaida-linked entries, eight individuals and one revolutionary group, all associated with the Philippines. The new names gave a more detailed description of why the suspects are targeted than other entries on the list.

The key issue of whether innocent people should be able to properly challenge allegations against them remains unresolved.

On 13 June, six European nations—Denmark, Germany, Netherlands, Sweden, Switzerland and Liechtenstein—held an open meeting on their proposal for an independent advisory panel with expertise in security to examine “delisting” requests and be able to handle confidential information. The panel would publish a summary of its findings and report to the 1267 Committee, which would have the last word. Although these proposals were

rejected by the Committee, the six nations intend to lobby again in the future for some such mechanism.

NGOs also remain concerned that the Council has not gone far enough in creating standards for due process and complain that those on the list have little legal or political recourse.

Court decisions on the listing issue are pending in several countries, including two cases before the European Court of Justice that could affect all member states. One is brought by the al Barakaat International Foundation, based in Sweden, which deals in money transfers. The most noted case before the European Court is that of Yassin Abdullah Kadi, a Saudi international businessman, who has also challenged the assets freeze against him in Switzerland, the United States and Turkey, where the chief prosecutor ruled in his favour. Kadi says his foundation spent \$10 to \$20 million on charitable organizations and schools. US officials say his now defunct foundation was a front for Al Qaeda and delivered millions to bin Laden.

The Kadi case may be adjudicated later this year in the European Court. One of the court's eight independent Advocate-Generals, Miguel Poiares Maduro, argued in an advisory opinion, that imposing sanctions on someone who might be innocent violated the rule of law. In the UK, the High Court on 24 April quashed orders against five petitioners, whose assets were frozen, saying that the UN listing and delisting procedures were unfair. The case is being appealed.

### **Council Dynamics**

Most Council members consider Al-Qaida and the Taliban to be serious threats to international peace and security and believe the sanctions regime represents an essential tool for the prevention of terrorist acts.

Some Council members are open to consideration of the proposal by the six European countries. But the five permanent Council members seem opposed to any form of judicial or independent oversight and say their own submissions have been carefully checked and reviewed by their respective governments.

Some Council members remain concerned as to how much information distributed to committee members will actually be published or made available to any petitioner. The United States is ready to take some steps towards disclosure. Russia and China are more hesitant. The elected members support the release of more information.

Developing country Council members are concerned about the draft resolution's request for another report on implementation of the sanctions, saying they are already deluged with paper work from UN counter-terrorism committees.

### **Underlying Issues**

The fallibility of the list, including misspellings of names and the inclusion of dead people, has undermined support. Should there be a ruling against the sanctions in the European Court, the embargoes could suffer.

## UN Documents

Security Council Resolutions
<ul style="list-style-type: none"> <li>• 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 and directs the sanctions committee to revise guidelines.</li> <li>• 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 and encouraged members to include more identifying information on the published list.</li> <li>• S/RES/1526 (30 January 2004) strengthened the mandate of the Committee, refined applicable sanctions measures and established the Analytical Support and Sanctions</li> <li>• S/RES/1267 (15 October 1999) introduced a freeze on the financial resources of the Taliban and established the 1267 Committee.</li> </ul>
Selected Reports
<ul style="list-style-type: none"> <li>• S/2008/324 (14 May 2008) is the 8<sup>th</sup> report of the Committee’s Monitoring Team.</li> <li>• S/2008/25 (8 January 2008) is the Committee’s report on its activities for the year 2007.</li> <li>• S/2008/16 (8 January 2008) is the Committees position on recommendations from its expert Monitoring Team.</li> </ul>
Selected Security Council Debate Records
<ul style="list-style-type: none"> <li>• S/PV.5886 (6 May 2008) is the transcript of the Council debate at which the chairs of the counter-terrorism committees briefed members.</li> <li>• S/PV.5779 (14 November 2007) is the transcript of the Council debate at which the chairs of the three counter-terrorism committees briefed the Council.</li> </ul>

## Useful Additional Sources

- <http://www.un.org/sc/committees/1267/index.shtml> is the website of the 1267Committee, chaired by Belgian Ambassador Jan Grauls.
- Open letter to Security Council by the International Federation of Human Rights (21 May 2008), [http://www.fidh.org/spip.php?article5523&decoupe\\_recherche=1267](http://www.fidh.org/spip.php?article5523&decoupe_recherche=1267)