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## UN Security Council Resolution 1769 for Darfur: An Important but Insufficient First Step Towards Protecting Civilians

The United Nations Security Council voted unanimously on the afternoon of July 31, 2007 to authorize and mandate the establishment of an African Union/UN Hybrid operation in Darfur, to be called UNAMID. UN Secretary-General Ban Ki-Moon hailed Resolution 1769 as “historic and unprecedented.”

The validity of this judgment will not be known for many months. While the passage of Resolution 1769 is potentially a decisive step towards protecting the vulnerable people of Darfur, its language is deliberately vague on the force’s actual mandate to do so. Ultimately, the real issue is whether or not UNAMID’s Force Commander, General Martin Agwai, and the Troop Contributing Countries will be willing to risk the lives of their soldiers and police officers in order to prevent or stop killing and to end the gross abuses of human rights in Darfur.

Last August, the Council authorized the expansion of the extant multidimensional UN Mission in Sudan (UNMIS), which is focused on ensuring that the Government of Sudan and the Sudan People’s Liberation Movement carry out their obligations under the terms of the Comprehensive Peace Agreement for southern Sudan, into Darfur. In November 2006 when the Government of the Sudan refused to consent to UNMIS expansion, the idea of a hybrid mission emerged. It has taken eight-and-half months of horse-trading and cajoling to convert this idea into a Council mandate, and it will take at least another five months before UNAMID is fully deployed.

The authorizing resolution has been a very long time in coming, and its content reflects the complexity of the issues and processes involved in its making. Over the past month, the process involved watering down the text of what emerged as Resolution 1769 several times in response to objections from Sudan and China. For example, the sponsors (initially the United Kingdom and Ghana; later the UK and France) had to remove aspects such as the threat of sanctions; authorization for the new force to seize or collect arms; and

specific language, such as phrases condemning the Government of Sudan for blocking access by relief workers to displaced people in distress, which Sudan’s UN ambassador called “ugly” and “awful.”

UNAMID has an initial mandate of 12 months and will incorporate the existing AU Mission in Sudan (AMIS), which has been deployed across Darfur since 2004. It is the first joint AU-UN mission, and largest UN peacekeeping operation currently authorized, with Council agreeing to up to 19,555 military personnel, including 360 military observers and liaison officers, a civilian component including up to 3,772 international police, and 19 special police units with up to 2,660 officers.

What exactly all these peacekeepers are supposed to do once deployed is not evident, unless Resolution 1769 is read in conjunction with the Report of the Secretary-General and the Chairperson of the African Union Commission on the hybrid operation in Darfur (S/2007/307). Rather than stress the core mandate of UNAMID, as has been done in considerable detail in almost all previous Council resolutions establishing new operations, Resolution 1769 simply stipulates that “... the mandate of UNAMID shall be as set out in paragraphs 54 and 55 of the report of the Secretary General and the Chairperson of the African Union Commission of 5 June 2007.”

Paragraph 55 of the joint report is over two pages long. It is a fairly detailed operational task statement for the various components of the mission, and clearly too lengthy for inclusion in an authorizing resolution. However, paragraph 54 states the mandate in half a page, with a concise

paragraph on each of the eight core mission objectives. The inclusion of these would have added weight to Resolution 1769, and provided a one-document authoritative reference for UNAMID to use when confronted with recalcitrance in Sudan. At a minimum, the first four mandate elements should have been writ large in 1769:

- ❑ (a) To contribute to the restoration of necessary security conditions for the safe provision of humanitarian assistance and to facilitate full humanitarian access throughout Darfur;
- ❑ (b) To contribute to the protection of civilian populations under imminent threat of physical violence and prevent attacks against civilians, within its capability and areas of deployment, without prejudice to the responsibility of the Government of the Sudan;
- ❑ (c) To monitor, observe compliance with and verify the implementation of various ceasefire agreements signed since 2004, as well as assist with the implementation of the Darfur Peace Agreement and any subsequent agreements;
- ❑ (d) To assist the political process in order to ensure that it is inclusive, and to support the African Union-United Nations joint mediation in its efforts to broaden and deepen commitment to the peace process.

What the international community and the people of Darfur have been most urgently demanding is adequate security for the provision of humanitarian assistance and full humanitarian access throughout Darfur and the protection of civilians under imminent threat of physical violence. In this context, it is worth noting that Sudanese protestations did not prohibit the inclusion of a Chapter VII element referring to the protection of civilians. This is important. To succumb to Sudanese pressure on this would have undone a precedent established by the UN in Sierra Leone and the Democratic Republic of the Congo in 1999, and upheld with every new mission mandate since. Operative paragraph 15 of Resolution 1769 is framed under Chapter VII of the Charter, implicitly authorizing UNAMID to use force, or in UN-speak:

“... [T]o take the necessary action, in the areas of deployment of its forces and as it deems within its capabilities in order to:

- ❑ (i) Protect its personnel, facilities, installations and equipment, and to ensure the security and freedom of movement of its own personnel and humanitarian workers,
- ❑ (ii) Support early and effective implementation of the Darfur Peace Agreement, and prevent the disruption of its implementation and armed attacks, and thus to protect civilians, without prejudice to the responsibility of the Government of Sudan.”

Resolution 1769 dropped a third element of Chapter VII authorization that was present in earlier drafts, to monitor the presence of arms in Darfur in violation of UN resolutions and the peace agreement, a provision which Sudan strongly objected to. Instead, in operative paragraph 9 of

the Resolution, Council “Decides that UNAMID shall monitor whether any arms or related material are present in Darfur in violation of the Agreements and the measures imposed by paragraphs 7 and 8 of resolution 1556 (2004).” Chapter VII issues aside, the inclusion of arms embargo monitoring tasks in the mandate of the mission is significant; it is regrettable that this aspect is inserted in a rather ad hoc manner and not grouped with the other core UNAMID mandate tasks.

There may be some disappointment with the vagueness of the language of Resolution 1769 when it comes to the protection of civilians and the safeguarding of humanitarian space. Vagueness is the rule, however, rather than the exception with UN mandates. In virtually every peacekeeping “lessons learned” exercise since the early 1990s, force commanders have called upon their “political masters”—Council and governments of Troop Contributing Countries (TCCs)—to provide them with a realistic and well-defined mandate, and the necessary means for its accomplishment. This has not happened to date; the fact is that decision-making in the Security Council is based on the need for consensus-building. Vagueness and incrementalism, rather than specificity, are inevitable outcomes of multilateralism where the limits and boundaries of an operation need to be obscured. In the case of Darfur, nothing less than the full-scale application of the Responsibility to Protect norm would provide a clear mandate for UNAMID. But this is apparently a bridge too far; the sovereignty of a state that has failed dismally to protect its own population has trumped international morality.

This is not to say that UNAMID will not be able to act decisively to protect civilians at risk and to pursue its other mandate objectives. The force will be three times larger and far more balanced in terms of mobility and other “force enablers” than the current AU mission. Moreover, the Force Commander’s concept of operations and the Rules of Engagement issued to UNAMID are more important than the mandate itself, in terms of the potential for proactive use of military force to protect civilians. The Rules of Engagement are “UN Confidential” and thus not subject to as much political scrutiny and horse-trading as Security Council resolutions.

All in all, Resolution 1769 is good news; a decisive step in a tortuously long process of bringing suffering to an end in Darfur. It is a very necessary, but insufficient, element of the broader peace process. While the Council urged speedy deployment, the bulk of the force will not be in Sudan much before early next year, and the ultimate strength of UNAMID will depend on the willingness of UN member states to speedily contribute sufficient good quality personnel and equipment. As far as civilian protection is concerned, that will be in the hands of General Agwai and his troops, who will face the challenge of responding to threats in a hostile environment where there has been little peace and safety for more than four years.

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