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Protection of Civilians in Armed Conflict

This is Security Council Report's third *Cross-Cutting Report on Protection of Civilians in Armed Conflict*. The first report was published in October 2008. The purpose of the series is to highlight the emergence of protection of civilians as a thematic issue on the Council's agenda starting in the 1990s and analyse in detail actual Council action on protection issues in country-specific situations in the light of the thematic decisions. The second report, in October 2009, coincided with the tenth anniversary of Council involvement in protection of civilians as a thematic issue. That report looked specifically at new developments relating to the Council's protection of civilians agenda over the previous year and identified new trends and remaining challenges.

The present report continues the series to systematically track the Council's approach to the protection of civilians both at the thematic and country-specific levels. It is our hope that this and future such reports may serve as useful resources for all who are interested in the Council's work on this issue and as a tool for measuring the progress which the Council is making.

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1. Executive Summary and Conclusions

This is SCR's third *Cross-Cutting Report on Protection of Civilians*. It builds on our previous reports and offers a resource for systematically tracking the Security Council's work on this issue.

This 2010 report reviews developments at the thematic level (focusing on events of 2010) since our last cross-cutting report of October 2009 and offers a statistical analysis of Council action in country-specific situations in 2009 compared with the previous five years. (It also touches on important developments in 2010.) Two case studies are presented—on Chad and Somalia—offering a more in-depth view of the dilemmas the Council faces in addressing protection needs. There is also a section on special issues related to protection in the peacekeeping context. As always in SCR's publications, some future possible options for the Council are outlined. The options section is not intended as an exhaustive list, but rather offers some suggestions.

In the period covered by this report, protection of civilians has remained a major issue in the Council's work. While there were perhaps fewer acute conflict-related crises than identified in our last report, the situation for civilians in Somalia, Sudan, the Democratic Republic of the Congo (DRC) and Chad in particular, but also elsewhere, remained serious or deteriorated.

Our analysis indicates that the Council has now begun more systematically to address protection of civilians concerns in situations on its agenda than it has ever done before. At the same time, major divisions in the Council remain as to when and where force should be used to protect civilians. This gap was exposed in 2009 (as in previous years) in discussions on Sudan and the DRC.

The Council also significantly developed its thematic work on protection in 2009. With the adoption of resolution 1894 in November 2009, its fourth thematic resolution on protection of civilians, it

introduced new provisions focusing on humanitarian access, implementation of protection mandates in peacekeeping operations and monitoring and reporting which are analysed in this report. The Council also made several important decisions relating to the special protection needs of women and children. For more details on the latter, please refer to our recent *Cross-Cutting Report on Children and Armed Conflict* of June 2010 and *Cross-Cutting Report on Women, Peace and Security* of October 2010.

Our case studies on Chad and Somalia illustrate some of the many challenges that remain. In Chad, the government's request for the UN Mission in the Central African Republic and Chad (MINURCAT) to withdraw exacerbated what was already a problematic operation that had struggled to reach its authorised troop levels. The Council had ignored the Secretary-General's advice to put more emphasis on a political solution to the crisis and not to authorise a peacekeeping mission until sufficient pledges had been made by member states. Divisions among Council members also made the Council less effective in managing relations with Chad as the host country and using collective leverage in discussions with the Chadian government.

Somalia provides an important case study. It is a case where the Council decided not to authorise a UN peacekeeping operation although it has been under pressure to do so in part for reasons relating to protection needs. A key issue in Somalia is the continued impact of conflict on the civilian population and the continuing deterioration in their situation. Obstruction of humanitarian access is an important factor. The strategy endorsed by the Council seems to have left very few options for protecting

civilians on the ground. Somalia also represents an example of the Council's considerable reluctance to seriously address the accountability dimensions of the protection issue either through sanctions or other measures.

In the DRC, which was included as a case study in our last *Cross-Cutting Report on Protection of Civilians*, the Council has also continued to face particularly acute protection challenges as retaliatory attacks by rebel groups against civilians, and women in particular, have continued. These are, however, not discussed in detail in this report. Our October 2010 *Cross-Cutting Report on Women, Peace and Security* includes a case study on these recent developments in the DRC.

Other findings of this report include:

- The Council has systematically included protection language in most relevant country-specific decisions (although it was less consistent in presidential statements than in resolutions). The clarity of the language also seemed to improve when compared with similar Council decisions in 2008.
- There is now growing emphasis on benchmarks as a means to monitor implementation of peacekeeping mandates, and this could prove beneficial for implementation of protection tasks. This was evident both in Council decisions requesting or endorsing such benchmarks and in the Secretary-General's reports which now more frequently included indicators related to the protection of civilians.
- The Council remained cautious on issues related to accountability. While it supported the establishment of an international commission of inquiry in the case of Guinea, this was somewhat indirect. And the Council made

negligible use of targeted sanctions in situations where violations had been committed against civilians despite having repeatedly expressed its willingness to do so. The Council has yet to designate sanctions for any perpetrators of violence against women in spite of widespread reports that such abuses have taken place and its commitment to use such measures expressed in 2008 in resolution 1820.

- There were no significant changes in the quality of the Secretary-General's reporting. It seemed too early to detect any impact of the Council's request in resolution 1894 for more detailed and comprehensive information on protection issues. Indeed new reporting guidelines to missions are not yet in place, 12 months after the resolution's adoption.
- Important developments have taken place on issues related to implementation of protection mandates in UN peacekeeping. Three peacekeeping operations—the UN Organisation Stabilisation Mission in the DRC (MONUSCO), the UN Mission in Sudan (UNMIS) and the UN/AU Hybrid Mission in Darfur (UNAMID)—have completed development of comprehensive protection strategies. Other missions are in the process of developing such strategies. The Secretariat is working on a strategic framework for protection strategies, as well as protection training modules for peacekeeping personnel.
- The informal Council expert group on protection of civilians seems to be continuing to contribute to improving the Council's focus on issues related to protection of civilians. It provides members with additional information on key protection issues and has contributed to improved coordination

of Council action, both across situations and between the thematic and country-specific level. A few Council members still have reservations about the group, however. Major changes to the group's format or agenda therefore seem unlikely at this stage.

The Council's next debate on protection of civilians in November 2010 offers another opportunity for the Council to take stock of progress on key issues, such as the implementation of resolution 1894, and to indicate areas where further work is needed. Five key challenges were outlined in the Secretary-General's April 2009 report on the protection of civilians—enhancing compliance with international humanitarian law, including by non-state armed groups; making more effective use of UN peacekeeping and other relevant missions in protection of civilians; improving humanitarian access; and strengthening accountability for violations of international humanitarian law. These seem to be just as valid today. Our options section at the end of the report also canvasses some new issues which may offer a significant protection impact, including beginning to focus on the effects on civilians caused by explosive weapons of war and compensation mechanisms for civilian victims of war.

While in the past few years, dynamics in the Council seemed favourable for protection issues, this could change in 2011. It remains to be seen, however, how the presence of India rather than Japan, or Columbia rather than Mexico, will impact the Council's involvement in the protection of civilians, but as we pointed out also in our last report, further progress on this issue will require a less politicised approach.

2. Background and Normative Framework

The Security Council first addressed protection of civilians as a thematic issue in 1999. The Council's involvement came at the end of a period in which the international community had witnessed a series of violent conflicts around the world, including those in Bosnia and Rwanda, where civilians had suffered disproportionately. This led to increased international awareness of the need to strengthen the protection of civilians caught in armed conflict. Ensuring such protection came to be seen by many as a key element of the Council's responsibility to maintain international peace and security.

The concept of protection of civilians is founded in the universally accepted rules of international humanitarian, human rights and refugee law which are set out in a range of international legal instruments. They include:

- The Geneva Conventions of 12 August 1949, in particular the Fourth Convention, and their 1977 Additional Protocol I relating to the Protection of Victims of International Armed Conflicts and Protocol II relating to the Protection of Victims of Non-International Armed Conflicts.
- The 1948 Universal Declaration of Human Rights, the 1966 International Covenant on Economic, Social and Cultural Rights and the 1966 International Covenant on Civil and Political Rights.
- The 1951 Convention Relating to the Status of Refugees and its 1967 Optional Protocol.
- The 1989 Convention on the Rights of the Child and its Optional Protocols on the involvement of children in armed conflict and on the sale of

children, child prostitution and child pornography.

- The 1994 Convention on the Safety of UN and Associated Personnel and its 2005 Optional Protocol.
- The 1984 Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- The 1998 Rome Statute of the International Criminal Court; and customary international humanitarian law.

Protection of civilians as a separate conceptual thematic issue for Council consideration was first articulated in 1998 in two Secretary-General's reports—on the causes of conflict and promotion of peace in Africa (S/1998/318) and on protection of humanitarian assistance to refugees and others (S/1998/883).

The Council's first thematic decision on protection of civilians in armed conflict was a presidential statement adopted in February 1999 which condemned attacks against civilians, called for respect for international humanitarian law and expressed the Council's willingness to respond to situations in which civilians had been targeted by combatants. It requested a report from the Secretary-General on recommendations for the Council's future work. The first landmark report containing forty recommendations was issued in September that same year. Later that month the Council adopted its first resolution on the protection of civilians, resolution 1265. It stressed the need to ensure compliance with international humanitarian law, address impunity, and improve access for and safety of humanitarian personnel, and it also emphasised the importance of conflict prevention and cooperation with regional and other organisations.

The Council has since remained engaged on the issue of protection of civilians, both at the thematic level and in country-specific situations. It has adopted three additional thematic resolutions, including the most recent one, resolution 1894 of 11 November 2009, reaffirming its initial commitment to the issue and strengthening provisions in certain areas. In August 2003, in the wake of the attack on the UN compound in Baghdad, in resolution 1502, it reinforced its previous decisions on the protection of humanitarian and UN and associated personnel, and in 2006 it adopted resolution 1738 on the protection of journalists and other media professionals.

The Council has adopted a total of eight presidential statements on the protection of civilians. The second presidential statement of March 2002 endorsed an aide-mémoire proposed by the Secretary-General as an instrument of guidance to facilitate the Council's consideration of issues pertaining to the protection of civilians in country-specific situations, in particular relating to peacekeeping mandates. It listed key objectives for Council action and specific questions for consideration in meeting those objectives. In 2009, in its January presidential statement on the protection of civilians, the Council endorsed a revised updated version of the aide-mémoire.

Another tool the Council has invoked to facilitate protection discussions in country-specific situations is the informal Council expert group on protection of civilians. This was established in January 2009 under UK chairmanship. It meets regularly at working level in connection with the renewal of relevant UN mandates to receive briefings by the Office for the Coordination of

Humanitarian Affairs (OCHA) on key protection issues. Since its inception it has met a total of 17 times.

At the request of the Council, the Secretary-General has issued a total of seven reports on the protection of civilians, providing more than one hundred recommendations to the Council. The eighth report is due in November 2010.

3. Key Developments at the Thematic Level

In November 2009 the Council marked the tenth anniversary of its involvement in the issue of protection of civilians by adopting resolution 1894. It has continued its practice of holding biannual open debates on protection of civilians featuring briefings by the Under-Secretary-General for Humanitarian Affairs. In the two most recent debates, and for the first time since 2002, the High Commissioner for Human Rights was also invited to brief.

Resolution 1894

Resolution 1894 of 11 November 2009 reaffirms the Council's commitment to the protection of civilians while focusing in particular on humanitarian access, protection mandates in peacekeeping missions and the need for monitoring and reporting. It contains several new provisions.

In terms of humanitarian assistance, the resolution reaffirms the Council's role in promoting humanitarian access and expresses its intention to:

- call on parties to armed conflict to facilitate passage of relief consignments, equipment and personnel, and mandate missions to assist in creating conditions for humanitarian access; and

- consistently condemn all violence against humanitarian personnel and call on parties to comply with obligations to protect such personnel, as well as humanitarian consignments.

In terms of peacekeeping, the resolution reflects several of the key findings and recommendations of the independent study jointly commissioned by the OCHA and the Department of Peacekeeping Operations (DPKO) on implementation of protection mandates, officially released on 6 November 2009. The resolution:

- recognises the need to take into account the protection needs of civilians in an early phase of the drafting of mandates, to engage with countries concerned and to consult with the Secretariat and troop and police-contributing countries (TCCs and PCCs);
- requests the Secretary-General to develop, in close consultation with member states and other actors, an operational concept on protection and to report back on progress;
- requests the Secretary-General to ensure that UN operations with protection mandates conduct mission-wide planning, pre-deployment training and senior leadership training on protection, and requests TCCs and PCCs to ensure appropriate training;
- requests the Secretary-General to ensure that all peacekeeping operations with protection mandates incorporate protection strategies into the overall mission implementation plans; and
- reaffirms its practice of requiring benchmarks to measure and review progress in the implementation of mandates and stresses the importance of including protection indicators in such benchmarks.

In terms of monitoring and reporting, the resolution:

- emphasises the importance of addressing compliance issues in country-specific situations and of receiving timely, objective, accurate and reliable information;
- invites the Secretary-General to continue systematic monitoring and analysis of constraints on humanitarian access and to include observations and recommendations both in briefings and country-specific reports; and
- requests the Secretary-General to include in his next report on protection of civilians a best practice guide of measures taken by current peacekeeping operations to protect civilians;
- requests the Secretary-General to include in his reports on country-specific situations more comprehensive and detailed information relating to protection of civilians, including on protection-related incidents and actions taken by parties;
- requests the Secretary-General to develop guidance for UN operations and other relevant missions on protection reporting with a view to streamlining such reporting and enhancing the Council's monitoring and oversight.

Council Debates on the Protection of Civilians

In the Council's open debate on protection of civilians following the adoption of resolution 1894, then Under-Secretary-General for Humanitarian Affairs John Holmes highlighted engagement with non-state armed groups as an issue critical to strengthening compliance with the normative framework and ensuring humanitarian access. He also called for greater consistency in the Council's application of targeted sanctions against

violators of international humanitarian law and addressed key issues related to protection of civilians mandates in peacekeeping operations.

A statement from High Commissioner Navanethem Pillay, delivered by Deputy Kyung-wha Kang, stressed in particular the importance of stronger political will to take timely action and called on the Council to ensure accountability and combat impunity for violators of international law. It also highlighted specific issues relating to the situations in Afghanistan, Darfur, the DRC and Gaza.

The Council debate was preceded by an Arria formula meeting on 5 November 2009 hosted by the UK on “Ten years of engagement in the protection of civilians: the view from the field.” It featured as speakers Lieutenant General Jasbir Singh Lidder, the former Indian commander of the UNMIS, Nicky Smith, Director of advocacy of the International Rescue Committee and Colin Keating, Executive Director of SCR.

The Council held the next debate on protection of civilians on 7 July 2010. The Secretary-General, Under-Secretary General for Humanitarian Affairs John Holmes and High Commissioner for Human Rights Navanethem Pillay also spoke. A key focus in the debate was the role of peacekeeping missions in the protection of civilians and remaining challenges in that regard.

The Secretary-General emphasised the importance of sustained political support by the Council to ensure implementation of peacekeeping mandates. He also stressed the need for a stronger common understanding of what protection of civilians entails in practice and a willingness to either manage expectations or provide

peacekeepers with adequate capabilities. With reference to Chad and the DRC, the Secretary-General warned against the premature termination of peacekeeping missions and said benchmarks on protection of civilians should be achieved before withdrawal of peacekeepers. He also highlighted accountability as a key challenge, specifically mentioning Sri Lanka and Guinea.

Holmes highlighted the appointment of Margot Wallström as the Special Representative of the Secretary-General on Sexual Violence in Conflict and the recent briefing to the DRC Sanctions Committee by the Special Representative of the Secretary-General for Children and Armed Conflict as two important institutional developments. While also welcoming other positive developments, including the work of the Council’s informal expert group on protection of civilians, Holmes expressed concern that little had improved on the ground, highlighting in particular the situation for internally displaced persons (IDPs). Holmes also reiterated his call for the Council to respect and promote engagement with non-state armed groups to improve their compliance with international humanitarian and human rights law.

Other issues addressed by Holmes included humanitarian access and the effects of explosive weapons on civilians. He said more research was needed on these effects and urged the Council to begin a dialogue “on ways to tackle this emerging issue.” In regards to peacekeeping issues, Holmes stressed, as had the Secretary-General, that “the drawdown of UN peacekeeping missions should be made contingent on the attainment of clear protection bench-

marks endorsed by the Security Council.” Finally, Holmes urged the Council to take a robust approach to accountability issues and also floated the idea of establishing a permanent mechanism somewhere in the UN system to conduct inquiries on serious allegations of violations of international humanitarian and human rights law, more or less automatically, to prevent issues from being politicised by being treated on a case-by-case basis.

Pillay also emphasised accountability as a key issue for protecting civilians. She argued that the establishment of commissions of inquiry was the most significant action taken by the Council for the protection of civilians and called for more frequent use of such mechanisms.

The Council’s Informal Expert Group

The Council’s informal expert group on protection of civilians has continued to meet regularly under the chairmanship of the UK. The agenda has expanded slightly to include mandate renewals not only of UN peacekeeping operations with a protection aspect or a UN political mission involved in protection tasks, but also of UN mandated missions such as the AU Mission in Somalia (AMISOM) or the International Security Assistance Force in Afghanistan (ISAF).

The format of the meetings has not changed. Council members are briefed by OCHA (which plays a secretariat role for the Group) on the most important protection concerns in the situation under consideration. The DPKO is also present to answer questions. OCHA also reports on actions taken on the ground to address protection concerns, and makes suggestions for Council action, including possible language for



inclusion in the resolutions based on the revised aide-mémoire endorsed by the Council in January 2009.

The working group held seven meetings in 2009. So far in 2010 it has met ten times. The following missions have been discussed to date:

- UNAMA (Afghanistan)
- ISAF (Afghanistan)
- MINURCAT (Chad/CAR)
- UNOCI (Côte d'Ivoire)
- UNAMID (Darfur)
- MONUC (DRC)
- UNAMI (Iraq)
- AMISOM (Somalia)
- UNMIS (Sudan)

Other Developments

This past year has also seen some important developments relating to the issues of women, peace and security and children and armed conflict. Margot Wallström was appointed by the Secretary-General as his Special Representative on Sexual Violence in Conflict on 2 February 2010. (The Council had requested the creation of this post in resolution 1888.) Also, in April the Council received a proposal from the Secretary-General on a set of indicators to track implementation of resolution 1325 on women, peace and security, including indicators on prevention, protection, relief and recovery. The Council adopted a presidential statement on 27 April expressing its support for the new Special Representative and requesting the Secretary-General to continue work on a comprehensive set of indicators to be presented to the Council in time for the tenth anniversary of resolution 1325 in October 2010. A revised set of indicators was included in the Secretary-General's report on women, peace, and security of 28 September 2010.

On 16 June 2010 the Council discussed the Secretary-General's latest report on children and armed conflict in an open debate. It adopted a presidential statement (S/PRST/2010/10) reiterating the Council's strong condemnation of violations of international law involving recruitment, killing and maiming, rape and sexual violence, abductions, attacks against schools or hospitals and denial of humanitarian access by parties to armed conflict. It also expressed concern about the growing number of attacks against schools and educational facilities. In addition, the Council expressed deep concern over persistent violators and expressed its readiness to adopt targeted and graduated measures against them. It also invited the Working Group on Children and Armed Conflict to exchange pertinent information with relevant sanctions committees and for sanctions committees to regularly invite the Special Representative on Children and Armed Conflict to brief them on information contained in the Secretary-General's reports. Other areas highlighted in the presidential statement included strengthening the monitoring and reporting mechanism for children and armed conflict and the need for parties that had not done so to prepare and implement action plans to halt recruitment, killing and maiming and/or rape and sexual violence against children.

Also of relevance to the protection of civilians agenda was a Council debate on 29 June on "The promotion and strengthening of the rule of law in the maintenance of international peace and security." In a presidential statement emphasising its commitment to mediation and the peaceful settlement of disputes, the Council recognised

respect for international humanitarian law as an essential component of the rule of law in conflict situations and reaffirmed that the protection of civilians should be included in any conflict resolution strategy. It also called for all parties to armed conflict to respect international law applicable to civilians, stressed the importance of fighting impunity and expressed its willingness to act in this regard.

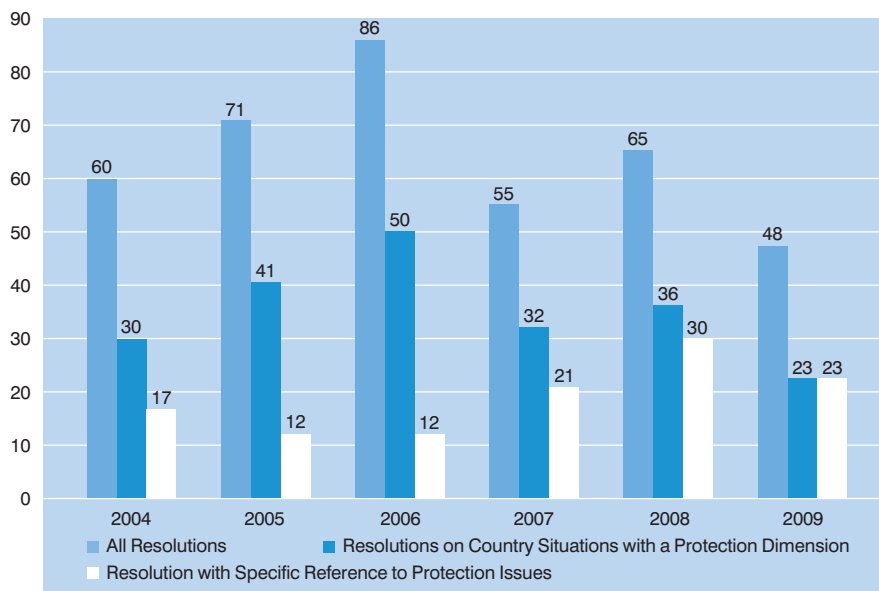
On 1 August 2010 the Convention on Cluster Munitions entered into force. As of 25 October 108 countries had signed and 43 countries had ratified the Convention.

On 19 August 2010, the 2005 Optional Protocol to the Convention on the Safety of UN and Associated Personnel entered into force.

4. Analysis of Council Action and Reporting in Country-Specific Situations in 2009

4.1 Resolutions

Looking at 2009 as the next full year for our analysis, the following statistics emerge: The Council adopted 48 resolutions in 2009. This represented a significant reduction in overall activity compared with 2008 when 65 resolutions were adopted, but the proportion of the total number of resolutions that could reasonably be expected to address protection of civilians issues stayed around the same level. In 2009 we found that 23 resolutions or a little less than 50 percent could be expected to contain protection language as compared with 55 percent in 2008. The statistics therefore remain useful for comparative purposes.



Our analysis of these decisions revealed the following:

All resolutions that could reasonably be expected to address protection issues did in fact contain some protection-relevant language.

This was the first time since SCR started tracking protection language in Council decisions in 2004 that this was the case. With the exception of three resolutions on sanctions, one resolution on Somali piracy and one resolution on the Gaza crisis in January 2009, all of these resolutions pertained to mandate renewals for UN missions or UN mandated missions, including ISAF and AMISOM. The increasing interest in and focus on protection issues, especially in UN peacekeeping missions, that we detected in our 2009 *Cross-Cutting Report on Protection of Civilians* thus seem to have been reflected in actual Council decisions.

Protection language was strengthened in 2009 when compared to similar Council decisions in 2008.

When we analysed the quality of the language adopted by the Council, we found a similar trend. We looked in particular at those mandates that were discussed in

the informal expert group on protection prior to renewal to see whether it had had an impact on Council decisions. It should be recalled that one of the main objectives of the expert group was to strengthen Council focus on key protection issues and ensure consistency in the way these are addressed.

At its first meeting in January 2009, the expert group discussed the mandate renewal for the UN Mission in Côte d'Ivoire (UNOCI). The Council subsequently renewed UNOCI's mandate in resolution 1865. This resolution contained new language relating to the protection of women and children, in particular calling for investigation of abuses and accountability for those found to be responsible. The expert group also met before UNOCI's next mandate renewal in July 2009, adopted by the Council in resolution 1880. This resolution largely confirmed the language in resolution 1865 and also stressed the need for close coordination between UNOCI and humanitarian agencies to ensure a timely response to threats against civilians.

In 2009 the expert group also met to discuss the mandate renewals for UNMIS,

UNAMID and the UN Mission in the DRC (MONUC), which like UNOCI are all missions with an explicit mandate to protect civilians under imminent threat of physical violence. In all of these cases it appeared that protection language was strengthened or expanded. In resolution 1870 renewing UNMIS's mandate in April, the Council urged the mission to "make full use of its current mandate and capabilities to provide security to the civilian population" and also stressed the importance of flexible deployment "in particular in areas where civilians are under threat of violence".

In resolution 1881 renewing UNAMID's mandate in July the Council reiterated previous protection language, but also added a new request for the parties to create conditions for the return of refugees and IDPs. It also asked the Secretary-General to develop a comprehensive strategy for providing protection to women and girls from sexual and gender-based violence.

Resolution 1906 adopted in December 2009 by which the Council renewed MONUC's mandate until 31 May 2010 was particularly noteworthy. Prior to the mandate renewal, MONUC had faced widespread criticism for its support of the Congolese government forces, *Forces Armées de la République Démocratique du Congo* (FARDC), in its operations against rebel groups in eastern DRC, not only because FARDC elements were accused of committing serious human rights violations, including attacks against civilians, but also because these operations led to reprisal attacks against civilians by the rebels. In the past the Council had emphasised that these operations should be planned jointly with MONUC and should comply with international humanitarian, human rights and refugee law. In November



2009 MONUC had suspended support to some units of the DRC armed forces responsible for human rights violations against civilians.

In resolution 1906 the Council went a step further and introduced the concept of “conditionality” of MONUC’s support for FARDC. It reiterated that this support must be strictly conditioned on FARDC’s compliance with international humanitarian, human rights and refugee law and called on MONUC to withdraw support from FARDC units accused of violations of these obligations. The resolution also called for the creation of a vetting mechanism for the FARDC and national security forces to ensure that persons associated with violations of international humanitarian law and human rights abuses were excluded from being integrated into government forces. (This was not a new provision, however, as the Council already in resolution 1794 adopted in 2007 called for such a mechanism to be established.) In another provision the Council requested the Secretary-General to provide a briefing to the Council and TCCs and PCCs. within six weeks on the implementation of the system-wide protection strategy developed by MONUC at the end of 2009.

Chad and Somalia were other situations where the Council’s concern for civilians was reflected in decisions adopted in 2009. These will be analysed in more detail as separate case studies in Chapter 5.

When renewing other mandates with a protection dimension the Council mostly confirmed existing language from previous resolutions.

References to the special protection needs of women and children seemed to increase.

There was evidence that the Council’s strengthened thematic focus on children and armed conflict and women and sexual violence was also reflected in country-specific resolutions. Inclusion of child protection issues seems to have become established practice in Council decisions. References to women in country-specific resolutions have increased steadily since the adoption of resolution 1325 in 2000 and reached 73 percent in 2009. While this percentage included references to women, peace and security in general, there was a strong focus on protection issues.

While the Council began to consistently request the Secretary-General to establish benchmarks for all mandated tasks and also endorsed such benchmarks, only in a few cases did it emphasise any benchmarks specifically on protection of civilians.

The Council had previously used benchmarks in some cases in an ad hoc way, but in 2009 it began, as a systematic part of its work on peacekeeping reform, to consistently do so in order to better monitor progress in the implementation of UN mandates. Establishment of such benchmarks has obvious implications for the Council’s ability to measure progress on implementation of protection mandates and, as such, they are relevant for the purposes of our analysis. We therefore wanted to take a closer look at the Council’s general approach to benchmarks as it relates to the eight peacekeeping operations with specific protection mandates.

UNMIL was one of the first missions where the Council endorsed benchmarks. These were initially mainly focused on security indicators, but in 2008 they were revised to also include indicators on human rights. When

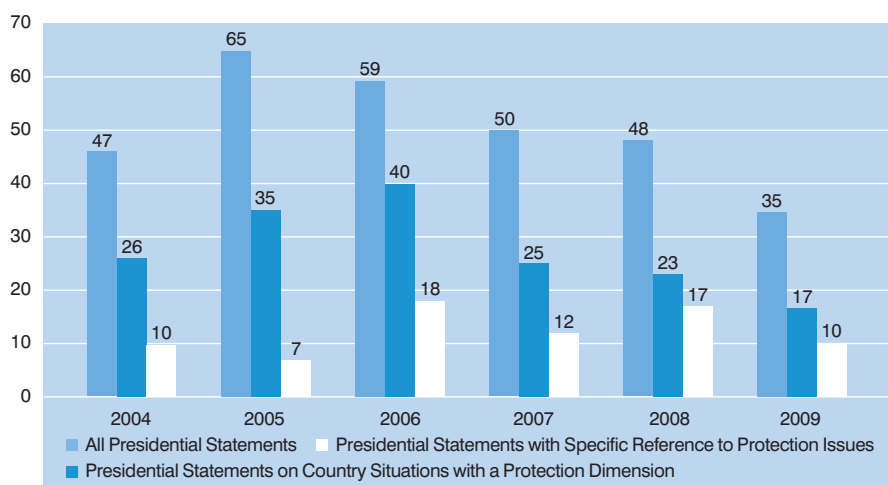
renewing UNMIL’s mandate in 2009 the Council requested the Secretary-General to continue to monitor progress on achievement of benchmarks. It did the same when renewing UNOCI’s mandate. The benchmarks for UNOCI, which were outlined in the Secretary-General’s July 2009 report, did not specifically address protection of civilians, but included indicators on disarmament, demobilisation and reintegration and restoration of state authority.

When renewing MINURCAT’s mandate in resolution 1861 adopted in January 2009 the Council endorsed the Secretary-General’s proposed benchmarks and stressed in particular those related to the return and settlement of IDPs, demilitarisation of refugee camps and the capacity of Chadian authorities to protect civilians.

In the cases of UNAMID and UNMIS the Council stressed the importance of “achievable and realistic targets against which the progress of UN peacekeeping operations can be measured” and requested the Secretary-General to develop such benchmarks. It did not, however, make any specific reference to protection benchmarks.

In October 2009 the Council welcomed progress in developing benchmarks for MINUSTAH which included indicators on rule of law and human rights.

The Council had requested the Secretary-General to develop benchmarks for MONUC prior to 2009, but when renewing MONUC’s mandate in December 2009 it requested the Secretary-General to further develop benchmarks, in particular on critical tasks to be achieved before MONUC could be withdrawn. However, the request did not specifically mention protection issues.



4.2 Presidential Statements

The Council adopted 35 presidential statements in 2009. This was a significant decline from the 48 statements adopted in 2008 and proportionally similar to the drop in the number of resolutions. The number of statements on situations with a protection dimension saw a corresponding decline. We found that 17 out of the 25 statements on country-specific situations could reasonably be expected to address protection issues. The proportion was approximately the same as in 2008.

Our analysis of these decisions revealed the following:

References to protection of civilians in presidential statements appeared to decline.

Seven of the 17 statements referred to above, or approximately 40 percent, did not, in fact, contain any protection language. (This compares with six of the 23 statements adopted in 2008.) The statements without references to protection issues included:

- a statement on Haiti, expressing support for MINUSTAH and calling for increased support for economic and social development in the country;

- a statement on the Middle-East and the Palestinian question;
- three statements on the election process in Côte d'Ivoire; and
- two statements on Afghanistan—one on the elections and one on a terrorist attack in Kabul.

A likely explanation for the lack of references to protection issues in many of these statements is the fact that they are focusing on very specific issues, as in the case of elections or terrorist attacks. In this context it is interesting to note that we found a similar trend in our 2010 *Cross-Cutting Report on Children and Armed Conflict* which concluded that there was an emerging pattern of more references to children and armed conflict in country-specific resolutions, whereas in presidential statements there seemed to be an opposite trend.

Statements tended to focus on a few, specific protection issues.

Of the ten presidential statements which did in fact refer to protection issues, there were three statements on Somalia, two on Iraq, two statements on the Central African Republic (CAR), one on Chad and the subregion, one on Nepal and one on Guinea.

In the case of Somalia, the Council focused on the deteriorating humanitarian situation and repeatedly called on all parties “to abide by their obligations under international humanitarian law, in particular to respect the security of civilians, humanitarian workers and AMISOM personnel.” The Council used similar language in a statement on Chad, CAR and the subregion.

In statements on Iraq, the Council stressed the importance of creating conditions conducive to “voluntary, safe, dignified, and sustainable return of Iraqi refugees and IDPs” and welcomed further attention to this issue by all concerned.

Statements on Nepal and CAR referred to the parties’ obligations concerning recruitment and use of child soldiers.

A presidential statement on the crisis in Guinea was noteworthy for its focus on accountability measures.

The Council statement on the situation in Guinea adopted on 28 October 2009 was particularly noteworthy (S/PRST/2009/27). In this case, the Council showed some willingness to take a more preventive approach by acting at an early stage following the crisis which had erupted the previous month when members of the Guinean army opened fire on civilians during a peaceful pro-democracy rally at a stadium in Conakry, Guinea’s capital. Several national and international human rights organisations confirmed at least 156 deaths. Others reported human rights violations including sexual violence against women, thousands of injuries and the arbitrary arrest of peaceful demonstrators and opposition party leaders.



Following a number of briefings and discussions among Council members in informal consultations, the Council adopted the presidential statement, which:

- expressed concern about the situation in Guinea and the potential risk to regional peace and security following the events in September 2009 and condemned the violence against civilians;
- called on the Guinean national authorities to fight against impunity and bring the perpetrators to justice;
- expressed support for the Secretary-General's decision to establish an international commission of inquiry to investigate the events of 28 September; and
- expressed the Council's intention to follow the situation closely and requested the Secretary-General keep it updated as appropriate.

(The report by the international commission of inquiry was submitted to the Council on 18 December 2009. The Council subsequently adopted another presidential statement on the situation in Guinea on 16 February 2010 which commended the work of the commission and noted positively the submission of the report. (S/PRST/2010/3). For more details, please see our *Update Report on Guinea* of 4 March 2010.)

4.3. Developments in Council Sanctions Regimes

In 2009 there seemed to be increasing focus in the Council's thematic work on the need to enhance compliance with international humanitarian and human rights law with targeted sanctions being frequently referred to as one of the tools available to influence behaviour and prevent future violations. While resolution 1894 does not refer directly to

sanctions, it expresses the Council's willingness to consider "appropriate measures" at its disposal "in accordance with the Charter of the UN" and specifically "to take appropriate steps in response to deliberate attacks against humanitarian personnel."

The Council was more specific, however, in its decisions relating to violations against women and children. In a presidential statement on children and armed conflict adopted on 29 April 2009 (S/PRST/2002/9) and in resolution 1882 adopted on 4 August 2009 which expanded the criteria for the Secretary-General's listing of violators in his reports on children and armed conflict (the "list of shame"), the Council reaffirmed its intention, previously expressed in resolution 1612 of 2005, to take action through country-specific resolutions against parties violating applicable international law relating to the rights and protection of children in armed conflict by imposing measures such as an arms embargo. In both decisions the Council also called for enhanced communication between the Working Group on Children and Armed conflict and relevant sanctions committees.

In resolution 1888 on women, peace and security adopted on 30 September 2009 the Council reiterated its intention, when adopting or renewing targeted sanctions in situations of armed conflict, to consider including designation criteria pertaining to acts of rape and other forms of sexual violence. It also called upon all peacekeeping and other relevant UN missions and UN bodies, in particular the Working Group on Children and Armed Conflict, to share all pertinent information about sexual violence with relevant sanctions

committees, sanctions monitoring groups and groups of experts.

At the beginning of 2009 four of the existing 13 sanctions regimes—those related to Côte d'Ivoire, the DRC, Darfur and Somalia—comprised individually targeted measures related to violations of international law. While the decisions referred to above seem to indicate in principle an increased willingness on the part of the Council to consider sanctions against violators of international humanitarian law, there were in 2009 only three new designations of individuals or entities based on such criteria. To date in 2010 only one such designation has been announced.

Côte d'Ivoire

The Council originally imposed sanctions on Côte d'Ivoire in 2004. These included an arms embargo and also travel restrictions and assets freeze on any persons responsible for serious violations of human rights and international humanitarian law. But it was not until 2006, that the Council's Côte d'Ivoire Sanctions Committee designated three specific individuals for the travel restrictions and asset freeze, including one for human rights and humanitarian law violations. No new designations have been made since. When the Council renewed the sanctions regime for 12 months in resolution 1893 in October 2009 it did, however, underline that it was "fully prepared" to impose targeted measures against persons responsible for serious human rights and humanitarian law violations.

DRC

The DRC sanctions regime was originally created in 2003 and later modified and strengthened by, among other things, deciding to impose travel bans

and asset freezes on individuals. Resolution 1807 adopted in March of 2008 stated that individuals committing serious violations of international law involving the targeting of children or women could be subject to such targeted measures. It was expanded in resolution 1857 of December 2008 to also target individuals obstructing the access to or the distribution of humanitarian assistance in the eastern part of the country. The Group of Experts monitoring this sanctions regime reported extensively on such violations in its reports to the Council in 2009.

It is worth noting that in its final report to the Council in 2009 in November, the Group said it had interpreted its mandate to include investigation of all violations of international human rights and international humanitarian law and not limited to the specific abuses listed in Council resolutions, “especially in consideration of the context of indiscriminate attacks on the civilian population perpetrated by armed groups and by FARDC”. In its view, the security situation often made it difficult to disaggregate specific types of human rights abuses.

The report identified several individuals as responsible for the recruitment of child soldiers and provided a list of FARDC commanders with an established record of grave violations of human rights and international humanitarian law. The report also identified individuals responsible for reprisal attacks against the civilian population resulting from the FARDC’s military operations against FDLR (*Forces démocratiques de libération du Rwanda*) in eastern DRC.

In its recommendations to the Council the Group of Experts noted that the limited implementation of the sanctions

regime, together with the lack of follow-up at the national level on suspected violations, had “seriously undermined the credibility of the sanctions regime.” It recommended that the Council act on the findings of the Group’s recent reports to target additional individuals.

While the DRC Sanctions Committee in March 2009 did add four individuals to its sanctions list, three of them for violations against children, it has yet to make any designations related to violations against women. This is despite the Council’s apparently strong commitment to ending such abuses first expressed in March 2008, in resolution 1807, when the Council added acts of sexual violence to the criteria for imposing individually targeted sanctions relating to the DRC. This approach was reaffirmed at the thematic level three months later in resolution 1820 and then reiterated in resolution 1888 of 2009.

In 2010 there was a new development, however, when the Special Representative for Children and Armed Conflict, Radhika Coomaraswamy, on 21 June briefed the DRC Sanctions Committee. This was her first interaction with any of the Council’s sanctions committees. On 31 August 2010, the Committee updated the list of individuals subject to targeted sanctions by adding to the designation justification in nine cases recruitment and use of children “according to the Special Representative for Children and Armed Conflict.”

Somalia

The Somalia sanctions regime, first established in 1992, is the oldest continuing sanctions regime. Individually targeted sanctions, however, were added to the range of measures available to the sanctions committee only in November 2008 through resolution

1844. It imposes targeted measures on individuals or entities designated by the Somalia Sanctions Committee “as obstructing the delivery of humanitarian assistance to Somalia, or access to, or distribution of, humanitarian assistance in Somalia.” In spite of the extremely difficult humanitarian access situation in Somalia in 2009, no designations based on this criterion (or any other criteria) were made by the sanctions committee that year.

In 2009 the Monitoring Group briefed the Somalia Sanctions Committee regularly and presented a draft list of individuals and entities to be considered for targeted sanctions. In its March 2010 report to the Sanctions Committee, the Group concluded that humanitarian assistance was hindered by the extremely difficult security situation and also by large-scale diversion of food aid to contractors and insurgents. On 12 April 2010, the Committee announced the first nine designations under resolution 1844. The justification for one of these, the designation of the Islamist rebel group Al-Shabaab, was obstruction of humanitarian assistance.

It is not clear why the Committee had such difficulty for such a long time in making any progress on designations. While delays in establishing the Monitoring Group may have played a role, Council members themselves seemed to emphasise concerns about due process and time consuming domestic procedures as a key factor, but preoccupation with other issues such as Somali piracy and the adoption of sanctions against Eritrea likely also played a role.

Sudan

The Security Council first imposed an arms embargo on all non-governmental



entities and individuals operating in Darfur in July 2004. That scope was later expanded and additional measures were imposed in 2005, including a travel ban and an assets freeze on individuals designated by the Committee. Among individuals to whom the sanctions could apply, are those “who commit violations of international humanitarian or human rights law or other atrocities”. The Council has placed specific individuals on the sanctions list only once, in April 2006. Four individuals were listed through a separate Council resolution rather than a consensual decision of its sanctions committee. One of these was designated for violations of international humanitarian law. There were no new designations in 2009 or in 2010, and the sanctions list therefore remains unchanged since April 2006.

In its report to the Council in October 2009 the Panel of Experts monitoring the sanctions regime for Sudan concluded that widespread violations of international human rights and humanitarian law by all parties to the conflict in Darfur had continued. In the area of international humanitarian law the report focused in particular on attacks against civilians, recruitment of child soldiers and failure to protect civilians and also noted the prevalence of sexual violence against women. The report observed an increase in attacks against those opposing government policies following the arrest warrant issued by the International Criminal Court in March 2009 against Sudanese president Omar al-Bashir.

In spite of this information, no Council member proposed adding new names and the only action taken by the Council in 2009 was the extension of the mandate of the Panel of Experts for another

12 months in resolution 1891 adopted in October 2009.

4.4 Country-Specific Reporting on Protection of Civilians by the Secretary-General

In our second cross-cutting report on protection of civilians we noted that almost all of the Secretary-General’s 2008 reports to the Council on situations with a protection dimension did indeed contain either information, recommendations or observations pertaining to the situation for civilians. However, we also found that there was little consistency in the reporting, either in terms of how the information was presented or the kinds of data included.

In 2009 this pattern persisted. The Secretary-General issued a total of 98 reports of which 51 could reasonably be expected to address protection of civilians issues. This was comparable to the numbers in 2008 when the Council received 95 reports of which 48 addressed country-specific situations with a protection dimension. With a few exceptions, including special reports on elections (Afghanistan, Sudan) and piracy (Somalia), almost all of the 51 reports contained references to protection issues. However, the reporting approach varied significantly across situations and sometimes also between reports from the same mission.

Very few reports in 2009 had separate sections on protection of civilians.

Only one mission, MONUC, had separate sections on protection of civilians in all of its 2009 reports, four in total. This represented a change from 2008, when none of the MONUC reports had such a separate section although they still had a strong focus on the situation for civilians and other protection issues.

There were no major changes in the other reports. As in 2008 three of the four UNMIS reports issued in 2009 had separate protection of civilians sections. (In addition there was also a special report on Sudan elections, which as noted earlier, did not address protection issues.) In the case of Somalia, as in previous years all of the regular reports had separate sections on human rights and protection of civilians, whereas the four other reports on Somalia dealing with specific issues, such as piracy and contingency planning for a UN peace-keeping mission, did not.

In addition to these, one of the four reports on Afghanistan issued in 2009 had a separate section on protection of civilians whereas two reports addressed protection issues in a section on human rights. (In addition, there was a special report on elections that did not address protection issues.) In 2008 there were only two regular reports on Afghanistan and both of them had a separate protection section.

But there was still a strong focus on protection issues.

While most reports did not have a separate section on protection of civilians, relevant issues were extensively covered in many other sections, including in sections on human rights, the humanitarian situation, gender, child protection and return and reintegration of refugees. Normally, there were also in these cases references to protection issues in the sections comprising the Secretary-General’s observations.

The most noteworthy exception was perhaps the Secretary-General’s report on “peaceful settlement of the question of Palestine”. While expressing concern for the situation for civilians it had a very limited focus on protection issues.

The type of information provided on the situation for civilians varied significantly. Reports on Afghanistan offered detailed information on the impact of the conflict on civilians. The exact number of civilian casualties and whether these were caused by insurgents or by international or Afghan national forces were recorded. (The information was the same whether under the heading “Protection of Civilians” or “Human Rights”.) In addition, UNAMA issued a mid-year bulletin in September 2009, as well as an annual report on protection of civilians which provided even more detailed information on the impact of the conflict on civilians.

Reports on MINURCAT also provided fairly detailed information, including on the number of refugees, IDPs, recruitment of children and sexual violence. Other reports, including those on Iraq, Somalia and Sudan, were perhaps less detailed but also offered extensive information about the situation for civilians.

By contrast, the protection sections in the reports on the DRC focused mainly on actions undertaken by MONUC to improve the protection of civilians. These included measures such as the deployment of joint protection teams and the establishment of a rapid response and early warning cell. In December 2009 the Secretary-General also reported that MONUC had developed a system-wide strategy on the protection of civilians which would be incorporated into an integrated strategic framework for the mission. However, the reports did not systematically track the impact on civilians of the ongoing fighting.

Some of the differences in the reporting can be explained by the very different mandates of different missions. This should be kept in mind when comparing

Afghanistan and the DRC. In the case of Afghanistan, UNAMA (which is not a peacekeeping mission) has a mandate to monitor the situation for civilians whereas in the case of the DRC, MONUC’s first priority is the physical protection of civilians. Also, factors such as the security situation, which may hamper the collection of data, or other differences, explain why reports are not uniform. However, it would seem that a more uniform reporting format based on some basic common requirements could make it easier for the Council to monitor the situation for civilians in the various situations on its agenda.

Benchmarks for the implementation of mission mandates identified in the Secretary-General’s report frequently included protection of civilians indicators In 2009 there was increasing focus on benchmarks to measure progress in implementation of mission mandates. In response to the Council’s requests, the Secretary-General’s reports featured benchmarks that frequently included protection indicators.

Among the benchmarks for UNAMA identified in a September 2009 report (S/2009/475) the Secretary-General included “improved respect for the human rights of Afghans, in line with the Afghan Constitution and international law, with particular emphasis on the protection of civilians, the situation of women and girls, freedom of expression and accountability based on the rule of law.”

The benchmarks for MINURCAT established in a July 2009 report to the Council (S/2009/359) identified “security and protection of civilians” as one of three key sections. There were three benchmarks specifically on protection: voluntary return and resettlement of

IDPs; demilitarisation of camps for refugees and IDPs; and capacity of local authorities to provide the necessary security for refugees, internally displaced persons, civilians and humanitarian workers. It should be noted, however, that these benchmarks are no longer operative in light of the transfer of responsibility for the protection of civilians from MINURCAT to Chad in May this year. (For more details on this, please refer to our case study on Chad in Chapter 5.)

The benchmarks for UNAMID which the Secretary-General proposed in a November 2009 report (S/2009/592) include two that relate directly to the protection of civilians: maintaining a stable and secure environment throughout Darfur in which civilians, in particular vulnerable groups, are protected and the displaced populations may choose to return to places of origin; and stabilising the humanitarian situation to ensure unhindered humanitarian access and contributing to the establishment of conditions for the return of displaced persons. Also, the benchmark on rule of law and governance includes as an indicator of progress the “continual reduction in violations of international humanitarian and human rights law, including the end of recruitment and use of child soldiers and of sexual violence and other grave violations against children.

In an October 2009 report on UNMIS (S/2009/545) the benchmarks identified by the Secretary-General comprised several indicators relating to the protection of civilians. These included implementation of a protection of civilians strategy, return of IDPs and humanitarian access.



The reports on MONUC did not provide any detailed information on benchmarks, but a March 2009 report asserted that the benchmarks established in March 2007 remained valid whereas a June 2009 report confirmed that MONUC completed a strategic work plan including benchmarks in May 2009. This plan was shared with Council members during a Council mission to the DRC.

The request in resolution 1894 for more detailed and comprehensive reporting on protection of civilians does not yet appear to have led to any significant changes in the Secretary-General's reports.

A preliminary analysis of the Secretary-General's reporting in 2010 taking into account the first nine months of the year, seems to indicate that it is still too early to detect any major changes in the way protection of civilians issues are dealt with in the reports. But even if the basic structure of the reports has not significantly changed, a pattern of more detailed information seems to be emerging. There is more focus on protection strategies. It should also be noted that starting in 2010 the structure of the reports on UNAMID was revised according to the benchmarks endorsed by the Council at the end of 2009 to focus on four areas: the political process; the security situation; the rule of law, governance and human rights; and the humanitarian situation. This could be seen as a new approach to facilitate the Council's monitoring of progress made in implementing benchmarks and thus also the protection of civilians.

It appears that the Secretary-General has yet to develop guidance for UN operations and other relevant missions on protection reporting with a view to

streamlining such reporting and enhancing the Council's monitoring and oversight, as requested by the Council in resolution 1894. While OCHA is in the process of doing so in consultation with DPKO, it will likely still take some time for any new guidelines to be reflected in the Secretary-General's reporting on protection of civilians.

4.5 Special Issues Involving UN Peacekeeping Operations

At the time of our last cross-cutting report, there was growing recognition of the challenges relating to implementation of protection mandates in UN peacekeeping operations and a willingness to tackle them not only among Council members but by other key stakeholders as well. This past year has seen some significant progress in dealing with these challenges.

The independent study commissioned by OCHA and DPKO on implementation of protection mandates which was released just before the Council's open debate in November 2009, provided a useful basis for advancing the discussions. It identified key issues and outlined recommendations for the way ahead.

The study focused specifically on the series of actions involved in the establishment and implementation of peacekeeping protection mandates. A key finding of the study was that the chain of actions necessary to support the protection of civilians was not fully connected. More specifically, the study asserted that:

- The planning that informs Council deliberations and peacekeeping mandates does not consistently take into consideration the nature of the threats to civilians.
- The Secretariat and peacekeeping

missions do not have a clear understanding of the Council's intent regarding protection mandates.

- Confusion over the Council's intent is evident in the lack of policy guidance, planning and preparedness.
- The gaps in guidance and planning hamper implementation of protection mandates. Such gaps include lack of mission-wide protection strategies in a majority of peacekeeping operations, inadequate structures and resources for implementation and lack of intelligence and limited information gathering capacities.

Based on these findings, the study offered the following recommendations:

- Threats to civilians must be considered at the earliest stages of mission planning and the Council must be fully informed ahead of its discussions on peacekeeping mandates.
- The Council must clarify its expectations regarding protection mandates, in particular on how such mandates should be prioritised and implemented by missions.
- The Secretariat should address protection of civilians more consistently, in particular by establishing guidance to missions on protection.
- A stronger partnership on protection with TCCs and PCCs should be developed.
- An operational concept for protection mandates should be defined.
- Peacekeeping operations cannot "protect everyone from everything" and must manage expectations, including through an effective public information strategy.
- Peacekeeping operations must do more to protect civilians, in particular through the development of mission-wide protection strategies.

Many of these findings and recommendations were reflected in resolution 1894 which had a strong focus on UN peacekeeping. It established significant new requirements to improve implementation of protection mandates, which, together with the work on benchmarks discussed above, may improve the connections along the chain of action.

Further progress was made at the 2010 session of the General Assembly's Special Committee on Peacekeeping Operations which took place from 22 February to 19 March. Protection of civilians was among key issues discussed. DPKO and the Department of Field Support (DFS) presented a lessons learned note on the protection of civilians in UN peacekeeping operations as requested by the Special Committee at its 2009 session. The note addressed policy and strategy dilemmas, such as interpretation of ambiguous mandates, managing relations with parties to the conflict, ensuring adequate capabilities and resources and practical operational issues. Particular lessons, such as the need for comprehensive mission strategies for protection of civilians were highlighted. DPKO and DFS also presented a draft operational concept note on protection in UN operations intended as a basis for guidance to missions which would then in turn also help them develop mission-wide protection strategies.

In its report, the Special Committee took up several key elements from resolution 1894. It reaffirmed that UN peacekeeping operations with protection mandates must be provided with necessary resources and asked DPKO and DFS, in consultation with TCCs and PCCs, to outline resource and capability requirements for implementation of such mandates. It also requested

peacekeeping missions to develop comprehensive protection strategies. Furthermore, the Committee requested the Secretary-General to provide information on concepts of operations and available resources relating to the protection of civilians in existing peacekeeping missions, as well as proposals to improve the ability of missions to protect civilians. Finally, the Committee asked the Secretariat to develop a strategic framework for protection strategies, as well as training modules.

The Secretariat is currently working on the development of such a strategic framework. The objective is to provide guidance to missions on how mission-wide protection strategies should be constructed. Three UN missions have already developed such strategies—MONUSCO (The DRC mission name was changed from MONUC to MONUSCO as of 1 July 2010) UNMIS and UNAMID—but they lack a uniform approach. Development of a more coherent framework would allow for greater consistency.

The UN strategy for the protection of civilians in the DRC was developed at the end of 2009. Key elements of the initial strategy, as described in a December 2009 Secretary-General's report (S/2009/623) included:

- harmonising collection and analysis of data and analysing the impact of military operations against civilians;
- anticipating, preventing and mitigating protection risks to civilians, including IDPs;
- establishing accountability mechanisms for combating impunity and improving access to assistance, justice, rehabilitation and redress for victims; and
- promoting the rule of law, building the

capacity of the military justice system and supporting the restoration of state authority.

The UNMIS strategy was developed at the beginning of 2010. It is based on a three-tier approach:

- physical protection of civilians under imminent threat of violence;
- securing access for humanitarian and relief activities; and
- deterrence and enhancing state capacity to protect through conflict prevention and management, and the strengthening of human rights mechanisms.

Key elements of the strategy include increased patrolling and implementation of early warning systems.

UNAMID's strategy was also developed in 2010. Some key elements include:

- capacity building and institutional support to government authorities;
- coordination and delivery of effective protection responses;
- active monitoring and addressing developing situations through engagement with local authorities;
- provision of humanitarian assistance; and
- protection of UN and humanitarian personnel.

As one of several steps to develop the new strategic framework for protection strategies, a workshop was held in Addis Ababa in June/July 2010 (with DPKO and OCHA among the organisers) for UN missions and other practitioners to share lessons learned on protection strategies across different missions. These will be used as a basis for the strategic framework. A draft outline for the framework has been developed, and the next step is now to finalise the first draft for consultation. Some key questions



that still have to be addressed before the draft can be finalised include identifying best practices on early warning systems (different missions have developed different practices), matching resources and capabilities with mandates and how to engage with host countries to establish roles and responsibilities. However, existing protection strategies are already being revised, and other missions, including UNOCI, UNIFIL and MINUSTAH, are in the process of developing strategies based on these initial discussions.

Progress has also been made on other issues. DPKO and DFS have started to develop protection of civilians training modules as requested by the Special Committee. In regards to the Council's request for benchmarks, as noted in previous sections, many of the new benchmarks established for peacekeeping operations include indicators that measure progress related to protection of civilians but further work is expected in this regard.

It should also be noted that the Council has continued the strategic peacekeeping review initiated by France and the UK in January 2009 involving a series of open thematic debates which resulted in the adoption of a presidential statement in August that year. However, it seems that some loss of focus may be beginning to appear. In January 2010, France proposed shifting attention to transition and exit strategies for peacekeeping missions. It is unclear whether this initiative is talking hold or not and there was not full support in the Council for the French approach. It is noteworthy that in a presidential statement adopted at the end of the February debate, the Council recalled "the necessity to take into account the protection of civilians in situations of armed conflict...throughout the

lifecycle of UN peacekeeping and other relevant missions, in line with...resolution 1894." It remains to be seen how this will play out in November 2010 under the UK presidency of the Council.

All of these developments seem to indicate that there has been steady progress on many key thematic issues. Against these positive developments, however, there are some new unexpected challenges.

Managing host country consent in peacekeeping missions with protection responsibilities is one such challenge. While problems with host country consent are not new to the Council, (similar difficulties arose in the 1990's with the UN Protection Force for the Former Yugoslavia) recent requests by the governments of Chad and the DRC that the UN missions should leave, brought to the forefront the question of the impact on civilians of a premature withdrawal of peacekeepers. In this context, key issues for the Council include whether there was real consent in the first place, managing better the changing environments and how to secure reasonable long-term commitment of consent from host governments. In the short-term, withdrawal of the peacekeeping operations when benchmarks for civilian protection had not yet been achieved exposed huge risks for the UN.

Limitations imposed by the UN on support to military operations (as observed in the DRC by virtue of resolution 1906) is another key protection related issue for the Council, especially when it becomes clear that UN forces could become enablers for other forces engaged in human rights abuses or war crimes. In May 2010, a UN interagency mission was dispatched to the DRC to

assess implementation of the policy for the UN operation there as requested by paragraph 41 of resolution 1906. The Secretary-General reported on the findings of the mission in his latest MONUSCO report issued on 8 October 2010. The mission concluded that the UN operation in the DRC had made serious efforts to establish screening procedures and monitoring mechanisms for human rights abuses to determine whether Congolese army units were eligible to receive UN support. However, the mission also noted that serious challenges remained in the implementation of this policy and concluded that it was not possible to establish whether the measures put in place had had an impact on the behaviour of the Congolese troops accused of having committed abuses. This appears to be an issue that will require further attention from the Council.

5. Case Studies

We have included two case studies which enable a more in depth analysis of the Council's work. For the current report, the case studies focus on two situations— Chad and Somalia. Seen together they illustrate many of the key challenges in the Council's approach to the protection of civilians. They also offer an interesting view of the Council's evolving attitude on peacekeeping as a means to protect civilians and illustrate some of the recent protection dilemmas the Council has had to face even if it might have the right intentions.

5.1 Chad

On 25 May 2010 the Council decided in resolution 1923 to withdraw MINURCAT by end of 2010. The mission was established in 2007 with protection of civilians,

particularly refugees and displaced persons, as its main objective. The Council's decision to withdraw the mission followed a request from the government of Chad for the UN to leave. The government argued it was ready to assume full responsibility for the protection of the civilian population in eastern Chad and that UN troops were no longer needed. A large number of Council members and most of the humanitarian community considered this to be premature. At the same time, there was also a sense that part of this problem related to the design of the mission, which to a certain extent had been flawed from the beginning. Certainly, Chad was right that the mission had had a limited impact because it had been so difficult for it to deploy in a limited time frame. But equally, slow deployment had always been assumed to be a given from the outset. Clearly, wider issues were in play. Given the controversy surrounding the mission and its special protection focus, it seemed desirable to take a closer look at the Council's involvement in Chad to see what lessons could be learnt.

The Council first started discussing threats to civilians in Chad and CAR in 2006. Tensions in eastern Chad and CAR were then increasing as a result of the conflict in Darfur. There were serious spill-over effects from the Darfur conflict into neighbouring countries, leading to refugee flows, insecurity and displacement in the border areas, with impact also on security in Chad generally as a result of the sanctuary being given in Sudan to Chadian rebels.

There was much pressure on the Council to include the situation in Chad as an element in its discussions on Darfur. This led, in August 2006, to the Council, in the ill fated resolution 1706, expanding the

proposed mandate of UNMIS to Darfur and, more specifically, requesting it to also "assist in addressing regional security issues...to improve the security situation in the neighbouring regions along the borders between the Sudan and Chad and between the Sudan and the Central African Republic". It also requested the Secretary-General to report to the Council on the protection of civilians in refugee and IDP camps in Chad and on how to improve the security situation on the Chadian side of the border with Sudan.

On 15 December 2006 the Council adopted a presidential statement expressing concern about the threat posed by the increase in military activities in eastern Chad and the threats to the civilian population and humanitarian personnel and reiterated its request to the Secretary-General for a report on how to address the situation, thus signalling that it was taking seriously the protection aspects of the conflict. This reflected the growing interest in the civil war in Chad at the time.

The Secretary-General was slow to respond to the Chad dimension of the problem. In part this may have been due to distraction resulting from the challenge to resolution 1706 by Sudan. But also wider strategic concerns about a creeping mandate in Chad may have been part of the delay as well. Eventually, after some sharp interchanges in informal consultations by Council members, a report on the situation in Chad and CAR was issued in December 2006 noting that the conflicts in Darfur, Chad and CAR were increasingly interlinked and represented a considerable threat to regional security. The deterioration in security had led to a regional humanitarian crisis with over 2.3 million

refugees and IDPs in the border areas. The report concluded that there was an urgent need "to address the rapidly deteriorating security situation and to protect civilians in the border areas ."

Two options for a multidimensional UN presence in Chad were presented. Option A was a smaller monitoring mission. Option B was a larger monitoring and protection mission with a mandate to protect civilians under imminent threat. However, the report gave clear advice that conditions for an effective UN peacekeeping operation in Chad did not exist. It noted the absence of a credible and inclusive domestic political process in Chad. It also emphasised the enormous logistical challenges which would require significant resources at a time when UN peacekeeping capacities were already stretched. The report therefore concluded that the deployment of any UN mission should be contingent upon the cessation of hostilities and full cooperation by all parties.

The Council, responding in part to France's concerns (as a key bilateral security partner of Chad) adopted a presidential statement in January 2007 pushing the Secretariat to go further. It reiterated concern about the situation in the border areas between Sudan, Chad and CAR and the impact on the civilian population and humanitarian operations. It requested another report from the Secretary-General and insisted on detailed recommendations on the size, structure and mandate of a possible UN operation and also endorsed the idea of deploying an advance UN mission. It seems that the pressure on the Secretariat at that time derived at least as much from a sense about the vulnerability of the Government of Chadian President Idriss Déby



in the face of rebel attacks as from the protection needs of refugees.

Subsequently, the Secretary-General, in a report in February 2007, elaborated on the options of the first report. Key elements of the proposed mandate included:

- assisting in protecting civilians and maintaining law and order;
- facilitating humanitarian access;
- liaising with governments, the AU and UNMIS;
- supporting, as necessary, dialogue efforts with unarmed groups in Chad and coordinating with the UN Peacebuilding Office in CAR (BONUCA);
- assisting, as necessary, in developing a framework for a ceasefire and reconciliation with armed groups in both countries; and
- starting preliminary investigations of human rights violations.

The Secretary-General, bending to pressure from France in particular, dropped his previous advice that deployment in eastern Chad be linked with a viable political process. However, he still cautioned that “eastern Chad is not a conventional peacekeeping environment” and that deployment would “carry distinct and serious risks [including] the possibility that armed groups may view a UN force as interfering with their military agenda and decide to attack it”. He also stressed the importance of the Chadian government’s cooperation and full support for a UN operation.

In subsequent discussions of the Secretary-General’s recommendations, most Council members agreed that a robust operation with the capacity to protect civilians was needed. Most were ready to act quickly to authorise such an operation. A few Council members,

however, expressed concern about the absence of a political reconciliation process and risks relating to perceptions of the mission’s impartiality, as well as the availability of troops.

Shortly thereafter it became clear that host country consent was emerging as a major issue. While the Government of CAR welcomed the establishment of an operation as proposed by the Secretary-General, the Government of Chad early on made clear its opposition to a robust UN military component and its preference that the UN provide a strictly civilian presence. Chad also refused to accept the deployment of UN advance mission as requested by the Council in its 16 January presidential statement. The Council did not respond to these developments—leaving it to the Secretariat and some Council members to engage in discussions with Chad about a military component.

Meanwhile, then-Under-Secretary-General for Humanitarian Affairs John Holmes briefed the Council on 4 April 2007 on the humanitarian situation in Sudan, Chad and CAR following a trip to the region. Holmes said that an international security presence was essential to secure the protection of refugees and displaced persons in eastern Chad and called for swift conclusions of the ongoing discussions with the Chadian government. He also suggested, however, that given Chad’s disinclination to accept a UN military presence, alternative options would be deploying a UN mission solely in CAR as a first step, or strengthening the Central African Economic and Monetary Community’s military operation deployed in the CAR (FOMUC). But none of these were explored by the Council.

In early June 2007, France unveiled a new initiative proposing deployment of an EU force with significant French presence to protect civilians in eastern Chad. France indicated that such a force could possibly serve as a bridging operation, hoping a UN peacekeeping mission could still be deployed at a later stage. The proposal for an EU force was evidently more acceptable to President Déby who was no doubt confident that under French leadership such a force would be more responsive to the security concerns of N’Djamena.

On 10 August 2007 the Secretary-General presented a revised proposal for a multidimensional international presence in Chad and CAR which would comprise a UN civilian component and an EU military component. He reiterated, however, that a lasting solution to the crisis in the region could only be achieved through political agreements.

In a 27 August 2007 presidential statement, the Council expressed its readiness to authorise the establishment of a multidimensional presence in eastern Chad and CAR taking into account the positions of the two countries. Chad formally confirmed its consent to the proposed deployments by the UN and the EU in an 11 September letter to the Secretary-General. The letter confirmed Chad’s intention to form a police component to work with the planned peacekeeping presence and declared its readiness to facilitate the EU and UN civilian deployments. Chad also signalled that it was willing to consider a future transfer of the tasks carried out by the EU to “other contingents”.

On 25 September 2007 the Council adopted resolution 1778, which had a strong protection of civilian focus. It

authorised the establishment for one year of such a multidimensional presence comprising a UN civilian mission, MINURCAT, and an EU operation with a Chapter VII mandate “to contribute to protecting civilians in danger.” According to the resolution, the presence was intended to help create security conditions for the return of refugees and displaced persons, contribute to the protection of refugees, displaced persons and civilians in danger, facilitate humanitarian access and create conditions for economic and social development. The Council also requested the Secretary-General to report on “arrangements” for a possible follow-up to the EU operation, including a possible UN operation.

From a protection of civilians perspective, it would seem that the Council had discharged an important protection responsibility. And in a sense that was true. However, it is also true that the Council, under very strong pressure from France chose the easiest and politically most convenient solution and ignored the Secretary-General’s advice that the approach contained the seeds of future problems because it glossed over important issues.

Resolution 1778 did not give MINURCAT the normal good offices political mandate. Although some Council members initially had expressed concerns about the absence of a political process in Chad and CAR and associated risks for the UN presence, it seems that they were reluctant to push the point in the face of strong opposition from France and the fragile consent from the Chadian government. Humanitarian concerns also seemed to lead Council members to suppress these concerns.

The slow deployment of the EU protection force (EUFOR) hampered its effectiveness.

EUFOR became operational on 17 March 2008, but did not reach its authorised strength of 3,700 troops until the summer of 2008, nearly two years after the Council first started discussing the need to enhance protection of civilians in the region.

In 2008 the situation in Chad and CAR remained highly volatile and civilian protection remained very important. The Council adopted three presidential statements in the course of the first half of the year expressing concern about the situation for civilians including in a June statement, expressing its readiness to take measures against those violating international humanitarian law.

In reports to the Council in April and July 2008 the Secretary-General asserted that all issues in the region, including the internal crisis in Chad, the situation facing refugees and IDPs in Chad and CAR, the tensions between Chad and Sudan and the situation in Darfur should be addressed in a coordinated way taking into account the root causes of the problems. He noted, however, that neither MINURCAT nor EUFOR was mandated to address this complicated set of issues and warned that resources invested by the international community in Chad risked being wasted.

In September 2008, as the mandate of MINURCAT was about to expire, the Council started discussions on the follow-up to EUFOR. In a review of EUFOR (as requested by resolution 1778) in a 12 September report to the Council the Secretary-General concluded that EUFOR “was beginning to have a positive effect in deterring security threats”, but that it was still too early to assess the full impact of the combined international presence and the deployment of MINURCAT trained Chadian police. The

report recommended, however, that the Council consider the establishment of a UN military force of up to 6,000 troops to take over from EUFOR. The Secretary-General also noted, however, because of the serious force generation difficulties being experienced by the UN, that any resolution to establish such a force should be left in draft form until the Secretariat had secured sufficient pledges for troops and critical mission support elements. (This followed up a key recommendation of the 2000 Brahimi report on peacekeeping.) He also noted that “an expanded UN presence with a military component would best support the protection and return of refugees and IDPs if MINURCAT strengthened its engagement with all actors involved in the peacebuilding process in Chad.”

This did not seem to have any impact on the Council’s approach, however. On 24 September in resolution 1834 the Council expressed its intention to authorise a UN military component to take over from EUFOR on 15 March 2009. While encouraging in general terms political processes between governments in the region, the resolution did not respond to the recommendation regarding expansion of MINURCAT’s mandate to promote political dialogue.

In a 28 October 2008 letter to the Council, Chad conveyed a very limited form of consent: agreement in principle to the deployment of a UN military component to take over from EUFOR, but also rejection of the recommended troop level (proposing 3,000 instead of 6,000) and opposition to UN’s involvement in political dialogue or efforts to fight impunity.

Following additional discussions with the Chadian government in November 2008 the Secretary-General proposed a troop strength of 4,900, a number that



Chad had now indicated as acceptable. He also outlined a set of benchmarks for withdrawal of MINURCAT which included:

- voluntary return and resettlement of a critical mass of IDPs;
- demilitarisation of refugee and IDP camps;
- capacity of local authorities to provide security;
- ability of national law enforcement agencies to maintain law and order with respect for human rights standards;
- progress of an independent and effective judiciary in eastern Chad to end impunity; and
- a strengthened prison system in eastern Chad.

On 14 January 2009 the Council, in resolution 1861, established a new mandate for the multidimensional MINURCAT for a further 12 months until 15 March 2010. This now included deployment of a military component of 5,200 troops starting on 15 March 2009 to replace the 3,700 EUFOR personnel. The resolution did not significantly change the role of the international presence. However, it did strengthen to a small extent some of the language on political dialogue and specifically requested MINURCAT to support initiatives by Chadian authorities to resolve local tensions and promote local reconciliation efforts and also to assist, as necessary, the Governments of Chad, Sudan and CAR to build good neighbourly relations. But it was still far short of the “good offices” mandate that the Secretary-General and several Council members had been hoping for. And it did not follow the Secretary-General’s proposal on first securing sufficient troop pledges before authorisation.

The resolution endorsed the benchmarks proposed by the Secretary-General and requested him to provide updates on progress in their implementation in his regular reports to the Council. It also requested him to develop a strategic work plan with indicative timelines to measure and track implementation of the benchmarks.

The transfer of authority from EUFOR to the new military component of MINURCAT took place as planned on 15 March 2009. By 31 March 2009 the component’s force strength was just over 2,000, or approximately 40 percent of its authorised strength. Some 1,880 troops were rehatted from EUFOR.

As predicted by the Secretary-General, it soon became evident that force generation for the new peacekeeping mission would be difficult. In a report to the Council in April 2009 the Secretary-General said he expected that full troop strength would not be reached until the end of 2009. He also warned that pledges had still to be made for additional troops and critical force capabilities. This warning was reinforced by Edmond Mulet, then Assistant Secretary-General for Peacekeeping Operations, in a briefing to the Council in April 2009.

In May 2009 the Chad-Sudan border situation deteriorated significantly. Subsequently, the Council on 8 May adopted a presidential statement condemning renewed military incursions into eastern Chad by “Chadian armed groups, coming from outside”. It expressed concern at the consequent threat posed to the safety of the civilian population and the conduct of humanitarian operations and called on the parties to abide by their obligations under international humanitarian law.

In his next report to the Council in July 2009 the Secretary-General again reiterated the reality of the delays in force generation for MINURCAT. Annexed to the report was the strategic work plan with indicative timelines to measure and track implementation of the benchmarks for the mission, as requested by the Council in resolution 1861. The plan included as a seventh benchmark (in addition to the six listed above) “improvement of overall peace and security in the subregion” and established March 2011 as the date for all benchmarks to be implemented. In October 2009 the Secretary-General reported that MINURCAT had made “steady albeit limited progress towards the attainment of key benchmarks”. He also noted, however, that the benchmarks could only be achieved with the help of the Chadian government.

For much of 2009 tensions between Chad and Sudan remained high, with limited progress made towards implementing previous commitments to refrain from using force against each other. There was also increased violence in northeastern CAR in areas with a high population of refugees from Darfur.

At the beginning of 2010 the situation therefore seemed to clearly indicate that an extension of MINURCAT’s mandate beyond March 2010 would be necessary. On 19 January 2010, however, the Government of Chad unexpectedly requested that MINURCAT be withdrawn by the end of April.

While the request came as a surprise, it should be noted that at the beginning of 2010 relations between Chad and Sudan had improved quite dramatically. In February they agreed to deploy a joint force to patrol their border. The improved relationship with Sudan and the consequent

improvement in the security threat perception in N'Djamena, seem to have been an important factor behind Chad's more confident position and its sense that MINURCAT was less important to it.

In the intense discussions among Council members following Chad's ultimatum there was initially little or no sympathy for the Chadian government's position. There seemed to be real concern about the implications for the protection of civilians of a sudden termination of MINURCAT's mandate, but there were also practical concerns about the physical impossibility of the demands in logistical terms.

Concerns about the possible impact on civilians were supported by reports from the field. A UN technical assessment mission to Chad in January 2010 reported that local officials, IDPs, refugees and NGOs in the eastern part of the country confirmed that MINURCAT was contributing positively to security in the area. In a briefing on 17 February in informal consultations then Under-Secretary-General for Humanitarian Affairs John Holmes told Council members that MINURCAT played a critical role for the protection of refugees and IDPs.

Also on 17 February, Human Rights Watch wrote to the Council expressing concern that withdrawing MINURCAT would have a negative impact on the protection of civilians. It said that civilians in eastern Chad remained vulnerable to attacks from a variety of armed groups as well as criminal gangs and argued that MINURCAT should remain in place until further progress on meeting the mission's benchmarks outlined by the Secretary-General had been made.

On 3 March, following continuing international pressure, Chad informed the

Council that it had reconsidered its position and could accept a two-month extension of the mission's mandate until 15 May. However, it indicated that it wanted to continue discussions on the reduction of the military component. Subsequently, the Council on 12 March decided in resolution 1913 to roll over MINURCAT's mandate until 15 May to allow more time for discussions on the future of the mission.

On 22 March, Council members held an informal interactive dialogue with Chad's permanent representative to the UN. Council members expressed their continuing concern about protection of civilians in the eastern part of the country and reiterated their position in favour of MINURCAT continuing its operations. The Chadian ambassador expressed dissatisfaction that the operation had not yet fully deployed and contended that it was not able to protect civilians effectively. He indicated that the Chadian government was ready to provide security in the east.

In a report to the Council in April 2010 the Secretary-General presented recommendations to the Council on the future of MINURCAT based on what Chadian authorities had indicated as acceptable in extensive consultations with the Secretariat. He proposed a one-year extension of the mission, but with a revised mandate. MINURCAT's mandate for protection of civilians would be taken over by the Chadian government on 16 May. The mission's military component would then be gradually reduced with a view to starting final withdrawal in October 2010.

The Council was divided on how to respond to the recommendations. While African members and China saw no

other option but acceptance of the Chadian government position, others, including Austria, France, the UK and the US argued that MINURCAT must retain some of its protection capacity. In addition to concerns about the impact a withdrawal of the mission's military component would have on the protection of civilians, there was also serious unease about the precedent it would set for other peacekeeping missions if the Council were to simply concede to Chad's demands.

Efforts to find a compromise collapsed. The Council on 12 May in resolution 1922 adopted another technical rollover of MINURCAT's mandate until 26 May. On 21 May Chad wrote a letter to the Council reiterating that it was ready to assume full responsibility for the protection of the civilian population in the east and also calling on the Council to revise MINURCAT's mandate along the lines presented by the Secretary-General and as agreed to by Chad.

Finally, on 25 May the Council decided in resolution 1923 to revise MINURCAT's mandate. This met a number of Chad's concerns. In particular, the Secretary-General was asked to start a gradual reduction of the military component and the Council decided the whole mission would be completely withdrawn by 31 December 2010. Under the new mandate, the Government of Chad would assume full responsibility for the protection of civilians. MINURCAT was authorised to respond to "imminent threats of violence to civilians in its immediate vicinity."

Although the resolution was adopted by consensus, this was clearly an outcome that most Council members would have wanted to avoid. In an



explanation of the vote, Austria said that it would have preferred a more gradual approach to MINURCAT's drawdown and a continuation of the mission's protection of civilians mandate. This was a view that was shared by other Council members.

This case study offers several interesting insights on the Council's approach to the protection of civilians. While the Council seemed to take the threat against civilians in Chad and CAR seriously by establishing a force (first a coalition and then a UN operation) with protection of civilians as the core mandate, it ignored advice that the political/military situation was actually much more complex. It missed options which could possibly have put the mission on a sounder footing and enabled it to more effectively protect civilians. This in turn had implications for the mission's relations with Chad, illustrating the crucial link between protection mandates and managing relations with host countries. It should also be noted that the Council had received plenty of warnings against taking the approach it did. More specifically, key insights of this case study include:

Firstly, and as noted above, the Secretary-General initially questioned whether establishing a UN peacekeeping operation was the right response to the crisis in Chad in the first place given the absence of a credible political process, as well as the logistical challenges involved. The Council, however, seemed from the very beginning to focus on peacekeeping as the only option to respond to the protection threats and showed no willingness to consider other ways to deal with the situation. This seems to follow a recent pattern where

authorisation of peacekeeping missions has been the Council's default option for dealing with crises.

Secondly, there were early concerns about the way the mission was conceived and the risk that the UN was in fact being co-opted onto a wider security role under cover of protection language.

Thirdly, the Secretary-General's emphasis on the importance of a political process to solve the crises in Chad and CAR was ignored. The Council did not give MINURCAT a clear political mandate.

Fourthly, the Secretary-General specifically warned against authorising a peacekeeping mission before having secured sufficient pledges from member states, both in terms of personnel and equipment as recommended in the 2000 Brahimi report on peacekeeping, but the Council did not heed his advice. As noted previously, throughout 2009 MINURCAT struggled to reach its authorised troop levels. This had clear implications for the mission's ability to protect civilians. It created perceptions of failure and also exposed it to criticism by the Chadian government. Given recent experience with UNAMID in particular, which has struggled for years with insufficient troops and capabilities (and also has a protection of civilians mandate), the Council's decision to go ahead and authorise MINURCAT without having secured sufficient pledges was all the more surprising.

For all these reasons, MINURCAT may illustrate the problems of a misconceived protection operation and how it can go seriously wrong.

It is noteworthy that it became clear well before the UN military component was approved that Chad was fundamentally

opposed to a military UN presence. It was reasonable to assume that host country consent would re-emerge as an ongoing issue which would require high level high quality management. These signals were ignored. The Chadian government repeated at different occasions (as in the Chadian foreign minister's statement to the General Assembly in September 2009) that it was dissatisfied with the mission and expressed concern about its future. This again was linked to its failure to effectively protect civilians. If these signals had been taken more seriously by the Council, the request from the Chadian government for the UN to leave should not have come as a surprise and action might have been taken so it could have been avoided. This raises questions regarding the Council's working methods relating to this issue. Consultations with Chad (through an interactive dialogue) came far too late.

It should also be noted that there were complaints from Council members that the Special Representative of the Secretary-General was not sufficiently on top of concerns being raised by the Chadian government and did not in fact keep the Council sufficiently informed about any problems the missions had in its relations with Chad as the host country. This raises the additional question of whether the right mechanisms were in place to keep the Council informed about the situation, both in terms of the implementation of MINURCAT's protection mandate, as well as the mission's relations with the host country.

Finally, the situation was also further aggravated by the lack of unity among Council members on how much pressure to put on the Government of Chad. France, in particular, had pushed for the mission strongly in the first place, but in

2010 was seen by many Council colleagues as retreating into silence now that the military threat to the Chadian government had receded.

The Council has indicated its willingness to learn from this experience. In resolution 1923 it requested the Secretary-General to provide in his December report on MINURCAT an assessment of lessons learned. A Council discussion based on this assessment is therefore a possibility.

An important protection of civilians footnote relating to Chad flows from the fact that resolution 1923 established a set of protection benchmarks that now bind the Chadian government, including:

- voluntary return of displaced persons;
- demilitarisation of refugee camps; and
- improvement in the authorities' capacity to protect civilian in eastern Chad.

The resolution also called for the establishment of a joint UN/Chad high-level working group to monitor the situation on the ground for civilians and progress towards achieving the benchmarks. These provisions, and in particular the establishment of clear benchmarks against which the government's performance can be measured, represent an important development relating to the protection of civilians and point to a key issue for the Council once MINURCAT is terminated: how to ensure continued monitoring of the protection of civilians in Chad.

5.2 Somalia

Somalia has been on the Council's agenda for almost two decades. The humanitarian crisis in the country following the fall of Siad Barre in 1991 led to a Council authorised military intervention

which was inspired by civilian protection motives. The subsequent failure of the resulting operations led to the Council adopting a hands-off approach to Somalia for over a decade. But when the Council eventually started to pay attention to Somalia again in 2004 there was little focus on the situation for civilians. Indeed, in the case study on Somalia in the October 2008 SCR *Cross-Cutting Report on Protection of Civilians*, we concluded that the protection of civilians had ceased to be a core concern in Council discussions on Somalia in spite of widespread reports of violations of international humanitarian law at the time.

The renewed focus was instead driven by counter-terrorism concerns, issues relating to piracy and wider African regional concerns. Since our 2008 report, the situation for civilians in Somalia has continued to deteriorate to the point where Somalia is now considered the most dire humanitarian crisis in the world. It therefore seemed pertinent in 2010 to revisit the case study on Somalia to see what impact the protection of civilians dimension was having on Council deliberations and priorities.

A significant new development, which took place just after the conclusion of our 2008 case study, was the Council's decision in November 2008, in resolution 1844, to expand the Somalia sanctions regime to target violations of international humanitarian law or more specifically anybody obstructing "delivery of humanitarian assistance to Somalia, or access to, or distribution of, humanitarian assistance in Somalia". (Until then the sanctions regime had been limited to the arms embargo imposed in 1992, largely seen as

ineffective.) This was the first time that the Council had included obstruction of humanitarian aid among designation criteria for targeted sanctions. It seemed as if it might be a signal of a new awareness in the Council of the protection issues in Somalia. However, subsequent events suggest that the language in resolution 1844 may have been just window dressing. For over a year the Sanctions Committee was unable to implement this resolution. No specific targets for these new measures were agreed until April 2010 and even then only one of the nine designations related to humanitarian concerns.

The other seemingly positive development was the political effort leading in June 2008 to the Djibouti Peace Agreement between the Transitional Federal Government of Somalia (TFG) and the main opposition group in Somalia, the Alliance for the Re-liberation of Somalia (ARS). It brought new hope for an end to conflict in the country. The agreement, signed on 18 August 2008, called for, among other things, the deployment within 120 days of a Council-authorized "international stabilisation force" excluding neighbouring countries, and for withdrawal of Ethiopian forces (which had entered Somalia in 2006) "after the deployment of a sufficient number of UN forces".

By the end of 2008, however, as with the sanctions track, the Djibouti peace process was faltering and the Council seemed unwilling or unable to play a role in maintaining the positive political momentum. Somalia continued on a negative path. Insurgent attacks against the TFG intensified. Political divisions paralysed the new TFG leadership. Piracy off the coast of Somalia emerged



as a new security threat to the outside world and began to distract attention from the crisis on land. The humanitarian crisis and the impact of armed conflict on civilians worsened. 3.25 million people were estimated to be in need of emergency aid (up by 77 percent since the beginning of 2008) and 1.1 million displaced. According to the humanitarian community, the political process had had very little impact on the ground in terms of reducing the level of violence against civilians.

In the Council, energy shifted to the growing problem of Somali piracy at sea (the Council adopted four resolutions in 2008 calling for action against piracy off the coast of Somalia). But there was also increasing pressure from the AU for the Council to authorise a robust UN military force to take over from the AMISOM which had operated in the country since 2007. (The AU had stated when establishing AMISOM that the mission was deployed for an initial period of 6 months “with a clear understanding that [it] will evolve to a UN operation.”) The main driver behind the call for UN peacekeeping was not, however, protection of civilians, as in the case of Chad, but rather “protection” of the TFG, in the sense that security was considered necessary to allow the new government to make progress in the peace process.

In a presidential statement adopted in September 2008 the Council, faced with considerable internal divisions over the use of UN military force, requested the Secretary-General to report formally on options for a feasible international force for Somalia, including a possible UN peacekeeping operation (options that had actually been presented in a preliminary way in a March Secretary-General’s report).

The Council did recognise the humanitarian situation and used protection language in its call on the parties to ensure humanitarian access and end all acts of armed confrontation.

Members remained divided on which option to pursue. A majority, including Russia and most European members, believed that if there was to be a military intervention it should be by a multinational force or “coalition of the willing”. They agreed with the Secretary-General, that conditions were not conducive to a UN peacekeeping operation because of the violent security situation. Others, including China, Italy, Libya, the US, and South Africa pushed for deployment of UN troops, albeit with different motives. Some opposed the idea of a coalition (based on the view that international peacekeeping is a UN responsibility). Others had doubts, given the then high levels of coalition style forces in Iraq and Afghanistan, that suitable troops could be generated. Others again, most notably South Africa and to some extent Libya, seemed to emphasise concern for the civilian population as a key rationale for their preference for a UN force. Overall, the protection of civilians seemed to be publicly espoused as a priority by only a few Council members.

In a further report to the Council in November the Secretary-General reiterated his reservations against establishing a UN peacekeeping operation (S/2008/709) In a 19 December letter he advised that sufficient troop pledges to allow deployment of a coalition style multinational force were unlikely to materialise.

In spite of these clear reservations, at the end of December 2008 the US circulated a draft resolution that would

authorise establishment of a UN peacekeeping operation for Somalia. The US draft faced strong opposition in the Council, and with South Africa and Italy leaving the Council at the end of 2008, the resolution had even fewer supporters. Some questioned the rationale behind the US initiative, seeing it as essentially a component of American efforts to combat international terrorism. (It is also worth noting that, in a curious repeat of history, the proposal was pushed by a “lame duck” Bush administration in the period between the US presidential elections in November and the inauguration of the Obama administration. Ironically, the 1991 US proposal for intervention in Somalia had also been initiated by a “lame duck” US administration in the final days of the term of the first President Bush after the election of President Bill Clinton.)

A compromise was reached in resolution 1863 on 16 January 2009 in which the Council played for time. It expressed a general intent “to establish a UN peacekeeping operation in Somalia as a follow-on force to AMISOM”, but made no commitment on timing and decided that this would be “subject to a further decision of the Security Council by 1 June 2009”. It requested the Secretary-General to include facilitation of humanitarian assistance in his recommendations for a possible mandate. On the protection of civilians front, the Council did, however, recognise that “serious crimes have been committed against civilians in the ongoing conflict in Somalia”. It reaffirmed the importance of the fight against impunity, underlined AMISOM’s mandate to help provide security for the delivery of humanitarian assistance and called on all parties to the conflict to ensure unhindered

humanitarian access, take appropriate steps to protect the civilian population in the country and abide by their obligations under international law, including international humanitarian, human rights and refugee law.

The arrival of the Obama administration at the end of January 2009 led to a review of the American position. In addition, new African members, although clearly preferring a UN peacekeeping operation, were much less vocal in their support than had been the case in 2008. The Secretary-General continued to resist a UN peacekeeping role. His report to the Council in March 2009 concluded that “there remains uncertainty about whether peacekeeping is the right tool to support the political process in Somalia” and in April 2009 he clearly advised against the establishment of a UN peacekeeping operation, recommending instead an incremental approach, focusing on strengthening AMISOM until further improvement in the security situation.

By the time the Council was due to revisit the peacekeeping option in May 2009, it was clear that a Council decision to authorise a UN operation was out of the question. In resolution 1872 adopted on 26 May 2009 the Council instead endorsed the incremental approach proposed by the Secretary-General. The only reference to protection issues in the operative part of the resolution was on “the crucial importance of all parties taking appropriate measures” to ensure humanitarian assistance to the Somali population.

Meanwhile, according to OCHA, the situation for civilians, particularly in Mogadishu, remained “extremely alarming”. The UN High Commissioner for

Refugees said in June 2009 that the situation for civilians was unacceptable and that the fighting in Somalia was conducted in clear violation of international humanitarian and human rights law. The Secretary-General’s reports throughout 2009 also highlighted violations against civilians, such as the use of civilians as human shields, targeted assassinations, recruitment and use of child soldiers, sexual violence and threats against humanitarian personnel and journalists. Furthermore, the Secretary-General emphasised the importance of fighting impunity and welcomed discussions to establish a commission of inquiry in cases of impunity.

In Council debates on Somalia members repeatedly expressed serious concern about the humanitarian situation in the country and some also raised human rights issues and stressed the need to fight impunity. In a presidential statement adopted in July 2009 the Council condemned attacks against the civilian population, deplored the loss of life in Somalia and the deteriorating humanitarian situation and reiterated its call on all parties to abide by their obligations under international humanitarian law.

Despite these pronouncements, the Council still refrained from implementing the targeted sanctions regime for Somalia. The Somalia Sanctions Monitoring Group investigating violations of the sanctions regime briefed the Sanctions Committee on a number of occasions in the second half of 2009 and also presented to the Committee a draft list of individuals and entities to be considered for targeted sanctions, but no Council members seemed eager to act upon these proposals.

To the contrary, the focus of the Council seemed again to be on the persistent problem of piracy, as well as the increasing evidence of foreign interference in Somalia, both in terms of Eritrean support to the insurgents as well as links between Al-Shabaab and Al-Qaida. (On 14 September 2009 US Special Operations forces entered southern Somalia in a daytime helicopter raid and killed Saleh Ali Saleh Nabhan, believed to be one of the most senior Al-Qaida leaders in East Africa and one of many foreigners participating in Al-Shabaab’s insurgency against the TFG.) The Council renewed the authorisation for anti-piracy action in Somali territorial waters and on land in Somalia in November 2009.

While Council members repeatedly emphasised in public debates the connection between the piracy problem and the lawlessness and lack of livelihoods on land in Somalia, the Council was perceived, in particular by African countries, as being too focused on treating just the symptoms of this problem through an increased international naval presence off the coast of Somalia rather than its underlying root causes. These countries argued that the significant resources spent at sea could be put to better use through capacity building on land in Somalia which might also help improve conditions for ordinary Somalis or even increased support for AMISOM.

In December 2009 the Council decided to impose targeted sanctions against Eritrean nationals providing support to groups fighting against the TFG. These resolutions contained no substantive language on the protection of civilians and there continued to be no action on the recommendations of the Monitoring



Group to impose targeted sanctions on Somali actors.

In January 2010 the Council's informal expert group on protection of civilians for the first time met to discuss the renewal of the authorisation for AMISOM to operate in Somalia. (While the group was established in January 2009, it did not meet prior to the extension of AMISOM's authorisation in May that year.) The Council, in resolution 1910, strengthened the protection language both in the preambular and operative part. The Council expressed serious concern at the worsening humanitarian situation and attacks against journalists and, condemned obstruction of humanitarian assistance, targeting of humanitarian workers and violations of human rights and international humanitarian and human rights law. It stressed the legal obligations of all parties and reaffirmed the importance of the fight against impunity. It emphasised in particular the importance of humanitarian access, calling on the parties to "take appropriate steps to ensure the safety and security of humanitarian personnel and supplies" and "ensure full, safe and unhindered access".

The Council's calls to the parties appeared to have little effect, however. At the beginning of 2010, violence in Somalia escalated sharply according to a statement by the UNHCR. Two hundred and fifty-eight civilians were killed and 253 were wounded in January, making it the deadliest month since August 2009. UNHCR also estimated that 80,000 Somalis had been displaced since the beginning of the year. Humanitarian access was further obstructed in February when Al-Shabaab ordered the World Food Programme to halt all operations in Somalia and leave the country.

In March 2010, the Monitoring Group for Somalia presented its report to the Sanctions Committee. The report concluded that one of the main obstacles to the delivery of humanitarian assistance in Somalia was the diversion of food aid, in some cases of as much as 50 per cent, to contractors and insurgents in control of the territory where aid was distributed. It also highlighted kidnappings of humanitarian workers as a serious problem.

When the Council subsequently extended the mandate of the Monitoring Group for another 12 months in resolution 1916 of 19 March, it took some technical steps to improve its earlier resolution. It decided that the assets freeze provisions of resolution 1844 would not apply to funds "necessary to ensure the timely delivery of urgently needed humanitarian assistance in Somalia" and requested the UN humanitarian coordinator for Somalia to report to the Council every 120 days on implementation of the provision and other access issues. The exemption was apparently added at the request of the US to ensure that humanitarian agencies operating in insurgent-controlled territory would not be seen as violating the sanctions regime if forced to provide payment to any of the insurgents.

On 12 April the Sanctions Committee for Somalia and Eritrea finally announced its first nine designations for targeted sanctions more than 16 months after the adoption of resolution 1844. Obstruction of humanitarian assistance was the justification for one of these, the designation of the Islamist rebel group Al-Shabaab. (The other eight designations were of individuals accused of either violating the arms embargo or of

acts threatening the peace, security and stability of Somalia.)

These developments in 2010 may signal a stronger interest among Council members in the civilian suffering in Somalia. On the ground, however, the situation for civilians has not improved. Continued fierce fighting between TFG troops and AMISOM on the one side and insurgents on the other has led to high numbers of civilian casualties and increased displacement. In September 2010 the UNHCR said that civilian deaths in Mogadishu had reached "alarming levels" with at least 230 killed and 400 wounded just in the previous two weeks. It estimated that 200,000 Somalis had fled their homes since the start of the year.

There was also a worrisome trend of an increasing number of suicide attacks and growing concerns about the influence of Al Qaida in Somalia. On 11 July about eighty people were killed in two separate, almost simultaneous bombing attacks in the Ugandan capital Kampala targeting locations where crowds had gathered to watch the televised football world cup final. Al-Shabaab claimed responsibility for the bombings and said they had been carried out in retaliation for Uganda's participation in AMISOM. The group also threatened similar attacks against AMISOM's other main troop contributor, Burundi. It was Al-Shabaab's first major attack outside Somalia and heightened international concern that the crisis in the country was spreading beyond its borders. On 24 August, there was another attack by Al-Shabaab against a hotel in Mogadishu in which more than thirty people, including seven members of the Somali parliament, were killed and on 30 August four AMISOM peacekeepers were killed in a suicide attack against the

presidential palace in Mogadishu for which Al-Shabaab also claimed responsibility. In all of these cases the Council condemned the attacks in statements to the press by its president.

As a case study of Council involvement in the protection of civilians, Somalia seems to illustrate above all that there are clear limits to what the Council can do in terms of actually having an impact on the ground. It seems generally agreed that a UN peacekeeping operation would not be a viable option under the current circumstances. It also seems generally agreed that there are few alternatives in Somalia other than strengthening the military capacity of AMISOM. One of the objectives of this strategy in the long-term is indisputably to improve the situation for civilians, but there remains little agreement on how to achieve it.

At the same time, however, the case of Somalia illustrates how easily Council focus can be diverted, leading members to forget to consistently and effectively address issues of particular relevance to the protection of civilians agenda, including the need to enhance compliance with international law and ensure accountability for violations.

The Council's lack of energy when it comes to implementation of the Somalia targeted sanctions regime has been described above. It should also be noted here that the same lethargy resulted in the ineffectiveness of the arms embargo for Somalia for many years and that both are directly linked to the impact of the conflict on civilians. The reasons for the Council's inability to use sanctions effectively are complex and also reflect more general divisions among members. But it seems in fact that Council members are not convinced that targeted

sanctions can have any appreciable impact on the behaviour of the parties to the conflict in Somalia.

The Council has also been cautious on the impunity issue although this has been highlighted by the Secretary-General, human rights organisations and others as a key element for the protection of civilians in Somalia. In August 2010, the Human Rights Council's independent expert on the situation of human rights in Somalia, Shamsul Bari, urged the international community to pay due attention to the protection of civilians in Somalia and ensure accountability for gross human rights abuses and international humanitarian law violations. On 15 September, the deputy High Commissioner for Human Rights, Kyung-wha Kang, said during a visit to the region that "addressing the continuing cycle of impunity and violence should be the cornerstone in the foundation of building peace in Somalia".

Similarly, Amnesty International and Human Rights Watch have called on the Council to support the establishment of an independent commission of inquiry to investigate and map serious crimes in violation of international law and recommend measures to improve accountability for violations of international humanitarian law and human rights abuses in Somalia. The Secretary-General has also expressed support for such an idea.

So far, however, the Council has appeared unwilling to take up these issues seriously. It mentioned the importance of fighting impunity in passing the last time it renewed the authorisation for AMISOM, in January 2010. However, many members seem to give regard to the belief that security must improve

before further action can be considered. It is true that the difficult security situation represents a significant obstacle to any attempt to map or investigate international humanitarian law or human rights violations in Somalia, but there still seems to be some scope for the Council to take a more proactive approach, such as moving forward for a commission of inquiry to be deployed as soon as security conditions allow, or calling on the Secretary-General to strengthen the human rights component of the UN Political Office in Somalia.

Another issue is related to accusations of violations of international and human rights law against both the TFG and AMISOM during the conduct of hostilities. In an April 2010 report Human Rights Watch alleged that both AU peacekeepers and government forces, when retaliating against insurgents, had conducted mortar attacks that did not discriminate between civilians and military targets. While TFG and AMISOM commanders have denied these and other allegations, no investigations have apparently been conducted nor has the Council called for any measures in this regard.

Yet another issue, which it is still unclear exactly how the Council will address, is the accusation against the TFG of violations against children. In April 2010, the Secretary-General concluded in his annual report on children and armed conflict that the recruitment of child soldiers became more systematic and widespread in Somalia in 2009. Al-Shabaab, and Hizbul Islam (the two main Islamist rebel groups fighting against the government) along with the TFG were all listed in annex I. (Annex I identifies parties that recruit or use children, kill or maim and/or commit rape and other



forms of sexual violence against children.) In addition, the TFG was designated as a persistent violator, having been on the list for more than five years. While the TFG initially denied the allegations, it announced on 15 June that it would start investigations without delay.

These allegations against the TFG are not new, but there now seems to be a greater willingness to pursue accountability for violations against children. As previously noted the Council expressed its readiness to adopt “targeted and graduated measures” against persistent violators in a presidential statement on children and armed conflict adopted in June this year. It remains to be seen, however, whether Council members would consider effective application of the Somalia sanctions regime in ways that might target the TFG. They seem likely instead to deal with this issue through the Council’s Working Group on Children and Armed Conflict. The Secretary-General’s next report on children and armed conflict in Somalia is expected in November. (The last such report on Somalia was issued in May 2008.) The Working Group is likely to start discussions on Somalia soon thereafter, but conclusions from these discussions are not expected for some time. The Working Group typically takes from two to eight months to conclude discussions of a country-specific situation.

At the time of the writing of this report, Somalia was again a major item on the Council’s agenda, but protection concerns did not appear to be among key issues discussed. The immediate focus was on the role of AMISOM and the political process. In particular, there has been an emphasis by African members of the Council on the need to provide better material and financial support to the AU mission and possibly increasing

its authorised troop strength significantly in order to improve security. At a meeting on 21 October the AU made an appeal to the Council for increased funding for AMISOM from UN assessed contributions and also presented plans for an increase in the mission’s authorised troop strength from 8,000 to 20,000. Such an intensified military focus might lead to much higher levels of conflict in the short term and might potentially further aggravate the situation for civilians, raising important issues that would need to be addressed in an authorising resolution.

Somalia is undoubtedly one of the most complex and challenging situations currently on the Council’s agenda. There are no easy solutions to the protection challenges. The question remains, however, whether the Council will be willing to use all the tools at its disposal to try to make an impact on the situation for civilians on the ground.

6. Council and Wider Dynamics

The composition of the Council in 2009 and 2010 included a large number of members committed to the protection of civilians agenda. The Council accordingly devoted considerable attention to protection of civilians issues both at the thematic level, including in the context of peacekeeping, and at the country-specific level. The Council was able to agree on several significant new thematic resolutions addressing aspects of protection of civilians and also seemed to pay closer attention in general to implementation of protection mandates by peacekeeping missions, despite some unusual problems.

The adoption of resolution 1894 could be seen as one of the results of this positive momentum. The resolution was not as strong on accountability or preventive measures such as sanctions as some Council members would have preferred, but it contained many important new provisions. The Council was also able to make considerable progress overall on the issues of protection of women and children.

Underlying divisions among Council members in the approach to protection of civilians have nevertheless persisted. These tend to be more pronounced at the country-specific than at the thematic level. China and Russia emphasise in particular respect for national sovereignty and are reluctant to authorise accountability measures like commissions of inquiry or sanctions other than in exceptional cases.

There are also concerns about political selectivity. Brazil and Turkey in particular, have at times seemed cautious because of concerns that some permanent members push protection issues when it is politically expedient for them.

Divisions are also evident in the Council’s informal expert group on protection. Most members see it as a useful tool that has contributed to improving the Council’s performance on protection of civilians. They believe that the group has had a positive impact on their ability to address protection concerns by providing experts with additional relevant information and also by enhancing coordination of Council action on protection, both across situations and between thematic and geographic experts. But this sentiment is not fully shared. China, which expressed strong reservations against the idea of

establishing an informal expert group when it was first proposed by the Secretary-General, has maintained its opposition. It has not participated in any of the expert group meetings. Its main concern seems to be that its participation would open the way for attempts to formalise the group along the lines of the Council's working group on children and armed conflict. Russia participates in some of the meetings of the group, but is not convinced of its usefulness and would like to see an improvement in the quality of the information provided by OCHA.

Because of the lack of consensus there seems to be limited appetite among Council members for seeking to develop the expert group any further at this stage. The UK, as the chair, seems particularly mindful of the need for a cautious approach. There have been discussions, however, on how to address some of the criticism about quality of information. Some members would like to invite other UN agencies such as the UN High Commissioner for Refugees (UNHCR) or the Office of the High Commissioner for Human Rights to brief the group in addition to OCHA. The possibility of discussing thematic issues is also being considered. In addition, many members believe that the participation of geographic experts alongside thematic experts on a more consistent basis (which is currently not necessarily the case) would be an important improvement. It would enhance coordination among experts and ensure that geographic experts are fully aware of key protection concerns before starting drafting and negotiating mandate renewals.

On the particular issue of engagement with non-state armed groups, members are still divided as to whether this should be discussed by the Council. Before the debate on protection of civilians last July, OCHA unsuccessfully lobbied for the Council to organise an Arria-formula meeting on this issue as proposed by the Secretary-General in his last report on protection of civilians. Council members seem rather cautious on this issue, however. Members like China, Russia and Turkey emphasise that any dialogue should be carried out with the consent of the governments concerned and caution about the risk of legitimising such groups. The US also appears to be concerned about legitimisation. Others, including Austria simply do not see the added value of Council engagement as they believe this may further politicise the issue whereas France, Gabon, Japan, Uganda and the UK are more supportive. It seems likely that OCHA will continue to push this issue.

Council dynamics may change significantly in 2011 when five new elected members will replace Austria, Japan, Mexico, Turkey and Uganda. South Africa and India have in the past been reluctant, based on NAM principles, to engage the Council on protection of civilians issues, especially via expansion of thematic norm development. But South Africa showed strong interest in protection of civilians issues in Somalia in 2008.

It should also be noted that some of the new and emerging protection issues, such as making amends to civilian victims and addressing the humanitarian impact of explosive weapons of war, which are discussed in further detail later, are expected to be difficult whatever the composition of the Council.

7. Looking Ahead: Some Future Options for the Council

Many of the options for the Council presented in our last cross-cutting report remain valid. Some key options include:

Continuing to develop the informal expert group on protection of civilians as an important tool to address protection of civilians concerns by:

- Using the expert group to respond to concerns expressed by some Council members that protection work needs to focus more on prevention and therefore allow the group to play a useful role also as the Council's early warning system and response capacity. This would involve the group moving beyond the current focus on mandate renewals and to hear briefings on other situations, including those that are emerging problems.
- Deciding to improve the quality of information by inviting representatives from parts of the UN system other than OCHA and the DPKO to give briefings to the group, such as the UN Department of Political Affairs and the Offices of the High Commissioners for Refugees and Human Rights.
- Having the relevant geographic experts routinely participate in the expert group meetings along with thematic experts in order to ensure that protection concerns are integrated into all country-specific decisions of the Council.
- Requesting the Secretary-General, when it becomes clear that a conflict anywhere is likely to present grave risks to civilians, to immediately present an assessment of the risks in terms of application of the norms that the Council has approved relating to the protection of civilians.

- Requesting OCHA to update the aide-mémoire on protection of civilians annually in order to ensure that new developments and priorities are taken into account. (The aide-mémoire is used as a basis for the discussions in the informal expert group. Annual updating was originally envisaged following the Council's endorsement of the initial version of the aide-mémoire in 2002.)

Ensuring implementation of resolution 1894

Resolution 1894 contained some significant new provisions. While considerable progress has been made since its adoption, in particular in the area of peacekeeping, the Council should continue to monitor its implementation in order to ensure that the intentions expressed are consistently carried out by the Council in country-specific decisions and that requests to other actors are acted upon.

In particular, the Council could routinely remind the Secretary-General in its country-specific resolutions of the requests in resolution 1894 that he:

- provides timely, objective, accurate and reliable information on compliance issues;
- includes observations and recommendations on humanitarian access constraints both in briefings and reports; and
- includes more comprehensive and detailed information relating to protection of civilians in his reports and also clarifies its expectations in this regard.

Improving the effectiveness of peacekeeping operations

Key options for the Council in this area include:

- supporting efforts to develop a strategic framework for the protection of

- civilians in peacekeeping operations;
- requesting that all missions with a protection mandate develop comprehensive protection strategies;
- ensuring that protection needs are taken into account in an early phase of the drafting of mandates;
- continuing to strengthen its dialogue with TCCs and PCCs and other key stakeholders on the protection of civilians;
- addressing the question of how to make sure that civilians are protected where a government's consent for UN peacekeeping operations is fragile as was the case for MINURCAT and MONUC;
- requesting the Secretary-General to include protection indicators where relevant in benchmarks for measuring implementation of peacekeeping mandates;
- making the adjustment or drawdown of UN missions contingent on the fulfilment of clear protection benchmarks endorsed by the Council; and
- ensuring that the conditionality policy developed for the DRC is applied to all situations where the UN offers its support to a party to an armed conflict where there are concerns about violations being committed against civilians by making such support conditional on compliance with international law.

Enhancing compliance with international legal obligations by parties to conflict and strengthening accountability mechanisms by:

- encouraging the establishment of a standing UN mechanism for fact-finding investigation in the immediate aftermath of hostilities;
- making better use of established sanctions regimes to impose targeted measures against those who violate

international humanitarian law and considering such violations as a designation criterion when renewing or establishing sanctions;

- inviting the Secretary-General's Special Representatives on Sexual Violence and on Children and Armed Conflict to brief relevant sanctions committees on a regular basis and streamlining information exchange between the Working Group on children and armed conflict and relevant sanctions committees, as called for in the presidential statement on children and armed conflict adopted in June 2010;
- bearing in mind that the Council has already adopted binding resolutions requiring all states to adopt national legislation for the prosecution of terrorist acts, to apply the same policy in respect of protection of civilians. This might involve resolutions requiring all states to adopt national legislation for the prosecution of individuals responsible for genocide, crimes against humanity and war crimes. An associated Council body to assist states with capacity-building modelled on the Counter-Terrorism Committee Executive Directorate might also be considered.

Addressing new and emerging issues, such as: The impact on civilians of explosive weapons of war

The Council has in the past called for the protection of civilians from the effects of landmines and other explosive remnants of war but has not specifically addressed the overall impact of explosive weapons of war. There seems to be growing evidence of the severe and indiscriminate humanitarian impact caused by such weapons. This was highlighted in the Secretary-General's 2009 protection report. The UN Institute for Disarmament Research has launched an explosive

weapons project which aims to stimulate discussion on how to address the concerns raised by the use of such weapons. In the July debate on protection of civilians, the Under-Secretary-General for Humanitarian Affairs expressed concern about the wide-spread risks to civilians caused by the use of explosive weapons of war and called on the Council to start a dialogue on ways to tackle the issue. As a first step, one option for the Council, bearing in mind its mandate and responsibility relating to armaments and human security under article 26 of the UN Charter, could be to organise an Arria formula meeting to invite humanitarian actors and others to present their views on the subject.

Compensation for damages to civilian victims of conflict

While international humanitarian law does not deal with compensation issues, there seems to be a growing recognition not only of the moral obligation of parties to conflict to provide assistance to civilians they harm, but of the importance in terms of the long-term peacebuilding of doing so. The wars in Iraq and Afghanistan have resulted in mechanisms for such compensation systems, but there are considerable differences in the policies and practices of different actors. For UN peacekeeping operations there is currently no system in place to ensure compensation for damages caused to civilians. In the Council's July debate on protection of civilians, a number of speakers, including Austria, Brazil, Turkey and Uganda highlighted the importance of making amends to civilian victims of conflict. One possible option for the Council to explore this issue further would be to request the Secretary-General to provide information on current compensation practices

in his next report on protection of civilians and provide further recommendations. Another option would be to organise an Arria-formula meeting with interested NGOs.

Special protection needs of persons with disabilities and older persons

This is an issue which has been promoted in particular by Austria. In recent debates it called on the UN system to more effectively address the protection and assistance needs of persons with disabilities and also asked for the Secretary-General's next report to cover the special protection needs of this group. This issue is also to some degree related with the two previous issues.

Compliance with international humanitarian law by non-state armed groups

This is an issue that OCHA in particular has been promoting for some time. While it is not a new issue as such, as the Council regularly issues calls to non-state armed groups, the particular problem of how to engage with such parties in practice has yet to be taken up by the Council. Enhancing compliance with international humanitarian law by non-state armed groups was among the challenges outlined in the Secretary-General's last report on protection of civilians and is expected to remain among the challenges listed in his November report. OCHA argues that there is a need to develop a comprehensive approach towards improving compliance by such actors, including through engagement, as well as enforcement. The Under-Secretary-General for Humanitarian Affairs has made repeated calls in recent debates for the Council to address these issues. A first step for the Council might be to convene an Arria formula meeting, as proposed by the Secretary-General, to discuss options.

8. Selected UN Documents

Security Council Resolutions

Thematic Security Council Resolutions on Protection of Civilians

- S/RES/1894 (11 November 2009) focused on compliance, humanitarian access and implementation of protection mandates in UN peacekeeping.
- S/RES/1738 (23 December 2006) condemned intentional attacks against journalists, media professionals and associated personnel, and requested the Secretary-General to include as a sub-item in his next reports on protection of civilians the issue of the safety and security of journalists, media professionals and associated personnel.
- S/RES/1674 (28 April 2006) *inter alia* reaffirmed the responsibility to protect as formulated in the 2005 World Summit Outcome Document and expressed the Council's intention to ensure that protection is clearly outlined and given priority in peacekeeping mandates.
- S/RES/1502 (26 August 2003) condemned all violence against humanitarian and UN and associated personnel, recalled obligations to protect such personnel under international humanitarian, refugee and human rights law, and called for unimpeded humanitarian access.
- S/RES/1296 (19 April 2000) reaffirmed the Council's commitment to protection of civilians and requested another report on the issue from the Secretary-General.
- S/RES/1265 (17 September 1999) was the Council's first thematic

resolution on protection of civilians, condemning targeting of civilians, calling for respect for international humanitarian, refugee and human rights law, expressing willingness to take measures to ensure compliance and to consider how peacekeeping mandates might better address the negative impact of conflict on civilians.

Other Thematic Resolutions

- S/RES/1889 (5 October 2009) reaffirmed previous decisions on women, peace and security and requested the Secretary-General *inter alia* to ensure that all country reports to the Council provide information on the impact of situations of armed conflict on women and girls.
- S/RES/1888 (30 September 2009) requested the Secretary-General to appoint a Special Representative to provide leadership and strengthen UN coordination of action on sexual violence in armed conflict and to ensure more systematic reporting on sexual violence to the Council, and decided to include specific provisions on sexual violence in UN peacekeeping mandates.
- S/RES/1882 (4 August 2009) expanded the criteria for inclusion on the Secretary-General's list of violators in his reports on children and armed conflict beyond the recruitment of children to include the killing and maiming of children and/or rape and other sexual violence against children.
- S/RES/1820 (19 June 2008) addressed sexual violence in conflict and post-conflict situations and asked the Secretary-General

for a report by 30 June 2009 with information on the systematic use of sexual violence in conflict areas and proposals for strategies to minimise the prevalence of such acts with benchmarks for measuring progress.

- S/RES/1325 (31 October 2000) was the landmark first resolution on women, peace and security, expressing in particular the Council's willingness to incorporate a gender perspective into peacekeeping missions, calling on all parties to protect women and girls from gender-based violence and to put an end to impunity for such crimes.

Sanctions Regimes Targeting Violations of International Humanitarian Law

- S/RES/1857 (22 December 2008) expanded the DRC sanctions regime to include "individuals obstructing the access to or the distribution of humanitarian assistance in the eastern part of the DRC".
- S/RES/1844 (20 November 2008) established a targeted sanctions regime for Somalia imposing measures on individuals or entities designated "as obstructing the delivery of humanitarian assistance to Somalia, or access to, or distribution of, humanitarian assistance in Somalia."
- S/RES/1807 (31 March 2008) expanded the DRC sanctions regime to include "individuals operating in the DRC and committing serious violations of international law involving the targeting of children or women".
- S/RES/1698 (31 July 2006) expanded the DRC sanctions regime to include in the designation criteria "political and military

leaders recruiting or using children in armed conflict in violation of applicable international law" and also "individuals committing serious violations of international law involving the targeting of children".

- S/RES/1672 (25 April 2006) designated four individuals as subject to the targeted measures imposed on Darfur.
- S/RES/1596 (18 April 2005) established a targeted sanctions regime for the DRC.
- S/RES/1591 (29 March 2005) established a targeted sanctions regime for Darfur which included in the designation criteria individuals who commit violations of international humanitarian law or other atrocities.
- S/RES/1572 (15 November 2004) established a sanctions regime for Côte d'Ivoire imposing targeted measures on persons "determined as responsible for serious violations of human rights and international humanitarian law".

Country-Specific Resolutions

Côte d'Ivoire

- S/RES/1893 (29 October 2009) extended the Côte d'Ivoire sanctions regime and the mandate of the Group of Experts until 31 October 2010.
- S/RES/1880 (30 July 2009) extended the mandate of UNOCI until 31 January 2010 and requested the Secretary-General to continue to monitor progress on achievement of benchmarks.
- S/RES/1865 (27 January 2009) extended the mandate of UNOCI for six months and reduced the troop levels in line with the Secretary-General's recommendations.

- S/RES/1826 (29 July 2008) extended the mandate of UNOCI until 31 January 2009.

Chad

- S/RES/1923 (25 May 2010) decided that MINURCAT should be terminated by 31 December 2010.
- S/RES/1922 (12 May 2010) extended the mandate of MINURCAT until 26 May 2010.
- S/RES/1913 (12 March 2010) extended the mandate of MINURCAT until 15 May 2010.
- S/RES/1861 (14 January 2009) extended the mandate of MINURCAT until 15 March 2010 and authorised deployment of a UN military component to replace the EU protection force.
- S/RES/1834 (24 September 2008) renewed MINURCAT's mandate until 15 March 2009.
- S/RES/1778 (25 September 2007) established MINURCAT and authorised an EU protection force with a Chapter VII mandate to protect civilians.
- S/RES/1706 (31 August 2006) mandated UNMIS to expand its operations to Darfur and requested recommendations from the Secretary-General on how to improve the security situation on the Chadian side of the border with Sudan.

DRC

- S/RES/1906 (23 December 2009) extended MONUC's mandate until 31 May 2010.
- S/RES/1896 (30 November 2009) extended the DRC sanctions and the mandate of the Group of Experts for another year.

Liberia

- S/RES/1885 (15 September 2009)

extended UNMIL's mandate until 30 September 2010 and requested the Secretary-General to continue to monitor progress on achievement of benchmarks.

Gaza

- S/RES/1860 (8 January 2009) called for an immediate ceasefire and the full withdrawal of Israeli forces from Gaza and condemned violence against civilians and acts of terrorism.

Haiti

- S/RES/1892 (13 October 2009) extended the mandate of MINUSTAH through 15 October 2010 and welcomed progress in developing benchmarks.

Somalia

- S/RES/1916 (19 March 2010) extended the mandate of the Monitoring Group for another 12 months with the addition of three new members. It also decided that the assets freeze provisions of resolution 1844 would not apply to funds "necessary to ensure the timely delivery of urgently needed humanitarian assistance in Somalia" and requested the UN humanitarian aid coordinator for Somalia to report to the Council every 120 days.
- S/RES/1910 (28 January 2010) renewed the authorisation of AMISOM for another 12 months until 31 January.
- S/RES/1907 (23 December 2009) imposed an arms embargo and targeted sanctions on Eritrea.
- S/RES/1897 (30 November 2009) renewed for 12 months the anti-piracy measures of resolutions 1846 and 1851, which would have expired on 2 December.

- S/RES/1872 (26 May 2009) renewed authorisation of AMISOM until 31 January 2010, approved its funding from assessed UN contributions and requested the Secretary-General to implement the phased approach recommended in his 16 April report.
- S/RES/1863 (16 January 2009) renewed authorisation of AMISOM for up to six months, endorsed the Secretary-General's proposals to strengthen AMISOM and expressed the Council's intention to establish a UN peacekeeping operation by 1 June.
- S/RES/1853 (19 December 2008) renewed the mandate of the Monitoring Group tasked with monitoring the sanctions regime for Somalia for 12 months.
- S/RES/1851 (16 December 2008) expanded the anti-piracy authorisation to include operations on land.
- S/RES/1846 (2 December 2008) renewed the anti-piracy authorisation in resolution 1816 for a further period of 12 months and called on states to continue to protect World Food Programme convoys.
- S/RES/1838 (7 October 2008) called for intensified action against piracy in Somalia and urged states to protect World Food Programme convoys.
- S/RES/1816 (2 June 2008) authorised states and regional organisations to enter Somalia's territorial waters to combat piracy and expressed concern at the impact of piracy on humanitarian assistance.

Sudan

- S/RES/1891 (13 October 2009) renewed the mandate of the Darfur



Sanctions Panel of Experts for another year.

- S/RES/1881 (30 July 2009) renewed UNAMID for one year.
- S/RES/1870 (30 April 2009) renewed UNMIS for one year.

Security Council Presidential Statements

Thematic Presidential Statements on Protection of Civilians

- S/PRST/2009/1 (14 January 2009) reaffirmed previous decisions on protection of civilians and contained an updated aide-mémoire.
- S/PRST/2008/18 (27 May 2008) reaffirmed previous decisions on protection of civilians and requested a report from the Secretary-General by May 2009.
- S/PRST/2005/25 (21 June 2005) expressed concern about limited progress on the ground to protect civilians, stressed in particular the need to provide physical protection for vulnerable groups, and invited the Secretary-General to address challenges related to peacekeeping.
- S/PRST/2004/46 (14 December 2004) reaffirmed the Council's commitment to protection of civilians.
- S/PRST/2003/27 (15 December 2003) contained an updated aide-mémoire.
- S/PRST/2002/41 (20 December 2002) underscored the importance of the aide-mémoire, expressing its willingness to update it annually, and also addressed in particular issues related to humanitarian access, refugees and internally displaced persons and gender-based violence.
- S/PRST/2002/6 (15 March 2002) contained an aide-mémoire to

assist Council members in their consideration of protection of civilians issues.

- S/PRST/1999/6 (12 February 1999) was the first thematic decision on protection of civilians which also requested the first report from the Secretary-General on the issue.

Other Thematic Presidential Statements

- S/PRST/2010/11 (29 June 2010) was on justice and the rule of law in which the Council recognised respect for international humanitarian law as an essential component of the rule of law in conflict situations.
- S/PRST/2010/10 (16 June 2010) was on children and armed conflict in which the Council expressed its readiness to adopt targeted and graduated measures against persistent violators, invited the Working Group on Children and Armed Conflict to exchange pertinent information with relevant sanctions committees and for sanctions committees to regularly invite the Special Representative on Children and Armed Conflict to provide briefings.
- PRST/2010/8 (27 April 2010) welcomed the Secretary-General's latest report on women, peace and security and the appointment of Margot Wallström as the new Special Representative on Sexual Violence in Conflict.
- S/PRST/2010/2 (12 February 2010) was on peacekeeping operations in which the Council confirmed the importance of taking into account the protection of civilians "throughout the lifecycle of UN peacekeeping and other relevant

missions" in accordance with resolution 1894.

- S/PRST/2009/24 (5 August 2009) was on peacekeeping operations identifying areas where further discussions were needed to improve their effectiveness and recognizing that further work was necessary to protect civilians.
- S/PRST/2009/9 (29 April 2009) was on children and armed conflict in which the Council reaffirmed its willingness to take action against parties violating applicable international law.

Country-Specific Presidential Statements

CAR

- S/PRST/2009/35 (21 December 2009) condemned attacks by the LRA and called for measures to counter the threat posed by LRA to the population.
- S/PRST/2009/5 (7 April 2009) called on all armed groups to immediately cease the recruitment and use of children and called on all parties to ensure that child protection would be addressed in the implementation of the peace agreement.

Chad

- S/PRST/2009/13 (8 May 2009) condemned renewed military incursions in eastern Chad by "Chadian armed groups, coming from outside", expressed concern at threats against civilians and called on all parties to abide by their obligations under international humanitarian law.
- S/PRST/2008/22 (16 June 2008) condemned a June rebel offensive in Chad, called on all parties to comply with their obligations under

international humanitarian law, expressed full support for MINURCAT to protect civilians and expressed readiness to take measures against violations of the law.

- S/PRST/2008/15 (13 May 2008) condemned the attack near Khar-toum and warned that no retaliatory action should be taken against civilian populations, or that had an impact on stability in the region.
- S/PRST/2008/3 (4 February 2008) expressed support for external military assistance to the Chadian government and expressed concern about the safety of civilians.
- S/PRST/2007/30 (27 August 2007) reiterated the Council's concern about insecurity along the borders between the Sudan, Chad and the CAR and its impact on civilians and humanitarian operations and expressed its readiness to authorise the deployment of a multidimensional presence in Chad and the CAR.
- S/PRST/2007/2 (16 January 2007) requested further recommendations on establishment of a multidimensional presence in Chad and the CAR.
- S/PRST/2006/53 (15 December 2006) expressed concern about threats against the civilian population and reiterated the Council's request to the Secretary-General for a report on how to address the situation.

Guinea

- S/PRST/2010/3 (16 February 2010) commended the work of the international commission of inquiry on Guinea.
- S/PRST/2009/27 (28 October 2009) was on the crisis in Guinea in which

the army opened fire on civilians participating in a pro-democracy rally in September 2009.

Iraq

- S/PRST/2009/30 (16 November 2009) also encouraged UNAMI to continue its work to help create conditions conducive to the return of refugees and internally displaced persons.
- S/PRST/2009/17 (18 June 2009) encouraged UNAMI to continue its work to help create conditions conducive to the return of refugees and internally displaced persons.

Nepal

- S/PRST/2009/12 (5 May 2009) called on the Nepalese government to implement its commitment to discharge minors from the army in accordance with international law.

Somalia

- S/PRST/2009/31 (3 December 2009) condemned the 3 December suicide attack in Mogadishu and called on all parties to abide by their obligations under international humanitarian law.
- S/PRST/2009/19 (9 July 2009) *i.a.* condemned attacks against civilians, expressed concern at the worsening humanitarian situation and called on all parties to abide by their obligations under international humanitarian law.
- S/PRST/2009/15 (15 May 2009) *i.a.* expressed concern at the worsening humanitarian situation and called on all parties to abide by their obligations under international humanitarian law.
- S/PRST/2008/33 (4 September 2008) requested detailed planning

on an international stabilisation force and peacekeeping force.

Reports of the Secretary-General

Thematic Reports on Protection of Civilians

- S/2009/277 (29 May 2009)
- S/2007/643 (28 October 2007)
- S/2005/740 (28 November 2005)
- S/2004/431 (28 May 2004)
- S/2002/1300 (26 November 2002)
- S/2001/331 (30 March 2001)
- S/1999/957 (8 September 1999) was the landmark first report on the issue.

Other

- S/2010/512 (8 October 2010) was on MONUSCO.
- S/2010/498 (28 September 2010) was on women, peace and security, including a revised set of indicators to track implementation of resolution 1325.
- S/2010/181 (13 April 2010) was the ninth report on Children and Armed Conflict.
- S/2010/173 (6 April 2010) outlined measures to track the implementation of resolution 1325.
- S/2009/623 (4 December 2009) was on MONUC with a separate section on protection of civilians.
- S/2009/592 (16 November 2009) was on UNAMID which included benchmarks referring to the protection of civilians.
- S/2009/545 (21 October 2009) was on UNMIS featuring benchmarks comprising several indicators on the protection of civilians.
- S/2009/475 (22 September 2009) was a UNAMA report which included benchmarks referring to the protection of civilians.
- S/2009/472 (18 September 2009) was on MONUC with a separate



- section on protection of civilians
- S/2009/335 (30 June 2009) was on MONUC with a separate section on protection of civilians
 - S/2009/160 (27 March 2009) was on MONUC with a separate section on protection of civilians
 - S/2009/357 (14 July 2009) was on UNMIS with a separate section on protection of civilians.
 - S/2009/344 (7 July 2009) was on UNOCI with an annex on benchmarks.
 - S/2009/211 (17 April 2009) was on UNMIS with a separate section on protection of civilians.
 - S/2009/135 (10 March 2009) was a UNAMA report with a separate section on protection of civilians.
 - S/2009/61 (30 January 2009) was on UNMIS with a separate section on protection of civilians.
 - S/1998/883 (22 September 1998) was on protection of humanitarian assistance to refugees and others in conflict situations.
 - S/1998/318 (13 April 1998) was on the causes of conflict and the promotion of durable peace and sustainable development in Africa.

Chad

- S/2010/409 (30 July 2010) was on MINURCAT.
- S/2010/217 (29 April 2010) was on MINURCAT, including proposals for a revised mandate and drawdown of the mission's military component.
- S/2009/535 (14 October 2009) was on MINURCAT.
- S/2009/359 (14 July 2009) was on MINURCAT.
- S/2009/199 (14 April 2009) was on MINURCAT, including details of the transfer of authority from EUFOR to MINURCAT.

- S/2008/760 (4 December 2008) and S/2008/760 Add.1 (10 December 2008) was a report on MINURCAT outlining preparations for the transfer of authority from EUFOR to a UN military component, including options on the size, structure and mandate of the proposed UN military presence.
- S/2008/601 (12 September 2008) and S/2008/601 Add.1 (15 September 2008) was a report on MINURCAT, including recommendations and financial implications for a UN military force to follow EUFOR in March 2009.
- S/2008/444 (8 July 2008) was on MINURCAT.
- S/2008/215 (1 April 2008) was on MINURCAT.
- S/2007/739 (17 December 2007) was the first report on MINURCAT.
- S/2007/488 (10 August 2007) contained revised recommendations for a UN operation in Chad and the CAR that would include an EU military component.
- S/2007/97 (23 February 2007) was a report providing recommendations on the establishment of a UN multidimensional presence in Chad and CAR.
- S/2006/1019 (22 December 2006) was a report with recommendations on how to improve security in eastern Chad as requested by the Council in resolution 1706.

Somalia

- S/2009/684 (8 January 2010) was on Somalia with a separate section on protection of civilians.
- S/2009/373 (20 July 2009) was on Somalia with a separate section on protection of civilians.
- S/2009/210 (16 April 2009) was

requested by resolution 1863 on a possible UN peacekeeping deployment in Somalia.

- S/2009/132 (9 March 2009) was on Somalia with a separate section on protection of civilians.
- S/2008/709 (17 November 2008) was on Somalia reiterating the Secretary-General's reservations against establishing a UN peacekeeping operation in the country.
- S/2008/178 (14 March 2008) was on Somalia presenting options for an international stabilisation force.
- S/2008/352 (30 May 2008) was a report on children and armed conflict in Somalia.

Meeting Records

Thematic Debates on Protection of Civilians

- S/PV.6354 and Res.1 (7 July 2010)
- S/PV.6216 and Res. 1 (11 November 2009)
- S/PV.6151 and Res. 1 (26 June 2009)
- S/PV.6066 and Res. 1 (14 January 2009)
- S/PV.5898 and Res. 1 (27 May 2008)
- S/PV.5781 and Res. 1 (20 November 2007)
- S/PV.5703 (22 June 2007)
- S/PV.5577 and Res. 1 (4 December 2006)
- S/PV.5476 (28 June 2006)
- S/PV.5319 and Res. 1 (9 December 2005)
- S/PV.5209 (21 June 2005)
- S/PV.5100 and Res. 1 (14 December 2004)
- S/PV.4877 (9 December 2003)
- S/PV.4777 (20 June 2003)
- S/PV.4660 and Res. 1 (10 December 2002)
- S/PV.4492 (15 March 2002)

- S/PV.4424 (21 November 2001)
- S/PV.4312 and Res. 1 (23 April 2001)
- S/PV.4130 and Res. 1 (19 April 2000)
- S/PV.4046 (16 September 1999) and Res. 1 and 2 (17 September 1999)
- S/PV.3980 and Res. 1 (22 February 1999)
- S/PV.3977 (12 February 1999)
- S/PV.3968 (21 January 1999)

Other

- S/PV.6407 (21 October 2010) was the meeting on Somalia with the AU Commissioner for Peace and Security.
- S/PV.6347 and res. 1 (29 June 2010) was an open debate on the promotion and strengthening of the rule of law.
- S/PV.6341 and res. 1 (16 June 2010) was an open debate on children and armed conflict.
- S/PV.6321 (25 May 2010) was the meeting record of the adoption of resolution 1923 (which terminated MINURCAT) with Austria's explanation of vote.
- S/PV.6270 and Res. 1 (12 February 2010) was a debate on peacekeeping operations.
- S/PV.6121 (8 May 2009) was a briefing on Chad by Dmitry Titov, Assistant-Secretary-General for Rule of Law in Peacekeeping.
- S/PV.6111 (24 April 2009) was a briefing by Edmond Mulet, Assistant Secretary-General for Peacekeeping Operations, on the Secretary-General's latest MINURCAT report.
- S/PV.6029 (3 December 2008) was a briefing by John Holmes, the Under-Secretary-General for

Humanitarian Affairs, on a trip to Chad and Sudan.

- S/PV.5976 (19 September 2008) was a briefing by Victor da Silva Angelo, the Special-Representative of the Secretary-General and head of MINURCAT.
- S/PV.5655 (4 April 2007) was a briefing by John Holmes, the Under-Secretary-General for Humanitarian Affairs, on a trip to Chad, Sudan and the CAR.

Other

- SC/10019 (31 August 2010) was a Council press release on the suicide attack in Mogadishu which killed four AMISOM peacekeepers.
- SC/10018 (31 August 2010) was a press release from the DRC Sanctions Committee updating the list of individuals subject to targeted sanctions by adding recruitment and use of children to the designation justification for nine individuals.
- SC/10012 (24 August 2010) was a Council press release on the attacks against a hotel in Mogadishu for which the Somali Islamist rebel group Al-Shabaab claimed responsibility.
- SC/9980 (12 July 2010) was a Council press release on the 11 July Kampala bombings for which the Somali Islamist rebel group Al-Shabaab claimed responsibility.
- S/2010/250 (21 May 2010) was a letter from Chad to the Council confirming its commitment to assume full responsibility for the protection of civilians in eastern Chad and calling for a revision of MINURCAT's mandate.
- SC/9904 (12 April 2010) was a press release from the Sanctions Committee for Somalia and Eritrea

announcing its first designations of individuals and entities for targeted sanctions under resolution 1844.

- A/64/19 (24 March 2010) was the Report of the Special Committee on Peacekeeping Operations and its Working Group from the 2010 substantive session.
- S/2010/129 (11 March 2010) was a letter from the Secretary-General to the Council recommending a two-month technical rollover of MINURCAT's mandate.
- S/2010/91 (10 March 2010) was a letter from the chair of the Somalia Sanctions Committee transmitting the final report of the Monitoring Group on Somalia to the Council.
- S/2010/115 (3 March 2010) was a letter from Chad to the Council in which it agreed to a two-month technical extension of MINURCAT's mandate.
- S/2009/693 (18 December 2009) was a letter from the Secretary-General to the president of the Council conveying the report of the international commission of inquiry on Guinea.
- S/2009/603 (23 November 2009) was a letter from the chair of the DRC Sanctions Committee submitting the final report of the Group of Experts on the DRC to the President of the Council.
- S/2009/562 (27 October 2009) was a letter from the coordinator of the Panel of Experts on Sudan, transmitting its final report to the Sudan Sanctions Committee.
- S/2009/253 (14 May 2009) was a letter from the chair of the DRC Sanctions Committee submitting the interim report of the Group of Experts on the DRC to the Presi-

dent of the Council.

- S/2009/232 (6 May 2009) was a letter from Chad requesting the Council hold an open meeting ‘to discuss the attack perpetrated by the Sudan against...Chad.’
- S/2009/231 (5 May 2009) was a note verbale addressed to the Council by the Chadian government in which they accused Sudan of facilitating renewed cross-border rebel activity despite a truce.
- S/2009/172 (31 March 2009) informed the Council of the appointment of the fifth expert to the Monitoring Group for Somalia.
- S/2009/136 (6 March 2009) informed the Council of the appointment of four experts to the Monitoring Group for Somalia.
- SC/9608 (3 March 2009) was a press release from the DRC Sanctions Committee adding four individuals to the sanctions list, three of them for violations against children.
- S/2008/804 (19 December 2008) was a letter from the Secretary-General to the Council outlining additional proposals on how to address security challenges in Somalia.
- S/2008/679 (28 October 2008) was a letter from Chad to the Council in which it expressed reservations about the proposed UN military component that would take over from the EU protection force.
- SC/8631 (7 February 2006) was a press release from the Côte d'Ivoire Sanctions Committee on the first designations for targeted sanctions under resolution 1572.

9. Useful Additional Resources

- *An Honourable Exit for MINURCAT?* NUPI Policy Brief 3, 11 June 2010, Randi Solhjell, John Karlsrud
- *Harsh War, Harsh Peace – Abuses by Al-Shabaab, the Transitional Federal Government and AMISOM in Somalia*, Human Rights Watch, April 2010
- *2009 Annual Report on Protection of Civilians in Armed Conflict*, UNAMA, January 2010.
- *Protecting Civilians in the Context of UN Peacekeeping Operations – Successes, Setbacks and Remaining Challenges*, an independent study jointly commissioned by OCHA and DPKO, November 2009.
- *Explosive Violence – The Problem of Explosive Weapons*, Landmine Action, August 2009
- *Chad: Powder Keg in the East, Africa Report, Africa Report No 149*, 15 April 2009, International Contact Group

Annex I: Methods of Research

Security Council Report published its first cross-cutting report on protection of civilians in October 2008. It provided background on relevant provisions of international humanitarian law and on Security Council involvement in the issue of protection of civilians starting in the 1990s. It also analysed the way that the Council had implemented its thematic decisions on protection of civilians in specific cases following the adoption of its first thematic decisions in 1999 through to the end of 2007 and examined protection issues in the context of implementation of UN peacekeeping mandates. Our second cross-cutting report on this issue, published in

October 2009, built on this historical background and analysis and looked specifically at developments since the end of 2007, both at the thematic level and in country-specific situations. With this third report we continue our efforts to systematically track Council action on the protection of civilians.

The statistical analysis contained in the report focuses on Council decisions and reports of the Secretary-General for the year 2009 in order to allow for a meaningful comparison year-by-year. In some parts of the more general analysis, however, we have included references also to developments in 2010 so as to provide an as up-to-date-picture as possible of current trends.

It should also be noted that the statistical analysis only covers country-specific situations which can reasonably be assumed to have a protection dimension either because of the existence of a relevant mandate for a UN peacekeeping mission, or because of the nature or history of the conflict. As a result, Council decisions of a purely technical nature were excluded. Furthermore, thematic decisions on other issues were also excluded from the statistical analysis, but where relevant are referred to in other parts of the report.

In this regard it is important to point out that the present report does not analyse in-depth Council action on children and armed conflict or sexual violence. While these are important protection issues, they are discussed in separate SCR reports. (Our most recent *Cross-Cutting report on Children and Armed Conflict* was published on 2 June 2010 while our first *Cross-Cutting report on Women, Peace and Security* was published on 1 October 2010.) Decisions on these issues, however, are reflected in the

Annex II: Current Protection Mandates in UN Peacekeeping Operations as of October 2010

Situation	Operation/Relevant Council Decisions	Protection-Related Mandate
1. Liberia	UNMIL (2003-) S/RES/1509 (19 September 2003)	<ul style="list-style-type: none"> • Without prejudice to the efforts of the government, to protect civilians under imminent threat of physical violence, within its capabilities. • Assist in security-sector reform, in particular police and armed forces. • Facilitate the provision of humanitarian assistance, including by helping to establish the necessary security conditions. • Contribute towards international efforts to protect and promote human rights in Liberia, with particular attention to vulnerable groups including refugees, returning refugees and internally displaced persons, women, children and demobilised child soldiers, within UNMIL's capabilities and under acceptable security conditions. • Ensure an adequate human rights presence, capacity and expertise within UNMIL to carry out human rights promotion, protection and monitoring activities.
2. Côte d'Ivoire	UNOCI (2004-) S/RES/1528 (27 February 2004) S/RES/1609 (24 June 2005) S/RES/1739 (10 January 2007)	<ul style="list-style-type: none"> • Without prejudice to the government's responsibility, protect civilians under imminent threat, within its capabilities and areas of deployment. • Support the government, within its current capacities, in the implementation of the national programme for the disarmament, demobilisation and reintegration of combatants, including through logistical support, in particular for the preparation of cantonment sites, paying special attention to the specific needs of women and children. • Coordinate closely with UNMIL in the implementation of a voluntary repatriation and resettlement programme for foreign ex-combatants, paying special attention to the specific needs of women and children. • Facilitate the free flow of people, goods and humanitarian assistance, <i>inter alia</i>, by helping to establish the necessary security conditions and taking into account the special needs of vulnerable groups. • Facilitate the reestablishment of state authority and of the institutions and public services essential for the social and economic recovery of the country. • Contribute, within its capabilities and its areas of deployment, to the security of the areas where voting is to take place. • Contribute to the promotion and protection of human rights, with special attention to children and women. • Monitor and help investigate human rights violations with a view to ending impunity, and to keep the sanctions committee regularly informed. • Monitor the Ivorian mass media, in particular with regard to any incidents of incitement by the media to hatred, intolerance and violence, and to keep the sanctions committee regularly informed. • Assist the government in restoring a civilian policing presence, the authority of the judiciary and the rule of law, and to advise the government on the restructuring of the internal security services.



Situation	Operation/Relevant Council Decisions	Protection-Related Mandate
3. DRC	MONUSCO (2010-) S/RES/1925 (28 May 2010)	<ul style="list-style-type: none"> • Ensure the effective protection of civilians, including humanitarian personnel and human rights defenders, under imminent threat of physical violence, in particular violence emanating from any of the parties engaged in the conflict. • Ensure the protection of United Nations personnel, facilities, Installations and equipment. • Support the efforts of the Government of the Democratic Republic of the Congo to ensure the protection of civilians from violations of international humanitarian law and human rights abuses, including all forms of sexual and gender-based violence, to promote and protect human rights and to fight impunity, including through the implementation of the Government’s “zero-tolerance policy” with respect to discipline and human rights and humanitarian law violations, committed by elements of the security forces, in particular its newly integrated elements. • Support national and international efforts to bring perpetrators to justice, including by establishing Prosecution Support Cells to assist the FARDC military justice authorities in prosecuting persons arrested by the FARDC. • Work closely with the Government to ensure the implementation of its commitments to address serious violations against children, in particular the finalization of the Action Plan to release children present in the FARDC and to prevent further recruitment, with the support of the Monitoring and Reporting Mechanism. • Implement the United Nations system-wide protection strategy in the Democratic Republic of the Congo, operationalising it with MONUSCO’s protection strategy built on best practices and extend useful protection measures, such as the Joint Protection Teams, Community Liaison Interpreters, Joint Investigation Teams, Surveillance Centres and Women’s Protection Advisers. • Support the Government’s efforts, along with international partners and neighbouring countries, to create an environment conducive to the voluntary, safe and dignified return of internally displaced persons and refugees, or voluntary local integration or resettlement. • Support the efforts of the Government of the Democratic Republic of the Congo to bring the ongoing military operations against the FDLR, the Lord’s Resistance Army (LRA) and other armed groups, to a completion, in compliance with international humanitarian, human rights and refugee law and the need to protect civilians, including through the support of the FARDC in jointly planned operations, as set out in paragraphs 21, 22, 23 and 32 of resolution 1906 (2009). • Support, including through its political mediation efforts, the completion of activities of DDR of Congolese armed groups or their effective integration in the army, which would remain subject to prior adequate training and equipment. • Support activities of DDRRR of foreign armed groups members, including the FDLR and the LRA, and support strategies towards a sustainable solution of the FDLR issue, including repatriation, reinsertion or resettlement in other areas, or judicial prosecution as appropriate, with the help of all countries, especially those in the region. • Coordinate strategies with other United Nations missions in the region for enhanced information-sharing in light of the attacks by the LRA and, at the request of the Government of the Democratic Republic of the Congo, may provide logistical support for regional military operations conducted against the LRA in the Democratic Republic of the Congo, in compliance with the international humanitarian, human rights and refugee law and the need to protect civilians.

Situation	Operation/Relevant Council Decisions	Protection-Related Mandate
4. Sudan: North-South	UNMIS (2005-) S/RES/1590 (24 March 2005) S/RES/1870 (30 April 2009)	<ul style="list-style-type: none"> • Take the necessary action, in the areas of deployment of its forces and as it deems within its capabilities, to ensure the security and freedom of movement of UN personnel, and humanitarian workers, and, without prejudice to the responsibility of the Government of the Sudan, to protect civilians under imminent threat of physical violence. • Assist in the establishment of the disarmament, demobilisation and reintegration programme as called for in the Comprehensive Peace Agreement, with particular attention to the special needs of women and child combatants, and its implementation through voluntary disarmament and weapons collection and destruction. • Assist in promoting the rule of law, including an independent judiciary and the protection of human rights through a comprehensive and coordinated strategy with the aim of combating impunity and contributing to long-term peace and stability and to assist the parties to the Comprehensive Peace Agreement to develop and consolidate the national legal framework. • Ensure an adequate human rights presence, capacity and expertise within UNMIS to carry out human rights promotion, protection and monitoring activities. • Facilitate and coordinate, within its capabilities and in its areas of deployment, the voluntary return of refugees and internally displaced persons and humanitarian assistance, inter alia, by helping to establish the necessary security conditions. • Assist with humanitarian demining assistance, technical advice, and coordination. • Contribute towards international efforts to protect and promote human rights in Sudan, as well as to coordinate international efforts towards the protection of civilians, with particular attention to vulnerable groups including internally displaced persons, returning refugees and women and children. • Deploy, as appropriate, sufficient personnel to the Abyei region to improve conflict prevention efforts and security to the civilian population.
5. Sudan: Darfur	UNAMID (2007-) S/RES/1769 (31 July 2007) S/2007/307/Rev.1 (5 June 2007) (The resolution refers to this document, a joint report by the Secretary-General and the Chairperson of the AU Commission, for details about UNAMID's mandate.)	<ul style="list-style-type: none"> • Take the necessary action, in the areas of deployment of its forces and as it deems within its capabilities to ensure the security and freedom of movement of its own personnel and humanitarian workers, and protect civilians, without prejudice to the government's responsibility. • Contribute to the restoration of necessary security conditions for the safe provision of humanitarian assistance and to facilitate full humanitarian access throughout Darfur. • 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. • Contribute to a secure environment for economic reconstruction and development, as well as the sustainable return of internally displaced persons and refugees. • Contribute to the promotion of respect for and protection of human rights and fundamental freedoms. • Assist in the promotion of the rule of law in Darfur including through support for strengthening an independent judiciary and the prison system, and assistance in the development and consolidation of the legal framework.



Situation	Operation/Relevant Council Decisions	Protection-Related Mandate
6. Chad	MINURCAT S/RES/1923 (25 May 2010)	<ul style="list-style-type: none"> • Select, train, advise and facilitate support to elements of the Chadian police to provide protection. • Liaise with the national army, the gendarmerie and police forces, the nomad national guard, the judicial authorities and prison officials in Chad and CAR to contribute to the creation of a more secure environment combating in particular the problems of banditry and criminality. • Liaise with the government and UNHCR in support of their efforts to relocate refugee camps which are in close proximity to the border, and provide logistical assistance to UNHCR. • Support the initiatives of national and local authorities in Chad to resolve local tensions and promote local reconciliation efforts, in order to enhance the environment for the return of internally displaced persons. • Contribute to monitoring, promotion and protection of human rights, with particular attention to sexual and gender-based violence, and to recommend action to the competent authorities, with a view to fighting impunity. • Support training in international human rights standards and efforts to put an end to recruitment and use of children by armed groups. • Assist in the promotion of the rule of law including through support for an independent judiciary and a strengthened legal system. • Acting within its means and capabilities and where possible in consultation with the Government of Chad, to respond to imminent threats of violence to civilians in its immediate vicinity.
7. Lebanon	UNIFIL (1978-) S/RES/ 1701 (11 August 2006)	<ul style="list-style-type: none"> • Take all necessary action in areas of deployment of its forces and as it deems within its capabilities, to ensure the security and freedom of movement of UN personnel, humanitarian workers and, without prejudice to the responsibility of the Government of Lebanon, to protect civilians under imminent threat of physical violence. • Help ensure humanitarian access to civilian populations and the voluntary and safe return of displaced persons.

Annex III: Meetings to Date of the Council's Informal Expert Group on Protection of Civilian and Related Council Decisions

Mission discussed	Meetings in 2009	Council decision on mandate	Meetings in 2010 (As of October)	Council decision on mandate
UNOCI	2 (January and July)	S/RES/1865 S/RES/1880	2 (January and June)	S/RES/1911 S/RES/1933
AMISOM			1 (January)	S/RES/1910
UNAMA	1 (March)	S/RES/1868	1 (March)	S/RES/1917
MINURCAT			1 (April)	S/RES/1913
UNMIS	1 (April)	S/RES/1870	1 (April)	S/RES/1919
MONUC/ MONUSCO	1 (December)	S/RES/1906	1 (April)	S/RES/1925
UNAMID	1 (July)	S/RES/1881	1 (July)	S/RES/1935
UNAMI	1 (July)	S/RES/1883	1 (July)	S/RES/1936
ISAF			1 (September)	S/RES/1943
Total number of meetings	7		10	

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