



Consejo de Seguridad

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Carta de fecha 9 de octubre de 2015 dirigida al Presidente del Consejo de Seguridad por el Presidente del Comité del Consejo de Seguridad dimanante de las resoluciones 751 (1992) y 1907 (2009) relativas a Somalia y Eritrea

En nombre del Comité del Consejo de Seguridad dimanante de las resoluciones 751 (1992) y 1907 (2009) relativas a Somalia y Eritrea, y de conformidad con lo dispuesto en el párrafo 47 de la resolución 2182 (2014) del Consejo de Seguridad, tengo el honor de transmitir adjunto el informe sobre Somalia del Grupo de Supervisión para Somalia y Eritrea.

A este respecto, el Comité agradecería que la presente carta y el informe adjunto se señalaran a la atención de los miembros del Consejo de Seguridad y se publicaran como documento del Consejo.

(Firmado) Rafael Darío **Ramírez Carreño**
Presidente

Comité del Consejo de Seguridad dimanante de las resoluciones
751 (1992) y 1907 (2009) relativas a Somalia y Eritrea



**Carta de fecha 22 de septiembre de 2015 dirigida al
Presidente del Comité del Consejo de Seguridad
 dimanante de las resoluciones 751 (1992) y 1907 (2009)
relativas a Somalia y Eritrea por los miembros del
Grupo de Supervisión para Somalia y Eritrea**

Tenemos el honor de transmitir adjunto el informe sobre Somalia del Grupo de Supervisión para Somalia y Eritrea, de conformidad con el párrafo 47 de la resolución 2182 (2014) del Consejo de Seguridad.

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**Informe del Grupo de Supervisión para Somalia y Eritrea,
presentado de conformidad con la resolución 2182 (2014)
del Consejo de Seguridad: Somalia**

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* Los anexos se distribuyen únicamente en el idioma en que fueron presentados y se publican sin revisión editorial.

** Los anexos 1.2, 2.4, 3.1, 4.2.e, 4.3, 6.1.a, 6.2.b y 6.3.b no se han incluido en el presente documento porque son estrictamente confidenciales.

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Resumen

Se han producido muchos cambios desde que el Presidente Hassan Sheikh Mohamud fue elegido Presidente del Gobierno Federal de Somalia a finales de 2012. Gracias al apoyo de la Misión de la Unión Africana en Somalia (AMISOM) se hicieron importantes avances territoriales contra Harakaat Al-Shabaab al-Mujaahidiin (Al-Shabaab). Se establecieron tres nuevas administraciones regionales provisionales, con lo que casi se ha completado un nuevo mapa federal de Somalia. Ahora bien, con las nuevas líneas que se fueron trazando en el mapa, también surgieron nuevas oportunidades para que los clanes y las redes empresariales y políticas captaran recursos del Estado. La prisa de ciertas redes obstruccionistas por hacerse de esos recursos está impidiendo el desarrollo de un acuerdo político inclusivo y amenaza con socavar los logros militares obtenidos frente a Al-Shabaab. Para poder aprovechar estos logros la élite política de Somalia debe priorizar los objetivos a largo plazo asociados a la construcción de un Estado por sobre la meta a corto plazo que representa la captura de recursos del Estado. No hacerlo, en este momento en que Somalia entrará en la siguiente fase de transición en 2016, significará una amenaza considerable para la paz, la seguridad y la estabilidad a largo plazo de Somalia. Al-Shabaab está resurgiendo y se diría que es cada vez más capaz de aprovechar para su beneficio la imposibilidad de sus oponentes de consolidar el control, establecer administraciones locales, brindar seguridad y crear la confianza de la población.

El control de la tierra y los recursos hídricos de Somalia y el acceso a esos recursos ya eran objeto de controversias mucho antes de la desintegración del Estado en 1991. El control administrativo que ejercía Al-Shabaab en gran parte de Somalia meridional y central, si bien era despiadado, moderaba muchos conflictos profundamente arraigados entre las distintas comunidades por la tierra y los recursos hídricos. Con la pérdida de territorio de Al-Shabaab por las derrotas militares y la falta de administraciones civiles alternativas viables que pudieran reemplazarlo, en algunas partes de Somalia meridional y central se volvieron a registrar este tipo de conflictos. Al-Shabaab ha aprovechado esta situación en beneficio propio. La prevalencia de conflictos potencialmente cada vez más divisorios entre las distintas comunidades por la tierra, el agua y otros recursos naturales en las regiones relativamente más estables de Somalilandia y Puntlandia subraya la necesidad de que los acuerdos de participación en el aprovechamiento de los recursos en el plano local se encaren desde una perspectiva integral.

La Constitución Provisional de 2012 y el proceso de federalización en curso han puesto de relieve la urgente necesidad de que se establezcan acuerdos de participación en el aprovechamiento de los recursos nacionales. El afán de las empresas privadas por hacerse de las riquezas minerales y marítimas de Somalia plantea una amenaza importante en un entorno frágil. Si el conjunto de los recursos naturales de la nación es gestionado adecuadamente por instituciones responsables y eficaces, esa riqueza debería contribuir al fortalecimiento de la economía de Somalia y a su prosperidad. La investigación que hizo el Grupo de Supervisión de Soma Oil & Gas Holdings Ltd., en la que se descubrió que funcionarios del Gobierno somalí aceptaron pagos de la empresa haciéndolos pasar como pagos por un programa de “fomento de la capacidad”, ha demostrado que esas instituciones todavía no existen. La puesta en práctica real de verdaderos programas de fomento de la capacidad debe ser un requisito previo del desarrollo del sector extractivo en Somalia.

La rápida disminución de las actividades de piratería frente a las costas de Somalia desde 2012 ha sido el resultado de esfuerzos y medidas externas. Sin embargo, la presunta participación de conocidos caudillos piratas en la reciente captura de dos dhows pesqueros iraníes sirve de recordatorio de que todavía las condiciones en tierra que dieron lugar al aumento de la piratería siguen en su mayor parte en pie. Si bien la amenaza que supone la piratería a los buques mercantes sigue siendo de poca importancia, el Grupo de Supervisión está preocupado por el hecho de que la pesca ilegal, no declarada y no reglamentada por buques extranjeros pueda recrear la dinámica del conflicto con las comunidades pesqueras locales que contribuyó al aumento de la piratería hace un decenio. Tras la disminución de la piratería se observó un incremento proporcional de los intereses privados externos que tenían la intención de explotar el sector pesquero y proporcionar servicios de seguridad marítima. Tanto a nivel nacional como internacional se tiene más conciencia de los recursos marítimos de Somalia y la falta de regulación y supervisión en el sector crea una nueva fuente de “renta” para los funcionarios federales y regionales —en particular mediante la venta de licencias de pesca— que alimenta la corrupción.

En términos más generales, la corrupción sigue menoscabando los esfuerzos destinados a reconstruir instituciones eficaces en todo el país. El hecho de que el resultado de importantes debates de la Cámara del Pueblo —el mayor órgano decisorio del Gobierno Federal de Somalia— pueda ser influido con pagos en efectivo hechos a sus miembros demuestra el grado en que la corrupción obstaculiza el frágil proceso de construcción del Estado. Se han hecho esfuerzos encomiables en el transcurso del mandato para reforzar la reglamentación financiera y aplicar nuevos instrumentos. Si bien el Grupo de Supervisión es optimista y cree que esta tendencia continuará, para poder hacer frente con eficacia a la magnitud de la malversación en Somalia será necesaria una reforma sistemática que no se limita a las instituciones financieras del país. La falta de una supervisión civil efectiva del presupuesto del Ejército Nacional Somalí ha abierto las puertas a una malversación sistémica, entre otras cosas de los salarios de los soldados. Las ramificaciones evidentes para la seguridad que tiene ese tipo de malversación ponen de relieve la necesidad de adoptar un enfoque integral para la aplicación de la reforma. El 9 de septiembre de 2015 el Presidente Hassan Sheikh Mohamud anunció amplias reformas financieras en el sector de la seguridad, lo cual es un primer paso positivo en este proceso.

Durante este mandato se ha puesto a prueba la capacidad de las fuerzas de seguridad de defender el pueblo somalí de Al-Shabaab. La eliminación de varios de sus dirigentes prominentes no parece haber hecho mucha mella en la decisión y la capacidad de Al-Shabaab de desestabilizar la región. El cambio en sus tácticas, incluido el retorno a ataques convencionales contra objetivos militares (tanto de la AMISOM como del Ejército Nacional Somalí), es motivo de profunda preocupación, en particular habida cuenta de los recortes al presupuesto de la misión y los problemas que hay con los pagos a las tropas del Ejército Nacional Somalí. Al-Shabaab sigue siendo capaz de adaptarse a cambios en las circunstancias y de explotar las debilidades en la estructura de la gobernanza y la seguridad. Cuando los aliados avanzan contra las ciudades y las aldeas que están bajo su control, el grupo se retira, impide que los insumos básicos lleguen a las poblaciones “liberadas” y simplemente espera a que la presencia de las fuerzas de seguridad se haya debilitado o desmoralizado lo suficiente antes de volver al ataque. A medida que avanzan, los efectivos de la AMISOM, el Ejército Nacional Somalí y las fuerzas aliadas se van

esparciendo y dejando sus bases cada vez más vulnerables a los ataques. Es probable que todavía no se tenga plena conciencia del impacto a más largo plazo de los ataques de envergadura en las tropas de la AMISOM, como los de Leego (26 de junio de 2015) y Janale (1 de septiembre de 2015).

En lugar de debilitar a Al-Shabaab, el desplazamiento territorial del grupo, que se ha ido yendo de los principales centros urbanos en Somalia, ha dado lugar a su propagación ulterior en la región del Cuerno de África en general. El nordeste de Kenya ha sido testigo de un alarmante aumento de ataques a lo largo del mandato. Al-Shabaab sigue siendo capaz de emplear tácticas relativamente sencillas con consecuencias devastadoras, como quedó demostrado en su ataque contra la Universidad de Garissa en abril de 2015. Cada vez es mayor la necesidad de encarar la amenaza que plantean Al-Shabaab y otros grupos de militantes fundamentalistas en todo el Cuerno de África de un modo coordinado a nivel regional.

La decisión de permitir un levantamiento parcial del embargo de armas establecido mediante la resolución 2093 (2013) del Consejo de Seguridad se debió, entre otras cosas, a la necesidad de fortalecer la capacidad de las fuerzas nacionales somalíes para enfrentar la amenaza militar que plantea Al-Shabaab. El Grupo de Supervisión sigue recibiendo informes de que dichas fuerzas no logran estar preparadas para realizar esa tarea. Si bien el Grupo ahora puede supervisar de manera más efectiva el volumen de material militar que entra legítimamente a Somalia, sigue sin poder determinar con precisión si ese material militar se está distribuyendo de manera apropiada o, de hecho, en qué medida sigue siendo necesario. En particular, la norma de presentación de informes sobre la composición, la dotación y la estructura de las fuerzas de seguridad del Gobierno Federal sigue distando mucho de lo requerido por el Consejo. Con la aparición de nuevas administraciones regionales y un número creciente de fuerzas de seguridad nacionales y extranjeras presentes en Somalia, se vuelve cada vez más importante determinar cuáles son las fuerzas de seguridad que reúnen los requisitos para importar material militar conforme al embargo de armas impuesto por el Consejo de Seguridad y qué obligaciones de presentación de informes contraen al hacerlo.

El hecho de que presuntamente todas las fuerzas de seguridad presentes en Somalia han atacado a civiles —ya sea como táctica deliberada de guerra, para obtener beneficios políticos o económicos o por un uso desproporcionado de la fuerza— hace todavía más necesario aumentar la transparencia en la presentación de informes. Las comunidades excluidas por motivos económicos, políticos o culturales siguen siendo objeto de violaciones desproporcionadas del derecho internacional humanitario, lo cual refleja la tan arraigada estratificación de la sociedad somalí. Al-Shabaab ha cometido las violaciones más atroces contra las poblaciones civiles durante el mandato, en particular en relación con el reclutamiento forzado de niños. Al mismo tiempo, el abuso de las comunidades marginadas por las fuerzas anti Al-Shabaab le da a este grupo un arma eficaz para reclutar adeptos y aliena a estas comunidades del Estado emergente. Los mayores desplazamientos de gente durante el mandato fueron causados por el desalojo forzoso de un enorme número de desplazados internos y comunidades pobres de los centros urbanos en Somalia.

El acceso humanitario siguió siendo extremadamente frágil, en particular en ciertas localidades y rutas de suministros clave bloqueadas por Al-Shabaab. Las autoridades compiten entre sí para obtener y extraer beneficios de las operaciones humanitarias, lo cual no solo perjudica la viabilidad de las operaciones, sino también

la posibilidad de trabajar en condiciones de seguridad en las distintas zonas de control. Se registró un aumento de las amenazas y ataques contra los trabajadores humanitarios y, entre enero y julio de 2015, 10 trabajadores humanitarios resultaron muertos y 17 heridos. Los presupuestos reducidos, el alza de los costos de las operaciones por los problemas de acceso y la necesidad de mitigar los riesgos de desviación y de reforzar la seguridad fueron, todos, elementos que se sumaron a la presión sobre los escasos recursos.

El comercio internacional de carbón vegetal somalí sigue aunque cambió la economía política de la tierra. Desde que en octubre de 2014 se recuperó la ciudad portuaria de Barawe, en el Bajo Shabelle, Al-Shabaab ya no controla ninguno de los principales sitios de exportación. Tras la detención de diversos funcionarios que exportaban carbón inmediatamente después de la captura de Barawe, el Grupo de Supervisión cree que el comercio en Barawe ha cesado. Aunque el comercio continúa más al sur, se ha registrado una disminución considerable de los ingresos globales que obtenía Al-Shabaab de esa actividad. A principios de 2015, a raíz de la caída de los ingresos procedentes de la venta de carbón, Al-Shabaab intentó específicamente poner trabas a ese comercio y negar los beneficios derivados de él a sus adversarios. Aunque el apoyo de los Estados Miembros y de las asociaciones navales multinacionales ha aumentado la visibilidad de este comercio, las contramedidas empleadas por los buques exportadores de carbón para evitar la identificación y el rastreo, además del uso continuo de documentación falsa, han dificultado aún más la tarea de asegurar que los Estados Miembros no importan carbón somalí.

La interacción con el Gobierno Federal de Somalia mejoró notablemente en el curso de este mandato. El Grupo de Supervisión recibió apoyo con algunas investigaciones de los dos coordinadores designados para cuestiones de seguridad y cuestiones financieras. El Grupo aguarda con interés la oportunidad de proseguir y fortalecer las relaciones con el Gobierno.

I. Introducción

A. Mandato

1. El mandato del Grupo de Supervisión para Somalia y Eritrea figura en el párrafo 46 de la resolución 2182 (2014) del Consejo de Seguridad, aprobada el 24 de octubre de 2014, y en el párrafo 13 de la resolución 2060 (2012). Posteriormente se asignaron tareas adicionales al Grupo de Supervisión en las resoluciones 2093 (2013) y 2142 (2014).

2. De conformidad con lo dispuesto en el párrafo 46 de la resolución 2182 (2014) y en el párrafo 13 l) de la resolución 2060 (2012), el Grupo de Supervisión presentó al Consejo de Seguridad, por conducto del Comité dimanante de las resoluciones 751 (1992) y 1907 (2009) relativas a Somalia y Eritrea, una exposición informativa de mitad de período el 8 de abril de 2015. El Grupo presentó también al Comité informes mensuales de actualización durante todo el período de su mandato.

3. En el curso de sus investigaciones, los miembros del Grupo de Supervisión viajaron a Bahrein, Bélgica, el Canadá, Djibouti, los Emiratos Árabes Unidos, los Estados Unidos de América, Etiopía, Francia, el Líbano, Malasia, Noruega, Omán, Qatar, el Reino Unido de Gran Bretaña e Irlanda del Norte, Seychelles, Singapur, Somalia, Sudáfrica, Suecia, Suiza y Turquía. En Somalia, los miembros del Grupo pudieron visitar periódicamente Mogadiscio, Hargeisa y Garowe, y una vez Kismayo.

4. El Grupo de Supervisión tuvo su sede en Nairobi y estuvo integrado por los siguientes expertos: Christophe Trajber (coordinador), Nicholas Argeros (finanzas), Zeina Awad (transporte), Déirdre Clancy (asuntos humanitarios), James Smith (asuntos regionales), Bogdan Chetreanu (finanzas) y Jay Bahadur (grupos armados).

B. Metodología

5. Los criterios probatorios y procesos de verificación descritos en los informes anteriores del Grupo de Supervisión se aplican a la labor realizada durante el mandato que se examina. El Grupo reafirmó la metodología utilizada en sus informes anteriores. La metodología aplicada en el presente informe es la siguiente:

a) Siempre que sea posible, se reúne información sobre hechos y temas utilizando fuentes múltiples;

b) Siempre que sea posible, se reúne información de fuentes con conocimiento directo de los hechos;

c) Se determina la coherencia de la información y se comparan los datos existentes con la información nueva y las tendencias emergentes;

d) Se tiene permanentemente en cuenta la capacidad técnica y el juicio del experto pertinente del Grupo de Supervisión y la evaluación colectiva de este en lo que respecta a la credibilidad de la información y la fiabilidad de las fuentes;

e) Se obtienen pruebas materiales, fotográficas, de audio y vídeo o documentales para corroborar la información reunida.

6. El Grupo de Supervisión procuró de forma deliberada y sistemática obtener acceso a los implicados en violaciones por medio de personas que tenían conocimiento directo de los detalles de dichas violaciones o que conocían a personas que lo tuvieran. En algunas ocasiones, el Grupo de Supervisión pudo comprobar directamente violaciones que se estaban produciendo.

7. El Grupo de Supervisión se entrevistó con muy diversas fuentes que poseían información pertinente, como funcionarios gubernamentales y representantes de misiones diplomáticas, organizaciones de la sociedad civil y organismos de asistencia. Los miembros del Grupo se reunieron con diversos funcionarios del Gobierno, incluidos el Presidente y ministros, y con representantes de los organismos de seguridad. El Grupo también se reunió o se comunicó con funcionarios de las administraciones de Puntlandia y Somalilandia, representantes de grupos políticos y armados, desertores y miembros de las comunidades de empresarios y de la sociedad civil somalí.

8. De conformidad con las directrices impartidas por el Comité, el Grupo de Supervisión se esforzó por incluir la mayor cantidad posible de testimonios y pruebas en su informe final. Sin embargo, las resoluciones de la Asamblea General sobre el control y la limitación de la documentación, en particular las resoluciones 52/214, 53/208 y 59/265, exigían el amplio uso de anexos, lo que impidió que gran parte del contenido sustancial fuera traducido. Además, las normas no permiten la inclusión de mapas, fotografías ni gráficos en el informe principal. Durante todo su mandato el Grupo no ha dejado de presentar documentación pertinente al Comité.

9. De conformidad con el boletín del Secretario General sobre la confidencialidad, la clasificación y el manejo de la información (ST/SGB/2007/6), el Grupo de Supervisión ha presentado al Comité, junto con el presente informe, varios anexos estrictamente confidenciales que contienen información cuya divulgación podría ser perjudicial para el buen funcionamiento de las Naciones Unidas o para el bienestar y la seguridad de su personal o de terceros, o podría contravenir las obligaciones jurídicas de la Organización. Estos anexos no se publicarán como un documento del Consejo de Seguridad.

II. Actos que amenazan la paz, la seguridad y la estabilidad de Somalia

A. La política de las redes obstruccionistas y la captura de recursos del Estado

10. Harakaat al-Shabaab al-Mujaahidiin (Al-Shabaab) sigue presentando una grave amenaza para la paz y la seguridad en Somalia y en toda la región del Cuerno de África. No obstante, el resurgimiento de la amenaza planteada por Al-Shabaab en toda la región, y la reaparición de conflictos entre comunidades en las zonas meridional y central de Somalia están cada vez más vinculados a la incapacidad del Gobierno Federal de Somalia, el Parlamento Federal de Somalia y las administraciones regionales provisionales para fomentar la reconciliación mediante procesos políticos incluyentes y transparentes y abordar eficazmente la corrupción endémica.

11. Los importantes avances territoriales contra Al-Shabaab logrados por la Misión de Observadores Militares de la Unión Africana en Somalia (AMISOM), el Ejército Nacional Somalí y otras fuerzas afiliadas de manera informal desde el fin de la transición no se han visto acompañados por una mayor capacidad del Gobierno Federal de Somalia o las administraciones regionales provisionales para mantener la seguridad y ofrecer una alternativa de gobernanza. Por esta falta de capacidad para mantener la seguridad, están resurgiendo conflictos profundamente arraigados entre las comunidades. A medida que Al-Shabaab va cediendo territorio, también aprovecha el resurgimiento de esos conflictos intercomunales para reclutar adeptos entre poblaciones históricamente marginadas.

12. Para muchos de los que forman parte de la élite empresarial y política de Somalia, la captura y obtención de los recursos del Estado en los centros de poder urbanos es más importante que la consolidación de una forma efectiva de gobernanza y la expansión de los servicios públicos. Se centran en obtener beneficios a corto plazo, lo cual perjudica la supervivencia a largo plazo de un frágil proceso político. Si los que mueven los hilos de poder en Somalia no se comprometen en mayor medida con el proceso político, es posible que se dé por tierra con los adelantos realizados desde el fin de la transición y que esto de lugar a un aumento de conflictos entre las comunidades y cree un espacio para que los grupos militantes fundamentalistas sigan ofreciendo vías alternativas para la estabilidad.

Federalización

13. Podría decirse que el proceso de federalización representa el acontecimiento político más importante en las zonas del sur y centro de Somalia desde la caída del Estado en 1991. Después de más de dos decenios de colapso, la puesta en marcha de un sistema federal iba a ser, sin lugar a dudas, un reto gigantesco que, indefectiblemente y con razón, sería puesto en tela de juicio. La capacidad de las personas que dirigen el proceso de federalización y su compromiso con los principios convenidos luego de la finalización de la transición eran indispensables para poder manejar de manera efectiva esa situación y minimizar el conflicto.

Administración Provisional de Yuba

14. En agosto de 2013, el Gobierno Federal de Somalia no tuvo más remedio que aceptar la formación de la Administración Provisional de Yuba, que se adjudica la autoridad de las regiones de Gedo, Bajo Yuba y Yuba Medio, bajo el mando de Ahmed “Madobe” (Mohamed Zubeyr/ogaden/darod). Los países vecinos, Kenya y Etiopía, han desempeñado un papel más importante en el proceso que el Gobierno Federal de Somalia, y Etiopía acogió la conferencia de la Autoridad Intergubernamental para el Desarrollo de la que surgió el Acuerdo de Addis Abeba de septiembre de 2013, gracias al cual se lograron abrir líneas de comunicación entre la Administración Provisional de Yuba y el Gobierno Federal de Somalia. Las comunidades marehan (darod) del norte del aspirante a estado miembro federal, en particular en la región de Gedo, quedaron en su mayor parte excluidas de su proceso de formación y, por lo tanto, se han opuesto en gran medida a la administración regional provisional. La competencia por el dominio político continúa entre los clanes marehan y ogaden, y grupos más débiles desde el punto de vista militar presentes en la región (incluidos los clanes digil y mirifle, así como las

comunidades de bantúes somalíes), han quedado en la práctica al margen del proceso.

15. En mayo de 2015 la Administración Provisional de Yuba estableció una Asamblea Regional con 75 representantes. La administración de Ahmed “Madobe”, que dirigió el proceso, fue acusada de inmediato de marginalizar los clanes digil y mirifle intentando congraciarse con los marehan y manteniendo, al mismo tiempo, el dominio de los ogaden. Los diputados del Parlamento del Gobierno Federal de Somalia declararon su oposición al proceso mediante un voto de censura contra la Asamblea Regional, lo que dio lugar a otra confrontación, esta vez entre las administraciones de Kismayo, Garowe, Baidoa y Mogadiscio¹. En agosto de 2015, dos años después del Acuerdo de Addis Abeba y en consonancia con sus disposiciones, la Asamblea Regional de Yuba votó por que se volviera a nombrar a Ahmed “Madobe”. Después de haber obtenido un nuevo mandato, a comienzos de septiembre de 2015 Ahmed “Madobe” convino en revisar y reconstituir la Asamblea Regional.

16. En agosto y septiembre de 2015, distintas fuerzas aliadas, con el apoyo de la AMISOM, habían puesto en marcha esfuerzos para recuperar sitios en toda la región del control de Al-Shabaab. En centros urbanos importantes desde el punto de vista estratégico, como Baardheere, tras la retirada de Al-Shabaab distintas fuerzas contrarias se han disputado el control administrativo. Más al norte, en Garbaharey, un día después de que aparentemente se hubiesen conciliado las diferencias con la administración local dominada por los marehan en la región de Gedo, el 8 de agosto de 2015 la Administración Provisional de Yuba hizo dimitir al gobernador y al líder local de Ahlu Sunna Wal Jama’a, Mohamed Abdi Khalil, lo cual dio lugar a manifestaciones y a la imposición de un toque de queda por los contingentes locales de las Fuerzas Nacionales de Defensa de Etiopía.

Administración Provisional de la Región Sudoccidental

17. La formación de la Administración Provisional de la Región Sudoccidental en 2014 también se produjo sin una aportación significativa del Gobierno Federal de Somalia. El proceso ya estaba muy avanzado cuando los funcionarios directivos comenzaron a apoyar abiertamente a agentes y partidos definidos, divididos principalmente entre los que querían incorporar las regiones de Bakool, Bay y Bajo Shabelle y los que tenían la esperanza de incluir también Gedo, Yuba Medio y Bajo Yuba. Con la ayuda del Gobierno Federal de Somalia, en noviembre de 2014 los proponentes de la primera opción finalmente salieron victoriosos, bajo el mando del antiguo Ministro de Hacienda del Gobierno Federal de Transición y Presidente del Parlamento, Sharif Hassan Sheikh Adan. Sharif Hassan ha sido acusado de nepotismo en su administración incipiente, por haber designado a su hermano,

¹ La Administración Provisional del Estado Sudoccidental, dominada por los clanes digil y mirifle, también expresaron su oposición a la marginación de esos clanes en la Asamblea Regional de la Administración Provisional de Yuba y la administración del Estado de Puntlandia de Somalia, dominada por los majeerteen (darod), acusó al Gobierno Federal de Somalia y al Parlamento Federal de Somalia de interferir en los asuntos regionales.

Mohamed Abdinur “Madeer”, su asesor superior, y a su sobrino, Mohamed Abdullahi Mursal, “Ministro de Estado de la Presidencia”².

Administración Provisional de Galmudug

18. Al no haber podido dirigir los procesos en Kismayo y Baidoa, el Gobierno Federal de Somalia desempeñó un papel mucho más activo en el establecimiento de la Administración Provisional de Galmudug, que sostiene que incorpora las regiones de Mudug y Galgadud³. En agosto de 2014, el Ministerio del Interior y Federalismo estableció un comité técnico encargado de seleccionar los representantes de clanes que participarían en una conferencia de reconciliación y un proceso de formación del Estado y posteriormente seleccionarían a los miembros de una asamblea regional. El Grupo recibió numerosos informes de que las dos principales agrupaciones políticas, Damul Jadiid y Ala Sheikh, habían interferido en la selección del presidente del comité técnico y que la primera había conseguido que se eligiera a su candidato favorito, Halimo Ismail Ibrahim “Yarey”. La selección de los representantes de clanes, y la posterior selección de los miembros de la Asamblea Regional también se vio empañada por las denuncias de interferencia de los principales interesados en el proceso⁴.

19. Una facción con gran poder militar del contingente local de Ahlu Sunna Wal Jama’a se opuso desde un comienzo al proceso de formación del Estado, en vistas de que, según alegaba, el signatario del grupo en el acuerdo inicial de formación de estados de las regiones centrales no era su representante legítimo. A fines de 2014 se desató un conflicto entre Ahlu Sunna Wal Jama’a y el Ejército Nacional Somalí en la ciudad de Guriel y sus alrededores, en el norte de la región de Galgadud. El proceso de formación del Estado continuó luego sin la participación de Ahlu Sunna Wal Jama’a y en julio de 2014, tras un proceso teñido de denuncias de compra de votos y promesas de nombramientos políticos a los rivales, culminó en la selección de Abdikarim Guled —un aliado clave del Presidente Hassan Sheikh Mohamud—, para ocupar la presidencia de la administración regional provisional. La cuestión de hasta dónde llega, hacia el norte, Galmudug, aspirante a estado miembro federal, ha alimentado las tensiones con Puntlandia y amenazado con reiniciar el conflicto en una de las regiones más frágiles de Somalia. Además, hasta septiembre de 2015, una facción de Ahlu Sunna Wal Jama’a mantenía el control del norte de Galgadud, incluida Dhusamareb, la capital declarada de la administración regional provisional⁵.

20. En el anexo 1.1 se proporciona información detallada sobre la formación de la Administración Provisional de Galmudug.

² “Madeer” había sido el “presidente” del campamento SW3 antes de entregárselo a su hermano cuando se llegó a un arreglo con SW6 y se estableció la Administración Provisional del Estado Sudoccidental.

³ No está claro si la Administración Provisional de Galmudug sostiene que también se incluye el norte de la región de Mudug.

⁴ El Grupo de Supervisión ha examinado la documentación que demuestra que se ha dejado de lado a determinados miembros del comité técnico en la selección de representantes de los clanes y miembros de la asamblea regional.

⁵ El modelo de Galmudug es el que sigue ahora el Gobierno Federal de Somalia para la creación de una administración regional provisional que incorpora las regiones de Hiran y Shabelle Medio.

Votos del Parlamento Federal a cambio de dinero en efectivo

21. Los miembros de la Cámara del Pueblo del Parlamento Federal tienen la tarea de representar a sus circunscripciones, analizar y cuestionar la labor del Gobierno Federal de Somalia y examinar y aprobar la legislación. El papel del Parlamento Federal de garantizar que se mantienen los adelantos logrados en el desarrollo político de Somalia depende completamente de la integridad y la independencia de sus miembros. El Grupo de Supervisión ha documentado el abuso generalizado de los privilegios de voto de los diputados del Parlamento Federal. Cuando se presentan mociones importantes en el Parlamento, en particular mociones de censura de un Primer Ministro en funciones, un número importante de diputados vende su voto al mejor postor. La práctica de “votos por dinero en efectivo” está tan arraigada que desde fines de la transición ha surgido una red de intermediarios que se ocupa de comprar la lealtad de diputados que estén dispuestos a ofrecerla y de amenazar a aquellos que se rehúsan a hacerlo. Los intermediarios tienden a defender los intereses del Presidente Hassan Sheikh Mohamud o los de sus opositores. En términos más generales, en el Parlamento se libran batallas por la influencia entre las dos principales agrupaciones político-religiosas: Damul Jadid, aliada del Presidente, y Ala Sheikh, en la oposición.

22. En el anexo estrictamente confidencial 1.2 se proporciona información detallada sobre la prevalencia de los sobornos a los diputados.

Las comisiones independientes

23. Las comisiones independientes establecidas en virtud de la Constitución Provisional de 2012 se habían concebido para guiar el proceso de federalización y apoyar la consolidación de los acuerdos políticos posteriores a la transición. Si las comisiones se hubiesen establecido con prontitud y de conformidad con los principios de la Constitución Provisional, habrían imbuido de más legitimidad el proceso político al finalizar la transición y garantizado un traspaso de autoridad menos problemático a la próxima administración federal en 2016.

24. En tres años, y a lo largo de seis sesiones parlamentarias, los diputados han establecido con éxito apenas cuatro de las nueve comisiones independientes estipuladas en la Constitución Provisional de 2012. En mayo de 2014, casi 20 meses después de comenzado el mandato del Gobierno Federal de Somalia, se creó la Comisión de Examen y Aplicación de la Constitución Provisional, integrada por cinco miembros. En un principio se la encomió por ser ampliamente representativa y estar integrada por personas competentes, pero los desafíos que suponía el logro de sus metas no tardaron en dejarse ver. El 5 de mayo de 2015, la Presidenta de la Comisión, Asha Gelle Diriye, dimitió de la Comisión tras alegar una falta general de priorización de la finalización de la constitución y la falta de fondos asignados a la Comisión⁶.

25. La Comisión de Fronteras y de la Federación se estableció finalmente el 6 de julio de 2015, dos días después del establecimiento de la tercera Administración Provisional de Galmudug, en una situación de aumento de las tensiones entre las administraciones de Adado y Garowe por la frontera septentrional del candidato/aspirante a estado miembro federal. La Comisión Electoral Nacional

⁶ La traducción oficiosa de la carta de renuncia de Asha Gelle Diriye está archivada en los archivos del Grupo de Supervisión.

Independiente se estableció ese mismo día. Tres semanas más tarde, un comité parlamentario anunció que el Parlamento y el Gobierno Federal de Somalia habían convenido que en 2016 no se celebrarían las elecciones generales basadas en el sufragio universal por el “recrudescimiento de la violencia” y la “agitación política”⁷.

26. Los limitados esfuerzos realizados tanto por el Gobierno Federal de Somalia como por el Parlamento Federal de Somalia para establecer y apoyar estos importantes órganos independientes parecen indicar una falta de interés en el diálogo y en la opinión del pueblo somalí, lo cual socava la legitimidad de las instituciones existentes y genera preocupación por el proceso que se empleará para establecer en 2016 el próximo gobierno federal.

Conclusiones

27. El Grupo de Supervisión ya ha advertido de la posible amenaza para la paz, la seguridad y la estabilidad que representan las “redes obstruccionistas” en Somalia (S/2013/413). El Grupo describió cómo los intentos de la élite política y empresarial por captar los recursos del Estado en el proceso de federalización han o retrasado u obstruido en la práctica los esfuerzos de reconciliación. En lugar de tratar de llenar el vacío dejado por Al-Shabaab tras las victorias territoriales contra el grupo, esos grupos siguen centrándose en quedarse con el poder en los centros urbanos. El fracaso del Gobierno Federal de Somalia y del Parlamento Federal de Somalia en la creación de las instituciones que tanto hacen falta antes de pasar a la siguiente fase de transición en 2016 es también un síntoma de un sistema en el cual el interés de unos pocos invalida el de la mayoría. Al-Shabaab, revitalizado, aprovechará cualquier oportunidad para reclutar adeptos entre los habitantes que fueron dejados de lado en el proceso de federalización y creación del Estado. Los esfuerzos por impedir la participación de más interesados en el proceso político en curso en el período previo a las elecciones de 2016 están perjudicando el proceso político y con ello amenazando por un lado los frágiles avances logrados en los últimos años y por otro la paz, la seguridad y la estabilidad a largo plazo en Somalia.

B. Recursos naturales

28. El conflicto en toda la región somalí— en particular en el sur y centro de Somalia— hace mucho que gira en torno al acceso a las tierras fértiles y al agua. Históricamente, esos conflictos han tendido a enfrentar a los clanes dominantes, tradicionalmente pastorales y con más poderío militar con las comunidades más débiles, que suelen dedicarse a la agricultura y al pastoreo y no poseen armas. La presencia de una administración fuerte, aunque despiadada, a las órdenes de Al-Shabaab en el sur y centro de Somalia en gran medida atemperaba los conflictos entre las comunidades por el acceso a la tierra y el agua. El hecho de que Al-Shabaab dejase de ser la autoridad gobernante en muchas regiones ha creado un vacío de poder que ni el Gobierno Federal de Somalia ni las incipientes administraciones regionales provisionales tienen la capacidad suficiente para llenar. Estas administraciones tampoco tienen capacidad para ayudar a reconstruir administraciones locales eficaces capaces de mantener la seguridad. Se registró un

⁷ Véase Mohamed Sheikh Nor, “Somalia Scraps Plans to Elect Next President in Popular Vote”, *Bloomberg Business*, 30 de julio de 2015. Disponible en www.bloomberg.com/news/articles/2015-07-29/somalia-scraps-plans-to-elect-next-president-in-popular-ballot.

marcado aumento de los conflictos intracomunales desde finales de la transición en 2012, lo que ha recordado a agentes locales e internacionales que la expulsión de Al-Shabaab, por sí sola, no es una panacea para la paz y la seguridad de Somalia y la región del Cuerno de África en general.

29. Al mismo tiempo, se ha observado un aumento considerable del interés internacional en los recursos naturales de Somalia. Las empresas privadas se han apresurado a anunciar la caída de Al-Shabaab y, con ella, el comienzo de una nueva era de relativa calma, con el propósito de iniciar una nueva fase de explotación de los recursos minerales y marítimos de Somalia. Durante dos decenios el sur y centro de Somalia estuvieron sujetos a las condiciones de fuerza mayor impuestas por las compañías petroleras. En agosto de 2013, esas condiciones se levantaron con la firma de un acuerdo para la adquisición de datos sísmicos con la empresa Soma Oil & Gas Holdings Ltd. El contrato firmado con Somalia Fishguard Ltd. también marcó el comienzo de una renovada expansión del sector pesquero. El aumento del interés en los recursos minerales y marítimos de Somalia no ha venido acompañado de esfuerzos para establecer una legislación eficaz para la gestión y la distribución de la riqueza de los recursos entre los estados miembros federales existentes y futuros, lo cual plantea serias preocupaciones con respecto a la posibilidad de que surja una nueva era de conflictos por la obtención de recursos en el Cuerno de África.

El conflicto intercomunal por la tierra y el agua

30. Pese a que Somalilandia se mantuvo relativamente al margen de los daños ocasionados por Al-Shabaab y logró un cierto grado de estabilidad desde mediados de la década de 1990, los conflictos por la tierra representan ahora la principal causa de conflicto. El Grupo registró por lo menos 45 incidentes relacionados con disputas por tierras entre septiembre de 2014 y agosto de 2015 en el territorio reivindicado por Somalilandia. Los conflictos relacionados con la tierra se extienden mucho más allá de las regiones de Sool y Sanaag, lo que llevó a las autoridades de Somalilandia a aplicar una serie de medidas para tratar de solucionar el problema. La creciente tendencia a cercar ilícitamente áreas comunes que surgió a partir del aumento constante del valor comercial de las tierras es un indicio de los posibles problemas que pueden llegar a enfrentar el sur y centro de Somalia cuando se supere el tipo de conflictos que tienen lugar en la actualidad.

31. En Puntlandia siguió habiendo enfrentamientos esporádicos entre los majeerteen (harti/darod) tanto por tierras en zonas urbanas como por tierras de pastoreo. En la región meridional de Mudug —que ahora se encuentra nominalmente bajo el control de la Administración Provisional de Galmudug— a finales de 2014 y nuevamente a comienzos de 2015 estallaron tensiones entre los subclanes marehan (darod) y haber gedir (hawiye) por la tierra, que se convirtieron en conflicto en la aldea de Saaxo y sus alrededores, cerca de la frontera con Etiopía. Aparentemente en 2015 se produjo un cambio y en lugar de los conflictos por la tierra en la región de Shabelle Medio entre el clan dominante abgaal (hawiye) y las comunidades minoritarias shidle (bantú) lo que se registran son enfrentamientos dentro del clan abgaal. Desde el informe anterior del Grupo (S/2014/726) los conflictos entre comunidades en la región del Bajo Shabelle, que en la actualidad es nominalmente parte de la Administración Provisional del Estado Sudoccidental, no cesan y muestran pocos indicios de cambio pese a diversas iniciativas de reconciliación. En Hiran, las milicias hawadle, que reciben el apoyo del Ejército

Nacional Somalí, han lanzado ataques encarnizados contra las aldeas de Kabxanley y Defow, en las afueras de Beledweyne, en un intento por desplazar de manera permanente a la comunidad agrícola sur de sus tierras fértiles a orillas del río Shabelle (véanse el anexo 6.3.a y el anexo 6.3.b, estrictamente confidencial).

32. En Yuba Medio —controlado aún en su mayoría por Al-Shabaab— a principios de 2015 estalló un conflicto entre los clanes dhulbahante (harti/darod), awliahan (ogaden/darod) y sheikhal (hawiye) por las tierras de pastoreo. Los intentos de Al-Shabaab de conciliar los grupos antagonistas en Bu'ale en última instancia no dieron resultado, lo cual es un indicio de que ya había perdido cierto control de las relaciones entre las comunidades de la zona antes de la ofensiva del “Corredor de Yuba” liderado por la AMISOM y las fuerzas aliadas anti Al-Shabaab. El valle del Yuba, al igual que la zona baja del río Shabelle, ha sido el escenario de feroces contiendas con respecto a los derechos sobre la tierra desde antes del colapso del Estado somalí en 1991⁸. El Grupo de Supervisión está preocupado por el hecho de que, a raíz de la retirada de Al-Shabaab de la región, comunidades históricamente marginadas sufrirán en manos de otras comunidades con mayor poderío militar e interesadas en explotar comercialmente las tierras agrícolas fértiles de la zona baja del río Yuba.

El resurgimiento de la pesca ilegal, no declarada y no reglamentada

33. El Grupo de Supervisión está en deuda con Jorge Torrens, oficial de la Organización de las Naciones Unidas para la Alimentación y la Agricultura —que murió en las cercanías de Hargeisa, en Somalilandia, el 29 de abril de 2015 en el desempeño de sus funciones— por haber sido el primero en señalar a la atención del Grupo el resurgimiento del problema de la pesca ilegal, no declarada y no reglamentada en Somalia.

34. Somalia tiene una costa de 3.300 kilómetros de longitud; la más larga del África continental. La zona económica exclusiva del país, de 200 millas náuticas, incluye una zona de pesca productiva y en gran parte sin explotar adonde se encuentran especies de peces migratorios como el atún y varias especies de peces y crustáceos demersales. Aprovechando la poca capacidad de vigilancia marina del Gobierno Federal de Somalia, muchos buques extranjeros pescan en aguas de Somalia en contravención del derecho internacional y de la Ley de Pesca del Gobierno Federal de Somalia, ya sea con documentos falsos o sin licencias y sin presentar ningún dato a las autoridades somalíes⁹.

35. La pesca ilegal, no declarada y no reglamentada representa una amenaza importante para la paz y la seguridad en Somalia. La pesca ilegal se cita con frecuencia como un factor que contribuye a la aparición de la piratería en Somalia desde mediados de los años noventa, dado que los buques extranjeros entraron en conflicto con los pescadores locales, quienes, a su vez, se volcaron a los secuestros

⁸ Catherine Besteman and Lee V. Cassanelli, eds., *The Struggle for Land in Southern Somalia: The War Behind the War* (London, Haan Publishing, 1996).

⁹ Ministerio Federal de Pesca y Recursos Marinos y otros, “Report on presumed illegal, unreported and unregulated fishing activities in the exclusive economic zone of Somalia”, documento presentado en el 19° período de sesiones de la Comisión del Atún para el Océano Índico, celebrado en Busan (República de Corea), del 27 de abril al 1 de mayo de 2015, y redactado por la Organización de las Naciones Unidas para la Agricultura y la Alimentación (FAO) en nombre del Gobierno Federal de Somalia.

en el mar¹⁰. El drástico incremento de la piratería somalí en 2007 se tradujo en una reducción proporcional de los buques pesqueros extranjeros que operaban en la zona económica exclusiva de Somalia¹¹. Y la drástica reducción de las actividades de piratería en la costa de Somalia desde 2012 ha dado lugar a la reanudación de la pesca por flotas extranjeras en la cuenca somalí¹². Así pues, ha vuelto a surgir la dinámica anterior de conflicto entre los buques que se dedican a la pesca ilegal, no declarada y no reglamentada y los pescadores y milicias locales, particularmente en Somalia central.

36. Por ejemplo, el dhow pesquero *Aresh* fue arrestado por la Guardia Costera de Galmudug a 120 kilómetros al norte de Hobyó, el 1 de abril de 2015¹³. Después de su detención, los tripulantes y un capitán reconocieron que habían estado pescando ilegalmente. Las autoridades de Galmudug impusieron a la embarcación una multa de 100.000 dólares y, una vez pagada, la dejaron en libertad el 16 de abril de 2015¹⁴. El 23 de abril de 2015, el dhow *Al Momen*, con pabellón iraní, fue aprehendido en la costa de Qandala, en Puntlandia, posiblemente por su propia unidad de seguridad somalí, y posteriormente puesto en libertad sin incidentes. El 13 de mayo de 2015, el dhow iraní *Sudis* tuvo una falla mecánica y encalló cerca de Mareg, en Somalia central. Según información, los 14 tripulantes del dhow fueron capturados por Al-Shabaab y su paradero seguía siendo desconocido hasta el momento de redactarse este informe¹⁵.

37. El Grupo de Supervisión está preocupado por que el retorno a aguas somalíes de flotas extranjeras que pescan cerca de la costa y vienen con unidades de seguridad armadas represente una amenaza para la paz, la seguridad y la estabilidad de Somalia. Esas prácticas no solo amenazan con generar conflictos con los pescadores locales y la consiguiente pérdida de vidas, sino que también pueden llegar a provocar una respuesta de las comunidades locales de autodefensa similar a la que contribuyó al surgimiento de la piratería en Somalia hace más de un decenio.

La constante privatización de los espacios marítimos de Somalia

38. El Grupo de Supervisión está preocupado por la prevalencia constante de empresas privadas de seguridad marítima en Somalia que hacen acuerdos de asociación con las autoridades locales para prestar servicios de vigilancia o de guardia costera. En varios casos, las autoridades locales también han encomendado a esas empresas privadas la venta de licencias de pesca y la gestión de los recursos marinos, lo que constituye, como mínimo, un conflicto de intereses. El Grupo de Supervisión hizo mención especial de una de estas empresas, Somalia Fishguard Ltd., en su informe anterior (S/2014/726, anexo 5.1). El Grupo de Supervisión observa con preocupación que la práctica utilizada en el pasado por Somalia de dejar en manos de empresas privadas la venta de licencias de pesca y también la

¹⁰ Véase, por ejemplo, Jay Bahadur, *The Pirates of Somalia: Inside Their Hidden World* (New York, Pantheon Books, 2011).

¹¹ Ministerio Federal de Pesca y Recursos Marinos y otros, "Report on presumed illegal, unreported and unregulated fishing activities in the exclusive economic zone of Somalia" (véase la nota de pie de página 10).

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ Entrevista del Grupo de Supervisión con un oficial de la FAO en Nairobi, 21 de mayo de 2015.

¹⁵ Información de la Fuerza Naval de la Unión Europea, recibida por correo electrónico por el Grupo de Supervisión el 28 de mayo de 2015.

gestión de la seguridad marítima planteó una amenaza para la paz y la estabilidad. Esas empresas han privilegiado a clientes extranjeros, incluso hasta el punto de proporcionar a las embarcaciones de pesca extranjeras guardias armados, lo cual, también, generó conflictos potenciales con los pescadores locales y las comunidades costeras.

39. Durante el mandato, dos empresas privadas —Somali Security Services Ltd. y Anglo Somaliland Resources Ltd.— han concertado acuerdos en Puntlandia y Somalilandia, respectivamente, para prestar servicios relacionados con el sector pesquero. Estos dos contratos se examinan en el anexo 2.3.

Posible corrupción en la venta de licencias de pesca

40. En su informe de 2014, el Grupo de Supervisión siguió investigando los actos de corrupción que socavaban las instituciones públicas “mediante la desviación de corrientes financieras nacionales”, al tiempo que observó “la perpetuación de pautas convencionales de desviación por quienes ocupan cargos públicos y funcionarios con acceso a recursos nacionales, o por los ‘guardianes’ de las oficinas gubernamentales” (S/2014/726, párr. 62). En este sentido, el Grupo de Supervisión ha detectado la venta ilícita de licencias de pesca a clientes extranjeros como una vía para que el Gobierno Federal de Somalia y otros funcionarios somalíes puedan apropiarse indebidamente de los recursos públicos.

41. El Grupo ha encontrado pruebas de la venta de licencias de pesca, tanto por el Gobierno Federal de Somalia como por funcionarios de Puntlandia, realizada al margen del aparato de recaudación de ingresos del Estado. Por ejemplo, desde mayo de 2015 el Ministerio de Pesca y Recursos Marinos del Gobierno Federal de Somalia viene expidiendo licencias a palangreros chinos y depositando los ingresos de esas ventas en una cuenta bancaria privada ministerial en Djibouti¹⁶, en contravención de la orden ministerial de febrero de 2014, por la que todos los organismos del Gobierno Federal de Somalia deben canalizar los ingresos a través de la Cuenta Única del Tesoro en el Banco Central de Somalia (S/2014/726, párr. 64). El Grupo de Supervisión suministró los detalles de esta cuenta bancaria al Ministerio de Hacienda del Gobierno Federal de Somalia el 18 de julio de 2015¹⁷.

42. El Grupo ha obtenido una copia de un proyecto de acuerdo entre el Ministerio de Pesca y Recursos Marinos del Gobierno Federal de Somalia y Doggang Daping Enterprises Group, una empresa pesquera multinacional con oficinas centrales en Liaoning (China). El acuerdo otorga a Doggang Daping una autorización exclusiva por siete años para pescar en la zona económica exclusiva de Somalia y también le permite llevar su propio equipo de seguridad armado a bordo de sus buques pesqueros y apostar en sus futuras oficinas en Somalia, lo cual probablemente constituiría una violación del embargo de armas. En el anexo 2.1.e figura el proyecto de acuerdo con Daping Doggang Enterprises Group.

¹⁶ En el anexo 2.1.b y c se presentan copias de las licencias expedidas por el Ministerio del Gobierno Federal de Somalia y de los comprobantes de las remesas.

¹⁷ Correo electrónico de fecha 18 de julio de 2015 enviado por el Grupo de Supervisión al Ministro de Hacienda del Gobierno Federal de Somalia, Mohamed Aden Ibrahim.

El buque pesquero *Al Amal* y el ataque al Auditor General del Gobierno Federal de Somalia

43. El 15 de enero de 2015, el buque pesquero *Al Amal* registrado en el Yemen entró en el puerto de Mogadiscio enarbolando el pabellón somalí, supuestamente con el fin de reabastecerse. El Auditor General del Gobierno Federal de Somalia, Nur Jimale Farah, ordenó realizar una inspección del buque, en la que se determinó que estaba pescando ilegalmente. Aunque Farah intentó retenerla, el 15 de enero de 2015 la embarcación fue liberada en circunstancias sospechosas y partió del puerto de Mogadiscio.

44. En un acontecimiento al que se dio mucha difusión en los medios de comunicación locales, el 18 de enero de 2015 el Auditor General no pudo ingresar a su oficina en Villa Somalia y, según se notifica, fue agredido por los guardias del recinto. Farah le dijo al Grupo de Supervisión que creía que el ataque se había debido a la orden de inspección de *Al Amal* y que desde entonces había dejado de investigar la pesca ilegal, no declarada y no reglamentada porque temía por su seguridad¹⁸.

45. En el anexo 2.2 se presenta una relación completa de las actividades de *Al Amal*, así como del ataque al Auditor General.

El sector extractivo

46. En su informe de 2013 (S/2013/413), el Grupo examinó la amenaza para la paz y la seguridad que planteaba el sector extractivo en Somalia. El Grupo puso de relieve el riesgo de corrupción en el sector, poniendo una particular atención en las deficiencias de la Corporación Petrolera de Somalia y la Autoridad Petrolera de Somalia – dos órganos independientes creados con arreglo a lo dispuesto en la Ley de Hidrocarburos de 2008 del Gobierno de Somalia, que aún no pueden cumplir sus funciones de manera viable. En su informe de 2014, el Grupo volvió a destacar la falta de transparencia en el sector del petróleo y el gas, señalando especialmente a la atención un contrato de exploración otorgado a Soma Oil & Gas Holdings Ltd. (Soma), una empresa de exploración de recursos extractivos con sede en Londres, incorporada el 26 de abril de 2013 y presidida por el exdirigente del Partido Conservador del Reino Unido, Michael Howard (S/2014/726, anexo 5.1).

47. En mayo de 2013, el entonces Ministro de Recursos Nacionales¹⁹, Abdirizak Omar Mohamed, declaró que el Gobierno Federal de Somalia “debería esperar hasta que se hayan establecido las leyes adecuadas” antes firmar acuerdos con empresas petroleras y de gas²⁰. Tres meses más tarde, el 6 de agosto de 2013, Soma firmó un acuerdo para la adquisición de datos sísmicos con el Ministerio del Petróleo y Recursos Minerales del Gobierno Federal de Somalia que daba a la empresa el derecho a llevar a cabo un estudio sísmico frente a las costas del sur y centro de Somalia. El contrato también daba a la empresa el derecho a explotar posteriormente 12 bloques de petróleo y gas de su elección frente a las costas, por

¹⁸ Entrevista del Grupo de Supervisión con Nur Farah en Nairobi, 21 de marzo de 2015.

¹⁹ En enero de 2014 el Ministerio de Recursos Nacionales se dividió en cuatro ministerios, uno de los cuales era el Ministerio del Petróleo y Recursos Minerales.

²⁰ Katrina Manson, “Somalia: oil thrown on the fire”, *The Financial Times*, 13 de mayo de 2013.

un total de 60.000 km². El repentino anuncio del acuerdo causó una gran conmoción en la industria del gas y del petróleo y en la comunidad diplomática en Somalia²¹.

Soma Oil & Gas Holdings Ltd.

48. El 28 de julio de 2015, el Grupo de Supervisión presentó al Comité una comunicación confidencial²² en la que se describía cómo las actividades de Soma en Somalia constituían violaciones del párrafo 2 de la resolución 2002 (2011) y el párrafo 2 c) de la resolución 2060 (2012), por menoscabar las instituciones públicas somalíes mediante la corrupción. En la comunicación se daban detalles de cómo a partir de junio de 2014 Soma había hecho de manera sistemática pagos a funcionarios del Ministerio del Petróleo y Recursos Minerales del Gobierno Federal de Somalia (incluidos el Director General, el Director General Adjunto y otros altos funcionarios de la administración pública), en el marco de un supuesto “acuerdo de fomento de la capacidad”.

49. El Grupo ha llegado a la conclusión de que estos fondos destinados al “fomento de la capacidad”, que hasta el 28 de mayo de 2015 ascendían a un total de 490.000 dólares²³, eran probablemente parte de un arreglo *quid pro quo* destinado a proteger el acuerdo de obtención de datos sísmicos del escrutinio del Comité de Gobernanza Financiera. Además, los funcionarios que recibían pagos de Soma participaron directamente en negociaciones posteriores del proyecto de contrato de división de la producción entre el Ministerio y Soma, lo cual representaba un conflicto de intereses.

50. En el marco del acuerdo de fomento de la capacidad, la empresa también había hecho pagos a un asesor presidencial del Gobierno Federal de Somalia en petróleo y gas, Abdullahi Haider Mohamed, que, según reconoció la empresa, había “representado al Gobierno Federal ... en las negociaciones en torno al acuerdo de obtención de datos sísmicos que se firmó en agosto de 2013”²⁴. Sin embargo, tras el envío de la comunicación del Grupo al Comité, Soma difundió un comunicado de prensa en que sostenía que ningún individuo que recibía dinero de la empresa “estaba, o está, en condiciones de influir en la decisión de conceder ningún acuerdo

²¹ Sobre la base de numerosas entrevistas del Grupo de Supervisión con expertos en petróleo y gas, así como con diplomáticos basados en Londres y Nairobi. El hecho de que Soma se había constituido como empresa hacía solo seis meses, la concesión de una docena de bloques a Soma sin haber realizado previamente una ronda de licitaciones, el hecho de que el Gobierno Federal de Somalia había recibido al menos una oferta superior de una importante empresa petrolera, y el compromiso público anterior del Gobierno Federal de Somalia de abstenerse de firmar contratos de petróleo o gas hasta tanto se hubieran establecido instituciones viables, fueron características que se consideraron muy inusuales en el contrato otorgado a Soma y que se mencionaron al Grupo.

²² S/AC.29/2015/SEMG/OC.31.

²³ Soma también transfirió 100.000 dólares al Ministerio el 18 de diciembre de 2014 que debían utilizarse para construir una sala de datos para almacenar los datos reunidos con el estudio sísmico de la empresa. En su comunicación de 28 de julio de 2015 dirigida al Presidente del Comité, el Grupo de Supervisión observó que no se había avanzado en la construcción de esa sala, pero que todavía no sabía qué había ocurrido con esos fondos. Posteriormente, el Grupo obtuvo registros del Banco Central de Somalia que indicaban que a mediados de marzo de 2015 los fondos ya no se encontraban en la cuenta bancaria del Ministerio.

²⁴ Carta de fecha 1 de julio de 2015 dirigida al Grupo de Supervisión por Soma (S/AC.29/2015/NOTE.25/Add.4).

comercial que beneficie a Soma²⁵. Por consiguiente, la empresa intentó engañar al Grupo de Supervisión durante su investigación e hizo declaraciones públicas falsas en relación con el acuerdo de fomento de la capacidad cuando se dieron a conocer las constataciones del Grupo.

51. El estudio de caso completo del Grupo de Supervisión sobre Soma Oil & Gas Holdings Ltd., basado en gran medida en el material incluido en la comunicación del Grupo de 28 de julio de 2015 remitida al Comité, figura en el anexo 2.5.

La elusión de la Cuenta Única del Tesoro del Gobierno Federal de Somalia

52. Al igual que otros ministerios que se destacan en el informe actual del Grupo, el Ministerio del Petróleo y Recursos Minerales ha hecho intentos reiterados de socavar la gestión de las finanzas públicas en Somalia mediante la canalización de ingresos fuera de la Cuenta Única del Tesoro del Banco Central. Por ejemplo, el Director General, Farah Abdi Hassan, le dio órdenes a Soma de que transfiriera los fondos del programa de “fomento de la capacidad” a una cuenta privada que el Ministerio tenía en el Banco Internacional de Somalia (IBS), que, según dijo Hassan en un mensaje de correo electrónico enviado a Soma, era “más eficiente que el banco central”²⁶. En su lugar, Soma decidió transferir los fondos a la cuenta del Ministerio en el Banco Central.

53. Sin embargo, el Grupo se ha enterado de que por lo menos una vez el Ministerio logró desviar ingresos públicos a su cuenta del IBS. El 16 de mayo de 2015, la CGG —una empresa responsable de pagar regalías por la venta de datos sísmicos de Somalia al Gobierno Federal de Somalia— transfirió un pago de 633.866,69 dólares a la cuenta del Ministerio en el IBS (en el anexo 2.5.q se reproduce un certificado de confirmación de la cuenta del Ministerio en el IBS).

54. Dar instrucciones para desviar ingresos que deberían depositarse en la Cuenta Única del Tesoro —una cuenta centralizada supervisada por el Gobierno Federal de Somalia— es lo mismo que convertir a los ministerios del Gobierno Federal de Somalia en instituciones que buscan enriquecerse y que pueden quedar en manos de miembros del Gobierno, alimentando de esa manera la corrupción y los conflictos.

Ausencia de un marco de participación en el aprovechamiento de los recursos

55. En su informe de 2013 (S/2013/413, párr. 79), el Grupo de Supervisión puso de relieve que la falta de “acuerdos constitucionales” para la participación en el aprovechamiento de los recursos entre el Gobierno Federal de Somalia y las administraciones regionales de Somalia representaba una amenaza para la paz y la seguridad. El Grupo observó que “estaba aumentando la hostilidad” entre el Gobierno Federal de Somalia y las administraciones regionales que habían firmado acuerdos petroleros y de gas sin hacer participar al Gobierno Federal (*ibid.*, párr. 77). Pese a que sigue sin existir un marco constitucional de participación en el

²⁵ Soma Oil & Gas Holdings Ltd., “Respuesta a las observaciones del Grupo de Supervisión de las Naciones Unidas para Somalia y Eritrea sobre el acuerdo de fomento de la capacidad”, 3 de agosto de 2015. Puede consultarse en www.somaoilandgas.com/response-to-united-nation/.

²⁶ Correo electrónico de fecha 29 de junio de 2014 enviado por Farah Abdi Hassan al jefe ejecutivo de Soma, Robert Sheppard y al oficial jefe de finanzas, Philip Wolfe.

aprovechamiento de los recursos, tanto el Gobierno Federal de Somalia como las administraciones regionales siguen negociando contratos y firmando acuerdos con empresas petroleras y de gas²⁷.

56. Más recientemente, el 5 de septiembre de 2015, el Gobierno Federal de Somalia firmó un acuerdo con la empresa noruega Spectrum ASA, por medio del cual le otorgó el derecho a realizar un estudio de obtención de datos sísmicos que cubre 28.000 km² de territorio frente a las costas de Somalia central y meridional. El 1 de septiembre de 2015, el Organismo de Minerales de Petróleo de Puntlandia e ION Geophysical Corporation, con oficinas centrales en Houston, anunciaron también que habían firmado un acuerdo por el que la compañía podría adquirir 8.000 km² de datos sísmicos, lo que “abarca la totalidad del territorio frente a la costa de Puntlandia en Somalia”²⁸.

La concesión de licencias de bloques petroleros en Somalilandia y Puntlandia por el Gobierno Federal de Somalia

57. El Grupo de Supervisión está seriamente preocupado por el hecho de que, en el actual contexto de la paz y la seguridad, el Ministerio del Petróleo y Recursos Minerales del Gobierno Federal de Somalia está tratando de reanudar las negociaciones con la gran petrolera ConocoPhillips Co. en relación con las concesiones que tenía antes de la guerra civil que ahora se encuentran en Somalilandia y Puntlandia²⁹. Las concesiones que tenía ConocoPhillips antes de 1991 incluyen bloques que abarcan Sool y Sanaag, dos regiones administrativas que se están disputando actualmente Somalilandia y Puntlandia, así como el autodeclarado estado regional de Khatumo.

58. El Grupo ha visto un mensaje de correo electrónico de fecha 25 de agosto de 2014 enviado por el Director de Exploración del Ministerio, Abdulkadir Abiikar Hussein³⁰, a Kay Larcom, una directora de ConocoPhillips. El mensaje hace mención de una reunión celebrada en Washington D.C., el 8 de agosto de 2014, en la que participaron el Ministerio y Larcom, y le asegura que el Ministerio está “decidido” a negociar los “contratos anteriores a 1991 en el *norte y nordeste de Somalia* [sin bastardilla en el original]”. El uso del término “norte de Somalia” para referirse a Somalilandia y de “nordeste de Somalia” para referirse a Puntlandia es una señal de una preocupante desconsideración por las relaciones federales con los órganos regionales. La interacción del Ministerio con ConocoPhillips también ilustra la preocupación del Grupo de que, en ausencia de un acuerdo de

²⁷ Las empresas petroleras y de gas internacionales con las cuales el Gobierno Federal de Somalia ha mantenido conversaciones recientemente incluyen las siguientes: Allied Petroleum Corp., Amsas Consulting, BGP Inc., ConocoPhillips Co., Kilimanjaro Capital, Milio International, Mubadala Petroleum, New Age Ltd., Royal Dutch Shell plc, Schlumberger Ltd., Spectrum Geo Ltd., y Total S.A.

²⁸ Spectrum ASA, “Spectrum signs seismic data agreement to kick-start oil exploration offshore Somalia”, comunicado de prensa, 7 de septiembre de 2015. Disponible en www.spectrumgeo.com/wp-content/uploads/FINAL-NEW-2015-09-07-Somalia-Data-Deal-Announced.pdf.

²⁹ Al igual que otras grandes petroleras, Conoco Inc. declaró una situación de fuerza mayor en 1991 y suspendió las operaciones en Somalia. Conoco Inc. y Phillips Petroleum Co. se fusionaron en 2002 y formaron ConocoPhillips Co.

³⁰ Abdulkadir Abiikar Hussein fue uno de los funcionarios que recibieron dinero por el “acuerdo de fomento de la capacidad” de Soma. Hussein recibió 39.000 dólares de Soma entre mayo de 2014 y abril de 2015.

participación en el aprovechamiento de los recursos —que defina claramente las funciones del Gobierno Federal y de las administraciones regionales a la hora de entablar negociaciones con las empresas petroleras internacionales— lo más probable es que lo único que logre la riqueza todavía no explotada que tiene Somalia en hidrocarburos sea avivar las tensiones y conflictos políticos. Hasta tanto no se establezca un arreglo constitucional, las empresas petroleras internacionales —como Soma— seguirán aprovechándose de un entorno carente de instituciones sólidas y haciendo negocios rentables con intermediarios individuales del Gobierno en lugar de con órganos contratantes independientes.

59. En este contexto, el Grupo de Supervisión seguirá instando al Consejo de Seguridad a que imponga una suspensión de los acuerdos de petróleo y gas dentro de Somalia hasta el momento en que el Gobierno Federal de Somalia haya establecido instituciones viables para regular el sector, como se estipula en la Ley de Hidrocarburos de 2008 del país.

C. Gestión de las finanzas públicas y malversación

60. El Grupo de Supervisión ha observado modestas mejoras en la gestión de las finanzas públicas. Se han introducido iniciativas ambiciosas, pero la aplicación de estas iniciativas sigue siendo lenta. Los trastornos causados por la destitución de dos primeros ministros y sus gabinetes en un lapso de dos años ha retrasado la reforma. La impunidad de que gozan aparentemente los que han participado en la malversación de las finanzas públicas perpetúa una cultura de corrupción en la política somalí³¹.

Presupuesto

61. En la Ley de Consignación del Presupuesto de 2015 el Gobierno de Somalia se comprometió a “operar con [sus] propios recursos”. A pesar de esta ambiciosa declaración, el presupuesto de 2015 preparado bajo la dirección del anterior Ministro de Hacienda, Hussein Abdi Halane, dependía en gran medida de las promesas de apoyo presupuestario de distintos países miembros de la Organización de Cooperación Islámica (OCI)³². El Grupo de Supervisión ha determinado que, al no contar con el apoyo externo esperado, durante varios meses las tropas del Ejército Nacional Somalí no recibieron su remuneración.

62. Cuando se vio obligado a revisar el presupuesto a mediados de 2015 debido al incumplimiento de las promesas por los países miembros de la OCI, el Gobierno preparó un presupuesto más realista que obligó a establecer una mayor disciplina en sus gastos. La crisis presupuestaria de 2015 también hizo que se formara un comité interministerial para la estrategia presupuestaria encargado de la preparación del presupuesto federal de 2016. Sin embargo, a medida que el Gobierno Federal de

³¹ El Grupo de Supervisión no tiene conocimiento de que los cargos presentados contra ningún funcionario público por malversación desde el fin de la transición en 2012 hayan dado resultado alguno.

³² Un asesor superior del Presidente informó al Grupo de Supervisión el 1 de septiembre de 2015 que el Gobierno Federal de Somalia había contado con promesas de contribuciones por valor de 124 millones de dólares procedentes de la Liga de los Estados Árabes, 40 millones de dólares de Turquía y 18 millones de dólares de Qatar, que, en ninguno de los tres casos, se hicieron realidad.

Somalia se vaya adentrando en el año de transición y vayan aumentando las presiones sobre las finanzas públicas, es probable que se vuelva cada vez más difícil ceñirse a un plan preparado de recaudación de ingresos y gasto del gobierno.

Los instrumentos y las instituciones federales

63. Si bien el Grupo de Supervisión observa que el Banco Central de Somalia ha realizado importantes esfuerzos para mejorar la rendición de cuentas y la transparencia, sigue siendo ineficaz como principal órgano de reglamentación y supervisión financiera de Somalia. Una proporción considerable de los ingresos del Estado sigue sin depositarse en la Cuenta Única del Tesoro. Los fondos asignados a ministerios, departamentos y organismos del Gobierno se siguen retirando del Banco Central en efectivo y la rendición de cuentas posterior es mínima o inexistente. Hay una multitud de empresas de transferencia *hawala* que siguen sin estar reguladas por el Banco Central, lo cual hace que se tema que las corrientes de remesas se usan para el blanqueo de dinero y la financiación del terrorismo³³. Hay una legislación financiera desactualizada, que data de los años sesenta y, además, adolece de muchos fallos en su aplicación. En diciembre de 2014, después de una segunda lectura en el Parlamento, el Gobierno retiró un proyecto de ley que habría reglamentado la inversión extranjera en Somalia. En julio de 2013 el Parlamento votó en contra de un proyecto de ley para crear la Oficina del Defensor del Pueblo, que nunca volvió a proponerse³⁴. El Gabinete de Ministros aprobó en mayo de 2014 la Ley de Contratación Pública, Concesiones y Eliminación, pero en el momento de redactarse este informe seguía pendiente de aprobación por el Parlamento. También, hasta el momento de redactarse este informe, todavía no se había propuesto legislación para crear la Comisión de Lucha contra la Corrupción.

64. El Comité de Gobernanza Financiera fue creado a mediados de 2014 con una función de supervisión en relación con la recuperación de activos y concesiones públicas del Estado. El Consejo de Seguridad, en la resolución 2182 (2014), alentó al Gobierno Federal de Somalia a utilizar de manera efectiva el Comité. Si bien el Comité de Gobernanza Financiera ha mostrado ser un órgano consultivo útil, aún no ha demostrado servir para llevar a cabo una supervisión eficaz. Hasta el momento de redactarse el presente informe, no se habían adoptado medidas específicas en relación con la mayoría de los contratos examinados en 2014³⁵. Aunque está mejorando el grado de cumplimiento de los ministerios, departamentos y organismos del Gobierno con el Comité de Gobernanza Financiera, algunos ministerios han seguido sorteando el Comité a la hora de negociar importantes contratos públicos³⁶. En falsos intentos por demostrar transparencia, los

³³ Tras el ataque de Al-Shabaab en la Universidad de Garissa en abril de 2015, el Gobierno de Kenya prohibió a todas las empresas *hawala* que transfirieran fondos durante casi tres meses.

³⁴ Según se estipula en la Constitución Provisional de 2012, la Oficina del Defensor del Pueblo tenía por objeto investigar las denuncias de abuso de poder por parte de funcionarios públicos.

³⁵ En septiembre de 2015, el Ministro de Hacienda del Gobierno Federal de Somalia informó al Grupo de Supervisión que se adoptarían medidas respecto a esos contratos en un plazo de dos meses.

³⁶ Se pueden citar como ejemplos el acuerdo entre Proje Gozetim Muhendislik y el Ministerio de Comercio e Industria por la garantía de la calidad en importaciones y exportaciones; el acuerdo sobre la recaudación de impuestos al khat entre 2011 y junio de 2015; y el acuerdo entre el Ejército Nacional Somalí y la empresa que proporciona raciones a sus tropas (véase el anexo 3.1, estrictamente confidencial).

funcionarios públicos han hecho referencias al Comité de Gobernanza Financiera al referirse a acuerdos que, de hecho, nunca pasaron por el Comité³⁷.

65. En noviembre de 2014, el Ministerio de Hacienda anunció oficialmente el lanzamiento del Sistema de Información de la Gestión Financiera de Somalia destinado a registrar los ingresos y gastos del Gobierno en tiempo real. El sistema se está aplicando actualmente en los ministerios, departamentos y organismos del Gobierno. Si los ministerios de Gobierno lo usan eficazmente, el sistema representará un avance importante.

66. También es un acontecimiento importante para Somalia que el Fondo Monetario Internacional (FMI) vuelva a ocuparse del país después de más de 25 años de ausencia. El Fondo Fiduciario del FMI para el Desarrollo de la Capacidad es una iniciativa encomiable dada la acuciante necesidad de programas eficaces de creación de capacidad, en particular en las instituciones encargadas de gestionar las finanzas del Gobierno Federal y de desarrollar los sectores extractivos.

La malversación en el sector de la seguridad³⁸

67. Pocos casos ilustran la amenaza que representa la mala gestión financiera y la malversación para la paz, la seguridad y la estabilidad en Somalia como la corrupción dentro de las instituciones de seguridad del Gobierno Federal. El Ejército Nacional Somalí es, con mucho, la mayor institución de la seguridad en Somalia. La gestión eficaz de sus fuerzas y finanzas es vital para poder conservar los avances territoriales contra Al-Shabaab y para poder evitar la posible desintegración del Estado tras la partida de las fuerzas de la AMISOM en el futuro. Debido a las graves limitaciones presupuestarias, el Gobierno Federal de Somalia se ha visto en dificultades para pagar los salarios de los efectivos del Ejército Nacional Somalí en 2015³⁹.

68. Las pruebas reunidas por el Grupo de Supervisión ponen de manifiesto la falta de comprensión y coordinación entre las instituciones del Gobierno Federal de Somalia en relación con su principal gasto: el pago del Ejército Nacional Somalí. Tampoco queda en claro cuál es la dotación, la estructura y la composición del ejército. Las pruebas reunidas por el Grupo indican que los mandos del ejército han inflado sistemáticamente el número de efectivos a fin de obtener más fondos para los sueldos y las raciones. Los vínculos de parentesco y comerciales entre las personas responsables de velar por que se aprovisione al Ejército Nacional Somalí y la empresa proveedora de las raciones de alimentos secos —que ascienden a más de 8 millones de dólares por año— también dan a entender que existe un grave conflicto de intereses. El uso casi exclusivo de dinero en efectivo para efectuar los

³⁷ En un comunicado de prensa emitido el 12 de agosto de 2015 por el Ministerio del Petróleo y Recursos Minerales en respuesta al informe del Grupo de Supervisión sobre su “acuerdo de fomento de la capacidad” se hace mención del Comité de Gobernanza Financiera como demostración del compromiso del Ministerio con la transparencia. El Comité confirmó al Grupo de Supervisión que ni se había compartido el “acuerdo de fomento de la capacidad” con el Comité, ni este lo había examinado. El Grupo de Supervisión también considera que en las negociaciones con la empresa Soma Oil & Gas en relación con el “acuerdo de fomento de la capacidad” se amenazó con usar los resultados del examen realizado por el Comité de Gobernanza Financiera del acuerdo original de adquisición de datos sísmicos.

³⁸ Para un resumen exhaustivo de la malversación en el Ejército Nacional Somalí, véase el anexo 3.1, estrictamente confidencial.

³⁹ Hasta julio de 2015 se habían pagado solamente los salarios de enero.

pagos, la patente falta de medidas establecidas de rendición de cuentas y la ausencia de toda supervisión independiente han permitido a los mandos del ejército aprovecharse de los ingresos del Gobierno a expensas de la seguridad de sus soldados y la de los ciudadanos.

69. La magnitud de la malversación y la impunidad dentro del Ejército Nacional Somalí ha socavado la confianza de los donantes en el Gobierno Federal de Somalia, que ha reconocido la gravedad de la situación. Las investigaciones del Grupo en relación con la malversación dentro del Ejército Nacional Somalí contaron con el apoyo de la Oficina del Asesor de Seguridad Nacional, así como del Ministerio de Hacienda en agosto y septiembre de 2015. La sustitución del General Dahir Adan Elmi, Jefe de las Fuerzas Armadas, el 3 de septiembre de 2015, representó un paso positivo hacia la reforma. El anuncio hecho por el Presidente Hassan Sheikh Mohamud el 9 de septiembre de 2015 del compromiso del Gobierno Federal de Somalia de llevar a cabo una reforma integral del sector de la seguridad es una medida encomiable y alentadora⁴⁰.

La Embajada en Nairobi

70. En informes anteriores se ha dado información detallada sobre la malversación de fondos en las embajadas extranjeras de Somalia (véanse, por ejemplo, S/2012/544, párrs. 18 a 21 y S/2013/413, párrs. 72 y 73). Al Grupo de Supervisión le preocupan las pruebas de irregularidades graves ocurridas en la Embajada de Somalia en Nairobi, a cargo del antiguo Embajador Mohamed Ali Nur “Americo”⁴¹. Entre enero de 2014 y abril de 2015, la Embajada ha recibido 960.836 dólares en honorarios por la expedición de más de 7.500 pasaportes y documentos de viaje de emergencia somalíes⁴². Durante el mismo período, solo se remitieron a la cuenta del Banco Central del Ministerio del Interior en Mogadiscio 486.258 dólares, con lo cual no se han rendido cuentas de los 474.578 dólares faltantes⁴³. El Grupo también está preocupado por una donación de 1 millón de dólares del Gobierno de China en 2013, de los cuales se remitieron al Banco Central 479.314 dólares y los 517.686 dólares restantes presuntamente se utilizaron para pagar honorarios jurídicos al bufete Ibrahim Issack & Company, con sede en Nairobi (véase el anexo 3.2)

71. Según un exdiplomático de Somalia, diez días antes de la partida del Embajador de la Embajada, se llamó a un equipo de especialistas en tecnología de la información para eliminar información delicada de las computadoras de las oficinas y se destruyeron sistemáticamente las copias impresas de la documentación⁴⁴. El Grupo de Supervisión se ve alentado por la decisión del nuevo Embajador de Somalia en Kenya, Jamal Hassan, que tomó posesión de su cargo el 4 de agosto de

⁴⁰ “The President: ‘We are committed to substantive security sector reform’”, Oficina del Presidente de Somalia, comunicado de prensa, 9 de septiembre de 2015.

⁴¹ En abril de 2015 se llamó de vuelta a “Americo” a Mogadiscio después de haber sido Embajador en Kenya desde 2004.

⁴² Los solicitantes deben depositar una tarifa combinada de 130 dólares y 2.000 chelines kenianos (aproximadamente 20 dólares) en cuentas de la sucursal del Transnational Bank en Nairobi.

⁴³ La Embajada de Nairobi tiene asignados 49.200 dólares de la cuenta del Ministerio de Relaciones Exteriores en el Banco Central por trimestre para sufragar los gastos operacionales. Según el Ministro de Hacienda, todos los demás fondos recaudados por las embajadas deberían transferirse a la Cuenta Única del Tesoro del Banco Central.

⁴⁴ Según el exdiplomático somalí, al equipo se lo llamó para hacer actualizaciones de los programas de las computadoras.

2015, de realizar una auditoría independiente de las cuentas de la Embajada y también de instaurar una disciplina financiera estricta (véase el anexo 3.2).

Los fondos de rehabilitación del puerto de Mogadiscio

72. En 1993, el personal de mantenimiento de la paz de las Naciones Unidas asumió el control del puerto de Mogadiscio a fin de garantizar el acceso humanitario a Somalia. Las fuerzas de mantenimiento de la paz de la Fuerza de Tareas Unificada (UNITAF) administraba la recaudación de derechos portuarios en nombre del Gobierno de Somalia hasta 1995, año en que los fondos se transfirieron a un fondo fiduciario administrado por la oficina del Programa de las Naciones Unidas para el Desarrollo (PNUD) en Somalia y el Programa Mundial de Alimentos (PMA). En julio de 1997, los fondos, por un total de 1.003.930 dólares se transfirieron a un fideicomiso administrado únicamente por la oficina del PNUD en Somalia, que el organismo destinó a un proyecto de rehabilitación del puerto de Mogadiscio.

73. El 17 de marzo de 2014, el entonces Ministro de Puertos y Transporte Marítimo, Yusuf Moallim Amin “Baadiyow”, pidió a la oficina del PNUD en Somalia que entregara los fondos del puerto al Ministerio. Después de consultas internas, la oficina del PNUD en Somalia aceptó transferir los fondos a condición de que la transacción se hiciera a través de la Cuenta Única del Tesoro del Gobierno Federal de Somalia⁴⁵.

74. En septiembre de 2014, la Oficina del PNUD en Somalia transfirió los fondos para la rehabilitación del puerto, que para esa fecha ascendían a más de 1,8 millones de dólares, con los intereses devengados. Sin embargo, en lugar de utilizar la Cuenta Única del Tesoro, según lo acordado, los fondos se transfirieron a la cuenta núm. 1035 del Banco Central de Somalia (CBS), una cuenta del Puerto de Mogadiscio en ese banco. Del 13 al 20 de septiembre de 2014 Amin autorizó el retiro de casi 1,7 millones de dólares en efectivo de la cuenta núm. 1035 del CBS —casi la totalidad de los fondos para la rehabilitación del puerto.

75. El Grupo de Supervisión ha obtenido pruebas que indican que Amin y el entonces Director General del Ministerio de Puertos y Transporte Marítimo, Abdullahi Ali Nur, probablemente se apropiaron indebidamente de los fondos⁴⁶. En el anexo 3.3 se presenta una exposición detallada de la malversación de fondos públicos.

La tributación por el khat

76. El Grupo de Supervisión está preocupado por la existencia, hasta junio de 2015, de un acuerdo ilícito entre el Ministerio de Hacienda y la empresa somalí ADCO que rige la tributación por el estupefaciente khat. Como resultado del acuerdo se produjo un déficit importante en los impuestos recaudados por el Gobierno Federal de Somalia por la importación de khat a Somalia y, por lo tanto, se puede interpretar como un incumplimiento de lo dispuesto en el párrafo 38 de la resolución 2182 (2014), en que el Consejo de Seguridad instó a que hubiera

⁴⁵ Ese proceso sería compatible con una directiva del Ministerio de Hacienda de febrero de 2014 que exigía que todos los ingresos del Gobierno se depositasen en la Cuenta Única del Tesoro en el Banco Central de Somalia.

⁴⁶ Sobre la base de testimonios de exfuncionarios directivos del Ministerio, el Director del Banco Central de Somalia y una organización de lucha contra la corrupción de Somalia.

transparencia y rendición de cuentas de la gestión de las finanzas públicas y a que los ingresos del Gobierno Federal de Somalia se encauzasen a través del presupuesto nacional.

77. El Grupo de Supervisión se ve alentado por la decisión del Fiscal General de Somalia de investigar las enmiendas ilegales y la disminución de impuestos en el régimen arancelario de khat (véase el anexo 3.4).

D. Harakaat al-Shabaab al-Mujaahidiin

Situación actual

78. Como se señaló en el informe anterior del Grupo de Supervisión, Harakaat al-Shabaab al-Mujaahidiin sigue constituyendo una grave amenaza para la paz y la seguridad en Somalia, así como una importante fuerza desestabilizadora en la región de África Oriental (S/2014/726, párr. 10). Al igual que en los años precedentes, el grupo sigue perdiendo territorio ante los avances militares de las fuerzas conjuntas de la AMISOM y el Ejército Nacional Somalí y sus socios estratégicos, y prefiere retroceder hacia las zonas rurales para, a continuación, cortar las rutas de abastecimiento de las zonas recuperadas. El grupo también sigue expandiéndose como organización internacional y se centra particularmente en las operaciones terroristas en la vecina Kenya.

79. Tras la muerte, el 1 de septiembre de 2014, del comandante en jefe de Al-Shabaab, Muktar Ali al-Zubayr (Ahmed Godane), en un ataque de los Estados Unidos con aeronaves no tripuladas, Al-Shabaab seleccionó rápidamente como sucesor a Ahmad Umar Abu Ubaidah (alias Ahmed Diriye; alias Mahad Omar Abdikarim), que fue designado por el Comité para la imposición de sanciones el 24 de septiembre de 2014. La opinión general es que Abu Ubaidah fue elegido como candidato de compromiso, menos autoritario que Godane y más aceptable para los elementos relativamente moderados de Al-Shabaab, lo que le permitió imponerse a otros sucesores más destacados⁴⁷. Abu Ubaidah ha seguido la tendencia de descentralización de Al-Shabaab, empoderando a los dirigentes locales y a los comandantes para que actúen con independencia incluso en cuestiones de recaudación de ingresos y administración⁴⁸.

80. El recurso constante a la acción letal por los Estados Miembros ha desembocado en el asesinato de otros dirigentes destacados de Al-Shabaab durante el mandato actual. Los más notables fueron el de Abdishakur Tahlil, integrante de Amniyat, el 29 de diciembre de 2014, y el de Yusuf Dheeq "Ishmaaciil", el 31 de enero de 2015, a quien se hacía referencia en el informe anterior del Grupo de Supervisión como jefe de operaciones exteriores de Amniyat en Al-Shabaab (S/2014/726, nota 15). El Grupo ha recibido información de que, probablemente, en el asesinato de Dheeq se utilizó un selector de teléfono móvil infiltrado por los

⁴⁷ Por ejemplo, Mahad Mohamed Ali "Karate", comandante de la línea dura de Amniyat (servicio de seguridad interna y unidad de contrainteligencia de Al-Shabaab) era el sucesor más probable de Godane. "Karate" ha cuestionado en reiteradas ocasiones el liderazgo de Abu Ubaidah y ha combatido abiertamente al nuevo comandante en escaramuzas; por ejemplo, el 19 de mayo de 2015 las fuerzas leales a Abu Ubaidah se enfrentaron contra los partidarios de "Karate" cerca de Jilib, lo que provocó la muerte de ocho combatientes.

⁴⁸ Matt Bryden, "The decline and fall of Al-Shabaab? Think again" (Sahan, 2015).

servicios de seguridad de Somalilandia⁴⁹. El 13 de marzo de 2015 resultó muerto un tercer alto cargo de Al-Shabaab, Aden Garar, en un ataque con aeronave no tripulada. Se había vinculado a Garar con el atentado perpetrado en el centro comercial Westgate de Nairobi (Kenya) (“Operación Badru Nairobi”) el 21 de septiembre de 2013, y más recientemente con un intento fallido de atentado terrorista en Addis Abeba, en octubre de 2014⁵⁰.

81. Sin embargo, como se señala en el informe anterior del Grupo de Supervisión estos asesinatos selectivos pueden haber tenido efectos positivos a corto plazo pero no han degradado ni han destruido la capacidad operacional de Al-Shabaab para llevar a cabo ataques asimétricos y, cada vez con más frecuencia, ataques contra objetivos militares convencionales. Una fuente regional de inteligencia de alto rango explicó al Grupo de Supervisión que, en las filas de Al-Shabaab, los mandos medios y prácticamente desconocidos eran tan numerosos y tenían un compromiso ideológico tan firme que el grupo había podido reemplazar a los líderes asesinados con facilidad⁵¹.

82. Al-Shabaab sigue llevando a cabo ataques sofisticados y frecuentes en Mogadiscio, en los que habitualmente combina los artefactos explosivos improvisados colocados en vehículos con el despliegue de pistoleros suicidas. Durante el mandato actual, Al-Shabaab ha demostrado su preferencia por los atentados en hoteles, en particular los que frecuentan los funcionarios del Gobierno Federal de Somalia y de gobiernos extranjeros; entre los atentados más notables en hoteles destacan los siguientes: Hotel Jazeera (26 de julio de 2015)⁵¹; Makka al-Mukarama (27 de marzo de 2015); Hotel Central (20 de febrero de 2015); y Hotel SYL (22 de enero de 2015). En el anexo 4.1 se examinan los atentados perpetrados por Al-Shabaab en hoteles de Mogadiscio.

83. Los terroristas de Al-Shabaab, tanto dentro como fuera de Mogadiscio, suelen llevar a cabo sus atentados disfrazados con uniformes militares del Ejército Nacional Somalí u otros uniformes del Gobierno. El Grupo considera que la amplia disponibilidad y el bajo costo de los uniformes militares, que se debe en parte a la falta de supervisión de las importaciones, plantea una amenaza para la paz y la seguridad en Somalia a la que se ha prestado poca atención (véase el anexo 7.1).

84. El Gobierno Federal de Somalia sigue presentando las deserciones de miembros de Al-Shabaab como prueba de la pérdida de atractivo y de capacidad del grupo, en particular la trascendental deserción de Zakariye Ahmed Ismail Hersi, supuesto director de inteligencia militar de Al-Shabaab, en enero de 2015. Sin embargo, la información práctica de inteligencia que se obtuvo de sus comunicaciones es de dudoso valor. El Grupo cree que Hersi había sido desplazado en Al-Shabaab durante el año que precedió a su deserción, y un alto funcionario de

⁴⁹ Entrevista del Grupo de Supervisión con un alto funcionario regional de inteligencia, 14 de marzo de 2015.

⁵⁰ Información facilitada al Grupo de Supervisión por una fuente regional de inteligencia, 7 de agosto de 2015.

⁵¹ En el atentado del hotel Jazeera, Al-Shabaab utilizó el camión bomba más grande jamás utilizado en Somalia desde el atentado del mismo grupo, perpetrado el 4 de octubre de 2011, contra el complejo ministerial del Gobierno Federal de Transición en Mogadiscio, en el que murieron más de 150 estudiantes somalíes.

inteligencia del Gobierno Federal de Somalia dijo al Grupo que Hersi solo había proporcionado información “desfasada” y “de carácter general”⁵².

85. El Grupo ha seguido de cerca la posibilidad de que Al-Shabaab se volviera a alinear en el plano ideológico u operacional con el Estado Islámico del Iraq y el Levante (EIL). De hecho, en febrero de 2015 un “emisario” del EIL, Hamil al-Bushra, invitó públicamente a Abu Ubaidah a que declarara la lealtad de Al-Shabaab a la organización⁵³. Hay algunos indicios de que Al-Shabaab podría estar comenzando a imitar las tácticas del EIL, tal vez con el objetivo de competir con esa organización por recabar la atención de los medios de comunicación. Por ejemplo, en marzo de 2015, el grupo de información y comunicaciones de Al-Shabaab emitió un video en el que se veía a varias personas que eran obligadas a caminar hacia el mar y a continuación eran abatidas a tiros, que tiene inquietantes semejanzas con los videos de ejecuciones del EIL⁵⁴. Sin embargo, el Grupo de Supervisión no ha encontrado pruebas de que haya vínculos operacionales o financieros entre el EIL y Al-Shabaab.

Sinopsis de tácticas

86. El 19 de julio de 2015, los contingentes de la AMISOM, así como las tropas de las Fuerzas Nacionales de Defensa de Etiopía, las Fuerzas de Defensa de Kenya y el Ejército Nacional Somalí, iniciaron la fase más reciente de su ofensiva militar contra Al-Shabaab en la Operación Corredor del Yuba. Las fuerzas aliadas lograron victorias inmediatas y tomaron Baardheere y Dinsor, las dos últimas plazas fuertes que controlaba Al-Shabaab. El grupo no planteó oposición directa a la nueva ofensiva y prefirió, como ha hecho anteriormente, una retirada táctica hacia la zona rural para después cortar las rutas de suministro de las zonas recuperadas.

87. El Grupo de Supervisión observa con preocupación que esas áreas recuperadas han quedado reducidas a zonas aisladas cuyo suministro por carretera resulta muy peligroso debido a la amenaza de emboscadas y artefactos explosivos improvisados de Al-Shabaab (véase el anexo 5.1, donde se describe cómo Al-Shabaab obstaculiza la labor humanitaria). Las rutas de suministro también siguen generando ingresos para Al-Shabaab, que instala puestos de control para cobrar “peaje” a los vehículos que transitan por ellas.

Ataques a objetivos militares

88. Pese a que Al-Shabaab no ha opuesto resistencia militar a la Operación Corredor del Yuba, el grupo ha demostrado un cambio sustancial en sus tácticas, técnicas y procedimientos al reanudar los ataques de envergadura contra objetivos militares, que apenas había lanzado desde que se retiró de Mogadiscio en 2011.

⁵² Entrevista del Grupo de Supervisión en Mogadiscio, 19 de marzo de 2015.

⁵³ Hamil al-Bushra, “Somalia the Land of Khilafah: Message to Our Brothers in Somalia”, 24 de febrero de 2015. Disponible en <https://somalianews.files.wordpress.com/2015/03/bushra.pdf>. Véase también Caroline Hellyer, “ISIL courts al-Shabab as al-Qaeda ties fade away”, Al Jazeera, 23 de marzo de 2015. Disponible en www.aljazeera.com/indepth/features/2015/03/isil-eyes-east-africa-foments-division-150322130940108.html.

⁵⁴ Jihadology, video titulado “In Remembrance 2”, publicado el 24 de marzo de 2015, disponible en <http://jihadology.net/2015/03/24/al-kataib-media-presents-a-new-video-message-from-%E1%B8%A5arakat-al-shabab-al-mujahidin-in-remembrance-2/> (visitado el 11 de septiembre de 2015).

89. El éxito que logró Al-Shabaab el 25 de diciembre de 2014 al penetrar en el recinto del aeropuerto internacional de Mogadiscio, fuertemente fortificado, se había dejado entrever en el informe anterior del Grupo de Supervisión (S/2014/726, anexo 1.3), en el que se destacó la infiltración de Al-Shabaab en el aeropuerto. Murieron ocho soldados de la AMISOM, dos civiles y un contratista, pero las bajas podrían haber sido considerablemente más numerosas si los atacantes hubieran conseguido alcanzar su objetivo principal, que era el comedor de oficiales. El Grupo de Supervisión ha obtenido pruebas que demuestran que en el mercado de Bakara se pueden adquirir tarjetas de identidad falsas para el aeropuerto internacional de Mogadiscio de muy diversos tipos por entre 20 y 40 dólares de los Estados Unidos.

90. El 11 de junio de 2015, en la zona de Jameco, a unos 90 km al noroeste de Mogadiscio, más de 100 combatientes de Al-Shabaab tendieron una emboscada al convoy de las Fuerzas Nacionales de Defensa de Etiopía que escoltaba a los contratistas que transportaban suministros de Mogadiscio a Baidoa para la AMISOM. Después de esta emboscada a las Fuerzas Nacionales de Defensa de Etiopía, Al-Shabaab anunció la existencia de una brigada especial encargada de atacar a las fuerzas de la AMISOM, denominada “unidad Jeque Abu Zubeyr” en honor a su anterior comandante en jefe. El Grupo de Supervisión considera que, en este momento, esa unidad tiene que ver con la propaganda y no es una unidad militar en activo.

91. El 26 de junio de 2015, en la base de la AMISOM en Leego, hubo una incursión inicial en el perímetro por atacantes suicidas, y a continuación un ataque contra la base con más de 100 de combatientes de Al-Shabaab en el que murieron más de 50 soldados burundianos. Más recientemente, el 1 de septiembre de 2015, unos militantes de Al-Shabaab llevaron a cabo un ataque similar contra una base de la AMISOM en Janale, y en esa ocasión desmantelaron un puente poco antes del asalto con el fin de cortar una posible ruta de retirada⁵⁵. Aún no se ha determinado cuántos soldados de la AMISOM murieron, si bien algunas fuentes informativas han comunicado que serían varias decenas.

Fuentes de ingresos

92. A medida que han ido menguando los impuestos a la producción y el transporte de carbón vegetal como fuente de ingresos de Al-Shabaab, el grupo ha pasado a depender más de otros métodos de recaudación. En particular, el grupo depende de los impuestos (*azaque*) que recauda en el valle del Yuba, una de las pocas zonas en las que aún ejerce el control territorial⁵⁶. La extorsión a los propietarios de negocios, tanto grandes como pequeños, tanto si se encuentran en zonas controladas directamente por Al-Shabaab como si están fuera de ellas, también constituye un componente importante de los ingresos del grupo⁵⁷. Incluso

⁵⁵ Feisal Omar y Abdi Sheikh, “Islamist militants attack African Union base in southern Somalia”, Reuters, 1 de septiembre de 2015. Disponible en www.reuters.com/article/2015/09/01/us-somalia-attack-idUSKCN0R12PT20150901.

⁵⁶ El 19 de marzo de 2015, un alto funcionario de inteligencia del Gobierno Federal de Somalia explicó al Grupo de Supervisión que, en 2014, Al-Shabaab había recaudado unos 9,5 millones de dólares en impuestos de las explotaciones agrícolas del valle del Yuba. En el anexo 6.2.a y el anexo estrictamente confidencial 6.2.b figura más información sobre las extorsiones con violencia de Al-Shabaab.

⁵⁷ Las exigencias de dinero a cambio de protección suelen llegar por mensajes de texto, y a su vez el pago se efectúa por transferencias con teléfonos móviles. En octubre de 2014, un analista

en Mogadiscio, las empresas siguen pagando “impuestos” a Al-Shabaab y no al Gobierno Federal⁵⁸.

93. El estricto régimen de aranceles del Gobierno de Kenya alienta un pujante comercio ilícito de azúcar y otros alimentos básicos que se importan sin abonar impuestos por el puerto de Kismayo. Desde Kismayo, el azúcar se transporta a Kenya por diversos pasos fronterizos, como el de Dhobley-Liboi⁵⁹. Al-Shabaab instala puestos de control en todas las rutas que salen de Kismayo e impone un peaje de unos 1.000 dólares a cada camión que transita por ellos⁶⁰. Después del paso fronterizo de Dhobley-Liboi, la mayor parte del azúcar pasa por los campamentos de refugiados de Dadaab, continúa su camino hacia Garissa, centro comercial regional, y de allí sigue hasta llegar a los mercados mayoristas de Nairobi. Una vez que entra en Kenya, la mayoría del azúcar es adquirida por empresas del país, que la envasan con sus propias marcas.

94. En el informe del Grupo de Supervisión publicado en 2011 se estimaba que Al-Shabaab obtenía unos ingresos de 400.000 a 800.000 dólares del comercio de azúcar (S/2011/433, anexo 3.1). Según las investigaciones preliminares realizadas en 2015, el Grupo de Supervisión estima que ahora la cifra es considerablemente mayor. A medida que disminuye la relevancia de los ingresos procedentes del carbón vegetal, los tributos que impone Al-Shabaab al comercio ilícito de azúcar van cobrando mayor relieve. La conexión entre Al-Shabaab y el contrabando de azúcar en Kenya salió a la palestra durante el actual mandato del Grupo. A raíz del atentado de Al-Shabaab en la Universidad de Garissa, el Gobierno de Kenya hizo pública una lista confidencial de 30 individuos que, según el Gobierno, estaban “implicados en el contrabando de azúcar” y cuyas cuentas bancarias habían sido congeladas por ese motivo (la lista figura en el anexo estrictamente confidencial 4.2.e). Al mismo tiempo, las fuerzas de seguridad de Kenya iniciaron una campaña de represión del comercio de azúcar en los campamentos de refugiados de Dadaab, y el Grupo de Supervisión ha tenido conocimiento de la creación de una “unidad del azúcar” en el seno del Servicio Nacional de Inteligencia de Kenya con ese fin; a mediados de abril de 2015, la unidad arrestó a seis contrabandistas de nivel intermedio en los campamentos de Dadaab⁶¹. El Grupo de Supervisión sigue investigando la corriente de ingresos de Al-Shabaab procedente del comercio de azúcar.

independiente especializado en Somalia y residente en los Estados Unidos comentó que, en Kismayo, hasta las mujeres que vendían tomates pagaban a Al-Shabaab a cambio de protección.

⁵⁸ Hormuud Telecommunications es la única gran empresa de Somalia que paga el impuesto sobre la renta al Gobierno Federal de Somalia.

⁵⁹ También se utilizan los pasos fronterizos de Dif y Kolbiyo.

⁶⁰ Drazen Jorgic, “Kenya wages war on smugglers who fund Somali militants”, Reuters, 21 de junio de 2015. Disponible en www.reuters.com/article/2015/06/21/us-kenya-security-somalia-insight-idUSKBN0P105320150621. La tasa de peaje de unos 1.000 dólares fue confirmada por el Grupo de Supervisión en entrevistas realizadas el 18 y el 19 de junio de 2015 a personas que estaban familiarizadas con el contrabando de azúcar en Dadaab. Al igual que en el caso de los envíos de carbón, al pagar el peaje de Al-Shabaab los camioneros obtienen un recibo que les da derecho a pasar por otros puestos de control sin tener que pagar de nuevo.

⁶¹ *Ibid.* Las detenciones de los contrabandistas fueron corroboradas por el Grupo de Supervisión en entrevistas con una fuente de inteligencia regional y con residentes de Dadaab en junio de 2015. Como resultado de la campaña de represión de Kenya, el precio del saco de 50 kg de azúcar aumentó hasta los 44 dólares, lo que representa un alza de alrededor de 10 dólares sobre el precio normal.

95. El estallido del conflicto de la República Árabe Siria en 2011, así como la mejora de las medidas para hacer cumplir la ley en relación con las rutas tradicionales de contrabando de heroína, ha provocado que África Oriental asuma un papel más destacado en el tráfico de heroína del Afganistán a Europa⁶². El Grupo de Supervisión ha tenido noticia de una posible relación entre Al-Shabaab y el comercio de drogas en África Oriental por conducto del buque MV *Amin Darya*, que transportaba más de 800 kg de heroína y fue interceptado el 15 de julio de 2014 por las autoridades kenianas, que posteriormente destruyeron la droga como ejercicio de relaciones públicas. A partir de la información obtenida de un organismo de seguridad regional, el Grupo de Supervisión ha determinado que los traficantes de heroína que iban a bordo del MV *Amin Darya* estaban en contacto con un empresario de Dubái que podría estar vinculado con Al-Shabaab. El caso del MV *Amin Darya* se presenta en el anexo 4.4.

Al-Shabaab Noreste

96. El Grupo de Supervisión sigue observando con preocupación el movimiento insurgente de Al-Shabaab Noreste en las montañas de Galgala, a unos 30 km al sudoeste de Bosasso (Puntlandia). En su informe anterior, el Grupo de Supervisión observó un aumento de la presencia y los movimientos de los militantes de Al-Shabaab Noreste (S/2014/726, anexo 1.4). El Grupo de Supervisión espera que, a medida que Al-Shabaab vaya cediendo terreno en las zonas meridional y central de Somalia, aumente la intensidad de la insurgencia de Galgala, ya que los militantes se dirigirán al norte para tratar de mantener abierta una ruta de comunicación con el Yemen y Al-Qaida en la Península Arábiga. Por consiguiente, el Grupo de Supervisión observa con profunda preocupación el deterioro progresivo del entorno de seguridad en el Yemen y Puntlandia que, en el caso de esta última, se ha acelerado en parte por las demoras constantes o el impago de los sueldos a las fuerzas de seguridad. En particular, el hecho de que el Presidente de Puntlandia, Abdiweli Mohamed Ali, destituyera a dos oficiales de alto rango de las fuerzas de seguridad en febrero de 2015, uno de los cuales era el Jefe del Servicio de Inteligencia de Puntlandia, ha traído consigo un distanciamiento alarmante entre el Presidente y sus fuerzas de seguridad.

97. A principios de octubre de 2014, las fuerzas de Puntlandia lanzaron una nueva ofensiva en las colinas de Galgala con apoyo de reconocimiento aéreo facilitado por un Estado Miembro occidental. Tras los logros iniciales, la ofensiva parece haberse estancado. Según la información facilitada en octubre de 2014 por un periodista de Puntlandia sobre el terreno, las fuerzas del Gobierno solo controlaban la localidad de Galgala, pero no los pueblos de las colinas circundantes⁶³. El Grupo de Supervisión ha recibido información sin confirmar, pero verosímil, de que el alto dirigente de Al-Shabaab Fuad Mohamed Khalaf “Shongole” se encontraba en la zona de Galgala a mediados de marzo de 2015 con el fin de “establecer una base nueva” para organizar ataques en Puntlandia⁶⁴.

⁶² “The smack track: East African states are being undermined by heroin smuggling”, *The Economist*, 17 de enero de 2015. Disponible en www.economist.com/news/middle-east-and-africa/21639560-east-african-states-are-being-undermined-heroin-smuggling-smack-track.

⁶³ Este relato fue corroborado por un segundo periodista de Puntlandia, también en octubre de 2014.

⁶⁴ Información facilitada por un alto funcionario regional de inteligencia, 14 de marzo de 2015.

Al-Shabaab como amenaza regional

98. Durante el presente mandato, Al-Shabaab ha seguido transformándose en una organización terrorista con orientación transnacional. La expansión regional del grupo refleja el objetivo principal regional de Al-Shabaab, que consiste en perpetrar atentados en el territorio de los países que aportan contingentes a la AMISOM. Kenya, en particular, ha resultado ser especialmente vulnerable, debido en gran medida a la larga y porosa frontera que comparte con Somalia⁶⁵. Desde junio de 2014, las operaciones terroristas de Al-Shabaab se han cobrado la vida de más de 300 personas en Kenya, cifra superior al número de personas que el grupo ha asesinado en Mogadiscio en el mismo período.

99. Al-Shabaab ha perpetrado una serie de atentados mortíferos en territorio keniano durante el mandato. En el plazo de 10 días, el grupo llevó a cabo dos ataques en las proximidades de Mandera: el 23 de noviembre de 2013 masacró a 28 pasajeros de un autobús y el 2 de diciembre asesinó a 36 trabajadores de una cantera. El atentado más importante de Al-Shabaab en Kenya tuvo lugar el 2 de abril de 2015, fecha en la que cinco pistoleros irrumpieron en el recinto de la Universidad de Garissa, situada a 150 km de la frontera entre Kenya y Somalia. Al término de un enfrentamiento que se prolongó durante casi todo el día, las fuerzas especiales de Kenya penetraron en la residencia a la que los atacantes habían llevado a los estudiantes como rehenes, pero para entonces ya habían sido asesinadas 148 personas, en su mayoría estudiantes. Con posterioridad a la masacre, el Gobierno de Kenya anunció que el cerebro de la operación era Mohamed Mohamud “Gamadheere” (alias “Kuno”), nacido en Garissa y ex maestro de escuela coránica⁶⁶. “Gamadheere” parece ser no solo el líder responsable de los atentados transfronterizos en Kenya, sino también, probablemente, un organizador clave de otros complotos en los que participan las redes de Somalilandia, Djibouti y Etiopía. Por ejemplo, el Grupo de Supervisión recibió datos no confirmados según los cuales “Gamadheere” fue el coordinador de un atentado fallido, en enero de 2015, en la plaza Menelik de Djibouti, situada en la zona de la ciudad en la que se encuentra el restaurante La Chaumière, que ya fue el objetivo de un atentado suicida con bomba de Al-Shabaab en mayo de 2014 (véanse S/2014/726 y el anexo estrictamente confidencial 2.3).

100. En el anexo 4.2 se reseña el atentado terrorista de la Universidad de Garissa.

101. En el anexo 4.3 (estrictamente confidencial) se describe la conspiración fallida de Al-Shabaab en enero de 2015 en Djibouti.

102. Se ha observado una tendencia preocupante de Al-Shabaab a ocupar abiertamente las ciudades fronterizas de Kenya durante largos períodos de tiempo. El 19 de mayo de 2015, unos militantes de Al-Shabaab penetraron en dos aldeas del

⁶⁵ Hay tres grupos de Al-Shabaab que actúan con bastante independencia a lo largo de la frontera de Kenya con Somalia y que coinciden aproximadamente con los condados kenianos de Garissa, Lamu y Mandera. El tercero, que se autodenomina Brigadas Jeysh Ayman, tiene su base de operaciones en el bosque de Boni y ha intensificado enormemente sus operaciones en el transcurso del presente mandato del Grupo de Supervisión.

⁶⁶ El Grupo de Supervisión solo ha tenido conocimiento de un vínculo sustancial entre “Gamadheere” y el atentado de la Universidad de Garissa; según dos fuentes de información de seguridad regional entrevistadas por el Grupo, “Gamadheere” había contactado por teléfono móvil con un oficial de seguridad del recinto universitario de quien se sospecha que realizó actividades de vigilancia para el grupo atacante.

condado de Garissa y hablaron con los vecinos durante varias horas, advirtiéndoles de que no apoyaran al Gobierno de Kenya ni a sus servicios de seguridad⁶⁷. Una semana más tarde, los militantes penetraron en la localidad de Yumbis, cercana a los campamentos de refugiados de Dadaab, y repitieron el mensaje de no cooperar con las fuerzas de Kenya⁶⁸.

103. A pesar del fracaso de la “célula Bole Rwanda”, que no consiguió perpetrar un atentado durante la fase de clasificación para la Copa Mundial de Fútbol en Addis Abeba en 2013 (véanse S/2014/726 y el anexo estrictamente confidencial 2.2), Al-Shabaab ha seguido intentando atacar la capital de Etiopía. El 14 de octubre de 2014, la Embajada de los Estados Unidos en Addis Abeba emitió una advertencia de un plan inminente de Al-Shabaab de atentar contra la céntrica zona de Bole en esa ciudad. Según la información recibida por el Grupo de Vigilancia, unos 20 miembros de Al-Shabaab se habían trasladado a Addis Abeba en tres grupos diferentes para llevar a cabo el atentado, pero habían salido de Etiopía a raíz de la advertencia de los Estados Unidos; uno de los grupos fue abatido cuando intentaba volver a entrar en Kenya⁶⁹.

E. Piratería y secuestros extorsivos

Panorama general

104. Desde 2012, la piratería en Somalia ha disminuido de manera vertiginosa. El último secuestro de un buque mercante de gran valor, el petrolero propiedad de un armador griego MT *Smyrni*, se remonta a mayo de 2012. La reducción drástica de la piratería desde la época más activa, en 2010, se ha debido principalmente al despliegue de equipos de seguridad privados armados a bordo de los buques comerciales, la aplicación de mejores prácticas de gestión en el sector marítimo y la presencia de buques de las fuerzas navales internacionales en la región.

105. Durante el mandato han seguido remitiendo los actos de piratería. Los únicos dos buques secuestrados desde el mandato anterior del grupo fueron los dhows iraníes FV *Siraj* y FV *Jaber*, capturados frente a la costa central de Somalia el 22 de marzo de 2015. El Grupo de Supervisión ha comprobado que el responsable es Mohamed Osman Mohamed “Gafanje”, conocido líder pirata cuyas actividades se han descrito en detalle en los dos informes anteriores del Grupo (S/2013/413 y S/2014/726). En el anexo estrictamente confidencial 2.4 figura una exposición detallada de los secuestros del FV *Jaber* y el FV *Siraj*.

106. El Grupo observa con decepción que el Gobierno Federal de Somalia aún no ha detenido a los líderes piratas ni ha abierto procesos judiciales contra ellos, como ha recomendado el Grupo en informes anteriores. En particular, al Grupo le preocupa que “Gafanje” continúe llevando a cabo operaciones de piratería con total impunidad e incluso parezca tener contacto con algunos políticos de alto rango del Gobierno Federal de Somalia en Mogadiscio (véase el anexo estrictamente confidencial 2.4.b).

⁶⁷ Informe confidencial de inteligencia, 15 de junio de 2015.

⁶⁸ *Ibid.* Hay información sin confirmar, basada en testimonios de los vecinos que estaban presentes, según la cual “Gamadheere” en persona podría haber pronunciado el discurso.

⁶⁹ Entrevista del Grupo de Supervisión con un funcionario regional de inteligencia, 7 de agosto de 2015.

107. Si bien la amenaza que supone la piratería para los buques mercantes sigue siendo menor, al Grupo le preocupa que las actividades de pesca ilegal de buques extranjeros que, con frecuencia, llevan equipos armados de seguridad privada a bordo, puedan desembocar en el retorno a la dinámica de conflictos con las comunidades locales somalíes que, hace diez años, contribuyó a incrementar la piratería. Ese riesgo se examina detalladamente en la exposición del Grupo sobre la pesca ilegal, no declarada y no reglamentada y la seguridad marítima.

III. Obstrucción de la asistencia humanitaria

108. El Consejo de Seguridad, en el párrafo 31 de su resolución 2232 (2015), reiteró su exigencia de que “todas las partes permitan y faciliten el acceso pleno, seguro y sin trabas para el suministro oportuno de ayuda a las personas que la necesitan en toda Somalia”. Aunque la asistencia humanitaria ha llegado a la mayoría de las 15 regiones administrativas de Somalia, el acceso ha seguido mostrando una extrema fragilidad, en particular desde el inicio de una nueva ofensiva contra Al-Shabaab en julio de 2015⁷⁰. En términos más generales, el aumento de la intensidad y la magnitud de los conflictos de Somalia, tanto en lo que se refiere al número de actores involucrados como a los medios y los métodos utilizados o a las estrategias empleadas, ha repercutido en todos los aspectos del acceso humanitario, desde la seguridad de los trabajadores humanitarios hasta la capacidad de mantener la independencia y la neutralidad de las actividades humanitarias. El 31 de agosto de 2015, al presentarse la evaluación semestral de la seguridad alimentaria y la nutrición para Somalia de la Organización de las Naciones Unidas para la Alimentación y la Agricultura, se anunció que el número de personas afectadas por crisis o emergencias de alimentos en Somalia había aumentado en un 17% y había pasado de 731.000 a 855.000 personas en seis meses, de las cuales dos tercios eran desplazados internos⁷¹.

A. Denegación de acceso a la asistencia humanitaria⁷²

109. Los obstáculos fundamentales al acceso humanitario que el Grupo de Supervisión enumeró en su informe anterior (S/2014/726) han seguido obstaculizando las operaciones humanitarias, a una escala aún mayor, lo que obliga a los socios humanitarios a participar en negociaciones más complejas. Cabe citar los bloqueos de las principales rutas de suministro y las ciudades estratégicas por Al-Shabaab, las “normas” y los tributos obstruccionistas de los funcionarios del Gobierno Federal y los gobiernos regionales, y la constante politización de la ayuda.

110. Dado que las partes en el conflicto consideran que el acceso a los suministros esenciales es un medio para reafirmar la autoridad, Al-Shabaab ha bloqueado con

⁷⁰ Véase, entre otros, Oficina de Coordinación de Asuntos Humanitarios, oficina en Somalia, “2015 Humanitarian response plan Somalia midyear monitoring report” (de enero a junio de 2015). Véase también el mapa de acceso más reciente del programa de seguridad para organizaciones no gubernamentales, 10 de febrero de 2015.

⁷¹ Oficina de Coordinación de Asuntos Humanitarios, “Somalia: Critical food and nutrition situation persists”, comunicado de prensa, 31 de agosto de 2015.

⁷² La denegación de acceso a la asistencia humanitaria bloquea la libre circulación o la entrega puntual de asistencia humanitaria a las personas necesitadas, e implica ataques deliberados contra trabajadores de asistencia humanitaria.

violencia tanto los suministros humanitarios como el tráfico comercial, ha asesinado y arrestado a personal civil y ha destruido bienes comerciales. A pesar de los esfuerzos realizados para facilitar apoyo humanitario de emergencia por vía aérea en las zonas donde ello ha sido posible, en muchos lugares ha predominado la inseguridad alimentaria aguda⁷³. En la zona que estaba bajo su control, Al-Shabaab solo permitió una mínima actividad humanitaria y restringió drásticamente el acceso de la población a la asistencia procedente de otros lugares⁷⁴. En un entorno de militarización y polarización crecientes, hubo indicios que pusieron de relieve la profunda desconfianza de Al-Shabaab respecto de la comunidad humanitaria, así como su distanciamiento de ella. En determinadas esferas, esto se reflejó, entre otras cosas, en sus esfuerzos por arrinconar a los líderes locales y centralizar el control de las relaciones humanitarias mediante las Amniyat, aparato de seguridad interna de carácter radical de Al-Shabaab, lo que potencialmente afectó tanto a la seguridad de los trabajadores humanitarios como a la capacidad para negociar el acceso condicional.

111. En su informe anterior, el Grupo de Supervisión describió cómo la ampliación de la estructura federal había creado nuevas capas de impedimentos burocráticos, búsqueda de beneficios y malversación pura y simple. Esos impedimentos han complicado el acceso humanitario y, en ocasiones, lo han impedido por completo (S/2014/726, párr. 93). Durante el mandato actual, esas prácticas no solo se han intensificado, sino que además ha aumentado el número de autoridades con las que ha tenido que tratar la comunidad humanitaria: además de las dos nuevas administraciones regionales provisionales, las administraciones rivales que no participan en el proceso oficial de federalización intentaron reivindicar su legitimidad administrativa⁷⁵. Los esfuerzos de las autoridades rivales por acaparar la legitimidad y beneficiarse de las operaciones humanitarias puso en peligro no solo la viabilidad de las operaciones humanitarias, lo que provocó el cierre temporal de algunas organizaciones, sino también la capacidad de trabajar con seguridad en las distintas zonas de control⁷⁶.

112. El número creciente de agentes armados, tanto somalíes como extranjeros, que intervienen en el conflicto contra Al-Shabaab contribuyó a que, a la hora de abordar la ampliación del acceso humanitario, se hiciera énfasis en la seguridad, y no en la aceptación y la negociación. Por ese motivo, resultó más complicado oponerse a la politización de la ayuda y mantener el principio de distinción. Se comunicaron

⁷³ Más de un año después de que Al-Shabaab iniciara el bloqueo en Hudur, en marzo de 2014, y al tiempo que comenzaba la nueva fase de la ofensiva de Al-Shabaab, las tasas generales de malnutrición aguda eran “muy graves”, con un 32,7%, y una “alarmante triplicación” de las tasas de malnutrición aguda grave desde junio de 2015. Oficina de Coordinación de Asuntos Humanitarios, Boletín humanitario de julio de 2015 (publicado el 20 de agosto de 2015).

⁷⁴ Véanse el anexo 6.2.a y el anexo estrictamente confidencial 6.2.b.

⁷⁵ En el contexto de las repercusiones en el acceso de la ayuda humanitaria, cabe citar el Estado autodeclarado de Khatumo, en Sool y Sanaag, y la administración de Dhusamareeb, declarada el 1 de julio de 2015 con el apoyo de Ahlu Sunna Wal Jama'a.

⁷⁶ En 2014, la comunidad de asistencia humanitaria registró 76 incidentes relacionados con los impedimentos administrativos y burocráticos y con las interferencias en las modalidades operacionales. Al término de los primeros siete meses de 2015, el número de incidentes llegaba ya a 51. Entrevistas con fuentes de las Naciones Unidas y de organizaciones no gubernamentales, Nairobi, agosto de 2015.

incidentes de obstrucción de la asistencia humanitaria por parte de las fuerzas militares somalíes e internacionales, y de los grupos armados⁷⁷.

113. En el anexo 5.1 figura un panorama general de los principales obstáculos al acceso de la asistencia humanitaria.

114. En el anexo 5.2 se exponen los impedimentos burocráticos y el uso indebido de la autoridad oficial para obstruir el acceso humanitario.

B. Ataques contra trabajadores humanitarios

115. Contra el telón de fondo de un contexto general más inestable e inseguro, durante el mandato actual aumentaron las amenazas y los ataques a los trabajadores humanitarios. Solo entre enero y agosto de 2015 resultaron muertos catorce trabajadores de asistencia humanitaria, y en el mismo período hubo 80 incidentes de seguridad relacionados con operaciones humanitarias⁷⁸.

116. Al-Shabaab llevó a cabo una serie de ataques directos e indirectos a los organismos de las Naciones Unidas, entre ellos el pavoroso atentado suicida del 20 de abril de 2015 contra un autobús del personal del Fondo de las Naciones Unidas para la Infancia en Garowe en el que murieron seis personas, cuatro de ellas funcionarios de las Naciones Unidas, y otras cinco resultaron heridas⁷⁹. El atentado de Garowe fue la culminación de una escalada de amenazas de Al-Shabaab tanto contra las Naciones Unidas como contra las organizaciones internacionales⁸⁰. Pocos meses después, en su mensaje de Eid, Abu Ubaidah explicó que la labor de “abrir corredores seguros para permitir que los nocivos organismos y organizaciones internacionales propaguen sus vicios y su inmoralidad entre los jóvenes musulmanes” era “una de las confabulaciones de los enemigos de Dios”⁸¹. De

⁷⁷ Pese a la publicación, en noviembre de 2014, de las directrices nacionales específicas para Somalia sobre la coordinación civil-militar para la colaboración de los agentes humanitarios con la AMISOM, su divulgación y aplicación ha sido lenta. En este momento no hay ningún mecanismo con el que la comunidad de asistencia humanitaria pueda promover la observancia de las directrices más allá de las fuerzas de seguridad del Gobierno Federal de Somalia y la AMISOM.

⁷⁸ En comparación, en 2014 hubo 75 incidentes violentos en los que murieron 11 personas y más de 20 trabajadores fueron secuestrados o detenidos. Información facilitada por fuentes de las Naciones Unidas y organizaciones no gubernamentales en agosto y septiembre de 2015.

⁷⁹ Cabe citar un ataque contra un convoy de las Naciones Unidas el 3 de diciembre de 2014 en los accesos al aeropuerto internacional de Mogadiscio; y un atentado contra el Hotel Jazeera Palace, que se saldó con 15 muertos, de los cuales 2 eran contratistas externos de las Naciones Unidas, y ocasionó daños en el recinto común de la Organización y en los edificios de tres organizaciones no gubernamentales.

⁸⁰ Como se señaló en el documento S/2014/726, en 2013 y 2014 hubo una serie de declaraciones y atentados que también habían señalado claramente a las Naciones Unidas (y a los organismos humanitarios en general) como objetivos legítimos del grupo. Hay algunos indicios de que el grupo considera que las actividades educativas son objetivos de particular relevancia.

⁸¹ Mensaje de felicitación del Eid a la comunidad musulmana por el jeque muyahidín Abu Ubaydah Ahmad Omar. Parece ser que Al-Shabaab podría tener un particular interés en atentar contra las actividades educativas, a juzgar por una serie de hechos, como la declaración que formuló la organización el 20 de diciembre de 2014, en la que hizo referencia a una “guerra ideológica”, el atentado de la Universidad de Garissa del 2 de abril de 2015 (véase el anexo 4.2) y el atentado contra el Ministerio de Cultura y Educación Superior en Mogadiscio perpetrado el 14 de abril de 2015.

hecho, con anterioridad al atentado de Garowe, el aumento de las tensiones internas y la militarización consiguiente tanto de Puntlandia como de Somalilandia, junto con la mayor presencia y actividad de Al-Shabaab y los informes sobre la vigilancia hostil de las instalaciones de las Naciones Unidas, habían hecho que se percibiera una mayor inseguridad en las operaciones humanitarias del noreste⁸².

117. Además de la expansión de las operaciones militares directas en el segundo semestre de 2015, la vulnerabilidad de los organismos de asistencia humanitaria se vio agravada también por la necesidad de negociar el acceso de un número cada vez mayor de autoridades militares y civiles concurrentes. Hubo incidentes en los que se utilizó la fuerza para obstaculizar o desviar la asistencia humanitaria que estuvieron protagonizados por las fuerzas del Gobierno, las fuerzas asociadas con las autoridades locales, las milicias locales y las fuerzas internacionales.

C. Desviación y apropiación indebida de la asistencia humanitaria

118. La desviación sigue siendo un elemento intrínseco del modelo de actividades humanitarias en Somalia. Se lleva a cabo mediante diversos mecanismos, tales como la manipulación de los presupuestos, la extorsión, la falsificación de recibos y el robo puro y simple. El Grupo de Supervisión observó que las pautas de desviación y los responsables eran similares a los que había identificado en su informe anterior, con una gama de actores que van desde los empleados de las sedes de las entidades donantes hasta los funcionarios de las administraciones locales, los contratistas y las organizaciones no gubernamentales locales. Siguiendo la tendencia que ya se describía en ese informe, ha seguido disminuyendo el monto total de ayuda humanitaria disponible, en un momento en el que se calcula que Somalia tiene unos 3 millones de personas necesitadas de ayuda humanitaria esencial⁸³. El costo creciente de las operaciones humanitarias, que se debe a las restricciones de acceso y a la necesidad de mitigar unos riesgos cada vez mayores, ha incrementado la presión sobre los escasos recursos.

119. Como señaló el Grupo de Supervisión en su informe anterior, la aparición de nuevos estratos de la arquitectura del estado federal también ha multiplicado las situaciones en las que una actividad en apariencia legítima ofrecía la posibilidad de desviar la asistencia (S/2014/726, anexo 7.1). Estas dificultades se han exacerbado en 2015, a medida que las nuevas entidades estatales y las administraciones rivales, surgidas de un proceso de federalización muy controvertido, han decidido retomar las prácticas que en el pasado les reportaron ingresos, sin que apenas se supervisara o ejerciera control alguno desde una entidad central (véase el anexo 5.2).

120. Al mismo tiempo, la ayuda se ha visto menoscabada no solo por los robos, sino también por su utilización como herramienta política y su uso indebido en apoyo del conflicto. El Grupo recibió información fidedigna de que algunos agentes humanitarios incumplieron los principios humanitarios e hicieron uso indebido de las aportaciones humanitarias para apoyar la dominancia de determinados clanes,

⁸² Los problemas relacionados con la administración y gestión de las unidades especiales de protección pueden aumentar la vulnerabilidad de los agentes humanitarios si no se abordan de forma efectiva.

⁸³ De los 853 millones de dólares que se solicitaron para el Fondo Humanitario Común en 2015, a fines de julio de 2015 solamente se había aportado el 33%.

incluso mediante el uso de la violencia. En algunas comunidades, la lealtad de ciertas organizaciones no gubernamentales con determinadas unidades de milicias o del Ejército Nacional Somalí era un secreto a voces en la comunidad humanitaria y, de hecho, se aceptaba como precio del acceso.

121. La incapacidad de la comunidad de asistencia humanitaria para lidiar con la omnipresencia de la apropiación indebida, que llegó a su punto culminante durante la hambruna de 2011, ha facilitado la perpetuación del sistema. No obstante, durante el mandato actual la comunidad humanitaria ha apoyado los progresos observados en 2014, para lo cual ha seguido reconociendo la magnitud de las desviaciones y ha mejorado los mecanismos para gestionar los riesgos y dar respuesta a las desviaciones. Por ejemplo, en enero de 2015 se seleccionó al coordinador de una organización no gubernamental para la dependencia de gestión de riesgos del equipo de las Naciones Unidas en el país, lo que ha permitido mejorar la cooperación entre las organizaciones no gubernamentales y las comunidades humanitarias de las Naciones Unidas. Sin embargo, siguen sin abordarse las causas fundamentales, profundamente arraigadas, del sistema que perpetúa las desviaciones.

122. En el anexo 5.3 se plantea un panorama más detallado de las desviaciones y la apropiación indebida de la asistencia humanitaria, incluidas las medidas para reducir las desviaciones.

IV. Violaciones del derecho internacional que conllevan ataques contra la población civil

123. Con el aumento del número y la variedad de fuerzas extranjeras y nacionales, todos los agentes armados siguieron atacando a la población civil, bien como táctica de guerra deliberada o mediante el uso desproporcionado de la fuerza⁸⁴. Las comunidades excluidas política, económica y culturalmente siguieron siendo objeto de la mayoría de las violaciones, lo que refleja una estratificación profundamente arraigada en la sociedad somalí, que se ve acentuada por la urgencia de asegurar el control de los recursos.

A. Ataques contra la población civil

124. El número y la complejidad de los agentes armados en Somalia, algunos de los cuales han creado débiles alianzas contra Al-Shabaab, produjeron una profusión de instancias de mando con muy diversos grados de control y escasa responsabilidad, lo que deterioró la protección de los civiles⁸⁵. La casi total impunidad de que gozan estas fuerzas, salvo en el infrecuente contexto de las negociaciones entre clanes o

⁸⁴ Entre los responsables había miembros de todas las partes en los conflictos, incluidos Al-Shabaab y los grupos afiliados, la AMISOM y sus “socios estratégicos”, el Ejército Nacional Somalí, las fuerzas de seguridad de las administraciones regionales y sus aliados y las milicias de los clanes.

⁸⁵ Por ejemplo, en un análisis preparado por el proyecto Armed Conflict Location and Event Data para el Grupo de Supervisión entre enero y julio de 2015 se indica que los principales autores de actos de violencia contra la población civil eran “grupos armados no identificados” (en esa evaluación no se recogen los hechos en que los civiles resultan heridos en un enfrentamiento entre dos agentes armados). Draft conflict analysis of Somalia, Armed Conflict Location and Event Data Project, agosto de 2015.

del escaso número de procesos judiciales abiertos a miembros del Ejército Nacional Somalí y de la AMISOM, ha constituido un terreno fértil para que continúe esa tendencia.

125. Dada la intensificación tanto de los combates contra Al-Shabaab como de su dominación sobre las poblaciones que siguen bajo su control, se incrementaron las violaciones que afectan a la población civil, y ambas partes han usado armas y tácticas que han provocado un gran número de víctimas civiles y militares⁸⁶. Mientras tanto, otros agentes no estatales han utilizado la violencia armada para consolidar sus posiciones en la estructura federal en expansión. Al-Shabaab ha utilizado a estos agentes y, a su vez, han sido utilizados por ellos, en beneficio mutuo.

126. Tal como se describe en el documento S/2014/726, el liderazgo político y militar del sistema federal también ha sido usurpado para favorecer intereses de los clanes, y se han desplegado fuerzas de seguridad y activos del Gobierno Federal de Somalia en combates entre clanes. También se han documentado actos de violencia contra la población civil perpetrados por las fuerzas de las administraciones regionales, entre ellas la Administración Provisional de Yuba, así como por otras entidades, como Ahlu Sunna wal Jama'a, en su intento de consolidar el control sobre el territorio⁸⁷.

127. Las fuerzas internacionales, tanto las pertenecientes a la fuerza autorizada de efectivos de la AMISOM como otras fuera de ella, también han cometido actos violentos contra la población civil. Por lo que respecta a la AMISOM, se han denunciado ejecuciones extrajudiciales, así como muertos y heridos civiles en el contexto de la respuesta a los ataques con granadas y artefactos explosivos improvisados⁸⁸. El Grupo también recibió denuncias de asesinatos, violencia sexual y por razón de género y otras violaciones contra los civiles por el cuerpo de policía etíope Liyu, en particular en Bay, Bakol, Galgadud e Hiran.

128. En el anexo 6.1 se presenta un panorama general de las violaciones del derecho internacional en atentados contra la población civil.

129. En el anexo 6.1.a (estrictamente confidencial) se presenta información sobre las circunstancias de la detención de los miembros de la milicia Salaax.

130. El anexo 6.2.a y el anexo estrictamente confidencial 6.2.b detallan las violaciones del derecho internacional y la situación de la comunidad

⁸⁶ Si bien durante los primeros seis meses de 2015 hubo una disminución del nivel absoluto de hechos violentos contra la población civil, el comienzo de una nueva ofensiva contra Al-Shabaab en julio trajo consigo un aumento del 50%. Se atribuye a Al-Shabaab el mayor número de bajas causadas por la violencia contra la población civil. Proyecto de análisis del conflicto de Somalia.

⁸⁷ Por ejemplo, en febrero de 2015, varios civiles resultaron muertos y heridos cuando Ahlu Sunna wal Jama'a atacó Guriel y arrebató al Gobierno Federal de Somalia el control de la localidad. Véase, por ejemplo, Human Rights Watch, "Dispatches: Overlooking the Cost to Somalia's Civilians", 19 de febrero de 2015, disponible en www.hrw.org/news/2015/02/19/dispatches-overlooking-cost-somalias-civilians.

⁸⁸ Según el proyecto Armed Conflict Location and Event Data, si bien se ha comunicado que la AMISOM solo se había visto involucrada en 10 incidentes de violencia contra la población civil, la proporción de víctimas mortales respecto del número de incidentes fue la más elevada de todas. Proyecto de análisis del conflicto de Somalia, Armed Conflict Location and Event Data Project, agosto de 2015.

Bantu/Wagosha, en las regiones de Bajo Yuba y Yuba Medio, controladas por Al-Shabaab.

131. En el anexo 6.3.a y el anexo estrictamente confidencial 6.3.b se presenta información sobre los ataques a las aldeas de Kabxanley y Defow, en Hiran.

B. Violencia sexual y basada en el género, reclutamiento y utilización de niños en el conflicto armado y desplazamiento forzoso

132. El anexo 6.4 contiene breves resúmenes de las principales tendencias en la comisión de violaciones relacionadas con esos tres ámbitos del mandato y aborda además la evolución tanto de la práctica como del marco jurídico que tienden a impedir las violaciones y mejorar el cumplimiento del régimen de sanciones.

V. Régimen de embargo de armas

A. Cumplimiento por el Gobierno Federal de Somalia de las condiciones para el levantamiento parcial del embargo de armas

133. El levantamiento parcial del embargo de armas impuesto a Somalia, que se estableció en la resolución 2093 (2013) fue prorrogado hasta el 30 de octubre de 2015 en virtud de la resolución 2182 (2014). El Gobierno Federal de Somalia quedó exento de la obligación de solicitar la aprobación del Comité de Sanciones para todas y cada una de las importaciones de armas destinada a sus fuerzas de seguridad. Según los términos del levantamiento parcial del embargo de armas, el Gobierno Federal de Somalia debe transmitir con antelación al Comité información sobre las entregas de armas o equipo militar, o la prestación de asesoramiento, asistencia o capacitación destinada a las fuerzas de seguridad del Gobierno. Además, el Gobierno Federal de Somalia tiene la obligación de presentar informes semestrales al Consejo de Seguridad en los que se describan con detalle la estructura de sus fuerzas de seguridad y la infraestructura y los procedimientos establecidos para garantizar la gestión y la distribución seguras de las armas y el equipo militar. El Consejo ha subrayado en repetidas ocasiones que la prórroga del levantamiento parcial dependerá del cumplimiento de esos requisitos por el Gobierno (resolución 2182 (2014), decimosexto párrafo del preámbulo).

134. El Grupo de Supervisión observó progresos tangibles en lo referente a la presentación de notificaciones y a la gestión de armas y municiones, en gran medida gracias a la energía y los esfuerzos de la Oficina del Asesor de Seguridad Nacional. La calidad, cantidad y puntualidad de las notificaciones anticipadas ha mejorado constantemente. Sin embargo, el cumplimiento de las obligaciones posteriores a la confirmación de entrega sigue siendo incierto⁸⁹. El inicio de las labores de marcación y registro de las importaciones del Gobierno Federal de Somalia y de las armas que están en posesión de las empresas de seguridad privadas representó el

⁸⁹ El Gobierno Federal de Somalia ha advertido que las confirmaciones y los datos posteriores a la entrega que se han solicitado, si bien no se han entregado a tiempo, se transmitirán al Comité poco después de que concluya la redacción del presente informe.

acontecimiento más importante. Aun así, sigue habiendo lagunas significativas para garantizar el seguimiento del armamento y el equipo, en particular después de su distribución inicial a las fuerzas de seguridad. En este sentido es muy necesaria la asistencia internacional para poner en marcha el proyecto de gestión integral de armas y municiones que ha preparado el Gobierno Federal de Somalia.

135. Los informes del Gobierno Federal de Somalia presentados en virtud del párrafo 9 de la resolución 2182 (2014) se transmitieron a tiempo. Sin embargo, al Grupo le preocupa que, pese a los esfuerzos del Gobierno por esbozar la estructura de seguridad en su informe de junio de 2014, el Gobierno no ha expuesto con claridad la composición y la dimensión de esas fuerzas, incluidas las milicias aliadas. En particular, los altos mandos del Ejército Nacional Somalí han procurado exagerar sistemáticamente el número de soldados que están de servicio⁹⁰.

136. El levantamiento parcial del embargo de armas se concedió, entre otras cosas, para ayudar al Gobierno Federal de Somalia a capacitar y equipar a sus fuerzas de seguridad para hacer frente a Al-Shabaab. Según los datos obtenidos de las notificaciones previas al Comité, las fuerzas de seguridad del Gobierno deberían haber recibido más de 17.500 armas y cerca de 9 millones de cartuchos de municiones desde el levantamiento parcial del embargo de armas⁹¹. No obstante, el Grupo de Supervisión sigue recibiendo informes de que las fuerzas de seguridad del Gobierno Federal de Somalia aún no están bien preparadas para enfrentarse con eficacia a Al-Shabaab. La falta de información sobre la distribución de las armas importadas limita la capacidad del Grupo para evaluar si se utilizan o no de manera apropiada y eficaz.

B. Obligaciones de los Estados Miembros y las organizaciones regionales e internacionales

137. En varias ocasiones, los Estados Miembros y las organizaciones internacionales que prestan apoyo a las instituciones del sector de la seguridad que no pertenecen al Gobierno Federal de Somalia no han notificado debidamente al Comité el suministro de armas, equipo militar, capacitación o asistencia técnica de conformidad con el párrafo 11 a) de la resolución 2111 (2013). Algunos casos se pueden atribuir a la confusión sobre el alcance del párrafo 11 a), como por ejemplo a qué actores de la seguridad es aplicable y con respecto a qué tipo de materiales y asistencia. La creación de estructuras paralelas de seguridad regional que no están bajo el mando del Gobierno Federal de Somalia requiere un examen cuidadoso y una mayor supervisión del Comité: será necesario que haya una comprensión más precisa del alcance que tiene el concepto de “instituciones del sector de la seguridad de Somalia”⁹².

⁹⁰ Véase el anexo estrictamente confidencial 3.1.

⁹¹ Esa cifra no incluye una considerable cantidad de armas que el Gobierno Federal de Somalia tenía ya en su poder, las que ya circulaban en Somalia o las que se hayan entregado fuera del procedimiento de notificación oficial. Por ejemplo, la posesión de un arma suele ser requisito previo para la contratación en servicios de seguridad.

⁹² Véase el párrafo 10 h) de las directrices del Comité para la realización de su labor, en su versión consolidada, revisada y aprobada por el Comité el 30 de marzo de 2010, el 30 de mayo de 2013, el 27 de noviembre de 2013 y el 25 de marzo de 2014.

C. Exenciones permanentes al embargo de armas

138. El Consejo de Seguridad concedió varias exenciones permanentes al embargo de armas que son de aplicación al suministro de determinados material a entidades concretas y para fines específicos⁹³. Si bien ese sistema facilita el buen funcionamiento de la AMISOM, la Misión de Formación para Somalia de la Unión Europea, la Misión de Asistencia de las Naciones Unidas en Somalia (UNSOM), los “socios estratégicos” de la AMISOM y otros, también crea un ángulo muerto en la actividad de supervisión de las corrientes de armas que lleva a cabo el Comité. Hay indicios de que algunas de las fuerzas armadas que participaron en la última ofensiva contra Al-Shabaab no se ciñeron plenamente al concepto de operaciones de la AMISOM, lo cual acentúa este problema.

D. Documentación de armamento y equipo militar capturado

139. En virtud del párrafo 6 de la resolución 2182 (2014) del Consejo de Seguridad, las fuerzas de seguridad del Gobierno Federal de Somalia y la AMISOM tienen la obligación de documentar y registrar todo el equipo militar capturado durante las operaciones ofensivas y facilitar la inspección del Grupo antes de redistribuirlo o destruirlo. El Gobierno Federal de Somalia proporcionó al Grupo información sobre cuatro depósitos de armas y otros pertrechos militares incautados y recibió capacitación para identificar y rastrear las armas capturadas. Pese a que se emitieron directrices para los comandantes de sector, la AMISOM no fue capaz de documentar y facilitar la transferencia de información sobre incautaciones y ha pedido al Grupo más asesoramiento y asistencia. A fin de aplicar de forma efectiva el párrafo 6 de la resolución, el Gobierno Federal de Somalia y la AMISOM deberán aceptar diversas responsabilidades⁹⁴. Los países que aportan contingentes deberían ordenar a sus contingentes de la AMISOM que cumplan las directrices emitidas por el cuartel general de la Fuerza. El Consejo podría considerar la posibilidad de hacer extensiva la obligación de presentar informes de este tipo a otras fuerzas que intervienen en el conflicto con Al-Shabaab en los territorios que no están al alcance de las fuerzas de seguridad de la AMISOM y el Gobierno Federal de Somalia.

E. Aplicación de lo dispuesto en los párrafos 10 y 15 de la resolución 2182 (2014)

140. En el párrafo 10 de la resolución 2182 (2014), el Consejo solicitó al Gobierno Federal de Somalia y al Grupo de Supervisión que trabajaran de consuno y formularan una propuesta para que las armas que llegan a bordo de buques que realizan actividades comerciales en las aguas territoriales de Somalia y en los puertos somalíes queden eximidos del embargo de armas. Durante el presente mandato, el Gobierno Federal de Somalia y el Grupo intercambiaron opiniones preliminares sobre la propuesta y remitieron información al Consejo.

⁹³ En el anexo 7.2 figura una exposición detallada.

⁹⁴ Consiste en documentar, registrar, dar seguimiento y analizar las armas y materiales capturados, según proceda, un procedimiento de transferencia a la entidad encargada, un procedimiento para almacenar y eliminar el material retenido o transferido y un protocolo para comunicar la incautación al Grupo de Supervisión.

141. En el párrafo 15 de la resolución 2182 (2014), el Consejo autorizó a los Estados Miembros, en ciertas circunstancias, a interceptar buques en aguas territoriales de Somalia y en alta mar cuando hubiera motivos razonables para creer que transportaban armas o equipo militar. El Grupo de Supervisión no fue informado de ninguna interceptación relacionada con armamento en el transcurso del presente mandato.

F. Violaciones del embargo de armas

142. Se siguieron cometiendo violaciones del embargo de armas en Somalia, tanto mediante la venta ilícita o la distribución no autorizada de armas procedentes de los arsenales del Gobierno Federal de Somalia como mediante importaciones ilegales. El entorno de las corrientes de armas ilícitas se ha visto exacerbado por el mercado que ha creado el conflicto del Yemen y el aumento de la militarización en algunas partes de Somalia durante el mandato.

143. En el anexo 7.1 figura un resumen de los acontecimientos relativos a la gestión de armas y municiones en Somalia, incluso como condición para el levantamiento parcial del embargo de armas.

144. En el anexo 7.2 figura una evaluación del cumplimiento de obligaciones de notificación por el Gobierno Federal de Somalia, los Estados Miembros y las organizaciones internacionales en relación con el embargo de armas y el levantamiento parcial del mismo.

145. En el anexo 7.3 figura un análisis del cumplimiento de las obligaciones del Gobierno Federal de Somalia en materia de presentación de informes relacionados con el levantamiento parcial del embargo de armas.

146. En el anexo 7.4 se detalla el cumplimiento de las obligaciones del Gobierno Federal de Somalia y la AMISOM respecto del armamento y el equipo militar capturado.

147. En el anexo 7.5 se presenta una evaluación de la aplicación de lo dispuesto en los párrafos 10 y 15 de la resolución 2182 (2014).

148. En el anexo 7.6 se expone información detallada sobre la asistencia internacional al Gobierno Federal de Somalia para mejorar el cumplimiento.

VI. Violaciones de la prohibición relativa al carbón vegetal

149. Durante su mandato, el Grupo de Supervisión ha documentado la persistencia de la exportación de carbón vegetal desde el sur de Somalia. La economía política de este comercio se ha visto afectada por la aplicación de la prohibición, el desplazamiento de Al-Shabaab por los centros de exportación situados a lo largo de la costa meridional de Somalia, desde Barawe hasta Kamboni, en la frontera con Kenya, y la aparición de nuevos arreglos políticos y empresariales en la región. El efecto acumulativo ha sido una reducción general de las exportaciones de carbón vegetal desde el sur de Somalia y un descenso de los ingresos obtenidos por Al-Shabaab de ese comercio.

A. Producción y exportación de carbón vegetal en el sur de Somalia

150. Inmediatamente después de recuperar Barawe (Bajo Shabelle) de manos de Al-Shabaab, a comienzos de octubre de 2014, los miembros de la administración provisional, junto con el Ejército Nacional Somalí y el contingente de las Fuerzas Populares de Defensa de Uganda de la AMISOM, autorizaron la reanudación de las exportaciones del carbón vegetal que se había almacenado en la ciudad. Las imágenes por satélite que se obtuvieron en aquel momento demuestran el rápido agotamiento de las existencias y los numerosos dhows atracados y a la espera de ser cargados hasta fines de noviembre, momento en el que cesó la actividad⁹⁵. El 23 de noviembre, varios funcionarios del gobierno local y agentes de seguridad fueron detenidos y trasladados a Mogadiscio. Desde finales de noviembre, los indicios que ha reunido el Grupo, incluidas las imágenes actualizadas periódicamente, tanto de satélite como de vigilancia aérea del puerto de la ciudad y de los almacenes, parecen indicar que se ha interrumpido el comercio de carbón en Barawe y la zona circundante.

151. Sigue habiendo producción en las regiones del Bajo Yuba y el Yuba Medio, la primera de las cuales está fundamentalmente bajo la jurisdicción de la Administración Provisional de Yuba, mientras que la segunda está en su mayor parte en poder de Al-Shabaab. Aunque los agentes que controlan el comercio y la exportación en Kismayo siguen siendo prácticamente los mismos desde el anterior informe del Grupo (véase S/2014/726, anexo 9.1), los procedimientos de exportación sí han cambiado. Ya no se utiliza el almacén central de la ciudad, que se encontraba junto a la carretera que conecta el aeropuerto con el centro de la ciudad y estaba a la vista de todas las delegaciones que visitaban la ciudad. De las imágenes de satélite se infiere una mayor utilización del almacén situado al sur de la ciudad, y un uso cada vez más reducido del almacén del norte⁹⁶. En la actualidad, es poco frecuente que el carbón se cargue en buques en el puerto de Kismayo; la carga se hace a mano en la playa de Alanley mediante pequeñas embarcaciones de pesca que luego descargan en dhows, más grandes, anclados en la zona de la bahía⁹⁷. El proceso es mucho menos eficiente, pero se puede interrumpir de inmediato y deja menos rastros. Las imágenes de satélite sugieren una expansión significativa de las actividades de exportación desde la localidad de Buur Gaabo, a unos 125 km al sudoeste de Kismayo, a principios de 2015, donde había almacenado un volumen considerable y, de hecho, hubo presencia de dhows aun en septiembre de 2015. El Grupo de Supervisión no ha podido confirmar todavía quién controla el comercio y la exportación en Buur Gaabo.

152. El protagonismo de Al-Shabaab en el comercio de carbón vegetal, así como los ingresos que obtiene de él, han disminuido desde que el grupo perdió todos los centros de exportación que controlaba⁹⁸. Según los informes, los negociantes ya conocidos por haber desempeñado un papel destacado en la exportación de carbón vegetal y haber tenido vínculos con Al-Shabaab, como Ali Naaji y Hassan Mohamed

⁹⁵ En el anexo 8.1 figuran las imágenes por satélite de Barawe.

⁹⁶ En el anexo 8.1 figuran las imágenes por satélite de Kismayo.

⁹⁷ En el anexo 8.2 se incluye un mapa que muestra los procedimientos de carga en Kismayo.

⁹⁸ La última posesión territorial de Al-Shabaab en la costa meridional de Kuday, a unos 100 km al sudoeste de Kismayo, fue recuperada por las tropas de la AMISOM en marzo de 2015, y se cree que a partir de esa fecha han cesado todas las actividades relacionadas con el carbón vegetal.

Yusuf “Awlibaax” (véase S/2014/726, párrs. 141 a 143), han mantenido su posición dominante en el comercio en el transcurso de este mandato. Sin embargo, según las pruebas reunidas por el Grupo de Supervisión, durante el pasado año se han tensado las relaciones entre quienes controlan el comercio en Kismayo y los elementos de Al-Shabaab que se encuentran en el Bajo Yuba y el Yuba Medio. Se ha informado de que, en enero de 2015, varios dirigentes de Al-Shabaab pidieron que se cerraran los centros de producción de carbón vegetal del Bajo Yuba y el Yuba Medio. En los meses siguientes, el grupo detuvo a varios productores de carbón, y muchos de quienes fueron hallados transportando carbón vegetal por las principales rutas de suministro fueron ejecutados, y sus vehículos incendiados junto con el cargamento. Durante ese período, los proveedores se vieron obligados a utilizar vehículos más pequeños, de tipo microbús, y a transitar por carreteras secundarias para evitar que Al-Shabaab los localizara en las principales rutas de suministro. Según varias comunicaciones sin confirmar, a principios de 2015 hubo un acuerdo sobre la distribución de los impuestos recaudados de los sitios en la exportación de carbón vegetal que terminó en fracaso porque Ahmed “Madobe” retuvo la parte proporcional de los beneficios de las exportaciones correspondiente a Al-Shabaab, en preparación para constituir la Asamblea Regional del Yuba en abril y mayo de 2015. La retención de los fondos adeudados a Al-Shabaab ocasionó un bloqueo al comercio de carbón de la ciudad que también podría explicar en parte la considerable ampliación de las operaciones de Buur Gaabo⁹⁹.

153. Si bien el Grupo de Supervisión ha recibido cierto apoyo del Gobierno Federal de Somalia en sus investigaciones sobre el comercio de carbón vegetal en el sur de Somalia, no parece que la Administración Provisional de Yuba o los contingentes locales de la AMISOM hayan hecho esfuerzos evidentes para hacer cumplir la prohibición o presentar informes al respecto, lo cual apoya la afirmación del Grupo de que ambos siguen participando activamente en ese comercio y beneficiándose de él.

B. Interceptación marítima y seguimiento de buques

154. El 7 de mayo de 2014, el Comité hizo pública la nota orientativa núm. 1, que contenía recomendaciones sobre la prohibición de importar carbón vegetal procedente de Somalia, en virtud de las resoluciones del Consejo de Seguridad 2036 (2012), 2060 (2012) y 2111 (2013). En el párrafo 15 de la resolución 2182 (2014), el Consejo autorizó a los Estados Miembros, por un período de 12 meses, a que, a título nacional o mediante asociaciones navales multinacionales de carácter voluntario, inspeccionaran buques cuando tuvieran motivos razonables para creer que transportan carbón vegetal desde Somalia en contravención de la prohibición.

⁹⁹ Durante el presente mandato ha resultado cada vez más complicado obtener pruebas fiables sobre la implicación de Al-Shabaab en el comercio de carbón vegetal en el sur de Somalia. El Grupo de Supervisión, que solo tenía acceso limitado a Kismayo y no podía visitar la región circundante, ha dependido en gran medida de los testimonios obtenidos de distintas fuentes locales de información. Las diferencias y contradicciones de los datos que facilitaron esas fuentes locales, que con frecuencia se suponen sesgadas o motivadas políticamente, hacen que sea prácticamente imposible verificar los hechos. La descripción anterior de los vínculos de Al-Shabaab con la Administración Provisional de Yuba respecto de la recaudación de impuestos y de su relación constante con la élite empresarial local se basa en múltiples testimonios corroborados.

La adopción de medidas en consonancia con la propuesta de interceptación de buques sospechosos de transportar carbón vegetal fue lenta pero, en el curso de este mandato, dio lugar a un efecto disuasivo perceptible, dada la ausencia de soluciones terrestres eficaces para aplicar la prohibición relativa al carbón vegetal. La información de inteligencia que transmitieron las Fuerzas Marítimas Combinadas al Grupo de Supervisión dio lugar a la interceptación del MSV *Raj Milan* (MMSI 419956307) en el puerto de Rashid (Dubai, Emiratos Árabes Unidos), con el apoyo de las autoridades de los Emiratos Árabes Unidos¹⁰⁰. Sin embargo, la cuestión de la eliminación del carbón vegetal incautado, la ausencia de un proceso judicial completo y la dificultad para encontrar un Estado que esté dispuesto a aceptar los buques desviados han obstaculizado los esfuerzos iniciales para poner en práctica la interdicción marítima. Sigue siendo esencial que la interacción entre las fuerzas navales y los buques que transportan carbón vegetal sea mínima, a fin de hacer cumplir eficazmente la prohibición de exportar carbón vegetal.

155. La vigilancia de los buques de los que se sabe o se sospecha que transportan carbón vegetal se ha visto complicada por los esfuerzos crecientes para evitar la detección. Con la disminución del uso de los sistemas de identificación automática de los dhows que transportan carga desde y hacia el sur de Somalia, no es posible controlar los movimientos de la mayoría de los buques utilizando programas informáticos de seguimiento¹⁰¹. La imposibilidad de identificar los nombres de los buques por fuentes locales en tierra firme, así como por fuentes de inteligencia en el mar, indican que también hay intentos sistemáticos de ocultar los rasgos físicos que los identifican. Sin esa información, no es posible interceptar a los buques de los que se sabe que transportan carbón vegetal desde Somalia cuando llegan al puerto de descarga.

C. Documentación falsificada

156. A su llegada al puerto de Rashid, se descubrió que el MSV *Raj Milan* poseía documentación según la cual su carga procedería de Comoras. En su informe anterior, el Grupo de Supervisión expuso la utilización frecuente de documentos falsificados para cargas de carbón vegetal (véase S/2014/726, anexo 9.4). Ante la dificultad creciente para identificar buques, tanto en tierra como en el mar, y para dar seguimiento a esos buques mediante las transmisiones de los sistemas de identificación automática, durante el mandato actual el Grupo de Supervisión trató de verificar la magnitud de la documentación falsificada comparándola con los datos de importación y exportación de los Estados Miembros¹⁰².

157. Según los datos facilitados por el Ministerio de Relaciones Exteriores de los Emiratos Árabes Unidos, en 2011 se importaron más de 142 millones de kg de carbón vegetal desde Somalia (el 96% del total de las importaciones), y casi 122 millones de kg (el 79% del total de las importaciones) el año siguiente, cuando se

¹⁰⁰ En el anexo 8.3 se expone con detalle la interceptación del MSV *Raj Milan*.

¹⁰¹ El Grupo de Supervisión observó la presencia de numerosos dhows comercialmente activos que recalaban en los puertos de Dubai y que no habían transmitido señales con el sistema de identificación automática desde 2014.

¹⁰² Desde 2014, el Grupo de Supervisión ha confirmado la existencia de documentación falsificada en la que se afirmaba que las importaciones de carbón vegetal somalí procedían de Comoras, Djibouti y Kenya.

impuso la prohibición¹⁰³. En 2013 y 2014, los datos muestran que no se importó carbón vegetal de Somalia.

158. Según los mismos datos, las importaciones de carbón procedente de Kenya aumentaron de 175.000 kg en 2012 a más de 80 millones de kg en 2013, mientras que en 2014 ascendieron a 12 millones de kg.

159. Las importaciones de carbón desde Comoras aumentaron de cero en 2011, 2012 y 2013 a más de 12 millones de kg en 2014. El Grupo de Supervisión solicitó a los Emiratos Árabes Unidos que confirmaran las exportaciones procedentes de Comoras, pero no recibió respuesta.

160. Las importaciones de carbón procedente de Djibouti pasaron de cero en 2011 a casi 13 millones de kg en 2012, más de 22 millones de kg en 2013, y cerca de 41 millones de kg en 2014. El Grupo de Supervisión se reunió con las autoridades del puerto de Djibouti el 21 de mayo de 2014 y fue informado categóricamente de que Djibouti no exportaba carbón vegetal a ningún país.

161. A medida que se complica la identificación y el rastreo de buques que transportan carbón vegetal somalí, la cooperación de los Estados Miembros se hace cada vez más necesaria. El uso aparentemente endémico de documentación falsificada solo puede abordarse con el apoyo de los Estados Miembros, que haría posible la comparación de datos de exportación e importación y autorizaría al Grupo de Supervisión a investigar las discrepancias significativas y a las personas y entidades encargadas de esas actividades.

VII. Cooperación estatal y no estatal con el Grupo de Supervisión

162. En el transcurso de su mandato, el Grupo de Supervisión recibió un apoyo alentador del Gobierno Federal de Somalia y los representantes de sus instituciones. El Grupo celebró deliberaciones abiertas y periódicas sobre una serie de cuestiones delicadas con sus dos contactos principales, a saber, el Asesor de Seguridad Nacional del Presidente de Somalia, Abdirahman Sheik Issa, y el Ministro de Hacienda, Mohamed Aden Ibrahim. El Ministro del Interior y Asuntos Federales, Abdirahman Mohamed Hussein “Odowaa”, y el Gobernador del Banco Central, Bashir Issa, también apoyaron las investigaciones y facilitaron al Grupo respuestas sustantivas y detalladas a sus solicitudes de información.

163. En sus investigaciones con respecto a la amenaza de Al-Shabaab, el Grupo recibió cooperación limitada del Gobierno de Kenya y de sus servicios de seguridad. El Grupo de Supervisión espera reforzar esas relaciones en su próximo mandato.

164. El Grupo de Supervisión ha tenido una relación limitada con las autoridades de Somalilandia. Se establecieron contactos con el Director de Inteligencia a la luz de las investigaciones relacionadas con la amenaza de Al-Shabaab. El Ministerio de Relaciones Exteriores de Somalilandia pidió la cooperación del Grupo en relación con la creación de una unidad de protección del petróleo y mantuvo con el Grupo un intercambio de mensajes de correo electrónico al respecto.

¹⁰³ La prohibición entró en vigor con la aprobación por el Consejo de Seguridad de la resolución 2036 (2012), el 22 de febrero de 2012.

165. Las autoridades de los Emiratos Árabes Unidos respondieron a la correspondencia oficial con regularidad y facilitaron la inspección del buque *MSV Raj Milan* en el puerto de Rashid (Emiratos Árabes Unidos). Sin embargo, hicieron caso omiso de las repetidas solicitudes de documentación de importaciones, que eran necesarias para investigar la magnitud de las falsificaciones utilizadas en el comercio de carbón vegetal. Las conclusiones y los resultados de la investigación oficial de las autoridades de los Emiratos Árabes Unidos en el caso del *MSV Raj Milan* y su consignatario aún no se ha transmitido al Grupo.

166. Las autoridades de la Arabia Saudita, Bahrein, Egipto, Kuwait, el Líbano, Omán, Qatar y la República Unida de Tanzania no han respondido a la solicitud oficial de datos sobre la importación de carbón vegetal en sus respectivos territorios, lo que ha dificultado al Grupo la estimación de los volúmenes de importación y exportación de carbón vegetal desde Somalia a sus países y la detección de los patrones que aprovechan los buques que transportan ilegalmente carbón vegetal somalí para evitar la identificación y el seguimiento.

167. Con ocasión de una visita a Mascate, las autoridades de Omán confirmaron que seguían bloqueando la importación de carbón vegetal somalí en los puertos que están bajo su jurisdicción; aun así, no han respondido a la correspondencia oficial del Grupo y no han facilitado al Grupo la documentación aduanera que se acordó durante la visita.

168. Durante su mandato, el Grupo de Supervisión ha aprovechado la cooperación positiva con los organismos humanitarios y las entidades de las Naciones Unidas, dentro de los límites de sus obligaciones de confidencialidad a las víctimas y de la necesidad de velar por la protección y la seguridad de los interlocutores.

VIII. Lista de sanciones

169. El 11 de diciembre de 2014, el Representante Permanente de Somalia ante las Naciones Unidas presentó una solicitud de suprimir de la lista el nombre de Mohamed Sa'id (conocido también como Atom), que había sido incluido en la lista el 12 de abril de 2010 por participar en actos que amenazaban la paz, la seguridad o la estabilidad de Somalia. El interesado había anunciado el 7 de junio de 2014 que abandonaba Al-Shabaab para tratar de escapar al control que Godane ejercía sobre el grupo y se entregó al Gobierno Federal en Mogadiscio. El 19 de diciembre de 2014, el Comité aprobó la supresión del nombre de Mohamed Sa'id "Atom" de la lista de sanciones.

170. En cumplimiento del párrafo 27 de la resolución 2111 (2013) y del párrafo 13 g) de la resolución 2060 (2012), el Grupo de Supervisión sigue precisando y actualizando la información sobre la lista preliminar de las personas y entidades que llevan a cabo los actos descritos en el párrafo 1 de la resolución 2111 (2013).

IX. Recomendaciones

A. Amenazas a la paz y la seguridad

171. El Grupo de Supervisión recomienda:

a) Que el Consejo de Seguridad considere la posibilidad de adoptar medidas selectivas respecto de todas las personas que intentan explotar para su propio beneficio recursos políticos, financieros o militares para manipular o socavar el proceso de federalización o el proceso electoral que tendrá lugar en 2016, así como respecto de quienes les den facilidades o los apoyen activamente;

b) Que el Consejo de Seguridad, en lo que respecta a los recursos públicos somalíes, inste al Gobierno Federal de Somalia a:

i) Investigar y, cuando proceda, enjuiciar a las personas y entidades que hayan tenido parte en la apropiación indebida de recursos financieros, en contravención del régimen de sanciones, en los casos en que esa conducta también constituya una violación de las leyes nacionales pertinentes;

ii) Remitir la información generada por esas investigaciones a los órganos de investigación pertinentes de otros Estados Miembros, cuando haya motivos razonables para creer que los ciudadanos de esos Estados (o las personas o entidades que tengan una vinculación suficiente con esas jurisdicciones) han tenido parte en la apropiación indebida de recursos financieros en Somalia;

c) Que el Consejo de Seguridad, en su próxima resolución sobre el régimen de sanciones relativo a Somalia, reconozca que las actividades de pesca ilegal, no declarada y no reglamentada que llevan a cabo buques extranjeros dentro de la zona económica exclusiva del país son una amenaza a la paz y la seguridad en Somalia, e incluya esas actividades en los criterios de inclusión en la lista de medidas selectivas;

d) Que el Consejo de Seguridad considere la posibilidad de alentar al Gobierno Federal de Somalia a fortalecer sus instituciones financieras con las medidas siguientes:

i) Mejorar la función reguladora del Banco Central de Somalia;

ii) Instar al Parlamento Federal a que acelere el proceso legislativo relacionado con la Ley de Contrataciones, Concesiones y Enajenaciones del Sector Público;

e) Que el Consejo de Seguridad, en su próxima resolución sobre Somalia, declare una moratoria de los acuerdos relativos al petróleo y el gas en Somalia en tanto el Gobierno Federal de Somalia no instituya órganos viables e independientes para la concesión de licencias, como se estipula en la Ley del Petróleo de 2008, y en tanto no se establezca un marco constitucional para el reparto de los recursos entre las autoridades federales y las regionales;

f) Que el Consejo de Seguridad inste a los Estados Miembros a apoyar el programa integral de reforma del sector de la seguridad anunciado por la Oficina del Presidente del Gobierno Federal de Somalia el 9 de septiembre de 2015, a fin de asegurar la entrega inmediata de asistencia técnica y financiera para el sector de la seguridad sobre la base de una adhesión estricta a los compromisos asumidos en el anuncio.

B. Piratería

172. El Grupo de Supervisión recomienda que el Consejo de Seguridad siga alentando al Gobierno Federal de Somalia a identificar, arrestar y enjuiciar a todas las personas que, durante la última década, hayan participado en la organización y facilitación de actos de piratería.

C. Régimen de embargo de armas

173. El Grupo de Supervisión recomienda:

a) Que el Consejo de Seguridad, en el contexto de su evaluación del cumplimiento por el Gobierno Federal de Somalia de los términos del levantamiento parcial del embargo de armas:

i) Inste al Gobierno Federal de Somalia a aumentar el grado de cumplimiento de sus obligaciones en materia de presentación de informes para el Consejo, en particular la facilitación de información completa y precisa sobre la estructura, la composición, la dotación y la distribución de sus fuerzas de seguridad, incluida la situación de las fuerzas regionales y las milicias;

ii) Solicite al Gobierno Federal de Somalia que, en el contexto del cumplimiento de sus obligaciones de presentar informes al Comité en materia de importación de armas y municiones, mejore la puntualidad y el contenido de las comunicaciones que presenta al Comité sobre confirmaciones posteriores a la entrega y la distribución, teniendo presente que esas comunicaciones pueden presentarse conjuntamente si se dispone de toda la información pertinente;

iii) Exija al Gobierno Federal de Somalia que, con el apoyo de los asociados internacionales y en un plazo específico, realice un inventario de referencia del equipo militar, armas y municiones que posean las fuerzas de seguridad del Gobierno Federal de Somalia, y lo evalúe con arreglo a sus dotaciones, necesidades y misiones correspondientes con el fin de ayudar a los Estados Miembros a facilitar una asistencia más específica respecto del levantamiento parcial del embargo de armas, sobre la base de la elaboración del plan Guulwade y el borrador del proyecto Heegan, que el Consejo acogió con beneplácito en su resolución 2232 (2015);

iv) Solicite a los Estados Miembros que apoyen de inmediato los esfuerzos del Gobierno Federal de Somalia por establecer el equipo conjunto de verificación, como había solicitado el Consejo con anterioridad;

b) Que el Consejo de Seguridad solicite a los Estados Miembros que ayuden al Gobierno Federal de Somalia a mejorar la gestión y la supervisión de las transferencias de armas y municiones al personal autorizado, incluso mediante el apoyo urgente para la elaboración de una estrategia amplia de gestión de armas y municiones, utilizando los procedimientos e iniciativas actuales y definiendo prioridades realistas a corto plazo mediante, entre otras cosas, el uso de los registros biométricos de las fuerzas que lleva a cabo las Naciones Unidas y el sistema de tarjetas de armas que ya está en uso;

c) Que el Consejo de Seguridad, en su próxima resolución sobre el régimen de sanciones relativo a Somalia, inste a los Estados Miembros y a las organizaciones internacionales, regionales y subregionales a velar por el cumplimiento estricto de lo dispuesto en el párrafo 11 a) de la resolución 2111 (2013) siempre que consideren la posibilidad de facilitar armas, equipo militar o asistencia técnica o capacitación destinados exclusivamente a los efectos de ayudar a desarrollar instituciones del sector de la seguridad de Somalia que no sean las fuerzas de seguridad del Gobierno Federal;

d) Que el Consejo de Seguridad, en su próxima resolución sobre el régimen de sanciones relativo a Somalia, haga hincapié en la necesidad de que la AMISOM y el Ejército Nacional Somalí cumplan cabalmente las obligaciones que les incumben en virtud del párrafo 6 de la resolución 2182 (2014), y que considere la posibilidad de hacer extensivas esas obligaciones a todas las autoridades de Somalia, a fin de asegurar la gestión y la enajenación generales y transparentes de ese tipo de material y facilitar las labores de rastreo y análisis, que pondrían al descubierto las operaciones de Al-Shabaab y sus canales de suministro;

e) Que el Consejo de Seguridad renueve la autorización que figura en el párrafo 15 de la resolución 2182 (2014) y solicite al Comité que publique una nota orientativa para la aplicación de resoluciones con información destinada a los Estados Miembros sobre el marco para realizar las operaciones de interdicción marítima de armas y otros materiales prohibidos por el embargo de armas;

f) Que el Consejo de Seguridad, en el contexto de la vigilancia efectiva que efectúa el Grupo de Supervisión de conformidad con lo dispuesto en el párrafo 10 c) de la resolución 2111 (2013), solicite a la AMISOM y a sus socios estratégicos que aclaren sus funciones, responsabilidades y líneas de mando respectivas en relación con las operaciones que llevan a cabo en el marco del concepto estratégico de la Unión Africana, en cooperación y coordinación con la AMISOM.

D. Obstrucción de la asistencia humanitaria

174. El Grupo de Supervisión recomienda:

a) Que el Consejo de Seguridad solicite a la AMISOM y la comunidad humanitaria que sigan dando prioridad a la aplicación plena de las directrices nacionales específicas para Somalia sobre la coordinación civil-militar, lo que implica hacer extensiva la divulgación de sus principios a otros agentes armados que operan en Somalia;

b) Que el Consejo de Seguridad inste al Gobierno Federal de Somalia, la AMISOM y sus asociados estratégicos, y a todos los demás agentes armados que actúan en Somalia, a tomar medidas para mitigar las consecuencias que tienen las operaciones militares para la población civil, incluida la creación de un entorno propicio para que los agentes humanitarios presten sus servicios y se garantice la libertad de circulación por las rutas de suministro;

c) Que el Consejo de Seguridad, en su próxima resolución sobre Somalia, recuerde a todas las partes en conflicto y a todas las autoridades de Somalia que es necesario respetar y garantizar la neutralidad, la imparcialidad y la independencia de la acción humanitaria, incluso como elemento esencial para salvaguardar el bienestar y la protección del personal y las operaciones de asistencia humanitaria; a

tal efecto, se debería alentar a los donantes a aumentar la asignación de fondos para la asistencia humanitaria basada en principios y sin vinculaciones a programas de estabilización o consolidación de Estado.

E. Violaciones del derecho internacional que conllevan ataques contra la población civil

175. El Grupo de Supervisión recomienda:

a) Que el Consejo de Seguridad solicite al Gobierno Federal de Somalia que mejore la capacidad de crear mecanismos de supervisión civil para las fuerzas de seguridad del Gobierno Federal de Somalia, y que recabe apoyo para tal fin, y que dé prioridad a la investigación y el enjuiciamiento de los principales dirigentes políticos y militares con mando que hayan sido responsables de violaciones del derecho internacional humanitario;

b) Que el Consejo de Seguridad solicite a los Estados Miembros que apoyen la mejora de la capacidad de la sección de derechos humanos de la UNSOM, en particular incrementando su presencia regional y la capacidad de realizar sus funciones con arreglo a la política de diligencia debida de las Naciones Unidas en materia de derechos humanos en el contexto del apoyo de las Naciones Unidas a fuerzas de seguridad ajenas a la Organización, con respecto a la realización de evaluaciones de riesgos y la vigilancia del cumplimiento, a medida que aumenta la dotación de las fuerzas que reciben apoyo de las entidades de las Naciones Unidas;

c) Que el Consejo de Seguridad invite a la Oficina del Alto Comisionado de las Naciones Unidas para los Derechos Humanos a colaborar con el Gobierno Federal de Somalia y los organismos pertinentes de las Naciones Unidas para localizar las violaciones más graves del derecho internacional aplicable cometidas por todas las partes del conflicto de Somalia como requisito necesario para formular opciones para una estrategia amplia y apropiada de justicia de transición;

d) Que el Consejo de Seguridad, en su próxima resolución sobre Somalia, subraye la obligación de todos los Estados Miembros de garantizar que sus fuerzas respeten estrictamente el derecho internacional en todas las operaciones que se ejecuten en Somalia, ya sea dentro o fuera del concepto de operaciones de la AMISOM, incluida la investigación y el enjuiciamiento de las personas que cometan infracciones graves del derecho internacional humanitario;

e) Que el Consejo de Seguridad solicite urgentemente al Gobierno Federal de Somalia que aplique leyes y políticas nacionales relativas a los desalojos forzosos, incluida la investigación y el enjuiciamiento de quienes violen la ley en el transcurso de esas operaciones;

f) Que el Consejo de Seguridad solicite a la Unión Africana, la AMISOM y los países que aportan contingentes a la AMISOM lo siguiente:

i) Alentar la cooperación y el compromiso de todas las partes y, en particular, de los contingentes de tropas, con la nueva Célula de Seguimiento, Análisis y Respuesta para las Bajas Civiles de la AMISOM, a fin de asegurar que los datos y los análisis que se generen se integren con prontitud en las operaciones y contribuyan a reducir el número de muertos y heridos civiles; también debe considerarse la posibilidad de establecer un fondo común para

apoyar las indemnizaciones a las víctimas civiles de la AMISOM mediante la Célula;

ii) Garantizar el suministro continuo y transparente de información detallada por los países que aportan contingentes sobre las medidas adoptadas a nivel nacional para investigar, enjuiciar y castigar al personal civil y militar responsable de la comisión de violaciones contra los civiles en el transcurso de su despliegue;

iii) Aplicar inmediatamente las recomendaciones del equipo independiente de investigación de la Unión Africana creado para investigar las denuncias de explotación y abusos sexuales cometidos por el personal de la AMISOM.

F. Violaciones de la prohibición relativa al carbón vegetal

176. El Grupo de Supervisión recomienda:

a) Que el Consejo de Seguridad solicite a los Estados Miembros que adopten medidas con arreglo a sus leyes nacionales contra las empresas navieras que el Grupo de Supervisión ha señalado como usuarias de documentación falsa y que presenten al Grupo de Supervisión, cada trimestre, documentación relativa a las importaciones y exportaciones de carbón vegetal;

b) Que el Consejo de Seguridad, en su próxima resolución sobre Somalia, y a fin de promover el cumplimiento de los párrafos 18 y 20 de la resolución 2111 (2013), solicite a la AMISOM y a los países que aportan contingentes a la AMISOM que adopten medidas activas para apoyar y ayudar a las autoridades somalíes a impedir la exportación de carbón vegetal, y, a este respecto, que presenten informes al Consejo sobre esas medidas seis meses después de la fecha en que se apruebe la nueva resolución;

c) Que el Consejo de Seguridad considere explícitamente la posibilidad de alentar y autorizar a los Estados Miembros a que redirijan los buques que transportan carbón vegetal hacia el puerto de Mogadiscio.

G. Lista de sanciones

177. El Grupo de Supervisión recomienda que el Comité proceda sin demora a designar a las siguientes personas y entidades para que se les apliquen medidas selectivas:

a) Los piratas conocidos y sus aliados identificados por el Grupo de Supervisión o los Estados Miembros entre 2009 y 2015;

b) Las personas y entidades responsables de la apropiación indebida de recursos públicos, incluidas personas y entidades del sector privado;

c) Las personas que participan en la desviación de armas de los arsenales oficiales del Gobierno;

d) Las personas y entidades que participan en el comercio de carbón vegetal, con inclusión de los importadores, los exportadores y los transportistas.

Annex 1

Spoiler politics and the capture of state resources

Annex 1.1: Formation of Interim Galmudug Administration

1. The formation of the Interim Galmudug Administration (IGA) started in earnest with the Galgaduud and Mudug Reconciliation Conference in January 2015. It concluded with the appointment of Abdikarim Hussein Guled as President in July and the formation of a 24-member cabinet in late August. As with the establishment of the Interim Jubba Administration and the Interim South West State Administration, losers in the process have cried foul and multiple allegations of interference have emerged. The formation of the IGA demonstrates the manner in which multiple political and clan networks competed to capture state resources, and in doing so instigated both new conflict and threatened the re-emergence of old conflict. In 2016, the political stakes will be higher, as will the overall threat posed to peace, security and stability in Somalia if greater efforts are not made by all stakeholders to engage in the next transition process constructively.¹

Attempts to manipulate the state formation process

2. The *Damul Jadid* political association close to President Hassan Sheikh Mohamud invested heavily – financially and politically – in the appointment of its member, Abdikarim Hussein Guled, as President of the IGA.² Indeed, other political associations and networks, including *Ala Sheikh*, are also known to have attempted to buy support for their appointees throughout the state formation process – from the allegiance of members of the technical committee to voting preferences of the 68 members of the Regional Assembly.³ None, however, had the comparative advantage that Abdikarim Guled received from the outset.

3. The process of state formation between Galgaduud Region and parts of Mudug Region was initiated in July 2014. Representatives of the former Regional State of Galmudug, the Administration of Himan and Heeb, and the Administration of Ahlu Sunna wal Jama'a (ASWJ) were invited to attend a meeting with representatives of the Federal Government of Somalia (FGS). On 31 July the Central Regions State Formation Agreement was signed by Abdi Hassan Awale "Qebdiid" (President of Galmudug State), Sheikh Ibrahim Sheikh Hassan Gureye (representing ASWJ) and four FGS ministerial representatives from the region. Minister of Interior Affairs and Federalism Abdullahi Godah Barre served as Guarantor for the Agreement, and representatives of the European Union, the United Nations Office for Somalia (UNSOM), and the African Union served as witnesses. Abdullahi

¹ Due to the sensitivity of the matter, all sources will remain anonymous.

² Information obtained independently from senior diplomatic sources and from participants of the conference.

³ According to a source present at the technical committee training workshop, *Ala Sheikh* representatives offered cash payments to technical committee members to support their preferred candidate, Ahmed Moallim Fiqi.

Mohamed Ali “Barleh” of the Himan and Heeb administration signed the Agreement a week later on 6 August 2014.⁴

4. Under the terms of the Agreement a 25-member technical committee “representing all the clans that live in [the] regions” was to be established within 10 days of its signing. The process of creating the administration was due to be completed within 60 days of the signing of the agreement, and to be “guided and facilitated” by the FGS. The FGS was furthermore “responsible for ensuring the implementation and success” of the agreement, and for preparing the “roles and responsibilities of the technical committee”.⁵ On 26 August 2014, Abdullahi Godah Barre announced the appointment of 27 members to the technical committee.

5. Elements of ASWJ referred to as the Sufa group and led by Sheikh Abdirisak Mohamed Al Ashari, had opposed the Central Regions State Formation Agreement from the outset, claiming that the group’s signatory, Sheikh Ibrahim Sheikh Hassan Gureye, did not represent them. In October 2014 the Sufa group attempted to arrest the District Commissioner of Guriel town for supporting the FGS-led state formation process. In November conflict erupted between Sufa fighters and the Somali National Army (SNA) in the regional capital of Galgadud, Dhusamareb.

6. Throughout November and December 2014, the Sufa group of ASWJ consolidated its control over Guriel town, as the SNA regained control of Dhusamareb. On 15 December SNA troops were sent to recover Guriel as Sufa fighters retreated westwards towards Hiran Region, though intermittent clashes between the two sides continued.

7. As SNA troops were advancing on Guriel in mid-December, members of the Technical Committee were attending a training workshop in Mogadishu. Following completion of the training workshop, on 17 December 2014 the committee elected Halimo Ismail Ibrahim “Yarey” to serve as chair. In early January 2015 meetings were held in Guriel, with the involvement of members of the technical committee, to ease the growing tensions.

8. On 25 January the Galgadud and Mudug Reconciliation Conference commenced in Dhusamareb, with approximately 400 elders from the two regions participating. As the conference continued throughout February and into March, conflict between the SNA and Sufa group continued west of the town. On 3 March the FGS Minister of Defence, General Abdulkadir Sheikh Dini visited Guriel in an attempt to end the on-going conflict. As it grew increasingly obvious that the Sufa group would not agree to the terms of a peace agreement, Ethiopian National Defence Force (ENDF) AMISOM troops arrived in the town to prop up the SNA and enforce a ceasefire.

⁴ According to a confidential source, “Barleh” agreed to sign once assured that the forthcoming state formation conference would be held in the Himan and Heeb stronghold of Adado.

⁵ Central Regions State Formation Agreement (Mudug and Galgadud), http://peacemaker.un.org/sites/peacemaker.un.org/files/SO_140730_CentralRegionFormation.pdf.

9. On 25 March, a communiqué was disseminated announcing the end of the Galgadud and Mudug Reconciliation Conference and the beginning of the State Formation Conference of Galgadud and Mudug, with Dhusamareb continuing to host the delegates – despite assumptions among many, and particularly Abdullahi “Barley”, that it would move to Adado town further north near the border with Mudug Region. The total number of delegates was also increased to 510. Two weeks later, on 8 April, after much political wrangling, President Hassan Sheikh announced that the State Formation Conference would in fact be moving to Adado and would commence on 11 April, however Dhusamareb was declared the provisional capital of the future federal member state.⁶

10. On 22 April 2015, as delegates for the State Formation Conference were still arriving, former Minister of Defence and close ally to President Hassan Sheikh Mohamud, Abdikarim Guled announced his intention to run for presidency of the IGA.

11. Allegations that the chair of the technical committee, Halimo “Yarey”, was overstepping her authority began to emerge in early May 2015 as the committee started to appoint members to a Galmudug Regional Assembly.⁷ On 12 May, the Minister of Interior and Federal Affairs, Abdirahman Mohamed Hussein “Odowaa” arrived in Adado to help address growing tensions among the delegates, prompting “Qebdiid” to accuse the Minister of interfering in the process. On 16 May, the Minister announced that matters with “Qebdiid” had been resolved, and that the conference would soon continue.⁸

12. Prime Minister Omar Abdirashid Shermarke arrived in Adado on 31 May to officially open the second phase of the State Formation Conference when delegates would nominate MPs on behalf of their sub-clans. A week later, on 7 June, the ASWJ Sufi group overran Dhusamareb, forcing SNA troops to withdraw from the city. The next day they extended their control over nearby villages establishing a defensive perimeter, and two days later peaceful demonstrations against the Adado state formation process were held in the city.

⁶ While it may have served as an attempt to appease certain opponents, the President’s unilateral declaration that Dhusamareb would serve as capital of the new regional administration demonstrated an unconstitutional usurping of his role and responsibility in the process.

⁷ The Monitoring Group has also reviewed communication sent at the time by a participant in the process to senior officials within both the FGS and UN alleging political interference in the selective process, calling for a review of the process to date and for independent observers from the international community to monitor the process moving forward. Halimo “Yarey” entered the political scene in 2012 when she co-chaired the Technical Selection Committee tasked with selecting the National Constituent Assembly and the National Federal Parliament. Her swift appointment as chair of the National Independent Electoral Commission soon after Abdikarim Guled won the Galmudug Presidency, and indeed after it had been announced that general elections will not be possible 2016, has added to speculation that senior government officials are attempting to use her to shape the design of a selection process to strengthen their position in 2016.

⁸ On 20 May, the Galmudug Speaker of Parliament, Hassan Mohamud Hayl, publicly announced that “Qebdiid” no longer served as president of the administration but was swiftly hushed by other Galmudug MPs.

13. On 18 June, after an Al-Shabaab attack on the conference facilities was thwarted by security guards, the Constitution of Galmudug State was approved by the State Formation Conference delegate. The Constitution claimed the incorporation of Galgadud Region and the whole of Mudug Region – including the northern districts claimed by Puntland – and confirmed Dhusamareb as the future capital of the state, despite it being held by the ASWJ Sufa group at the time.

14. Claims to the northern districts of Mudug Region prompted an immediate reaction from the Puntland administration in Garowe (see below). A press statement released by the office of President Abdiweli Mohammed Ali “Gaas” is reported to have warned of future conflict with the Galmudug administration if claims to northern Mudug were not withdrawn.⁹ Over the following few weeks a series of demonstrations were held throughout Puntland opposing any attempts to threaten the state’s territorial integrity.

15. Amid growing rhetoric against the process, on 20 June the Technical Committee released the list of MPs that would serve in the Regional Assembly and elect the president of the IRA. Two days later they were sworn in in at a ceremony held in Adado, and a week later they selected Ali Ga’al Asir to serve as Speaker of the Regional Assembly. Presidential candidates were then invited to make formal applications on 30 June. On 1 July, as ASWJ announced the appointment of Sheikh Mohamed Shakur Ali Hassan as president of its rival state from Dhusamareb, a list of six candidates were announced in Adado including Abdikarim Hussein Guled, Ahmed Abdisalan Adan, Ahmed Moallim Fiqi and Abdi Hassan Awale “Qebdiid”. On 4 July, following three rounds of voting Abdikarim Hussein Guled secured the presidency. Guled’s political ally Mohamad Hashi Araby was subsequently appointed as his vice president following a closely fought contest with Bashir Diriye Sharif.¹⁰

The northern borders of a Galmudug Federal Member State

16. The northern borders of a future Galmudug Federal Member State remain undefined. Twice the FGS assured the Puntland authorities – in October 2014 and April 2015 – of its commitment not to compromise the territorial integrity of Puntland which extends as far south as the city of Galkayco in Galkayco District of Mudug Region. A clear dividing line in the city separates the *Majeerteen* dominated north from *Haber Gedir*-dominated south. The extent of Puntland territory east and west of Galkayco, however, is poorly demarcated and remains a potential flash point for conflict between the two traditionally strongest clan families in Somalia, the *Hawiye* and *Darod*. Though the dividing line

⁹ See, for example, “Puntland warns of ‘civil war’ over claims of its territory by Central region state formation delegates”, *Horseed Media*, 18 June 2015. Available at <http://horseedmedia.net/2015/06/18/somalia-puntland-warns-of-civil-war-over-claims-of-its-territories-by-central-region-state-formation-delegates/>.

¹⁰ The Monitoring Group received reports from stakeholders present of large sums of cash – ranging from USD 10,000 to USD 30,000 – being given to members of the Regional Assembly by all parties to the process before the first round of votes for the presidency. According to the same sources, in subsequent rounds, as candidates dropped out and alliances shifted, promises of political appointees – within both the IGA and the FGS – were used to secure support.

is fluid, Puntland maintains *de facto* control of Jariban District, most of Galdogob District, and the north of Galkacyo District in Mudug Region, leaving the south of Galkacyo District, most of Hobyo District, and all of Harardhere District within Galmudug territory.

17. The 1993 Mudug Peace Agreement – signed by General Mohamed Farah Aideed representing the United Somali Congress and *Haber Gedir* (*Hawiye*) communities in southern Mudug, and former TFG President Abdullahi Yusuf, representing the Somali Salvation Democratic Front at the time and *Majeerteen* (*Darod*) communities in northern Mudug – introduced relative stability in the region following several years of heavy inter-clan conflict. Though never fully implemented, the principles of the peace agreement dividing the territory were, at least until the Galmudug State Formation Conference, loosely adhered to. As the authors of a report on the Mudug Peace Agreement prepared by the Puntland Development Research Center in 2006 state, “[i]n many respects, Mudug – and its peace – are pivotal to the entire future of Somalia: as a vital crossroads for trade with the Somali regions of Eastern Ethiopia; a commercial ‘meeting-point’ for the nation’s northern and southern regions; and – perhaps most importantly – as a unique melting pot in which the Darod, Hawiye and other clans meet and interact”.¹¹

18. The apparent inclusion of all of Mudug Region in the initial approved Galmudug Constitution threatens the relative stability that followed the signing of the Mudug Peace Agreement. Prime Minister Omar Abdirashid ‘Sharmarke’ travelled to Garowe in July 2015 in an attempt to ease tensions over the border but ultimately returned to Mogadishu having achieved little. The FGS and Galmudug are now presented with a challenge which has serious implications for the peace, security and stability of Somalia. By adhering to the general principles of the Mudug Peace Agreement, splitting Mudug Region, they will likely prevent an outbreak of inter-communal conflict in the region. They would, however, also defy the Provisional Constitution requirement that a federal member state be formed of at least two contiguous regions as defined in 1991, and potentially invite multiple claims for constitutional exceptions to be made in the state formation process. In the absence of a Constitutional Court or indeed a fully functioning independent Boundaries and Federation Commission, the Inter-Governmental Authority on Development (IGAD) has once again offered to step in and mediate between Puntland and the Galmudug IRA. At the time of writing, there was little evidence of progress being made to determine the northern border of a future Galmudug Federal Member State.

Conflict with Ahlu Sunna wal Jama’a

19. Prior to the signing of the Central Regions State Formation Agreement, ASWJ had contributed significantly to relative security in the areas under its control, extending from the north east Hiran Region across the northern parts of Galgadud Region. While the split within ASWJ may originally have had more to do with *Haber Gedir* sub-clan politics than ideological positions, the FGS’ loss of a

¹¹ PDRC, “Peacemaking at the Crossroads: Consolidation of the 1993 Mudug Peace Agreement” 2006.

key military ally and the emergence of a new, well-armed opposition group in central Somalia may prove to have significant consequences for the region. ASWJ's initiation of the parallel state formation process, and the election of their own president 3 days before Abdikarim Guled won the presidency of the Galmudug IRA, indicate an entrenchment of their position in the region.

20. Diverting the resources of the SNA and AMISOM to engage with a former ally, at a time when both forces are already stretched thin attempting to hold ground recovered from Al-Shabaab and continue offences against the group, represents a further grave threat to peace, security and stability in the region.

21. The failure to mitigate conflict between ASWJ and the SNA early on in the process and to ensure the interests of all influential stakeholders were at least nominally represented in it, compromises the future legitimacy of the IGA unless significant political, and likely financial, capital is spent securing full ASWJ buy-in. Media reports suggest that the administration was partially successful in achieving this prior to the formation of the cabinet. Despite having recently lost the town of Abudwaq to IGA forces, at the time of writing a militarily powerful faction of ASWJ that continues to oppose the IGA maintained control of Dhusamareb, the agreed capital of a future Galmudug FMS and seat of government for the IGA.

Link Natural Resources

22. As the Galgaduud and Mudug Reconciliation Conference was on-going, evidence obtained by the Monitoring Group suggests that a private extractives company entered into an agreement with the former Galmudug State under its president, Abdi Hassan Awale "Qebdiid". The deal is signed by the former 'Minister of Petroleum and Minerals of Galmudug State', Hared Ali Hared, who now serves as Deputy Speaker of the Galmudug Regional Assembly. The contract apparently awards the company the right to export minerals, gas and oil. According to a presentation prepared by Link Natural Resources, the company appears most interested in the "very high tonnage surficial Uranium mineralization discovered in Galgaduud region in late 60's".

23. According to the same presentation, the proposed concession area extends will into northern Galkayo District, and thereby into territory claimed by the Puntland. In a telephone interview on 8 September 2015 the company's CEO, Sam McKay informed the Monitoring Group that the company had recently discussed the matter with representatives of both the IGA and the Puntland authorities though he would not disclose who these discussions were held with.¹²

¹² At the time of writing, the Monitoring Group is unable to assess the extent to which either the IGA or Puntland Government are engaging with the company or indeed, gives its apparent lack of experience in the extractives sector, its capacity to conduct exploration in the region. A version of the presentation is available on a company website created in August 2015: <http://link-natural-resources.com/>

24. The contract also includes, “as a gesture of goodwill”, a commitment by Link National Resources to assist “with financing the required security essential to provide a conclusive working environment for both parties”, raising clear concerns with regards to the arms embargo.¹³

Summary

25. The formation of the IGA demonstrates the inherent risks to the peace, security and stability of Somalia involved in the federalization process. In a contest fought by a complex array of political, clan and business networks, the FGS lost a powerful allied militia and has potentially opened a new front of conflict as a resurgent Al-Shabaab threatens to reverse territorial gains made against it. An important though fragile peace agreement signed in 1993 between communities living in Mudug Region is at risk of collapsing, which could result in inter-communal conflict spreading throughout central Somalia, and would likely prompt the total withdrawal of Puntland from the federal project.

¹³ Link Natural Resources presentation held on file with the Monitoring Group.

Annex 1.2: Bribery of Federal MPs

(STRICTLY CONFIDENTIAL)*

* The annex has not been reproduced in the present document because it is strictly confidential.

Annex 2

Natural resources

Annex 2.1: Sale of fishing licenses

1. On 25 July 2013, the FGS Ministry of Fisheries and Marine Resources entered into an agreement authorising Somalia-FishGuard Ltd. to be the sole agent responsible for the sale of fishing licenses on behalf of the FGS (see S/2014/726, annex 5.1), and granting the company a 49 per cent share of the revenues generated. However, a 21 November 2014 letter¹ from former Minister Mohamed Olow Barrow to Somalia FishGuard criticised the terms of the deal and demanded they be renegotiated. According to the current Director General of the Ministry, Ahmed Iman, the Somalia FishGuard contract has been suspended.² Subsequently, the Ministry has since begun selling fishing licenses directly, largely to China-flagged longliners.

2. The Monitoring Group is concerned that the sale of licenses, especially without a federal-regional resource sharing agreement in place, has the potential to fuel corruption and even conflict. As one of the few FGS ministries capable of generating external revenue, the Monitoring Group is concerned over the potential for that revenue stream to be diverted around the FGS' public financial management system and subsequently misappropriated by agents of the state.

Sale of licenses to Chinese longliners

3. Since March 2015, the FGS Ministry of Fisheries and Marine Resources has sold 11 licenses, mostly to China-flagged longliners fishing for tuna and tuna-like species, generating more than USD 180,000 in revenue (see annex 2.1.a for a chart of fishing licenses issued by the Ministry from March to August 2015).

4. On 18 March 2015, the Minister of Fisheries and Marine Resources, Mohamed Aimoy, told the Monitoring Group that the Ministry was not currently issuing licenses.³ However on 17 March 2015 the Ministry had already issued its first license of the year, a two-month permit to the Belize-flagged trawler *Greko 2*. Also in March 2015, the Ministry began selling licenses to the Chinese agent Simon Chen, representing the Yu Shian Group, a multinational fishing agency and consultancy firm. Commencing 23 March 2015, Chen purchased three-month licenses for three vessels owned the Hangzhou-based company Zhejiang Ocean Family, a client of Yu Shian Group.

5. Revenues from the sale of these licenses were routed to a bank account in Djibouti in the name of the Ministry of Fisheries and Marine Resources. A remittance slip dated 23 March 2015 (attached

¹ On file with the Monitoring Group.

² In an email to the SEMG on 21 August 2015, Ahmed Iman stated that the Somalia FishGuard Ltd. contract was "not active", citing Minister Barrow's letter. However, after reviewing the Somalia FishGuard contract, it is the SEMG's view that the Ministry did not have sufficient grounds to unilaterally suspend the contract.

³ SEMG round-table meeting with senior FGS officials at Villa Somalia, Mogadishu, 17 March 2015.

in annex 2.1.b) shows one transfer of USD 40,100 into the Ministry's Djibouti Dahabshiil account by Yu Shian International Pty, as payment on behalf of Zhejiang Ocean Family for fishing licenses for the *Xin Shi Ji 37* and *Xin Shi Ji 76* (see annex 2.1.c for a copy of the *Xin Shi Ji 76*'s license).

6. The Ministry's use of a private bank account outside of Somalia constitutes a violation of a February 2014 ministerial directive requiring all Government revenue to be deposited in the Treasury Single Account (TSA) at the Central Bank of Somalia.⁴ The Monitoring Group shared the details of the Ministry's Djibouti account with the FGS Minister of Finance, Mohamed Aden Ibrahim, on 18 July 2015.

IUU fishing and subsequent license purchases by Chinese longliners

7. At the 19th Session of the Indian Ocean Tuna Commission (IOTC) held in Busan, Republic of Korea from 27 April to 1 May 2015, the FGS delegation presented a paper on IUU activities in the Somali EEZ.⁵ The report highlighted illegal fishing by seven Chinese longliners, all bearing the name *Lu Qing Yuan Yu* or *Xin Shi Ji*. The Chinese delegation at the conference expressed surprise that Chinese longliners were operating within Somalia's EEZ, and offered to contact the vessels to ask them to leave the area.⁶ Later that same day, all the Chinese longliners fishing without licenses had left Somalia's EEZ.⁷

8. Following the Chinese Government's crackdown on China-flagged vessels fishing illegally within Somalia's EEZ, the companies involved immediately sought to purchase licenses from the FGS. A Taiwanese agent, Howard Tan, subsequently purchased fishing licenses from the Ministry for seven China-flagged longliners in May 2015 on behalf of their parent company, Deepsea Fisheries Management Ltd.: the *Liao Yuan Yu 99*, and the *Lu Qing Yuan Yu 101, 102, 105, 106, 107, and 108*. Six of the seven vessels had been singled out for illegal fishing during the 19th Session of the IOTC. The payments for these licenses were made to the Ministry's Djibouti-based Dahabshiil bank account.

9. Director General Iman subsequently wrote to Howard Tan on 29 June 2015: *Dear Howard, As we discussed before please kindly ask the below named vessel owners to pay urgently the fined vessels US Dollar \$ 10,000 each for penalty charges according to their illegal fishing time period in Somalia marine waters without license in accordance with Somali fisheries regulations.*⁸ The email then lists six fishing vessels, the *Lu Qing Yuan Yu 101, 102, 105, 106, 107, and 108*, assessing each a fine of

⁴ Ibid., paragraph 64.

⁵ Federal Ministry of Fisheries and Marine Resources and others, "Report on presumed IUU fishing activities in the EEZ of Somalia", 27 April 2015. This paper, which was presented as the 19th Session of the Indian Ocean Tuna Commission (IOTC) held in Busan, Republic of Korea from 27 April to 1 May 2015, was in actuality drafted by the FAO on behalf of the FGS.

⁶ A "Back to Office" report prepared by a participant of the conference, on file with the SEMG.

⁷ Ibid.

⁸ Email on file with the Monitoring Group.

USD 10,000. An examination of the 2014 Fisheries Law, however, reveals no legislative basis for the fines assessed by Iman.⁹ It appears that he was acting on his own discretion in assessing arbitrary amounts to be paid by the company.

10. On 15 April 2015, another Taiwanese agent, Richard Tan, questioned Hussein Ahmed, a Ministry official, concerning the propriety of making payments to a bank account in Djibouti: *I note that this bank account is maintained in Djibouti and not in Somalia. And potentially questions will be raised as to why the account for the ministry is being maintained in Djibouti but not in Somalia.* Iman forwarded the message to Minister Aimoy, who sent back a response to Iman in the Somali language on 18 April 2015: *Mr. Director General, please convince these people of the reasons we're using Dahabshiil bank in Djibouti. Thank you (unofficial translation).*¹⁰

11. The FGS Minister of Finance, Mohamed Ibrahim Aden, provided the Monitoring Group with a statement for the Ministry of Fisheries Dahabshiil account from 3 February 2015 to 25 August 2015 (see annex 2.1.d). From 31 March to 24 May 2015, the statement shows five deposits in payment for license fees from Deepsea Fisheries Management Ltd. and Yu Shian International Pty, totalling roughly USD 180,000.

12. By 27 April 2015, the USD 180,000 in fishing license fees had been transferred in two instalments from the Ministry's Dahabshiil account into its account at the Central Bank of Somalia (#80) – as opposed to the TSA, as should have been the procedure – and withdrawn shortly thereafter.¹¹ On 9 April 2015, the first instalment of USD 64,900 appeared in the Ministry of Fisheries CBS account. The next day, a representative of the Ministry withdrew USD 63,950 in cash from the CBS account. On 27 April 2015, the remaining USD 114,700 was transferred from the Dahabshiil account to the CBS account. The following day, USD 113,000 was withdrawn in cash from the CBS account in the name of an individual named Hussein Dhuubow. The Ministry informed the Central Bank Governor that Dhuubow was a building contractor owed money for the refurbishment of the Ministry's headquarters in Mogadishu.¹²

13. As of this writing, the Monitoring Group had not yet been unable to verify the identity of Hussein Dhuubow, or confirm that the fishing license funds had been utilised towards the Ministry building in Mogadishu.

⁹ The 2014 FGS Fisheries Law stipulates fines for IUU fishing ranging from USD 1,100-1,500 for boats with a 31-60 horsepower engines, and from USD 1 million to USD 10 million for boats with 101 or greater horsepower. Oddly, the legislation does not stipulate fines for boats with engines in the 61-100 horsepower range.

¹⁰ Email on file with the Monitoring Group.

¹¹ The Central Bank records provided to the SEMG by CBS Governor Bashir Issa on 8 September 2015.

¹² Email from CBS Governor Bashir Issa to the SEMG, 9 September 2015.

Doggang Daping Enterprises Group

14. The Monitoring Group has obtained a copy of a draft agreement (provided in annex 2.1.e) between the FGS Ministry of Fisheries and Marine Resources and Doggang Daping Enterprises Group, a fisheries company based out of Liaoning, China. The agreement demonstrates the Ministry's efforts to drastically expand the sale of fishing licenses, without regard for Somali national law or regional agreements. The agreement is written in broken English and evidently without legal oversight.

15. The draft agreement grants Doggang Daping a seven-year exclusive right to purchase licenses for up to 50 trawlers or purse seiners, while prohibiting other companies of Chinese origin from engaging in fishing activities in Somali waters. With a maximum license fee of USD 250,000 per fishing vessel per year, the potential annual revenue to the Ministry amounts to USD 12.5 million. Given the Ministry's past practice, this revenue would most likely be diverted into the Ministry's private Dahabshiil bank account in Djibouti, thereby circumventing the FGS' Treasury Single Account at the Central Bank.

16. Paragraph 1 of the draft agreement stipulates that Doggang Daping "may bring its own security with weapons on board [its fishing vessels]" as well as "inside...company offices". This clause, in essence, authorises the company to violate the Security Council's arms embargo on Somalia.

17. Paragraph 3 of the draft agreement permits Doggang Daping to fish within six nautical miles from shore, as well as trawl for demersal species such as octopus and scallops. The clause twice violates the FGS' own 2014 Fisheries Law, which requires foreign fishing vessels to remain at least 24 nautical miles from shore in order to avoid encroaching on local fishermen; the Law also prohibits the practice of bottom trawling. In addition, the paragraph contravenes an April 2014 agreement between the FGS and Puntland, Galmudug, and the IJA, which held that coastal demersal stocks were to be managed at the regional, not federal, level.¹³

18. The draft agreement obligates Doggang Daping to pay the Ministry a USD 70,000 "royalty fee" to be used towards "capacity building". This provision draws parallels to the Monitoring Group's investigation into Soma Oil & Gas Holdings Limited (see annex 2.5), which reveals how the term "capacity building" was employed by the FGS Ministry of Petroleum and Mineral Resources in order to solicit bribes to ministerial and other FGS officials. However, the Monitoring Group has no evidence that the "capacity building" clause in the Doggang Daping draft agreement was intended to serve the same purpose.

¹³ Communiqué of the Somali MRSS Fisheries Working Group, 2-6 April 2014, Beau Vallon, Seychelles.

19. As of this writing, the draft agreement had not been signed by either the Ministry or Doggang Daping. Director General Iman told the Monitoring Group that representatives of Doggang Daping had met with the Ministry in Mogadishu in the hopes of obtaining a deep-sea fishing contract, but had been rebuffed.¹⁴ However, a 7 August 2015 email from Director General Iman to Doggang Daping, copying Minister Aimoy and other Ministry officials, indicates the Ministry's eagerness to cement the agreement: *Dear Colleagues, Kindly see attached little pit (sic) amended the previous Fishing Agreement Draft Between Somalia and China. Kindly also note that we are ready to final it (sic) as soon as possible.*¹⁵

¹⁴ Email from Ahmed Mohamed Iman to the SEMG, 21 August 2015.

¹⁵ Email on file with the Monitoring Group.

Annex 2.1.a: Chart of FGS Ministry of Fisheries and Marine Resources licence sales from March-August 2015

Vessel Name	Flag	Owner	LOA	GT	Start date	End date	Issuance date	Fees
Greko 2	Belize	Madre Fishing Co. SA (Panama City, Panama)	28	193	15-03-20	15-05-20	15-03-17	UNKNOWN
Xin Shi Ji 76	China	Zhejiang Ocean Family (Hangzhou, China)	48.7	634	15-03-28	15-06-27	15-03-28	USD 25,000
Xin Shi Ji 37	China	Zhejiang Ocean Family (Hangzhou, China)	48.6	497	15-03-28	15-06-27	15-03-28	USD 15,000
Xin Shi Ji 86	China	Zhejiang Ocean Family (Hangzhou, China)	48.7	634	15-04-02	15-07-01	15-04-01	USD 25,000
Lu Qing Yuan Yu 106	China	Deepsea Fisheries Mgt Ltd	43	496	15-05-19	15-08-18	15-05-16	USD 15,000
Lu Qing Yuan Yu 101	China	Deepsea Fisheries Mgt Ltd	43	496	15-05-19	15-08-18	15-05-16	USD 15,000
Lu Qing Yuan Yu 102	China	Deepsea Fisheries Mgt Ltd	43	496	15-05-19	15-08-18	15-05-16	USD 15,000
Lu Qing Yuan Yu 107	China	Deepsea Fisheries Mgt Ltd	43	496	15-05-27	15-08-26	15-05-25	USD 15,000
Lu Qing Yuan Yu 105	China	Deepsea Fisheries Mgt Ltd	43	496	15-05-27	15-08-26	15-05-25	USD 15,000
Liao Yuan Yu 99	China	Deepsea Fisheries Mgt Ltd	48.8	577	15-05-27	15-08-26	15-05-25	USD 25,000
Lu Qing Yuan Yu 108	China	Deepsea Fisheries Mgt Ltd	43	496	15-05-27	15-08-26	15-05-25	USD 15,000

USD 180,000

Annex 2.1.b: Remittance advice form for license fees totalling USD 40,100 for the *Xin Shi Ji 37* and *Xin Shi Ji 76*, paid by Yushian International Pty Ltd.



陽信商業銀行
SUNNY BANK

匯出匯款申請書
OUTWARD REMITTANCE APPLICATION FORM

收件單位: 分行 DBU OBU 匯款編號: _____

日期 Date: (YYYY/MM/DD) <u>2015.3.27</u> 匯款方式 (Remittance Method) <input checked="" type="checkbox"/> 電匯 (T/T) <input type="checkbox"/> 票匯 (D/D) <input type="checkbox"/> 匯往陽信 OBU (D 轉 O) <input type="checkbox"/> 匯往陽信 DBU (O 轉 D) 申請人資料 (Applicant's Information) 50: 1. 中文全名: <u>Y. S. 7072 PTY LTD</u> 2. 英文全名 (English Name): _____ 3. 登記證號 (Applicant's Registration No.) <input checked="" type="checkbox"/> 1 公司行號 (Company or firm: Uniform No.): <u>DBU1110037</u> <input type="checkbox"/> 2 團體 (Association: Uniform No.): _____ <input type="checkbox"/> 3 我國國民 (ROC citizen: ID No.): _____ 統一證號 (Resident Certificate: ID No.): _____ 出生日期 (Date of Birth): (YYYY/MM/DD) _____ 居留證發給日期 (Date of Issuance): (YYYY/MM/DD) _____ 居留證到期日期 (Date of Expiry): (YYYY/MM/DD) _____ <input type="checkbox"/> 4 證照號碼 (Certificate No.): _____ 出生日期 (Date of Birth): (YYYY/MM/DD) _____ 居留證發給日期 (Date of Issuance): (YYYY/MM/DD) _____ 居留證到期日期 (Date of Expiry): (YYYY/MM/DD) _____ <input type="checkbox"/> 43 護照號碼 (Passport No.): _____ 國籍 (Nationality): _____ 4. 地址 (Address): _____ 5. 聯絡人/電話 (Contact Person/Tel No.): _____ 匯款性質 (Nature of Remittance) <input type="checkbox"/> 700 已進口 <input type="checkbox"/> 701 未進口 <input type="checkbox"/> 197 三角貿易匯出款 <input type="checkbox"/> 410 非居住人薪資匯款 <input type="checkbox"/> 510 贖款匯款 <input type="checkbox"/> 511 工作者匯款 <input type="checkbox"/> 131 商務支出 <input type="checkbox"/> 132 觀光支出 <input type="checkbox"/> 134 留學支出 <input type="checkbox"/> 262 投資國外股權證券 <input type="checkbox"/> 210 對外股本投資 <input type="checkbox"/> 693 由本行轉往國內他行之外匯 (請詳述性質): _____ <input checked="" type="checkbox"/> 其他 (請註明): <u>FISHING LICENSE FEE</u> 受款地區國別 (Remittance to (country)): 繳款方式 (Payment Method) <input type="checkbox"/> 台幣結購 (In NTD): _____ <input type="checkbox"/> 外幣現鈔/外幣貸款/出口押匯: _____ <input checked="" type="checkbox"/> 外幣存款扣款帳號 (Debit FX A/C No.): <u>070 0570000587</u> 扣款幣別及金額 (Curr & Amt): <u>USD 40100</u> (小寫金額) <input type="checkbox"/> 其他 (Others) 請註明: _____	幣別 (Currency) <u>USD</u> 匯款金額 (Amount Remitted) <u>40,100.-</u> 中間銀行 (受款銀行之存匯行) (Intermediary Bank or Receiver's Correspondent): <u>WELLS FARGO VTA CTS 1533</u> <u>TRC 440 AE69053000010259690029</u> 受款銀行 (Beneficiary Bank) 57: <u>WELLS FARGO BANK 7072</u> 地址/國家 (Add./Country): <u>USA BRANCH</u> 銀行代碼 (SWIFT Code): <u>WFBI3333</u> 受款人資料 (Beneficiary's Information) 59: 1. 帳號 (A/C No.): <u>104102116 (USD)</u> 2. 戶名 (Name): <u>MINISTRY OF FISHERIES AND MARINE RESOURCES</u> 3. 地址/國家 (Address/Country): <u>BP 1766 PLATEAU DU SERPENT</u> <u>REPUBLIC OF DJIBOUTI</u> 4. 電話 (Tel No.): _____ 5. 國外受款人身分別 (Status): <input checked="" type="checkbox"/> 政府 (Government) <input type="checkbox"/> 公營事業 (Public Enterprise) <input type="checkbox"/> 民間 (Private) 附言 (Instruction or Remark for Beneficiary) 70: 請以英文填寫 <u>FX WELLS FARGO 00.37/00.76</u> <u>FISHING LICENSE FEE</u> 費用明細 (Details of Charges) 71A: *如申請人無特別聲明, 本匯出匯款產生之費用皆視為勾選 SHA (If not selected, all charges are "SHA") <input type="checkbox"/> SHA 實行辦理匯款之費用由申請人負擔, 其餘費用由受款人負擔 (Charges payable to your Bank borne by Applicant & other charges by Beneficiary) <input type="checkbox"/> OUR 所有國內及國外之相關費用悉由申請人負擔, 並於申請匯款時依 實行收費標準計付 (All local and overseas charges borne and paid by Applicant) <input type="checkbox"/> BEN 所有國內及國外之相關費用悉由受款人負擔 (All local and overseas charges borne by Beneficiary) <input type="checkbox"/> 兩通電文 (Cover Payment) 須依本行收費標準加收郵電費, 最終付款行仍可能自匯款金額內扣除相關費用
--	---

◎申請人(即立約人)謹授權 貴行無須依取款憑條, 逕自上開指定之外幣存款帳戶扣款, 並同意遵守本申請書之約定條款。約定書重要內容(標註粗體者)已由 貴行充分說明。
 ※申請人(即立約人)聲明 貴行已依個人資料保護法第8條第1項規定履行告知義務, 本人勾選:
 告知事項已由 貴行交付申請人備閱, 且申請人已了解其內容。
 告知事項內容, 貴行向申請人說明, 申請人已了解。

申請人(同帳戶持有人)留存印鑑/簽章
(Signature/Chop of Applicant/Account Holder)

◎結購金額超過新台幣 50 萬元者, 另需填寫「外匯收支或交易申報書(結購外匯專用)」。
 ◎匯款金額及幣別不得塗改, 其餘部分如經塗改, 應由申請人在塗改處簽章, 否則本申請書不生效力。
 ◎第一聯取款證明聯, 視為消費寄託取款之原始憑證, 保存年限十五年。
 ◎以下由銀行填寫 (For Bank Use Only) 公司戶另須上網查驗公司登記資料

結匯金額(原幣)	<u>USD 40100</u>	承作匯率	
請價編號		折合新台幣	
優惠註記	<input type="checkbox"/> 檢附優惠申請書	手續費	<u>USD 10</u>
存同代號		郵電費	<u>USD 15</u>
Value Date		應收新台幣金額	<u>USD 40125</u>

國外部/外指行				
驗印	經辦	會計*	襄理/副理	經理/協理

*第一聯為取款證明聯時, 承作行會計須於第一聯正本蓋章

第一聯: 取款證明聯 第二聯: 國外部/指定單位留底聯 第三聯: 分行留底聯 第四聯: 客戶收執聯 (請列印一式四聯)

A100-4-E446-3

Annex 2.1.c: Six-month fishing license for the *Xin Shi Ji 76*, sold by Director General Iman to agent Simon Chen


Federal Government of Somalia
Ministry of Fisheries and Resources

LICENSING OF FISHING VESSELS

License No: 201506

Foreign fishing vessel licence No: 201506

Name of vessel: XIN SHI JI 76

Type of vessel: LONG LINE

Port and country of registry: ZHOU SHAN- CHINA

Registration Number: ND: 201506

Year and place of construction: _____

Length: 48.7

Registered tonnage Gross Net: 634 208

Engine horsepower: 6426 BAFTE

Handling and processing facilities: _____

Radio call sign: BZV26

Freq: SSB315

Name and address of owner: ZHEJIANG OCEAN FAMILY

Name and address of master: ZHEJIANG OCEAN FAMILY

Descriptions of operations: TUNA

Areas to be fished: INDIAN OCEAN

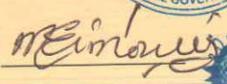
Species to be taken: TUNA- LIKE SPECIES

Conditions

This license granted subject to all provisions of the Somali fisheries law, Government regulations, Ministerial degrees and orders issued there under to all other applicable laws and to the following conditions (here insert any other conditions to which the licence is subject)

Validity of issue: 28/03/2015 To 27/06/2015

Date of issue Mogadishu, 28, 03, 2015

The Minister 



Annex 2.1.d: Ministry of Fisheries and Marine Resources Dahabshiil bank statement from 3 February 2015 to 25 August 2015

Date		25/08/2015			
Time		08:32:44			
User		CEDIJAHMAN			
Account Type		81105			
Customer Name		MINISTRY OF FISHERIES AND MARINE RESOURCES			
Account No		104102116			
Statement of Accounts From		03/02/2015			
Statement of Accounts To		25/08/2015			
Currency		USD			
Description		Dollars			
Date	Particulars	Cheque No.	Withdrawals	Deposits	Balance
				OPENING BALANCE	43.00
31/03/2015	FROM Y S INTL PTY LTD INWARD TT REF S472936RCPO33015			40,066.50	40,109.50
31/03/2015	MOGADISHU BRANCH INWARD TT CHARGES		100.00		40,009.50
31/03/2015	DIB INWARD TT CHARGES		50.00		39,959.50
07/04/2015	FROM INTL PTY LTD INWARD TT REF S416525RCPO40115			25,066.50	65,026.00
07/04/2015	MOGADISHU BRANCH INWARD TT CHARGES		25.00		65,001.00
07/04/2015	DIB INWARD TT CHARGES		40.00		64,961.00
09/04/2015	MINISTRY OF FISHERIES	2	64,900.00		61.00
18/05/2015	FROM DEEPSA FISHERIE INWARD TT REF S170890RCPO51315			44,965.50	45,026.50
18/05/2015	DIB INWARD TT CHARGES		50.00		44,976.50
18/05/2015	MOGADISHU BRANCH INWARD TT CHARGES		25.00		44,951.50
24/05/2015	INWARD TT REF S194213RCPO52115 FROM DEEPSA FISHERIES			39,965.50	84,917.00
24/05/2015	DIB INWARD TT CHARGES		40.00		84,877.00
24/05/2015	MOGADISHU BRANCH INWARD TT CHARGES		25.00		84,852.00
24/05/2015	FROM DEEPSA FISHERIES INWARD TT REF S193831RCPO52115			29,965.50	114,817.50
24/05/2015	DIB INWARD TT CHARGES		40.00		114,777.50
24/05/2015	MOGADISHU BRANCH INWARD TT CHARGES		25.00		114,752.50
27/05/2015	MINISTRY OF FISHERIES AND MARINE RESOURCES AC 80	4	114,700.00		52.50
	CLOSING BALANCE				180,020.00
	Unclear Balance				190,029.50
	Available Balance				52.50



The account holder is assumed to have approved the terms and conditions listed on this account statement if he/she fails to raise any objections within the period of 14 days from the receipt of this statement.

End of Report

Annex 2.1.e: Draft agreement between the FGS Ministry of Fisheries and Marine Resources and Doggang Daping Enterprises Group

AGREEMENT

BETWEEN

THE MINISTRY OF FISHERIES AND MARINE RESOURCES OF THE FEDERAL GOVERNMENT OF SOMALIA AND DOGGANG DAPING ENTERPRISES GROUP FROM CHINA ON DEEP SEA FISHING AND FISHERIES COOPERATION.

The Ministry of Fisheries and Marine Resources of the Federal Government of Somalia and the Doggang Daping Enterprises Group from China hereinafter referred to as the “Parties”
The Ministry of Fisheries and Marine Resources as first part and Daping group as Second part.

Desiring to strengthen the existing friendly relation and cooperation between the Ministry of Fisheries and Marine Resources of the Federal Government of Somalia and the Doggang Daping Enterprises Group from China and their people.

Considering their common interests and to promote deep sea fishing and foster technical exploration and capacity building cooperation in the spirit of equality and mutual benefit.

Recognizing that trawler fishing cooperation would lead to common benefits on marine and fisheries and economic development of the parties.

Pursuant to the prevailing laws and regulations in the Somali republic.

- 1) The Security of the fishing vessels and the company's offices in the ground will be given security-guard by the Somali Government, but the company will pay their allowance and the agreed company may bring its own security with weapons on board which may support inside of their company offices and the fishing vessels. The government of Somalia will secure the security of the company to the highest standard and if anything happens to the company the Somali government will do everything to assist the Company.
- 2) The First Party shall provide the Second Party with the authorization of 7 years valid exclusive agent and permission of fishing trawlers and purse seiners for China (any other individuals or companies from China shall not be permitted to the engagement of any fishing activities in the mentioned ocean neither by trawlers nor by purse seiners, otherwise agreed to the Second Party). And the second part is not permitted for Tuna and Tuna like species.

- 9) Daping Group will build fishing processing plant center in Mogadishu-Somalia after they finish (the test period exploration which is 2 years).
- 10) Daping will donate fishing gears to the Somali local fisheries each year. The Daping group will increase the capacity of the Somali fishermen for giving them training and also will give lectures about marine recourses and how to protect the sea for the fishing ministry as a good will return to the Somali people.
- 11) Dapping pays **70, 000 USD** of royalty fee to the Ministry of Fisheries and Marine Resources for support of the capacity building of the ministry and purchase some requirement materials such as of vehicles and this money Daping group will make the payment when they are buying the first fishing licenses from the fishing ministry.

- 12) In witness whereof, the undersigned, being duly authorized parties respective have signed this Contract.

- 13) Done in Mogadishu, Somalia on this 25 day of August 2015 in two original copies in the English Language, both text being equally authentic.

Signed by :

MINISTRY OF FISHERIES &
MARINE RESORCES

DOGGANG DAPPING

Date.....

Annex 2.2: The *Al Amal* and *Poseidon*, and the assault on the Auditor General

20. Corruption involving the sale of fishing licenses threatens to undermine Somali public institutions, including the Office of the Auditor General. In January 2015, the efforts of the Auditor General, Nur Farah, to investigate the illegal fishing activities of a vessel that had entered Mogadishu port, may have directly resulted in an assault on his person and subsequent threats against his life.

Background

21. On 9 January 2015, the fishing carrier vessel *Al Amal* entered Mogadishu port, flying the Somali flag, in order to refuel (*Al Amal's* Automatic Identification System (AIS) track from 9-15 January is available in annex 2.2.e). From 3 to 5 January, the *Al Amal's* sister ship, the trawler *Poseidon*, had remained in close proximity to Mogadishu port, prior to proceeding towards Kismayo and subsequently Mombasa (*Poseidon's* AIS track is also available in annex 2.2.e).

22. AIS tracks show that since the beginning of 2015, the *Al Amal* and *Poseidon* have operated in tandem, with the *Poseidon* engaged mostly in fishing activities and the *Al Amal* serving as a carrier ship for storing the *Poseidon's* catch.¹⁶ Both vessels are owned by the Yemeni-based Burum Seafood Co. (for the *Al Amal's* registration certificate, see annex 2.2.d). The Monitoring Group has yet to identify the beneficial owners of Burum Seafood Co., however a Republic of Korea national, An Hyun Soo, represents the company.¹⁷

Dubai licensing network

23. Upon entering Mogadishu harbour, the *Al Amal* was inspected by the Mogadishu port authority. The ship's crew produced a one-year Puntland fishing license that ostensibly authorised it to fish in Somalia's EEZ from 1 September 2014 until 1 September 2015. FGS officials subsequently contacted the Puntland Ministry of Fisheries and Marine Resources, which responded with a letter (available in annex 2.2.b) on 15 January 2015 to the FGS, declaring the license to be a forgery. The letter stated that Puntland only issues licenses for 45-day periods, and requested that the FGS hold the vessel so that Puntland authorities could take punitive action against it.

24. The agent listed on the license is "Cabdi Nuur". "Cabdi Nuur", also known as Abdinor, is based in Bosaso and is a "point man" of a network supplying licenses to Korean fishing vessels.¹⁸ "According to An Hyun Soo, fishing licenses for five of his vessels were purchased from this Dubai network, at prices ranging from USD 15,000 to USD 20,000 each."¹⁹

¹⁶ Federal Ministry of Fisheries and Marine Resources and others, "Report on presumed IUU fishing activities in the EEZ of Somalia", 27 April 2015.

¹⁷ According to a Yemen fisheries official, An is responsible for the "fleet operation" of Burum Seafood Co., and also assists the Yemeni Government with "maritime consulting". Email seen by the Monitoring Group, 25 August 2015.

¹⁸ Intelligence from a maritime source based in Mombasa, corroborated by An Hyun Soo.

¹⁹ SEMG phone interview with An Hyun Soo, 25 August 2015.

25. Iranian fishing agents also appear to be purchasing licenses through this Dubai network. At the 19th Session of the Indian Ocean Tuna Commission (IOTC) held in Busan, Republic of Korea from 27 April to 1 May 2015, the Iranian delegation claimed that Iranian fishing vessels were not engaged in IUU fishing, but rather that the Iranian fishing fleet was purchasing Puntland licenses from an agent in Dubai.²⁰ The Iranian delegation provided no subsequent information regarding the identity of this agent, despite follow-up inquiries by an individual present at the conference. However, An Hyun Soo told the Monitoring Group that Iranian fishing agents regularly purchased licenses from a broker named “Abdulkadir” in Dubai.²¹ As further corroboration, an Iranian gillnetter inspected in Salalah port, Oman, from 8 to 9 March 2015 produced a Puntland license that had been modified and was valid only until December 2013; however, the agent field was left blank (see annex 2.2.g for a copy of this fake license).²² The Monitoring Group’s 2013 report also highlighted the use of forged documents by Iranian fishing dhows, providing copies of four such licenses (see S/2013/413, annex 3.1).

26. The FGS Auditor General Nur Farah also conducted an inspection of the *Al Amal* in Mogadishu, informing the SEMG that the vessel was holding 70 tonnes of catch in its hold.²³ Farah concluded the vessel had been fishing illegally and attempted to detain it. A 15 January 2015 text message, seen by the Monitoring Group, from the FGS Director General of the Ministry of Fisheries and Marine Resources, Ahmed Iman, reveals that Iman also believed the *Al Amal* to be an “illegal fishing vessel”. Despite of the Director General’s and Auditor General’s positions, and the documentary evidence that *Al Amal* was not licensed to fish in Somalia’s EEZ, the vessel was released on 15 January 2015 and left Mogadishu port the same day. An Hyun Soo told the Monitoring Group that that Mogadishu’s port authority had asked for money in exchange for the vessel’s release, but did not confirm whether any amount had been paid.²⁴

27. Auditor General Farah stated in a subsequent media interview that the vessel had been freed after President Hassan Sheikh Mohamud sent a letter to the Banadir Regional Court.²⁵ However, Farah also claimed in the same interview that the FGS Attorney General, Dr. Ahmed Ali Dahir, had ordered the vessel released. In an interview with the Monitoring Group, Farah recounted he had been “told by ‘upper management’ to let [the *Al Amal*] go”.²⁶ The Attorney General, conversely, told the Monitoring Group that the *Al Amal* had entered Mogadishu to buy fish from local markets, and that the vessel possessed both a valid Puntland license and a “general trading license” issued by the FGS.²⁷

²⁰ A “Back to Office” Report prepared by a participant of the conference, on file with the SEMG.

²¹ Text message from An Hyun Soo to the SEMG, 27 August 2015.

²² Federal Ministry of Fisheries and Marine Resources and others, “Report on presumed IUU fishing activities in the EEZ of Somalia”, 27 April 2015.

²³ SEMG interview with Nur Farah in Nairobi, 21 March 2015.

²⁴ Text message from An to the SEMG, 25 August 2015.

²⁵ Phone interview with Nur Farah by VOA Somali, 22 January 2015, available from <https://somalialogenda.com/auditor-general-breaks-silence-illegal-fishing/>.

²⁶ SEMG interview with Nur Farah in Nairobi, 21 March 2015.

²⁷ SEMG interview with Dr. Ahmed Ali Dahir in Mogadishu, 11 June 2015.

As noted above, the Monitoring Group has concluded that the *Al Amal's* Puntland license was a forgery, and the Group has not been able to confirm the existence of any additional licenses or permits carried by the vessel.

28. The Monitoring Group contacted the Puntland Government in August and September 2015 to request information on the issuing of forged fishing licenses, but did not receive a response.

Assault on the Auditor General

29. On 18 January 2015, three days after the release of the *Al Amal*, the Auditor General was prevented from entering his office at Villa Somalia and was reportedly assaulted by the compound's guards. Farah told the Monitoring Group that the presidential guards repeatedly brought down a checkpoint barrier on his vehicle, forcing him to take cover in the foot well.²⁸ Farah also told the Group that he believed his attempt to detain the *Al Amal* had brought on the attack, and that he had since stopped investigating IUU fishing because he feared for his safety.²⁹ Farah also claimed in interviews with local media that his life was in danger.³⁰ The Group is not aware of subsequent threats against Farah since January 2015.

The grounding of the *Al Amal* in Puntland

30. On 5 August 2015, the *Al Amal* experienced mechanical problems and ran aground off the coast of Puntland near the former pirate base of Eyl (a photo of the grounded vessel is available in annex 2.2.h). The 34-member crew³¹ was subsequently rescued in an operation carried out by the Puntland Marine Police Force (PMPF). The crew was transported to Garowe and the majority repatriated; however the captain and the chief engineer were detained in Puntland, pending possible criminal action against the vessel for illegal fishing and environmental damage.

31. The Monitoring Group has obtained a copy of the Puntland fishing license the *Al Amal* was carrying at the time it ran aground, reproduced in annex 2.2.c. Similar to the license produced by *Al Amal's* crew upon inspection at Mogadishu port, this document was forged, with the fields containing the length of its validity, dates, and nationality of the vessel noticeably altered by computer. The dates on the license purport it to be valid from 25 November 2014 to 25 November 2015; however, the license is signed and stamped by former Puntland Minister of Fisheries Mohamed Farah Adan, who had left his post by February 2014.

²⁸ SEMG interview with Nur Farah in Nairobi, 21 March 2015.

²⁹ Ibid.

³⁰ Somali Agenda, "Auditor-General breaks silence over illegal fishing", 23 January 2015. Available from <https://somalialogenda.com/auditor-general-breaks-silence-illegal-fishing/>.

³¹ The *Al Amal's* crew consisted of 14 Kenyans, 12 Indonesians, 6 Vietnamese, and 2 Yemenis.

Private Armed Security Teams (PASTs)

32. According to the *Al Amal's* crew manifest, on file with the Monitoring Group, the two Yemeni crewmembers served on board as an armed security detail. Not only was their presence a violation of the arms embargo on Somalia, such deployments have the potential to recreate the conditions that led to the emergence of Somali piracy in 2007, by fomenting conflict between foreign fishing vessels and local fishermen.

33. The deployment of PASTs on board *Al Amal* and *Poseidon* appears to have been standard practice. After leaving the vicinity of Mogadisu port on 5 January 2015, the *Poseidon* arrived at Kismayo on 6 February. According to An Hyun Soo the vessel then discharged a Somali private security detachment before proceeding to Mombasa.³² This testimony is corroborated by other information received by the Monitoring Group to the effect that both *Poseidon* and *Al Amal* have routinely employed Somali-origin PASTs on board.³³

³² Text message exchange between the SEMG and An Hyun Soo, 25 August 2015. The *Poseidon* was detained in Mombasa on suspicion of IUU fishing and inspected. Before a more detailed inspection could be conducted the vessel was mysteriously released, following the intercession of a Republic of Korea national, Kim Jong Kyu, acting on behalf of Burum Seafood Co. Kim, who claims to represent the “Mombasa Shipping Agent Company Ltd”, travels on a Kenyan passport (#C031553). The *Poseidon's* license was inspected during its port call in Mombasa; annex 2.2.f shows that it had also been altered by computer.

³³ SEMG interview with FAO consultant Julien Million, 21 May 2015.

Annex 2.2.a: Fake Puntland license obtained by FGS Auditor General Nur Farah during his inspection of the *Al Amal* in Mogadishu port on 13 January 2015

THE PUNTLAND STATE OF SOMALIA
 Issued by the Ministry of Fisheries and Marine Resource
Fishing Department

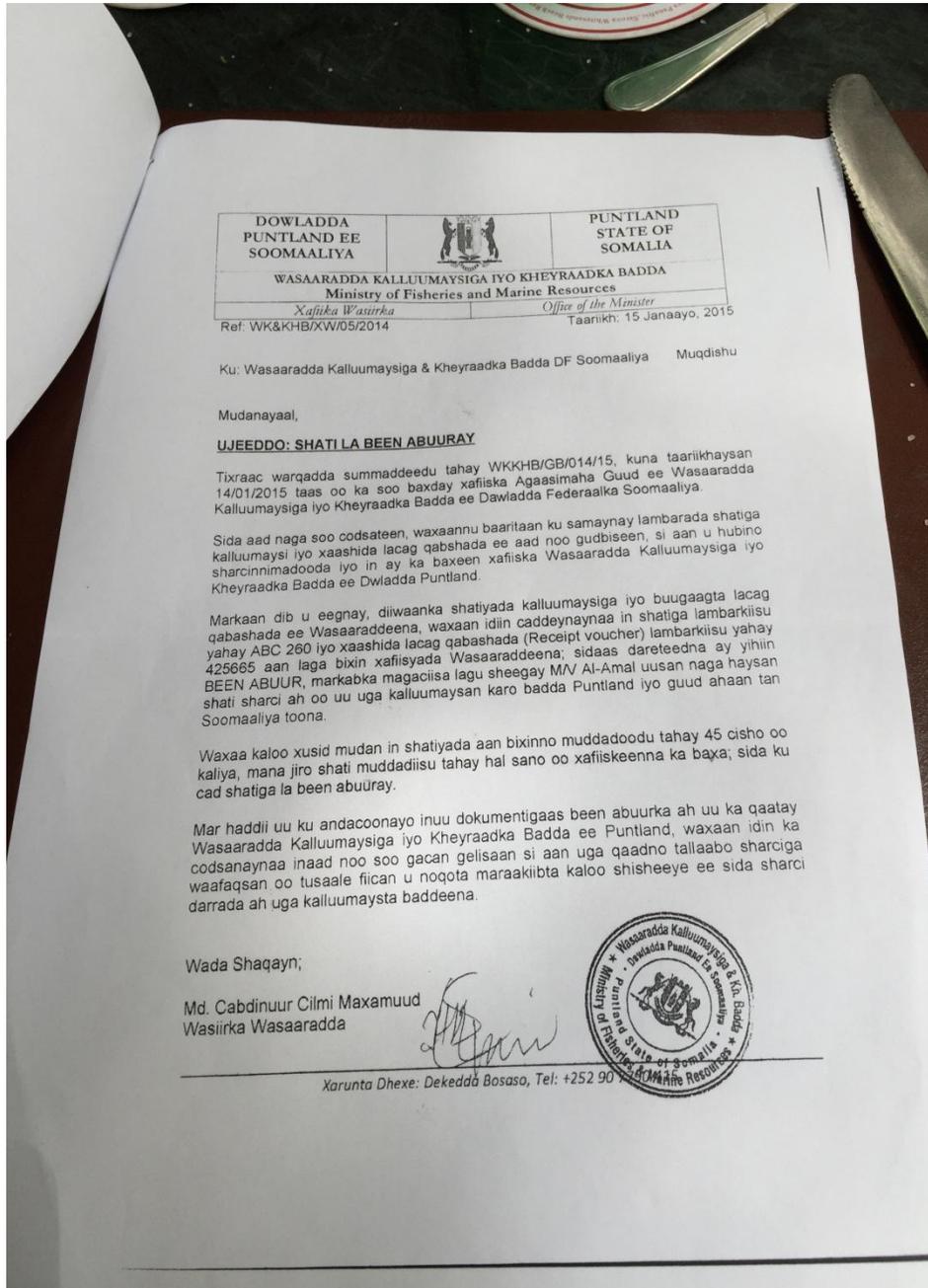
The Ministry of Fisheries and Marine Resource have issued for the Fishing Vessel (EEZ notification No) to fish within the EEZ fishing waters as described in and subject to the fishing Regulations of the Puntland State of Somalia and subject to the terms and conditions set out the reserve side of this License.

The Vessel is licensed for (ONE YEAR) only.

DATE OF THE VALIDITY OF THE LICENSE		FROM: 1/9/2014	TO: 1/9/2015
--	--	----------------	--------------

VESSEL COMMUNICATION AND ELECTRONICS		SCHEDULE OF VESSEL DETAILS	
RADIO COMMUNICATION		Vessel Name	M.V. AL AMAL
International Call sign	6111	Official No.	000
Normal transmitting frequencies		Nationality	Korea
SATELLITE COMMUNICATION		Port of registration	RUSAN/1978
Type of equipment		Length (m)	49.00
Access code and No.		Beam Depth	8.50
TRANSPORTATION EQUIPMENT		Engine GRT/NET	486/253.18 TONS
Type		Cold storage capacity	ONE HUNDRED TONS
Identifying code		Engine type & Power	AKASA KA1350HP
POSITION DETERMINING EQUIPMENT		Other location code	
LORAN	YES	FISHING DETAILS	
OMEGA	YES	Species to be fished	All
DECCA	YES	Quota/limit permitted	one hundred tons
GPS	YES	Reporting details	Daily
OTHER EQUIPMENT		LEGAL PERSONALITIES	
ADIO BUOYS	YES	Owner	Burhan SeaFood Co
EPIRB'S	YES	Address	Halva mouf/yeMen
SIGNED: The Minister of Fisheries & Marine Resource		Tel	+9675332821
Abdinur Elmi Mohamad		Fax	
		Email	
Serial No. ABC 260		AGENT	Cabdinnuur
		Address	BOSASO-SOMALI
		Tel	0907794332
		Fax	
		Email	
		Receipt Voucher No	425665

Annex 2.2.b: Letter from Puntland Government dated 15 January 2015, declaring the *Al Amal's* license to be forged



Annex 2.2.c: Forged Puntland fishing license for *Al Amal* produced after the vessel ran aground near Eyl, Puntland on 5 August 2015


THE PUNTLAND STATE OF SOMALIA
Issued by the Ministry of Fisheries and Marine Resource
Fishing Department

The Ministry of Fisheries and Marine Resource have issued for the Fishing Vessel (EEZ notification No) to fish within the EEZ fishing waters as described in and subject to the fishing Regulations of the Puntland State of Somalia and subject to the terms and conditions set out the reserve side of this License.

The Vessel is licensed for (**ONE YEAR**) only.

DATE OF THE VALIDITY OF THE LICENSE		FROM: 25/11/2014 TO: 25/11/2015
VESSEL COMMUNICATION AND ELECTRONICS		
RADIO COMMUNICATION		
International Call sign	6LHT	
Normal transmitting frequencies		
SATELLITE COMMUNICATION		
Type of Equipment	J.R.C	
Access code and No		
TRANSPONDERS		
Type	Trawler	
Identifying code		
POSITION DETERMINING EQUIPMENT		
LORAN	Yes	
OMEGA	Yes	
DECCA	Yes	
GPS	Yes	
OTHER EQUIPMENT		
ADIO BUOYS	Yes	
EPIRB'S	Yes	
SIGNED: The Minister of Fisheries & Marine Resource		
Eng. Mohamed Farah Adan		
		
Serial No. ABC 240		
SCHEDULE OF VESSEL DETAILS		
Vessel Name	M.v AL-AMAL	
Official No.	0005	
Nationality	Republic of Yemen	
Port of registry/Year	BUSAN/1978	
Length/Breadth/Depth	49.00/8.60/4.0M	
Tonnage GRT/NET	486/253.18 Tons	
Cold Storage Capacity	One hundred tons	
Engine Type & Power	AKASAKA/1350hp	
Other craft on board		
FISHING DETAILS		
Species to be Fished	All	
Quantities permitted	One hundred tons	
Reporting details	Daily	
LEGAL PERSONALITIES		
Owner	Burfum Seafood Co	
Address	Hadramoud/Yeman	
Tel	+967 5 332821	
Fax	+967 5 332821	
Email		
AGENT	Cabdi Nuur	
Address	Bossaso-somalia	
Tel	0907794332	
Fax		
Email		
Receipt Voucher No	253456	

Annex 2.2.d: Yemeni registration certificate for *Al Amal*

Republic Of Yemen
Minister Of Transport
Maritime Affairs Authority
Branch of Mukalla



الجمهورية اليمنية
وزارة النقل
الهيئة العامة للشئون البحرية
فرع المكلا

شهادة تسجيل لسفينة سمكية يمنية

Registration Certificate for Yemeni Fishing Vessel

Official No. الرقم الرسمي 0005	Name of Ship اسم السفينة AL-AMAL-الأمال	Type of Ship نوع السفينة Fishing vessel	Year of Built تاريخ الصنع 1978
IMO No. رقم المنظمة البحرية NIL	Gross of Tonnage الحمولة الإجمالية 486 TONS	Net Tonnage الحمولة الصافية 253.18 TONS	Dead Weight الحمولة الوزنية 510
Call Sign إشارة النداء 6 L H T	Length of Ship طول السفينة 49.00 m	Breadth of Ship عرض السفينة 8.60 m	Depth of Ship عمق السفينة 4.0 m
Type of Hull نوع الجسم STEEL حديد	Builder اسم الصانع DAE DONG SHIPYARD	Area of Sailing منطقة الابحار INDIAN OCEAN	Last Port of Registry ميناء التسجيل السابق Busan , Korea ميناء بوسان كوريا

Number of Engine عدد المحركات one واحد	Type of Engine نوع المحرك Diesel Engine	Maker & Model of Engine الصنع وموديل المحرك Maker: AKASAKA AH-28-385 RPM 1350 hp
Year Made سنة الصنع 18.06.1978	Horsepower القوة بالحصان 1350 hp	Estimated Speed of Ship (Knot) سرعة السفينة (عقدة) 12 Knots

Name & Address of the Owner اسم المالك و العنوان BURUM SEAFOOD COMPANY شركة بروم للأسماك YEMEN- HADHRAMOUT- ALSHIHR اليمن-حضرموت-الشرح TEL +967 5 332821 FAX +967 5 332821	Total Number of Shares in Ship مجموع الحصص ALL SHARES	Number of Shares Owned عدد الحصص ALL
---	--	---

Owner's Representative ممثل المالك			
Date Issue تاريخ إصدار الشهادة 12.11.2014	Issue At مكان الاصدار MAA MUKALLA	Port of Registry ميناء التسجيل MUKALLA PORT	Expiry Date تاريخ الانتهاء 11.11.2019
Signature of Registry Officer : FOR/MAEEM ALAMOUDI توقيع ضابط التسجيل :			

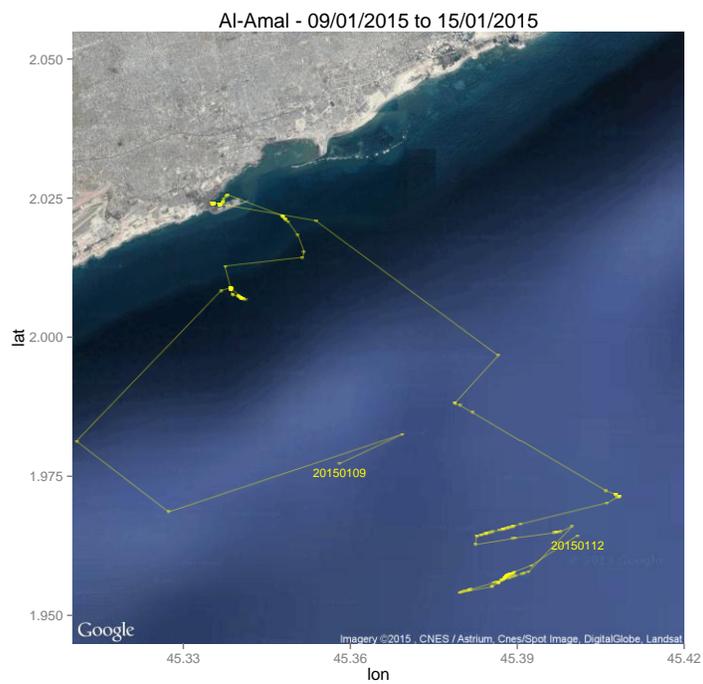
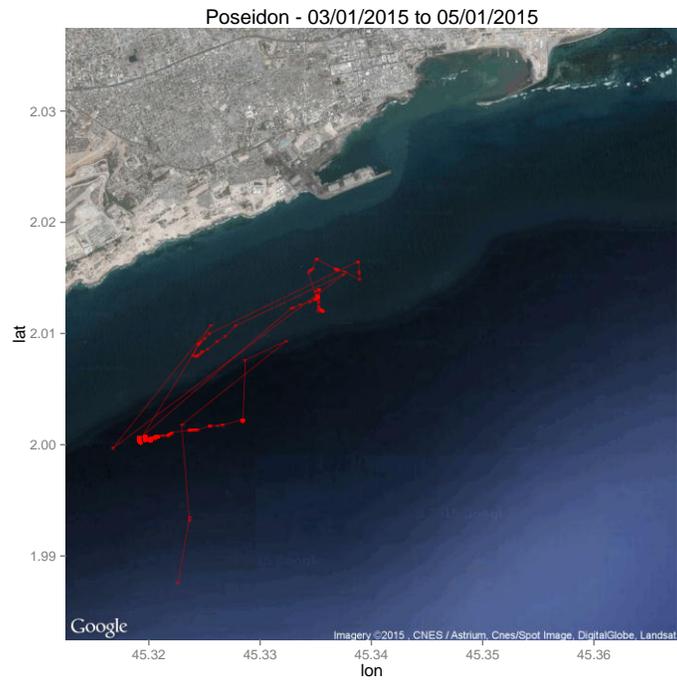
Notice :

A certificate of Yemen registry used only for lawful navigation of the ship and shall not be subject to detention by reason of any title. Charge or interest what so ever the original certificate of Registry must always be kept on board the ship. This certificate has been issued in accordance with Yemen maritime law no. (15) for the year 1996 chapter 2 regulation (13-3)

ملحوظة :

ان شهادة التسجيل اليمنية تستخدم في الملاحة المشرعة للسفينة ولا يمكن حجزها تحت اي مسمى او نتيجة او قضية في المحاكم او المصلحة لأي جهة مهما كانت ويجب ان يكون اصل الشهادة موجودة على السفينة في جميع الاوقات . عملت بموجب القانون البحري اليمني رقم (15) لعام 1994م الفصل الثاني مادة (13-3) .

Annex 2.2.e: AIS tracks for the *Poseidon* and *Al Amal*, showing their proximity to Mogadishu port from 3 January 2015 to 15 January 2015, when the *Al Amal* left Mogadishu



Annex 2.2.f: Puntland license for the *Poseidon*, the sister ship of the *Al Amal*, altered by computer.



THE PUNTLAND STATE OF SOMALIA

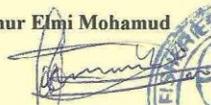
Issued by the Ministry of Fisheries and Marine Resource

Fishing Department

The Ministry of Fisheries and Marine Resource have issued for the Fishing Vessel (EEZ notification No) to fish within the EEZ fishing waters as described in and subject to the fishing Regulations of the Puntland State of Somalia and subject to the terms and conditions set out the reserve side of this License.

The Vessel is licensed for (**One Year**) only.

DATE OF THE VALIDITY OF THE LICENSE	FROM: 08/10/014 TO: 08/10/2015
--	--------------------------------

VESSEL COMMUNICATION AND ELECTRONICS	SCHEDULE OF VESSEL DETAILS
RADIO COMMUNICATION	Vessel Name POSEIDON
International Call sign	Official No. 0201010/6260006
Normal transmitting frequencies	Nationality Korea
SATELITE COMMUNICATION	Port of registry /Year Busan/1982
Type of Equipment J.R.C	Length/Breadth& Depth 32.67/7.40/4.50
Access code and No.	Tonnage GRT/NRT 258/77 Tons
TRANSpondERS	Cold Storage Capacity Seventy seven tons
Type TRAWLER	Engine Type & Power 245 x 900
Identifying code	Other craft on board -----
POSITION OF DETERMINING EQUIPMENT	FISHING DETAILS
LORAN Yes	Species to be Fished All
OMEGA Yes	Quantities permitted Seventy seven tons tons
DECCA Yes	Reporting details Daily
GPS Yes	
OTHER EQUIPMENT	LEGAL PERSONALITIES
ADIO BUOYS	Owner Puntfishseafood
EPIRB'S	Address
SIGNED: The Minister of Fisheries & Marine Resource	Tel
Abdinur Elmi Mohamud	Fax
	Email
	AGENT Kadir A.Mohamud
Serial No. ABC 244	Address
	Tel
	Fax
	Email
	Receipt Voucher No 423659

Annex 2.2.g: Fake Puntland fishing license for an Iranian gillnetter inspected in Salalah from 8-9 March 2015.



THE PUNTLAND STATE OF SOMALIA
Fishing Department

Issued by the ministry of fisheries and marine resource

Dhow's Registration No: 14/3937

DATE OF THE VALIDITY OF THE LICENSE		FROM: <u>25/04/2013</u>	TO: <u>08/08 2013</u>
Dhows Particularizes		Fishing Details	
Name of The Dhow	<u>SK</u>	Description of Fishing Operation	<u>Fishing</u>
Type of Dhow	<u>Reber class</u>	Species of fish to be fished	<u>all</u>
Registration No	<u>14/3937</u>	Quantity Permitted	<u>Twenty (20) tons</u>
Date of Registry	<u>09/11/2008</u>	Reporting	<u>daily</u>
Port of Registry & State Flag	<u>Chabahar Iran</u>	Legal Personalities	
Nationality	<u>Iranian</u>	Owner's Name	<u>Abdul R. H. H. Delvash Doran</u>
Place of Construction	<u>Kalbar IR</u>	Address	<u>Iran</u>
Length over all (LOA)	<u>28/40</u>	Tell	
Weight/Breadth	<u>7/20</u>	E-mail	<u>gamaal@poin</u>
Engine Type & Power	<u>4000 cc 10000</u>	Agent Name	
Gross Tonnage	<u>29/77 tons</u>	Address	<u>Bu-so-Dan</u>
Net Tonnage	<u>29 tons</u>	E-Mail	
Depth		Tell	<u>0907488484</u>
Handling & Process Facilities	<u>Ice room</u>	Communication Facilities	
Ministry Of Fisheries & Marine Resource Director General. C/Wahid Moh'ed Hirsi		Inter Radio Call Sign	<u>W</u>
Serial No: 343		GPS	
		Others	
		General Receipt A No.	



Annex 2.2.h: The *Al Amal* ran aground near Eyl, Puntland on 5 August 2015



E3 EYL SOUTH:
- AL AMAL grounded.

Annex 2.3: Continuing privatisation of Somalia's maritime space

34. The Monitoring Group believes that the continuing privatisation of Somalia's maritime space – through empowering private companies to simultaneously manage marine resources, issue fishing licenses, and provide security – represents a threat to peace and security as per paragraph 8 (a) of resolution 1844 (2008). During the Group's mandate, two companies, Somali Security Services Ltd. (SSS Ltd.) and Anglo Somaliland Resources Ltd. (ASR Ltd.), have been granted such rights in Puntland and Somaliland, respectively.

Somali Security Services Ltd. (SSS Ltd.) in Puntland

35. On 23 March 2015, The Somali Security Services Ltd. (SSS Ltd.) entered into a nine-month agreement with the Puntland Government to provide Coast Guard services. In exchange, the company will receive 30 per cent of Government revenue obtained from fishing license sales and fines imposed on arrested vessels. The contract also stipulates that the company's marines will be drawn from the ranks of the Puntland police force. A copy of the SSS Ltd. contract is provided in annex 2.3.a.

36. SSS Ltd. is headed by Abdiweli Ali Taar, a former taxi driver and sales clerk from Toronto, Canada. Taar is a close personal associate of Puntland President Abdiweli Mohamed Ali "Gaas". When the Puntland Maritime Police Force (PMPF) placed "Gaas" under house arrest in October 2012 in Bosaso,³⁴ while "Gaas" was still an opposition politician, he was staying at Taar's residence.³⁵

37. Prior to founding SSS Ltd., Taar headed another private outfit, the Somali-Canadian Coast Guard (SomCan), which served as Puntland's Coast Guard from 2002-2005 and again from 2008-2009. Even though SomCan was not authorised to sell fishing licenses, the company nonetheless sold licenses to its own private clients, with Taar signing many of them personally.³⁶ In particular, SomCan favoured one client – the Thai fishing company Sirichai – and stationed its marines on the decks of Sirichai's fishing vessels.³⁷ SomCan's practices led to conflicts with local fishermen, contributing over time to the emergence of Somali piracy. SomCan's first Coast Guard stint came to an end when the company's own marines hijacked a fishing vessel they had been tasked with guarding, the *Sirichainava 12*, and demanded a USD 800,000 ransom.

³⁴ "SOMALIA: Saracen trained forces surround the home of former Somali Prime Minister in Bosaso", *Horseed Media*, 17 January 2015. Available from <http://horseedmedia.net/2012/10/31/somalia-saracen-trained-forces-surround-the-home-of-former-somali-prime-minister-in-bosaso/>.

³⁵ SEMG interview in Nairobi with UNODC consultant John Steed, 19 August 2015. Steed visited Abdiweli Mohamed Ali "Gaas" during the period he was under house arrest.

³⁶ Jay Bahadur, *The Pirates of Somalia: Inside Their Hidden World* (New York: Vintage Books, 2011).

³⁷ *Ibid.*

38. Following the disbanding of SomCan in 2005, some of the company's former marines later turned to piracy on a more permanent basis, using their skills in maritime navigation and boarding operations to hijack foreign vessels.³⁸ The ranks of Somali pirates were further swelled by ex-marines trained by Hart Security, a UK company headed by a former SAS officer, Lord Richard Westbury, which had previously operated a Coast Guard in Puntland from 1999-2002.

39. SSS Ltd. only began operations in April 2015, and it is not yet clear if the company will experience the same unintended fallout that plagued the last two private Coast Guards in Puntland. The fact that the Puntland authorities are supplying the marines on board SSS Ltd's vessels should help mitigate the risk, since they are likely to serve the state rather than private interests. However, it remains problematic that a for-profit company responsible for providing maritime security to a regional authority should directly benefit from the sale of fishing licenses. As in the past, company officials may succumb to the temptation of selling illicit licenses to international clients, fuelling the cycle of corruption and conflict with local fishermen that helped prime the conditions for the explosion of Somali piracy in 2007 and 2008.

Anglo Somaliland Resources Ltd. in Somaliland

40. On 26 February 2015, Sir Tony Baldry, a former UK MP for Banbury, incorporated the company Anglo Somaliland Resources Ltd (ASR Ltd.) in the UK. In August 2015, the company signed a contract in Somaliland authorising the company to sell fishing licenses. This contract was the culmination of a series of attempts by Baldry to conduct business in Somalia stretching back to at least 2012, when he was still a member of the UK House of Commons. Baldry served as an MP from 1983 to 2015, when he stood down to pursue his business interests.

Somaliland agreement

41. In an April 2015 interview, Baldry informed the Monitoring Group of his intention to conduct business in Somaliland through the newly-incorporated ASR Ltd. Baldry stated that he was embarking on a "Coast Guard-related" project aimed at protecting Somaliland's fishing licensing system.³⁹ Baldry has since denied in multiple emails to the Monitoring Group that ASR Ltd. is involved in any Coast Guard project, but rather in a scheme aimed at "improving fisheries management" in Somaliland.⁴⁰ Baldry further told the Group that he was the "only person persevering in trying to help [the Somali people]".⁴¹

³⁸ Ibid.

³⁹ SEMG interview with Tony Baldry in Oxford, 2 April 2015.

⁴⁰ Email from Tony Baldry to the SEMG, 1 August 2015.

⁴¹ SEMG interview with Tony Baldry in Oxford, 2 April 2015.

42. On 21 April 2015, Baldry's business partner, Ian Fenwick, sent an email to Baldry and their other partners, with an attached photo of Fenwick posing with four Somali individuals in Hargeisa (this photo is attached in annex 2.3.b). The email read:

Deal signed by the Minister of Fisheries and Marine Resources on my left. Followed by reception at the Presidential building with the Presidential Minister who welcomed me to Hargeisa and invited me to become a Business Ambassador for Somaliand (*sic*).⁴²

According to Baldry, this "deal" consisted of an MOU with the Somaliland Government "to help enhance Somaliland's sea fisheries".⁴³

43. On 4 August 2015, ASR Ltd. signed a formal contract with the Somaliland Government granting the company the exclusive right to fish in Somaliland's territorial coastal waters, as well to sell licenses to third parties (see annex 2.3.c for a copy of the first page of this contract). In exchange, the Somaliland Government received a signing bonus of USD 500, and will receive USD 2,000 annually from ASR Ltd., plus 40 per cent of revenues from the sale of fishing licenses.

44. The Monitoring Group is highly concerned that that the granting of exclusive fishing rights to a foreign company may cause resentment among local fishermen and coastal communities. As in other regions of Somalia – particularly Puntland – such resentment has the potential to lead to the outbreak of violence between foreign fishing crews and local residents, and even to acts of piracy.

⁴² Email on file with the Monitoring Group.

⁴³ Email from Tony Baldry to the SEMG, 1 August 2015.

Annex 2.3.a: Copy of 23 March 2015 contract between Somali Security Services Ltd. and the Puntland Government

CONTRACT AGREEMENT

for the Provision of

COASTAL AND EEZ PROTECTION SERVICES

This contract agreement (the "Contract") made and entered into this 23rd day of March 20, 2015, by and between the Ministry of Fisheries and Marine Resources of the Puntland State of Somalia (hereinafter referred to as the "Ministry"), and The Somali Security Services Ltd (hereinafter referred to as, the "Service Provider").

WHEREAS, the Ministry requires professional coastal and EEZ protection services for its marine and coastal waters from the high tide mark of its coast line to 200 nautical miles out to sea.

AND WHEREAS, the Service Provider represents that it is professionally qualified and able to provide such services;

NOW THEREFORE THIS CONTRACT AGREEMENT witnesses that in consideration of the covenants and premises contained in this agreement, both parties agreed as follows:

SCOPE OF SERVICES

The Ministry hereby retains contractor as an independent maritime security service provider to perform coastal and EEZ monitoring, control and surveillance within Puntland waters in accordance with relevant national and State Fisheries and Maritime laws and regulations.

DURATION OF CONTRACT AGREEMENT

This agreement shall be effective for a probationary period of nine (9) months, commencing on 10th of April 2015; renewable for another one year subject to the performance of the service provider and the needs of the Ministry. Any renewal shall be in writing signed by both parties.

RESPONSIBILITY OF THE MINISTRY

- The Ministry shall deploy Puntland Police Marines who shall operate with the patrol vessel and will be manning the arms on board the vessels.
- The Ministry shall provide the police marines with weapons and associated ammunition, cover the food expenses.
- The ministry is responsible for all injuries, deaths and whatever risk to civilian life caused by the police marines or fell upon the police marines.
- The Ministry shall provide copies and other relevant documents issued to all fishing vessels operating in Puntland marine and coastal waters to the Service Provider.
- The salaries of the police marines will be paid by the ministry.

AE

- The fishing license will be issued by the Ministry and no other outfit shall be entitled to issue or renew fishing licenses.

RESPONSIBILITY OF THE SERVICE PROVIDER

- The Service Provider shall organize and maintain surveillance and protection of the seas under the jurisdiction of the Puntland State of Somalia.
- The Service Provider shall provide suitable vessels to patrol the Puntland waters encompassing both the Gulf of Aden and the Indian Ocean.
- The Service Provider shall provide supervisors, vessel crew, necessary personnel, and logistical requirements for the life of this agreement.
- The Service Provider shall be accountable to the Ministry but its responsibilities are limited to marine surveillance and patrolling of the waters exclusively.
- The Service Provider's patrol vessels shall have the ability to board, inspect and detain or arrest appropriately any vessels or crafts. This includes the vessels' operators and crew or any other persons onboard suspected of failing to comply with the provisions of a license issued by the Ministry or carrying out any illegal activities within the territorial waters or EEZ.
- The patrol vessel will fly the national flag of Somalia.
- The Service Provider shall immediately inform the Ministry whenever a vessel has been arrested and arrange to have it towed, at vessel owner's expense, to the port of Bossaso, for further appropriate legal actions.
- All investment and operational costs of the patrol vessels shall be borne by the Service Provider.
- Patrol vessels will assist in salvage operations if called upon to do so.
- The Service provider shall at all times not perform/engage in any fishing activities in Puntland waters while this contract agreement remains valid.

REVENUE SHARING

- Payments received from the licenses issued or fines imposed will be made to Puntland State Bank. Through the Ministry treasury office once the Service Provider share equivalent to 30% be immediately transferred to the Service Provider's account at Dahabshii Bank.
- All fishing license fees earned by the Ministry and all revenue earned from fines imposed on arrested vessels will be shared by the Ministry and the Service Provider on 70% and 30% basis, respectively.

GENERAL

- Seaport or dock fees will be waived for the Service Provider's vessels engaged in patrol activities during the life of this agreement.
- Any notices given pursuant to this agreement shall be in writing and shall be served personally, by registered or recorded delivery mail, email or by fax.

RELATIONSHIPS BETWEEN THE PARTIES

- For the purposes of this contract agreement, the service provider shall at all times act as an independent contractor to the Ministry.

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- The Service Provider shall at all times be liable to safety of its employees engaged in patrol activities as part of this agreement.
- The parties undertake not to work with any other person or party for whatever reason if there is a direct or indirect conflict of interest with the performance and its obligations under this agreement.
- The Service Provider is not an agent of the Ministry and shall not be entitled to make any contract promise, agreements or other obligations on behalf of the Ministry unless it receives prior express and written permission to do so.

JURISDICTION DISPUTE RESOLUTION

- The laws of Puntland shall govern the interpretation of this contract agreement without regard to any conflict of laws.
- In the event of dispute arising out or in connection of connections with this agreement, the parties shall resolve all disputes amicably or by arbitration.

TERMINATION

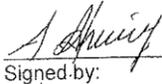
- The Ministry shall have the right to terminate this contract agreement if the Service Provider has committed a material breach of its obligations under this agreement, and has failed to cure the said within 30 (thirty) days of receiving written notice to cure the material breach.
- The Service Provider shall have the right to terminate this contract agreement by serving the Ministry 90 (ninety) days of written notice to that effect.

The parties hereto have caused this contract agreement to be duly executed on the day and year hereinbefore written.

Signed by: 
Abdinur Elmi Mohamud
Minister on behalf of the Ministry
Puntland State of Somalia.

Date: 23/03/2015



Signed by: 
Abdiweli Ali Egal
On behalf of the Service
Provider (SSS)

Date: 23/03/2015



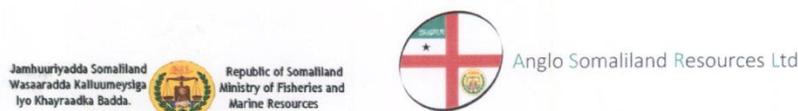
AE

AE

Annex 2.3.b: Ian Fenwick in Somaliland to sign the Anglo Somaliland Resources Ltd. MOU (second from right)



Annex 2.3.c: First page of the 4 August 2015 contract between Anglo Somaliland Resources and the Government of Somaliland



W.K.K.B | W-01 | 156 | 8 | 15

Fisheries Licensing Agreement

**THIS AGREEMENT IS MADE THIS 4th DAY OF August
2015**

BETWEEN

1. **THE REPUBLIC OF SOMALILAND MINISTRY OF FISHERIES AND MARINE RESOURCES**, acting through the government of Somaliland and the present Minister of Fisheries and Marine Resources (the Honourable Ali Jama Farah, or the incumbent of that office for the time being).
- AND
2. **ANGLO SOMALILAND RESOURCES LIMITED**, a company incorporated and registered at Companies House in the United Kingdom under company 09461235, whose registered address is 39 Muster Green, Haywards Heath, West Sussex RH16 4AL ("the Company").

WHEREAS

1. The Republic of Somaliland is a Country in the Horn Africa.
2. The Republic of Somaliland wishes to grant licenses to permit the commercial fishing of its territorial waters for the purpose of its regulation and good government.
3. The parties wish to enter into an agreement whereby the Republic grants to the Company the right to fish in the Republic's territorial coastal waters.
4. The Company shall compensate the Republic financially for having granted such right and will thereby assist the Republic in generating state revenues for the benefit of the Republic and her people.
5. The Company will be permitted to and intends to grant certain sub-licenses which it is intended by the parties will permit it to explore, exploit, conserve, manage and develop fishing in the Republic's territorial waters, in every respect mindful of the best economic and ecological interests of the Republic and her people.
6. The parties consider that an agreement between the Republic and the Company will enhance and assist the implementation of government policies to develop a fishing community project, combining private and state sector resources and experience for the benefit of the parties and the people of the Republic.

Annex 2.4: Hijackings of the Iranian dhows *FV Siraj* and *FV Jaber* by pirates linked to Mohamed Osman Mohamed “Gafanje”

(STRICTLY CONFIDENTIAL)*

* The annex has not been reproduced in the present document because it is strictly confidential.

Annex 2.5: Soma Oil & Gas Holdings Limited

45. As a case study illustrating the need for the establishing of strong public institutions prior to the development of Somalia's extractives sector, the Monitoring Group has conducted an extensive investigation into the operations of Soma Oil & Gas Holdings Limited (Soma). Soma is an extractives exploration company that secured a lucrative contract in August 2013 with the Federal Government of Somalia (FGS) to conduct seismic surveying off the country's southern and central coast.⁴⁴ The contract awarded Soma the subsequent right to exploit 12 offshore oil and gas blocks (totalling 60,000 km²) of its own choosing.

46. The Group has obtained evidence⁴⁵ demonstrating that Soma has been making regular payments since June 2014 to civil servants in the Ministry of Petroleum and Mineral Resources (the Ministry), some of whom were instrumental in both securing the company's initial contract, and negotiating subsequent agreements. A "Capacity Building Agreement" was signed by Soma and the Ministry mainly to channel these payments. The evidence collected by the Monitoring Group demonstrates that this Capacity Building Agreement created a serious conflict of interest, in a number of cases appearing to fund systematic payoffs to senior ministerial officials. Pursuant to paragraph 2 of resolution 2002 (2011) and paragraph 2 (c) of resolution 2060 (2012)⁴⁶, the Monitoring Group will describe acts that undermine Somali public institutions through corruption and will demonstrate how:

- The Capacity Building Agreement was likely part of a *quid pro quo* arrangement, whereby the Ministry would protect Soma's contract from the potential negative consequences of a forthcoming review by the Financial Governance Committee (FGC), a body chaired by the FGS Minister of Finance and tasked with reviewing Government contracts;
- as a possible further *quid pro quo*, Ministry officials arranged to extend the offshore area in which Soma is permitted to conduct seismic surveying ("Evaluation Area") and later, at Soma's behest, began to renegotiate the Production Sharing Agreement (PSA) for the company's future blocks – all while on Soma's payroll;

⁴⁴ Soma Oil & Gas Holdings Limited is a UK-registered company incorporated on 26 April 2013, and chaired by Lord Michael Howard, former leader of the UK Conservative Party.

⁴⁵ The Monitoring Group has obtained access to numerous original documents detailing agreements between Soma and the FGS Ministry of Petroleum and Mineral Resources. The Group has also viewed extensive electronic correspondence involving Soma and the Ministry, and has further corroborated its investigations through numerous testimonies from present and former Ministry and other FGS officials, oil and gas experts, legal experts, members of development agencies, members of the diplomatic community, journalists, and others. Confidential electronic correspondence is cited below in italics.

⁴⁶ In paragraph 2 of resolution 2002 (2011), the Security Council expanded the scope of prohibited acts that threaten the peace, security or stability of Somalia to include the misappropriation of public financial resources. This is reiterated in paragraph 2 (c) of resolution 2060 (2012).

- senior civil servants awarded themselves ‘salaries’ pursuant to spuriously drafted contracts for positions they already held;
- at least six officials on Soma’s ‘capacity building’ payroll simultaneously drew FGS civil servant salaries;
- Soma transferred the first instalment of ‘capacity building’ funds to the Ministry before performing internal due diligence on the individuals who were to receive salary payments. The company continued to transfer funds even once their identities became known to the company and;
- Soma paid close to half a million dollars to an ostensibly independent legal advisor to the Ministry, J. Jay Park.

47. The Monitoring Group further describes how the misuse of ‘capacity building’ in the Soma context fits within a broader pattern of misconduct and misappropriation at the Ministry. The Monitoring Group has obtained evidence, for example, of the Ministry’s attempts to persuade at least one other oil and gas company to pay ‘salaries’ to its staff. Ministry staff also diverted payments from another company into a privately held ministerial bank account in contravention of FGS regulations – and indeed attempted to have Soma direct its funding into this account.

48. The Monitoring Group’s findings reinforce the rationale for its previous calls for the implementation of clear legal and policy frameworks governing the engagement of the extractives industry in Somalia. In particular the FGS should be encouraged to apply its existing legislation, especially the 2008 Petroleum Law, in the management of both current and future oil and gas contracts. As required by this legislation, it is critical to establish an independent Somali Petroleum Authority to serve as regulator for the industry. The Federal Parliament should also approve current, future contracts and authorisations – including the draft Soma PSA currently under consideration by the Ministry.

49. The Monitoring Group recognises the considerable potential of oil and gas discoveries in Somalia and in Somali waters, but also the threat to peace, security and stability posed by an unregulated extractives industry. The Group has previously highlighted both the risks of corruption in the sector, and the “shortcomings” in transparency and capacity of Somalia’s petroleum institutions (S/2013/413 and S/2014/726). The Group will, therefore, again recommend a moratorium on all PSAs until the necessary arrangements and institutions are in place to manage the industry for the good of the Somali people.

Background to the Capacity Building Agreement⁴⁷

50. The circumstances and chronology of events surrounding the Capacity Building Agreement are integral to an understanding of how an ostensibly positive arrangement for Somalia was in fact a scheme concocted by the Ministry, with Soma's acceptance, in the expectation of reciprocal benefits.

51. In a May 2013 interview, the former Minister for National Resources,⁴⁸ Abdirizak Omar Mohamed, asserted that the FGS "should wait until we have the right laws in place" before entering into agreements with oil and gas firms.⁴⁹ Three months later, on 6 August 2013, the FGS signed a Seismic Option Agreement (SOA) with Soma, in which the latter agreed to conduct a seismic survey within an area to be confirmed in a later "Reconnaissance Authorisation" agreement. On 9 January 2014, with the "Evaluation Area" agreed, the FGS formally entered into a Reconnaissance Authorisation agreement with Soma (see annex 2.5.a).

52. On 21 January 2014 Daud Mohamed Omar was appointed as FGS Minister of Petroleum and Mineral Resources. Fewer than two weeks later, on 2 March 2014, the original SOA with Soma was sent to the newly established Financial Governance Committee (FGC) for review.

53. On 5 March 2014 Soma made arrangements for Minister Omar, Farah Abdi Hassan, the Director General of the Ministry, and Dr. Abdullahi Haider Mohamed and J. Jay Park, advisors to the Ministry,

⁴⁷ The inclusion of capacity building programmes in agreements between extractives companies and Governments of developing countries is relatively common. Each oil major that has signed a deal in Somalia (Royal Dutch Shell, Total S.A., Eni S.p.A., Chevron Corp., ConocoPhillips Co., and BP plc) offers local training and scholarship programmes in the developing countries in which it operates. However, having consulted with several independent experts, the SEMG has been unable to identify other cases where the regular payment of senior civil servants responsible for managing deals with oil and gas firms has been labelled "capacity building". Analogous payment practices, however, have been the subject of criticism: Royal Dutch Shell, Elf Aquitaine, Norsk Hydro and, most recently, Soco International, for example, have all been accused of impropriety with respect to the making of regular hidden payments to local security and/or Government officials in order to protect company interests. See Afua Hirsch and John Vidal, "Shell spending millions of dollars on security in Nigeria, leaked data shows", *The Guardian*, 19 August 2012. Available from <http://www.theguardian.com/business/2012/aug/19/shell-spending-security-nigeria-leak>; Global Witness, "Elf trial throws spotlight on oil and corruption", 17 March 2003. Available from <https://www.globalwitness.org/archive/elf-trial-throws-spotlight-oil-and-corruption/>; Global Witness, "Statoil Hydro's Libyan "corruption" scandal shows need for oil industry disclosure laws", 20 November 2008. Available from https://www.globalwitness.org/documents/14446/libya_oil_scandal_points_to_need_for_new_laws.pdf; Global Witness, "Virunga: UK company bankrolled soldiers accused of bribery and violence in quest for oil in Africa's oldest national park", 20 June 2015. Available from <https://www.globalwitness.org/campaigns/democratic-republic-congo/soco-in-virunga/>.

⁴⁸ The Ministry of National Resources was subsequently split into four successor ministries in January 2014, including the Ministry of Petroleum and Mineral Resources.

⁴⁹ Katrina Manson, "Somalia: Oil thrown on the fire", *The Financial Times*, 13 May 2013. Available from <http://www.ft.com/cms/s/0/538e9550-b3e1-11e2-ace9-00144feabdc0.html#axzz3fm1LvjAB>.

to stay at Nairobi's Fairmont Hotel from 9-13 March 2014 in order to hold meetings with the company (see annex 2.5.b for a photo of one of these meetings).

54. On 10 March 2014, Minister Omar signed a "First Amendment Agreement" to the 6 August 2013 SOA, which was subsequently transmitted to Soma on 22 March to be countersigned (see annex 2.5.c). The Agreement included a request for "capacity assistance in connection with the supporting work of the Government in relation to the seismic survey..." In a letter dated 15 March 2014 and also sent to Soma on 22 March, Minister Omar formally requested "that Soma provide financial support to the Government".

55. Specifically, Minister Omar requested support with:

- a. rehabilitation of the Ministry's offices in Mogadishu;
- b. furnishing and equipping the Ministry's office, including establishment of a data room;
- c. *the hiring and contracting of qualified technical staff and expert consultants and advisors, inside and outside of Somalia, including covering the costs of:*
 - i. *salary or consulting fees;*
 - ii. *benefits;*
 - iii. *accommodation allowance; and,*
 - iv. *business related travel;*
- d. training programs for Ministry staff;
- e. Petroleum regime development programs focused on the following objectives:
 - i. harmonization of Somalia's constitutional provisions governing petroleum and minerals issues;
 - ii. development of petroleum policy, petroleum law, petroleum regulations, and model host government contracts; and
 - iii. conferring and developing consensus with governments of regional member states; and
- f. Other areas as may be agreed in writing by Government and Soma (see annex 2.5.d for a copy of this letter).

56. On 27 March 2014, the Director General of the Ministry, Farah Abdi Hassan, expressed annoyance over delays in Soma's response to the Ministry's request for capacity assistance, declaring in an email addressed to the Ministry's legal advisor, Jay Park, that the Ministry would not stand for Soma "questioning" or "delaying" the programme. He also warned that Soma's contractual agreements with the FGS, both past and prospective, would be subject to review if "assistance" were not provided: "*If the SOMA questions the assistance [to] the Ministry then so many things goes [sic] to review, while the parliament is asking to ratify the SOA agreement*".

57. On 17 April 2014, Director General Hassan wrote to two of Soma's directors, CEO Robert Sheppard and Hassan Khaire, informing them that the Natural Resources Subcommittee of the FGS Parliament had requested a copy of the 6 August 2013 SOA for review. In the correspondence, Hassan again suggested a link between the provision of 'capacity building' and the protection of the Soma SOA from official review: "[w]hy don't you sign the [First Amendment Agreement] and return, because, I am sure it will protect the [SOA] agreement". The very same day, Sheppard sent a formal letter to Minister Omar confirming Soma's desire to move ahead with the agreement:

Soma Oil & Gas understands your request for support in regards to capacity building at the Ministry. In the next few days, I will be writing a separate letter to you outlining how Soma Oil & Gas proposes to support the Ministry in this regard.

58. Three days later, on 20 April 2014, Soma followed through on its pledge, and a draft text of the Capacity Building Agreement was sent to Director General Hassan for his review.

59. Three days after receipt of this draft agreement, the FGC "Confidential Assessment" of the Soma SOA arrived at the Ministry. While specific improvements to the SOA were recommended – alongside more general concerns raised regarding "contracting in the oil and gas sector as a whole" – the FGC did not make recommendations that threatened the validity of the Soma deal.⁵⁰

60. The Capacity Building Agreement ("the Agreement") was signed by the Minister on 27 April 2014 and by Robert Sheppard on 15 May 2014 (see annex 2.5.e). In the Agreement Soma pledged to cover the salary costs, up to USD 5,000 per month each, for a maximum of six "qualified technical staff, consultants and advisors, inside and outside of Somalia" over a 12-month period (totalling USD 360,000). Soma also committed to "pay the cost of office equipment, transportation, and other working tools which shall not exceed lump sum of [USD 40,000]". The Agreement therefore capped the total capacity support to be provided by Soma, including salary payments, at USD 400,000. The Agreement did not include, however, any provision for funding of training or petroleum regime development programmes, as had also been requested in the Ministry's letter of 15 March 2014.

61. Among the conditions of the Agreement was a requirement for the Ministry to submit monthly written reports to Soma, providing the names, terms of reference, and employment contracts for each proposed staff member. Critically, the Agreement prohibited the Ministry from contracting any "connected person" within the framework of the programme. "Connected person" was defined as "any person, company, other organisation or legal entity directly or indirectly controlled by any

⁵⁰ Of the eight contracts and concessions the FGC had reviewed by January 2015, Soma's was the only contract on which "no action" was taken. Others were "overtaken by events" (Simatech International), "withdrawn as duplicative" (TGS-NOPEC Geophysical Company ASA), "restructured and allegedly signed" (CGG/Robertson GeoSpec International), "considered for cancellation" (Somalia-FishGuard Ltd.), "under investigation" (AMO Shipping Company Ltd.), or "under discussion" (Albayrak Turizm İnşaat Ticaret A.Ş and Favori LLC). Quoted from the "FGC Reviews of Public Sector Contracts and Concessions" report, 31 December 2014.

member of the Government or who is otherwise directly or indirectly related to or connected to any member of the Government”.

62. On 27 April 2015, Soma signed an extension of the Agreement with the Ministry, prolonging the duration of the programme for an additional six months, from April to September 2015.⁵¹ Under the extension, Soma agreed to provide further “capacity support payments” of USD 30,000 per month, equalling a total over six months of USD 180,000.

Payments

63. On 22 May 2014 Soma’s CFO, Philip Wolfe, sent the Director General a template invoice for the Ministry to submit. The next day, a USD 70,000 invoice for the first instalment of the ‘capacity building’ funds, signed by Director General Hassan and Deputy Director General Jabril Mohamoud Geeddi – who both later received salaries themselves under the Agreement – was returned to Soma (see annex 2.5.f).

64. Following receipt of the first instalment of the Soma funds in the Ministry’s Central Bank of Somalia (CBS) account, Director General Hassan attempted to persuade Soma to circumvent the CBS when making future transfers. Such an arrangement would be in flagrant violation of FGS Ministry of Finance directives, which require that all FGS revenue be channelled through the Treasury Single Account at the CBS. On 29 June 2014, Hassan emailed Soma CEO Robert Sheppard and CFO Philip Wolfe explaining,

I am thinking to change the route or have an account from another bank. We realized how things gets [sic] late if we didn’t get alternative way, there are number of private companies which are easier to use and more efficient than the central bank.

65. Wolfe refused the Director General’s suggestion, informing him that Soma would continue to route ‘capacity building’ monies to the CBS for purposes of transparency.

66. Soma transferred a total of USD 400,000 for the Capacity Building Agreement in three instalments to the Ministry’s CBS account. The company also transferred an additional USD 90,000 instalment in May 2015, the first payment pursuant to the extension of the Agreement on 27 April 2015:

1. USD 70,000: receipt confirmed by the Ministry on 30 June 2014;
2. USD 150,000: receipt confirmed by the Ministry on 17 August 2014;
3. USD 180,000: receipt confirmed by the Ministry on 13 November 2014;
4. USD 90,000: receipt confirmed by the Ministry on 28 May 2015.⁵²

⁵¹ Letter dated 24 July 2015 from Soma to the Monitoring Group, in response to the Group’s email queries of 16 July 2015.

⁵² Letter from Soma to the Monitoring Group, 24 July 2015.

67. The Monitoring Group has obtained a ‘salary chart’ sent to the Ministry by Soma in March 2015. This chart details the ‘capacity building’ payments Soma made (totalling USD 295,800) to 14 ministerial employees from March 2014 to the end of February 2015, with projections of future payments continuing up to June 2015 (see annex 2.5.g).⁵³ The 14 employees listed on the salary chart, and the amounts they are listed as having received, are:

Name	Title(s)	Received from Soma as of February 2015
Farah Abdi Hassan	-Director General	USD 36,000
Jabril Mohamoud Geeddi	-Deputy Director General Director of Administration & Finance Department -Senior Management Advisor	USD 36,000
Mohamed Ali-nur Hagi	-Permanent Secretary to the Prime Minister -Director of Planning & Development Department Senior Resource Economist	USD 33,000
Dr. Abdulkadir Abiikar Hussein	-Director of Exploration Department -Senior Petroleum Geologist	USD 30,000
Hussein Ali Ahmed	-Managing Director of the Somalia Petroleum Corporation (SPC) -Director of Oil Management Department -Senior Economic Advisor	USD 16,000
Yusuf Hassan Isack	-Head of Public Relations -Media Expert	USD 24,000
Abdinor Mohamed Ahmed	-Media Coverage -Reporter -Public Relations	USD 16,000
Abdullahi Mohamed Warfaa	-International Relations	USD 16,000

⁵³ While the salary chart lists payments dating back to March 2014, the first instalment of Soma’s ‘capacity building’ funds did not arrive at the Ministry until June 2014. Thus all chart payments prior to June 2014 represent backdated amounts paid as ‘arrears’ to Ministry officials.

Mohamed Yousuf Ali	-Director of Legal Affairs Department -Senior Legal Expert	USD 32,000 ⁵⁴
Dr. Abdi Mohamed Siad	-Senior Advisor -Mineralogist	USD 32,000 ⁵⁵
Leila Ali Ahmed	-Administration Assistant	USD 4,200
Dr. Abdullahi Haider Mohamed	-Senior expert & Team Leader -FGS Advisor on Oil & Gas -Diplomat	USD 15,000
Abdirzak Hassan Awed	-Personal Assistant	USD 4,000
Farah Ahmed Isma'il	-Personal Assistant	USD 1,600

Double dipping

68. The Monitoring Group has been able to confirm, through information provided by the FGS Ministry of Finance and the Ministry of Petroleum and Mineral Resources itself that at least six Ministry officials paid by Soma under the Capacity Building Agreement concurrently drew civil servant salaries from the FGS:

1. Farah Abdi Hassan
2. Jabril Mohamoud Geeddi
3. Mohamed Ali-nur Hagi
4. Abdulkadir Abiikar Hussein
5. Hussein Ali Ahmed
6. Leila Ali Ahmed⁵⁶

69. The Monitoring Group has been unable to find evidence that the Capacity Building Agreement was reflected in the 2014 FGS national budget. When contacted by the Monitoring Group, the Minister of Finance, H.E. Mohamed Aden, stated that he was unaware of a privately funded capacity building programme in any FGS ministry, informing the SEMG that “[a]s far as I am aware there is no private capacity injection programs. All capacity injection programs are through multitrust and/or bilateral donors”.⁵⁷ Soma did not directly respond to a question from the Monitoring Group as to

⁵⁴ Mohamed Yousuf Ali claimed in correspondence with the SEMG that he only received a total of USD 4,000 of the USD 32,000 earmarked for him.

⁵⁵ Abdi Mohamed Siad similarly claimed in correspondence with the SEMG that he only received a total of USD 4,000 of the USD 32,000 earmarked for him.

⁵⁶ The Monitoring Group notes with appreciation the cooperation of the FGS Minister of Finance, H.E. Mohamed Aden, in supplying this information.

⁵⁷ Email to the SEMG from Minister Aden, 21 May 2015.

whether the company had notified the Ministry for Finance about the Capacity Building Agreement, stating only that “Soma signed the Capacity Building Agreements with the Ministry of Petroleum & Mineral Resources”.⁵⁸

Profiles of officials who received payments from Soma

70. The Monitoring Group has compiled profiles, below, of the officials who received payments under Soma’s Capacity Building Agreement. A number of these officials – including the Director General of the Ministry, the Deputy Director General, and the Permanent Secretary to the FGS Prime Minister – occupy positions in which they routinely take decisions directly bearing on the company’s financial interests in Somalia. As such, their receiving payments from Soma represented a clear conflict of interest.

71. In addition, three individuals listed on Soma’s salary chart have told the Monitoring Group that they only received a fraction of the amount allocated to them on paper. One alleged recipient of USD 28,000 in ‘missing’ payments has asserted that he does not recognise the signature on the payslip receipt provided to him for inspection by the Monitoring Group. It is not yet clear to the Group who signed for or received these monies.

Farah Abdi Hassan

Director General of the Ministry of Petroleum and Mineral Resources

72. Farah Abdi Hassan was appointed Director General of the then-Ministry of National Resources in July 2013, and has retained this position since its successor ministry, the Ministry of Petroleum and Mineral Resources, was created in January 2014. As Director General, Hassan served as the Ministry’s primary point of contact for Soma and other oil and gas firms, affording him a great deal of influence. An April 2014 memo from Minister Omar, seen by the Monitoring Group, stipulated that Hassan was to be “the lead contact and the focal point of the Ministry in all aspects of communications”.⁵⁹

73. Hassan was present for negotiations over the First Amendment Agreement in Nairobi in March 2014. In May 2014 Hassan co-signed, with Jabril Mahamoud Geeddi, the first invoice for the programme. He then proceeded to sign a new contract for his existing position – formulated by Mohamed Ali-nur Hagi (see below) and countersigned by Minister Omar – backdated to March 2014 (see annex 2.5.h).

⁵⁸ S/AC.29/2015/NOTE.25/Add.4, 1 July 2015.

⁵⁹ This memo was attached in a 13 April 2014 email from Mohamed Ali-nur Hagi to Farah Abdi Hassan.

74. Hassan was paid USD 3,000 per month under the Capacity Building Agreement, and by February 2015 had received a total of USD 36,000. According to the FGS Ministry of Finance, Hassan also draws a civil servant monthly salary of USD 1,235. Over the course of one year, therefore, Soma made monthly payments to the most senior civil servant in the Ministry equivalent to almost triple his Government salary.

Dr. Abdullahi Haider Mohamed
Senior expert & Team Leader
FGS Advisor on Oil and Gas

75. Between October 2014 and February 2015, Dr. Abdullahi Haider Mohamed held the position of “Senior expert & Team Leader” at the Ministry, and was paid a total of USD 15,000 through Soma’s Capacity Building Agreement. Haider was due to receive an additional USD 9,000 up to April 2015.

76. The SEMG’s 2014 final report (S/2014/726) identified Haider as a special advisor to FGS President Hassan Sheikh Mohamud and one of two “key architects” of the Soma deal.⁶⁰ The SEMG’s current investigation into Haider’s role corroborates this assessment. According to a former advisor to the Ministry, negotiations over the Soma deal were conducted by Haider, Ministry legal advisor Jay Park, and then-FGS petroleum minister Abdirizak Omar Mohamed during the Somalia conference in London in May 2013.⁶¹ In a 1 July 2015 letter to the SEMG, Soma acknowledged that Haider “represented the Federal Government...in the negotiations around the Seismic Option Agreement that was signed in August 2013”.⁶²

77. Haider’s influence in the Ministry extended beyond the Soma portfolio: on 9 August 2013, three days after the Soma SOA was signed, Patrick Molliere, a former oil executive and at the time an advisor to the Ministry, received an email from the Ministry’s interlocutor at Royal Dutch Shell plc, William Sevier: “*Hope all is well. We have been advised to deal with Dr Haider wit [sic] cc to Minister*”.⁶³

78. Since 2010, Haider has been referred to interchangeably as a presidential, ministerial, or governmental advisor on oil and gas. A regional news service stated that Haider “has become *de facto*

⁶⁰ See S/2014/726, annex 5.1. The 2014 report also links Dr. Abdullahi Haider Mohamed to Musa Haji Mohamed “Ganjab”, a former advisor to FGS President Hassan Sheikh Mohamud accused by the SEMG of ties to Al-Shabaab and of the diversion of recovered overseas FGS assets. Haider served as Director General of “Ganjab’s” joint Turkish-Somali company, “Turksom”, which was involved in a project to build and operate a fuel distribution business in Mogadishu, as well as secure Turkish investments in Somalia.

⁶¹ 23 September 2013 email from Patrick Molliere to an oil executive, provided to the SEMG by Molliere. Molliere served as Special Advisor to the Government for Petroleum Affairs from October 2005 to August 2013, and was instrumental in drafting the federal Petroleum Law of 2008.

⁶² S/AC.29/2015/NOTE.25/Add.4, 1 July 2015.

⁶³ Email provided to the SEMG by Patrick Molliere.

the privileged interlocutor for international oil organisations”.⁶⁴ Haider’s LinkedIn profile currently identifies him as a “Senior Adviser at Commission for Petroleum & Mineral Resources” and previously as a “Senior Adviser, Oil and Gas” from 2010-2014.⁶⁵ Indicative of his status within the FGS, Haider carries a diplomatic passport, which lists his occupation as “Diplomat” (see annex 2.5.j for a copy of Haider’s diplomatic passport).

79. As recently as April 2015, during an oil and gas conference – after his tenure as “Senior expert & Team Leader” at the Ministry had come to an end – Haider was again being presented as a ‘senior advisor’ to the FGS.⁶⁶ At the conference, which took place in London from 27-28 April 2015, Haider conducted side meetings with industry executives, at which the Minister was not present.⁶⁷

80. Prior to, during, and after the period when he received payments via the Soma Capacity Building Agreement, Haider was in a position to exert significant influence on Government decisions directly bearing on Soma’s business prospects in Somalia. In this context, his signing of a contract with the Ministry to serve as “Senior expert & Team Leader” was merely a temporary re-hatting of his already existing role, in order to facilitate his receiving payments from Soma.

Mohamed Ali-nur Hagi
Permanent Secretary to the Prime Minister
Director of Planning & Development Dept / Senior Resource Economist

81. Prior to joining the Ministry in April 2014, Mohamed Ali-nur Hagi served as Minister of Planning for Galmudug regional authority. From April 2014 to February 2015, Hagi received a total of USD 33,000 from Soma’s Capacity Building Agreement. According to the salary chart Hagi was also due an additional USD 3,000 for the month of March 2015.

82. Internal ministerial correspondence shows that Hagi drafted his own employment contract, which subsequently became the template for each subsequent contract signed by payees of the Capacity Building Agreement. Hagi also drafted the terms of reference for his own position, “Director of Planning and Development Department & Senior Resource Economist”, as well as that of Dr. Abdullahi Haider Mohamed (“Senior expert & Team Leader”).

83. Since at least 9 February 2015, Hagi has served as the Permanent Secretary to the FGS Prime Minister, Omar Abdirashid Shermarke. However, Soma continued to pay Hagi once he had become

⁶⁴ African Intelligence, No. 1381, 6 June 2014.

⁶⁵ Available from <https://www.linkedin.com/pub/abdullahi-haider/87/711/723>. Accessed 24 July 2015.

⁶⁶ James Ball and Harry Davis, “Where there is oil and gas there is Schlumberger”, *The Guardian*, 18 May 2015. Available from http://www.theguardian.com/environment/2015/may/18/where-there-is-oil-and-gas-there-is-schlumberger_

⁶⁷ Monitoring Group’s interviews with three journalists and an oil and gas analyst who were present at the April conference, June 2015.

the prime minister's top staffer. Hagi confirmed to the SEMG in July 2015 that he had received 'capacity building' salary payments up to the end of February 2015;⁶⁸ Soma's salary chart shows that he was due to be paid up to the end of March.

84. Hagi has provided the Monitoring Group with a copy of a decree marking his appointment as Permanent Secretary, dated 9 February 2015 and signed by Prime Minister Shermarke.⁶⁹ However, an 11 January 2015 email from Director General Hassan to seven other senior members of the Ministry makes reference to "*A-Mohamed Hagi, the PS of office of the Prime minister*". This reference suggests that Hagi may have been serving unofficially as Prime Minister Shermarke's Permanent Secretary as early as the beginning of January, and was apparently regarded as such by other Ministry officials.

Jabril Mohamoud Geeddi

*Deputy Director General of the Ministry of Petroleum and Mineral Resources
Director of Administration & Finance Department / Senior Management advisor*

85. Jabril Mohamoud Geeddi has been employed at the Ministry since January 2013, originally under the title of "Coordinator". Geeddi's employment contract, signed for the purposes of receiving a Soma 'capacity building' salary, lists his position as "Director of Administration & Finance Department & Senior Management advisor". However, his curriculum vitae, as well as extensive internal correspondence from the Ministry on file with the Monitoring Group, identifies him as the Deputy Director General of the Ministry.

86. In an email dated 30 July 2014, Geeddi provided a description, in the third person, of his function at the Ministry: "*Mr. Geddi is responsible for the administration and finance sector, of the Ministry, and he's full time employee who earns a standard salary of grade A from the government plus bonus... [emphasis added]*". In an interview with the Monitoring Group on 11 June 2014, Director General Hassan confirmed that Geeddi was the primary official responsible for the financial administration of the Ministry, including the management of the Capacity Building Agreement. As such, Geeddi was responsible for withdrawing 'capacity building' funds from the Ministry's CBS account (see annex 2.5.k for a sample of withdrawal slips with Geeddi's signature).

87. Geeddi is a close associate of Dr. Abdullahi Haider Mohamed. At the 2013 CWC Group-sponsored Somalia Oil and Gas Summit in London, held on 7 October 2013, Haider and Geeddi were observed to be "leading the minister around".⁷⁰ Following the summit, a dinner took place at principal Soma shareholder Basil Shiblaq's London restaurant, Maroush, which both Geeddi and Haider attended. Also present were Lord Michael Howard, the Chairman of Soma, Abdullahi Mohamed Ali

⁶⁸ Email from Mohamed Ali-nur Hagi to the SEMG, 3 July 2015.

⁶⁹ Email attachment from Hagi to the SEMG, 7 July 2015.

⁷⁰ Monitoring Group's interview with a source who was present at the October summit, 4 June 2015.

‘Sanbololshe’, the FGS ambassador to the UK, petroleum minister Abdirizak Omar Mohamed, Soma CEO Robert Sheppard, CFO Philip Wolfe, Basil Shiblaq, Jay Park, as well as other individuals intimately involved in the Soma deal.⁷¹

88. From March 2014 to February 2015, Geeddi received salary payments totalling USD 36,000, or USD 3,000 per month, from Soma’s Capacity Building Agreement. Over the same period, he also received an FGS civil servant salary of USD 1,135 per month.

Hussein Ali Ahmed

Managing Director of the Somalia Petroleum Corporation

Director of Oil Management Department / Senior Economic Advisor

89. Between July 2014 and February 2015, Hussein Ali Ahmed occupied the position of “Director of Oil Management Department & Senior Economic Advisor” in the Ministry. Both prior to and during his time on Soma’s payroll, Ahmed served as Managing Director of the Somalia Petroleum Corporation (SPC), the national oil company that he was instrumental in establishing in 2007.

90. Ahmed held a series of prominent positions prior to heading up the SPC; from 2004-2007, he served as special advisor on oil and gas to former Somali Prime Minister Ali Mohamed Gedi, and as mayor of Mogadishu from 2001-2004. In 2007, Ahmed also headed the Somalia Petroleum Law Team, which was responsible for drafting the 2008 Petroleum Law, legislation that still remains in force.

91. Similar to other officials on Soma’s payroll, therefore, Ahmed has a lengthy history of oil and gas postings in the Somali Government. While being paid by Soma as “Director of Oil Management Department & Senior Economic Advisor” to the Ministry, he concurrently held the title of SPC Managing Director, a position of influence with direct impact on Soma’s interests in Somalia.

92. Between July 2014 and February 2015, Ahmed received a total of USD 16,000 from Soma’s Capacity Building Agreement. According to the salary chart obtained by the Monitoring Group, as well as his employment contract with the Ministry, Ahmed was to receive an additional USD 8,000 up to June 2015. According to the FGS Ministry of Finance, Ahmed receives a civil servant salary of USD 1,135 per month.

⁷¹ Monitoring Group’s interview with a source that was present at the dinner, 4 June 2015. The source provided the SEMG with a photograph alleged to have been taken during the dinner.

Dr. Abdulkadir Abiikar Hussein***Director of Exploration Department / Senior Petroleum Geologist***

93. Dr. Abdulkadir Abiikar Hussein joined the Ministry in May 2014. Hussein possesses a Master's of Science degree in Engineering Geology and Geotechnics, and his employment contract with the Ministry lists his position as "Director of Exploration Department and Senior Petroleum Geologist".

94. Hussein received USD 30,000 from Soma's Capacity Building Agreement between May 2014 and February 2015. According to the salary chart obtained by the Monitoring Group, he was due to be paid an additional USD 6,000 up to April 2015.

95. In an interview with the Monitoring Group held on 11 June 2015, Director General Hassan confirmed that Hussein is a key member of a "negotiation team", responsible for reaching an agreement on production sharing with Soma (see discussion of the "Draft Production Sharing Agreement (PSA)" below), a function he exercised whilst receiving payments from Soma.

96. An email dated 27 April 2015 from Hussein to various members of the Ministry provided an outline of the agenda for the "Exploration Department", of which he is the director. One of the agenda items he listed, to be completed by September 2015, was "[e]valuating PSAs submitted by farm-out partners of Soma Oil and Gas and signing them".

Abdullahi Mohamed Warfaa
Personal Assistant to the Minister
'International Relations'

97. While Abdullahi Mohamed Warfaa's employment contract defines his role at the Ministry as relating to "International Relations", in correspondences dated October and December 2014 he is referred to as the "personal assistant" to the Minister.

98. Between July 2014 and February 2015, Warfaa received a total of USD 16,000 through Soma's Capacity Building Agreement. According to the salary chart obtained by the Monitoring Group, as well as his employment contract with the Ministry, Warfaa was due an additional USD 8,000 up to June 2015.

Leila Ali Ahmed***Administration Assistant***

99. Leila Ali Ahmed was employed as an "Administration Assistant" under the Capacity Building Agreement from July 2014 to February 2015, receiving a total of USD 4,200 according to the salary chart. However, from 8 August 2014 onwards Ahmed concurrently drew an FGS civil servant salary of USD 735 per month.

Possible Ghost Workers

100. The Monitoring Group has identified four officials on Soma's salary chart as possible ghost workers. Three of these individuals claim to only have worked at the Ministry for a fraction of the time indicated in the salary chart; the Group has been unable to confirm the very existence of a fourth.

Mohamed Yousuf Ali

Director of Legal Affairs Department / Senior Expert

101. Mohamed Yousuf Ali holds a Masters of Law degree, and his 'capacity building' employment contract designates his position within the Ministry as "Director of legal affairs Department & Senior expert". From July 2014 to February 2015, according to the salary chart, Ali collected USD 32,000 from Soma's Capacity Building Agreement.

102. On 13 October 2014 Director General Hassan suspended Ali's contract with the Ministry, citing the latter's inability to be present in Mogadishu due to personal reasons. Nonetheless, according to Soma's salary chart, Ali's salary payments continued until February 2015, despite the fact that he had not been physically present in Mogadishu since late August 2014.⁷²

103. Ali informed the SEMG that he had only received one salary payment of USD 4,000 before the suspension of his contract, and that the Ministry never paid him an additional two months' salary owing.⁷³ If true, after July 2014 Ali became effectively a ghost worker at the Ministry, with the remaining USD 28,000 owing in his contract collected by an unknown third party. The SEMG has yet to determine who countersigned for Ali on his payslips, or where the funds subsequently ended up.

Abdi Mohamed Siad

Senior Advisor for the Ministry and Mineralogist

104. Dr. Abdi Mohamed Siad is a senior lecturer at the University of the Western Cape in the Republic of South Africa. He holds a PhD in Applied Geochemistry, making him the only technical expert whose employment under the Capacity Building Agreement does not represent a conflict of interest.

105. From July 2014 to February 2015, according to the salary chart, Siad collected USD 32,000 while serving in the position of "Senior Advisor for the Ministry and Mineralogist". However, Siad informed the Monitoring Group that he returned from Mogadishu to South Africa in August 2014, and subsequently gave notice of his resignation to Minister Omar and Director General Hassan on

⁷² Email from Mohamed Yousuf Ali to the SEMG, 29 June 2015.

⁷³ Email from Ali to the SEMG, 29 June 2015.

14 October 2014.⁷⁴ According to Siad, he was sent one month's salary from Hassan in the amount of USD 4,000, but received no subsequent payment.

106. The Monitoring Group sent Siad a 'capacity building' payslip dated 30 November 2014, allegedly displaying his signature; Siad confirmed that the signature was not his. The SEMG has yet to determine who forged Siad's signature on his payslips, or who collected the USD 28,000 remaining on his contract (see annex 2.5.1 for a copy of this forged payslip).

Abdirizak Hassan Awed

Personal Assistant for the Ministry

107. From November 2014 to February 2015, Abdirizak Hassan Awed was employed under the Capacity Building Agreement in the position of "Personal Assistant for the Ministry", collecting a total of USD 4,000. According to the salary chart, he was also slated to receive an additional USD 2,000 from March to April 2015.

108. In an email in the Somali language, Awed informed the Monitoring Group that he had been employed by the Ministry from November 2014-April 2015, but that the final two months of his salary payments had been "embezzled".⁷⁵

Farah Ahmed Isma'il

Personal Assistant for the Director General's Office

109. According to the salary chart, Farah Ahmed Isma'il received USD 1,600 from November 2014 to February 2015 under the Capacity Building Agreement, and was due another USD 800 from March-April 2015. As of 5 March 2015, the Ministry had not submitted Isma'il's curriculum vitae, employment contract, or passport copy to Soma, as required by Soma's internal due diligence mechanism (see "Due Diligence", below). The Monitoring Group has found no communications from or to Isma'il within the Ministry correspondence it has viewed. As a result, the Group has so far been unable to substantiate Isma'il's existence.

Abdinor Mohamed Ahmed and Yusuf Hassan Isack

110. The Monitoring Group continues to investigate the involvement of the two remaining officials on Soma's salary chart, Abdinor Mohamed Ahmed and Yusuf Hassan Isack.

⁷⁴ Email from Dr. Abdi Mohamed Siad to the SEMG, 9 July 2015. Siad also forwarded his 14 October 2014 resignation email to the Group.

⁷⁵ Email from Abdirizak Hassan Awed to the SEMG, 13 July 2015.

Due diligence

111. In order to perform internal due diligence on the individuals being paid under the Capacity Building Agreement, Soma required the Ministry to provide a set of documents for each payee: curriculum vitae, employment contracts, passport copies, and signed payslips. Soma began transferring the ‘capacity building’ funds in June 2014, however, before it had received any of this documentation.⁷⁶ The Ministry began submitting the required documents in early August 2014, definitively revealing to Soma the identities of senior officials being paid, if the company had not already been aware.⁷⁷

112. As of late as March 2015 – 11 months after the date of the Capacity Building Agreement – Soma’s representative in Nairobi was still requesting the Ministry to deliver the remaining documents the company had demanded.

113. The Monitoring Group has found no evidence demonstrating that Soma questioned the Ministry’s choice of payees, despite the fact that the Capacity Building Agreement explicitly prohibited the contracting of “connected persons” defined in the Agreement as “any person, company, other organisation or legal entity directly or indirectly controlled by any member of the Government or who is otherwise directly or indirectly related to or connected to any member of the Government”. Instead, Soma proceeded to transfer the remaining ‘capacity building’ funds to the Ministry in two further instalments, accepting the Ministry’s continued and absolute discretion in selecting the payees without prior notification. In response to the Monitoring Group’s inquiries, Soma claimed that “no connected persons ever received payment pursuant to Soma’s Capacity Building Agreement”, despite being aware that both the Director General and Deputy Director General of the Ministry were on the company’s payroll.⁷⁸

114. Soma failed to provide the Monitoring Group with the names, positions, and other requested details of the individuals who received salary payments from its Capacity Building Agreement. In its response to the Monitoring Group’s direct request, Soma provided the following:

Soma Oil & Gas has put in place a robust Anti Bribery & Corruption Policy and Procedures. On this basis we have reviewed the passports, curriculum vitae and contracts of all the individuals who receive salary payments from the Ministry of

⁷⁶ Correspondence between Soma and the Ministry dated June 2014 and seen by the Monitoring Group.

⁷⁷ Farah Abdi Hassan and Jabril Mohamoud Geeddi, respectively the Director General and Deputy Director General of the Ministry, were first to receive salaries from Capacity Building Agreement. According to Hassan, Soma was aware that both individuals would be on the company’s payroll before the transfer of funds commenced. SEMG interview with Hassan, 11 June 2015.

⁷⁸ Letter dated 24 July 2015 from Soma to the Monitoring Group, in response to the Group’s email queries of 16 July 2015.

Petroleum & Mineral Resources under the Capacity Building Programme, as well as reviewing the monthly payroll information.⁷⁹

Soma's statements relating to the Capacity Building Agreement

115. Soma has acknowledged the existence of its Capacity Building Agreement on multiple occasions. In a press release dated 24 September 2014, Soma announced that the programme “will see the Company cover the salaries of a small number of experts, including geologists and geoscientists for a one-year period”.⁸⁰ Soma's public relations firm, FTI Consulting Inc., further acknowledged the existence of the programme and payments on 22 October 2014:

The \$400,000 commitment from Soma will enable the Ministry to employ 12 qualified geologists, geoscientists and other professionals for a one year period – these are individuals who will be trained at internationally recognised institutions and are committed to making a contribution to their own country's development through the opening up of the hydrocarbons industry.⁸¹

116. Only three of the 14 ministerial officials paid by Soma possess advanced degrees in the fields of geology or geoscience. One of these, Dr. Abdulkadir Abiikar Hussein, was already on the FGS civil servant payroll during the period he received a ‘salary’ from Soma. A second, Dr. Abdi Mohamed Siad, held a position at the Ministry for barely a month before returning home (see “Abdi Mohamed Siad”, above). The third, Dr. Abdullahi Haider Mohamed, was a presidential advisor.

117. In an email response dated 23 September 2014 to an inquiry about capacity building from The Wall Street Journal, Director General Hassan wrote the following: “*In April 2014, H.E. Minister Daud Mohamed Omar signed a capacity building paper with Soma (see picture on Ministry website)*⁸² - they will help us with some office equipment and some salaries of expert staff at the Ministry for one year”. The text of Hassan's response had been drafted by Soma CFO Philip Wolfe, following a 22 September 2014 email in which the former requested Wolfe's assistance: “*Pls consult what to answer? I knew that they [The Wall Street Journal] have already some hints...*”

118. In summary, Soma's official representations of its Capacity Building Agreement to journalists and the public are in stark contrast to the events described by and documentary evidence obtained by the Monitoring Group. Instead of being an assistance package to facilitate hiring a limited number of technical experts, Soma's Capacity Building Agreement amounted in many cases to extra ‘salaries’ paid to top ministerial officials who had already been on the FGS payroll prior to the programme's launch.

⁷⁹ S/AC.29/2015/NOTE.25/Add.4, 1 July 2015.

⁸⁰ Available from <http://somaoilandgas.com/news/12>.

⁸¹ Written response to a journalist's query.

⁸² The Monitoring Group was unable to locate this photo – or indeed any reference to Soma's Capacity Building Agreement – on the Ministry's website (<http://mopetmr.so/>), accessed 24 July 2015.

Agreement Amendments Following the Capacity Building Agreement

119. Shortly after the signing of the Capacity Building Agreement, the FGS and Soma began negotiating a further territorial allowance for Soma's seismic exploration, as well as a draft agreement that would grant Soma a larger share of profits from potential production ("Evaluation Area Extension" and "Draft Production Sharing Agreement (PSA)"). The Monitoring Group has identified these concessions to Soma as potential *quid pro quos* related to the Capacity Building Agreement.

Evaluation Area Extension

120. On 8 May 2014, the Minister signed a letter extending the offshore area available to Soma to survey (Evaluation Area Extension).⁸³ "In light of [Soma's] progress, it is the desire of the Ministry that the Evaluation Area...as agreed between the Ministry and Soma be expanded to include a larger area. The Ministry hereby requests that Soma include within its exploration Program (as defined in the SOA) a 2D seismic survey that extends to the JORA block as outlined in the attached map".⁸⁴ The letter ends: "Also, the JORA Block will become part of the area in respect of which Soma may serve a Notice of Application for a Production Sharing Agreement pursuant to Article 2.2. of the SOA".⁸⁵

121. The timing of the signing of the Evaluation Area Extension suggests that it may have represented a *quid pro quo* between the Ministry and Soma. The Minister signed the Evaluation Area Extension on 8 May 2014, fewer than two weeks after agreeing the terms of the Soma Capacity Building Agreement. A week later, on 15 May 2014, Soma countersigned the Capacity Building Agreement.

Draft Production Sharing Agreement (PSA)

122. On 28 November 2014, Soma CEO Robert Sheppard addressed a letter (see annex 2.5.n) to the Minister, stating Soma's case for revising the production sharing terms.⁸⁶ The rationale presented by Soma for renegotiating the PSA included the fact that "much of the basin is in deep or ultra deep water", the unproven nature of the reserves, and the collapsing global price of oil. The letter also set forth Soma's wish to also include explicit fiscal terms for gas in the revised PSA.⁸⁷

123. Subsequently in December 2014 a draft PSA agreement was sent to the Ministry for approval. The terms of this draft PSA have since been criticised for being highly unfavourable to the FGS,

⁸³ See annex 2.5.m for a copy of this letter.

⁸⁴ Ownership of the Jora block is currently subject to a maritime border dispute between the governments of Kenya and Somalia.

⁸⁵ The Ministry later offered production sharing rights for the Jora block to another company in exchange for a similar 'capacity building' arrangement to Soma's, Allied Petroleum (SO) Corp. (see "Pattern of Corruption", below).

⁸⁶ The original PSA was set forth in an annex of the 6 August 2013 SOA.

⁸⁷ The primary impetus for the revised PSA may have been that Soma's seismic survey had revealed larger gas deposits than previously expected. Interview with a Western embassy official based in Nairobi, 24 March 2015.

particularly following the publication of a Bloomberg article that first revealed the parameters of the proposed deal.⁸⁸ In a copy of the draft PSA seen by the Monitoring Group, Soma's share of revenue is stipulated to be as high as 90 per cent in some cases. Furthermore, the draft PSA grants the company a four-year royalty holiday for oil and gas found fewer than 1,000 metres below the sea's surface, as well as a decade-long moratorium on paying taxes to the FGS.

124. Three months prior to the Bloomberg article, the Ministry's own legal advisor had cautioned against signing the PSA. In an 8 February 2015 email to Ministry officials, the advisor wrote, "...as a matter of urgency, I wish to let you know that I am not in favor of signing the new proposed PSA from Soma. It is not in the best interest of Somalia and, if signed, it will destroy your careers as politicians, and technocrats".

125. Following publication of the Bloomberg article, the Ministry issued a statement in which it denied having received any draft PSA from Soma, further announcing that "Somalia is not accepting PSA deals at the moment".⁸⁹ However, in a meeting with the Monitoring Group on 11 June 2015, Director General Hassan acknowledged that the Ministry had received the draft PSA from Soma, though he denied having personally seen it. Hassan further claimed that negotiations on the PSA had not yet begun, although he made reference to a "negotiation team", to which Dr. Abdulkadir Abiikar Hussein belongs. Contrary to Hassan's statements, internal Ministry correspondence seen by the Monitoring Group shows that Hussein sent a copy of the draft PSA to Hassan on 29 January 2015. Both Hassan and Hussein, as previously noted, have been paid 'salaries' by Soma.

126. Correspondence seen by the Monitoring Group shows that negotiations over the draft PSA with Soma have been taking place since at least late April 2015. In an email dated 30 April 2015, Peter Roberts, a lawyer representing the Ministry from the Houston-based firm Andrews Kurth LLP, wrote to another Ministry representative:

Soma - we had a cordial meeting and we promised to send to their lawyers next week a table of key issues and concerns regarding the PSA draft, with a view to discussing it with their lawyers week commencing 11 May. Going well so far.

127. The current FGS Minister of Petroleum and Mineral Resources, H.E. Mohamed Mukhtar, told the Monitoring Group in June 2015 that the Ministry would not sign any PSA before a resource-sharing framework had been established with Somalia's regional authorities. He also told the Monitoring Group that The African Legal Support Facility, a public international institution hosted by

⁸⁸ Ilya Gridneff, "Somalia May Pay 90% Oil Revenue to Explorer Under Draft Deal", *Bloomberg*, 29 May 2015. Available from <http://www.bloomberg.com/news/articles/2015-05-28/somalia-may-pay-90-of-oil-revenue-to-explorer-under-draft-deal>.

⁸⁹ AMISOM Daily Media Monitoring, 31 May 2015. Available from <http://somaliamediamonitoring.org/june-1-2015-morning-headlines/>.

the African Development Bank, was in the process of assigning a legal consultant to assist the Ministry in developing a model PSA for Somalia.⁹⁰

Data room

128. Negotiations with Soma have taken place in a context of fundamental disparity, in which only one side, Soma, has access to the seismic survey data.⁹¹

129. Under the terms of the 6 August 2013 SOA, Soma was required to turn over the data obtained from its offshore seismic survey to the FGS “within a reasonable time”. Although the survey was completed by June 2014, the company has yet to fulfil this obligation. Soma has justified the delay by referencing the lack of a data room at the Ministry, where the data may be stored properly.

130. A February 2015 internal confidential report,⁹² written by an independent legal advisor to the Ministry and on file with the SEMG, demonstrates that Ministry officials were well aware of one-sided nature of the PSA negotiation. “The Somali government”, the report concluded, “without any knowledge of the data or its contents and conclusions, is negotiating in the blind”.

131. In a letter dated 17 October 2014, signed by Director General Hassan, Soma agreed to pay the costs of “rebuilding and refurbishment of that part of the Ministry Building that will house the data room in Mogadishu” up to a total of USD 100,000. The Ministry confirmed receipt of these funds into its CBS account on 18 December 2014. In February 2015, Soma requested an update from the Ministry on how the company’s funds had been disbursed. A 3 March 2015 letter to Soma, signed by Jabril Mohamoud Geeddi, reported that “the funds are still in the above mentioned account as we have not yet began working on the project as the site for construction is currently occupied by Internally Displaced Persons (IDPs)”.⁹³

132. When interviewed by the Monitoring Group on 11 June 2015, Director General Hassan acknowledged that no further progress had been made towards establishing a data room on the Ministry’s premises. Hassan further stated that he lacked “a concept of what kind of room we need for data”. Hassan could not account for the USD 100,000 transferred by Soma and referred the SEMG to Jabril Mohamoud Geeddi. Geeddi has not responded to the Group’s request for an interview.

133. The Monitoring Group subsequently obtained records for the Ministry’s Central Bank account (#1009) that demonstrate that the funds allocated for the data room had been withdrawn by the middle

⁹⁰ SEMG interview with H.E. Mohamed Mukhtar, 29 June 2015.

⁹¹ A London-based oil and gas analyst interviewed by the Monitoring Group on 3 June 2015 referred to this state of affairs as “unconscionable”.

⁹² Report on file with the Monitoring Group since 9 September 2015.

⁹³ A copy of this letter is provided in annex 2.5.o.

of March 2015. As there are no names corresponding to the withdrawal entries in the records, the Group has been unable to determine who withdrew the funds or for what purpose.

Pattern of corruption

134. The Monitoring Group has obtained evidence suggesting that requests for ‘capacity building’ may form part of a pattern of corruption within the Ministry.

135. The Group has in its possession a Memorandum of Understanding (MOU),⁹⁴ dated 24 November 2014, between the Ministry and Allied Petroleum (SO) Corp., a Dubai-based petroleum exploration company “supported by Middle Eastern Sovereign Wealth Funds and major US Banks”.⁹⁵ Former Minister Daud Mohamed Omar met with Allied Petroleum CEO Justin Dibb and COO Andrew Robinson in Abu Dhabi on 5 May 2014. At that meeting, the company expressed its interest in signing PSAs for four blocks in the Jora region, proximate to the Kenya-Somalia border. Before agreeing to any PSA terms, Director General Hassan insisted that Allied Petroleum provide ‘capacity building’ support to the Ministry.

136. Subsequent to that meeting, Hassan sent the text of a proposed MOU to Allied Petroleum. The Allied Petroleum MOU bore many similarities to the Soma MOU, with a number of the same clauses. For instance, the MOU stipulated that Allied Petroleum would pay the salaries of eight “consultants, advisors, or employees engaged by the Ministry”, to a maximum of USD 5,000 each per month over a 24-month period. It also stipulated that Allied Petroleum was to pay for “the establishment of a data room”, a project towards which Soma had already committed USD 100,000. The MOU also identified an International Bank of Somalia (IBS) account to receive the ‘capacity building’ funds, thereby bypassing the Central Bank (see annex 2.5.q for the details of the Ministry’s IBS account).

137. The terms of the MOU make it clear that the proposed Capacity Building Agreement was intended to be a *quid pro quo* for the Ministry’s granting of offshore PSA rights to Allied Petroleum; paragraph 11 states: “*The Commencement Date of the MoU shall be the date, being 90 days following signature of PSA’s covering Offshore Jor[a] A, B, C, D*”. Per the terms of the Evaluation Area Extension agreement with Soma, however, the Ministry had already granted exploration rights of the entire Jora region to Soma on 8 May 2014.

138. Although Director General Hassan and CEO Justin Dibb signed the MOU with Allied Petroleum on 24 November 2014, it appears that it was never implemented.

139. The Ministry also approached Royal Dutch Shell plc with demands for ‘capacity building’. In multiple emails dating back to May 2014, Director General Hassan repeatedly reminded Shell of its

⁹⁴ The Allied Petroleum MOU is attached in annex 2.5.p.

⁹⁵ Quoted from Allied Petroleum’s company profile.

capacity building obligations – including granting scholarships to Somali students – as stipulated in the pre-civil war Somali Government’s 1988 Concession Agreement with Pecten Somalia Co. (a subsidiary of Shell). In a 20 November 2014 email to Menno DeRuig, an Exploration Manager for Shell covering Sub-Saharan Africa, Hassan wrote:

We repeatedly ask you issue [sic] a letter for sponsoring of university students, I don't [know] what is [sic] the difficulties you have and you didn't come back to us... The attached is [sic] the eligibility letters for some of the students so please you either directly communicate to the university and ask to proceed convincing [sic] that you are sponsoring or simply issue letter to sponsor to [sic] deal with them.

140. Attached to the email were admission letters from USCI University in Kuala Lumpur for four Somali students: Abdirahman Farah Abdi, Asho Osman Abdi, Rakia Farah Abdi, and Salman Osman Abdi. All four are children of Director General Hassan. Examination of email correspondence by the SEMG has revealed that each student’s admission to USCI University had been arranged through the intercession of Polaris Energy Sdn Bhd, a Malaysian oil company with which Hassan and other members of the Ministry had held meetings in Kuala Lumpur in September 2014.

141. On 24 November 2014 DeRuig responded to Hassan with an extensive list of documentation requirements, and also informed him that Shell would be unable to fund training programmes longer than one year in duration. The Monitoring Group is unaware of any subsequent attempts by Hassan to arrange for Shell to fund his children’s education.

Soma’s payments to an FGS legal advisor

142. The Monitoring Group has confirmed that Soma made payments to a long-standing FGS legal advisor, the Canadian lawyer J. Jay Park, QC, between 3 June 2013 and 6 August 2013.

143. The FGS’ relationship with Park long pre-dated the existence of the Capacity Building Agreement and the signature of the Soma SOA on 6 August 2013. Between 2007 and August 2012, Park served as an oil and gas advisor for the Somali Transitional Federal Government (TFG), during which time he was a member of the Petroleum Law Team responsible for drafting the 2008 legislation. In early 2013, Park was implicated in a petroleum bribery scandal in Chad two years earlier, where he had allegedly facilitated the transfer of USD 2 million to the wife of a diplomat.⁹⁶ In April 2013, Park announced his retirement from his firm, Norton Rose Canada LLP. In June 2013 he founded his own entity, Petroleum Regimes Advisory Ltd. (PRA), and continued as an official advisor to the FGS, a role he exercised during the SOA negotiations with Soma. In its 2014 report (S/2014/726), the Monitoring Group identified Jay Park, along with Dr. Abdullahi Haider Mohamed,

⁹⁶ Jacquie McNish, Carrie Tait And Kelly Cryderman, “Bay Street law firms advised Griffiths on Chad deal”, *The Globe and Mail*, 26 January 2013. Available from <http://www.theglobeandmail.com/report-on-business/industry-news/the-law-page/bay-street-law-firms-advised-griffiths-on-chad-deal/article7890162/>.

as a “key architect” of the Soma deal on the FGS’ side.⁹⁷ In 2013, one of Soma’s own representatives told an international consulting firm that Park had a role “to protect all interests” – both those of the FGS and Soma – during the SOA negotiations.⁹⁸

144. In a letter to the SEMG dated 1 July 2015, Soma acknowledged that it had paid Park’s fees during the SOA negotiation process, despite the apparent conflict of interest doing so entailed:

It was of the utmost importance for Soma Oil & Gas and the Federal Government, that both parties had independent legal advice during the negotiations. As the Federal Government was unable to pay for this advice which transpired late in the negotiations, the Federal Government asked if Soma would cover its legal expenses. The Company’s board took extensive independent legal advice before proceeding to do so.⁹⁹

145. Park acknowledged that his firm PRA had received USD 494,564.85 from Soma, through the then-Ministry of National Resources, for legal services rendered from 3 June 2013 to 6 August 2013.¹⁰⁰ Park informed the SEMG that on 6 August 2013 – the same day the SOA was signed – then-Minister Abdirizak Omar Mohamed “issued a written direction to Soma to pay the fees associated with our work for the FGS in relation to Soma”.¹⁰¹

146. Soma failed to provide a response to the Monitoring Group’s inquiry regarding the size of the payment the company had made to Park.¹⁰² However, both Soma and Park confirmed that the company had issued payment to PRA on 18 December 2014.¹⁰³ Between 6 August 2013 and 18 December 2014 Park continued to legally advise the Ministry on numerous matters, including the Capacity Building Agreement. PRA remains on retainer with the Ministry as of 19 July 2015, though Park told the Monitoring Group that the last legal request he had received from the Ministry was in March 2015.¹⁰⁴

147. Despite the fact that Park’s payment was contingent on the Ministry signing the SOA – Soma had no reason to pay his fees otherwise – both Soma and Park have maintained that their arrangement did not represent a conflict of interest.¹⁰⁵ However, the February 2015 report by the Ministry’s legal

⁹⁷ See S/2014/726, annex 5.1.

⁹⁸ 2013 interview with Adam Smith International for an early draft of its report titled “Needs Assessment for the Extractives Industry in Somalia”.

⁹⁹ S/AC.29/2015/NOTE.25/Add.4, 1 July 2015.

¹⁰⁰ Letter from Jay Park to the SEMG, 19 July 2015.

¹⁰¹ Letter from Jay Park to the SEMG, 19 July 2015. Park’s account was confirmed by Soma in the company’s 24 July 2015 letter to the Group.

¹⁰² Letter from Soma to the SEMG, 24 July 2015.

¹⁰³ Letter from Jay Park to the SEMG, 19 July 2015; letter from Soma to the SEMG, 24 July 2015.

¹⁰⁴ Letter from Jay Park to the SEMG, 19 July 2015.

¹⁰⁵ Ibid.; “U.N. monitors accuse British oil firm of ‘payoffs’ to Somali officials”, *Reuters*, 4 August 2015. Available from <http://uk.reuters.com/article/2015/08/04/uk-un-somalia-soma-idUKKCN0Q829Q20150804>.

advisor also flagged the issue of Park's conflict of interest, and suggested that the FGS may not have received "adequate and effective legal representation" during the SOA negotiations.¹⁰⁶

Engagement with Soma and FGS officials

148. The Monitoring Group contacted each of the Ministry officials profiled above, informing them of its investigations and that their names will appear in this communication to the Committee. As of 24 July 2015, Farah Abdi Hassan, Mohamed Ali-nur Hagi, Dr. Abdi Mohamed Siad, Abdirizak Hassan Awed, Jay Park, and Mohamed Yousuf Ali had been interviewed by the Group.

149. In a June 2015 interview with the Monitoring Group, H.E. Mohamed Mukhtar, FGS Minister of Petroleum and Mineral Resources, categorised Soma's Capacity Building Agreement as furnishing "basic support salaries for these individuals that we need at the Ministry, but cannot afford to employ". He also assured the Group that Soma had received no benefit, and would receive none in future, as a result of payments the company had made to the Ministry. Minister Mukhtar further stated that he would entertain "no discussion...that those who were paid had, or will have, any influence on oil deals".¹⁰⁷

150. On 18 June 2015, the Monitoring Group sent a letter to Soma CEO Robert Sheppard, requesting that the company provide information on a number of the matters discussed above.¹⁰⁸ Soma sent a reply to the Monitoring Group on 1 July 2015 and another on 24 July in response to the Group's follow-up questions, much of the content of which has been cited in the preceding discussion.

Background: the oil and gas sector in Somalia

Oil and gas as a threat to peace and security

151. The SEMG discussed the threat to peace and security posed by the extractives sector in Somalia in its report in 2013 (S/2013/413). The Group highlighted both the risks of corruption in the sector, and the shortcomings in transparency and capacity of Somalia's petroleum institutions: the Somalia Petroleum Corporation and Somali Petroleum Authority. It therefore recommended "urgent international support to the Somali Government to strengthen capacity within the SPA and to create an independently managed cadastre of oil licences, which should be linked to a clear financial trail for any signature fees collected during any licensing and re-licensing of oil acreage".

¹⁰⁶ Abdulhaliim Abdurahman, "Confidential Legal Assessment of Soma Oil And Gas's SOA, PSA 1, and Proposed new PSA", 6 February 2015. This report is on file with the Monitoring Group.

¹⁰⁷ SEMG interview with H.E. Mohamed Mukhtar, 29 June 2015.

¹⁰⁸ S/AC.29/2015/SEMG/OC.23, 18 June 2015.

152. The Monitoring Group's 2014 report (S/2014/726) described the lack of transparency and failure to obtain parliamentary approval prior to the awarding of the Soma contract.¹⁰⁹ In the context of both the Soma investigation and investigations into oil exploration and concessions elsewhere in Somalia, the SEMG specifically recommended "that the Security Council consider deciding in a resolution to request a moratorium on all oil licensing until a legal understanding is reached between the regional and federal authorities in respect of ownership of natural resources in Somalia".

153. In April 2014 Adam Smith International, an international consulting firm, produced a report titled "Needs Assessment for the Extractives Industry in Somalia", commissioned by the UK Department for International Development. Though never published, the report offered similar recommendations: the establishment of an Extractives Technical Advisory Panel consisting of international and national experts, and the provision of long-term and significant technical support to Somali institutions engaged in the extractives sector.

154. On Soma specifically, the report notes: "We received unverified information that some pre-1991 license holders had offered to share geological data with FGS but withdrew these offers when the Soma Oil & Gas deal focusing on data acquisition was signed. Some have also offered capacity building support, which has not yet been taken on by FGS".¹¹⁰ Under a chapter dedicated to transparency and accountability, the report continues: "The SOA between the Federal Government of Somalia and UK Soma Oil & Gas awarded through direct negotiations has raised serious concerns amongst stakeholders, including the industry, about the Government's commitment to transparent and fair management of its extractives sector".

155. The FGC Reviews of Public Sector Contracts and Concessions reached a similar conclusion: "In countries with no previous petroleum discoveries, the approach taken to exploration is similar to what we now see in Somalia. Investors submit unsolicited applications to develop production blocks, leading to direct negotiations. These generally lack transparency and accountability, and will usually result in sub-optimal deals... Given these considerations, and the risks to the country of allowing an expansion of ad hoc licensing, it would be prudent for the Federal Government to postpone direct negotiations on PSAs until a new legal and fiscal framework for the sector has been established".¹¹¹

Internal regulation

156. The Somalia Petroleum Authority (SPA) was legally established by the 2008 Petroleum Law (Article 19) to serve as the "competent regulatory authority to regulate Petroleum Operations" replacing the function of the then-Ministry of National Resources' internal Petroleum Regulatory

¹⁰⁹ See S/2014/726, annex 5.1.

¹¹⁰ Adam Smith International, "Needs Assessment for the Development of Somalia's Extractive Industries", April 2014.

¹¹¹ "FGC Reviews of Public Sector Contracts and Concessions", 8 January 2015.

Affairs Department. The SPA was to be given the power to grant certain contractual concessions to oil and gas firms, including Reconnaissance Authorisations, PSAs, and Surface Access Authorisations. It was also mandated to investigate individuals who contravened the Law, and entities contravening Authorisation conditions, independently of the Ministry.

157. The Petroleum Law directed the Somali Government to create the SPA once it was satisfied that “the quantity of Petroleum Operations in Somalia [were] sufficient to justify the costs of establishing [it]”. Despite significant interest from numerous oil and gas companies – including both oil majors still holding rights to pre-Somali civil war *force majeure* blocks, and smaller exploration companies¹¹² – the FGS has yet to establish the SPA. As a result, the Ministry of National Resources granted Soma both the SOA and Reconnaissance Authorisation, as well as conducted negotiations on PSAs. Its successor as of January 2014, the Ministry of Petroleum and Mineral Resources, has negotiated subsequent arrangements.

158. Even in the absence of the SPA, the 2008 Petroleum Law requires the FGS under Article 44 to make “regular publication of all material Petroleum-related payments by Authorised Persons to the Government and all material revenues received by the Government from Authorised persons to a wide audience in a publicly accessible, comprehensive and comprehensible manner”.¹¹³ To date, the details of payments made by Soma to the FGS have not been made public.

¹¹² International oil and gas companies with which the FGS has conducted recent negotiations include: Allied Petroleum (SO) Corp., Amsas, BGP Inc., Kilimanjaro Capital, Milio International, Mubadala Petroleum, New Age Limited, Royal Dutch Shell plc, Schlumberger Limited, Spectrum Geo Ltd., and Total S.A.

¹¹³ The same article requires that “[a]ll material payments and revenues are to [be] reconciled by a credible, independent administrator appointed by the Government, applying international auditing standards”.

Annex 2.5.b: Nairobi Fairmont Hotel Meeting Photograph



Annex 2.5.c: First Amendment Agreement

FIRST AMENDING AGREEMENT TO SEISMIC OPTION AGREEMENT

Dated 10th March 2014

- (1) GOVERNMENT OF THE FEDERAL REPUBLIC OF SOMALIA REPRESENTED BY HE DAUD MOHAMED OMAR, MINISTER OF PETROLEUM AND MINERAL RESOURCES
- (2) SOMA OIL & GAS EXPLORATION LIMITED, A WHOLLY OWNED SUBSIDIARY OF SOMA OIL & GAS HOLDINGS LIMITED REPRESENTED BY THE RIGHT HONOURABLE THE LORD HOWARD OF LYMPNE CH, QC

**FIRST AMENDMENT AGREEMENT
TO SEISMIC OPTION AGREEMENT**

Dated 10th March 2014

Between:

- (1) **The Government of the Federal Republic of Somalia** represented for the purpose of this agreement by the Minister of Petroleum and Mineral Resources (the "**Government**"); and
- (2) **Soma Oil & Gas Exploration Limited, a wholly owned subsidiary of Soma Oil & Gas Holdings Limited** represented by The Right Honourable The Lord Howard of Lympne CH, QC, incorporated under the laws of England and Wales and having its registered office at 1 Finsbury Circus, London, EC2M 7SH, United Kingdom ("**Soma**").

RECITALS

Whereas:

- (A) Pursuant to the Seismic Option Agreement dated 6 August 2013, Soma is conducting a seismic survey across the Exploration Area within the Federal Republic of Somalia's lands and territorial waters with the agreement and at the direction of the Government, in accordance with Reconnaissance Authorisation dated 9 January 2014 entered into between the Government and Soma.
- (B) In conducting seismic surveying in The Federal Republic of Somalia, Soma has engaged the services of a number of experienced contractors to complete the work.
- (C) The work performed to date under the seismic survey has identified a number of operational issues which the parties agree should be resolved by amendments to the SOA.
- (D) The Government requires capacity assistance in connection with the supporting work of the Government in relation to the seismic survey and other initiatives of the Government in relation to petroleum affairs, and Soma has agreed to provide capacity assistance to the Government based on request letters from the Ministry.

Now it is hereby agreed as follows:

1 Definitions and Interpretation

In this Agreement, terms defined in the SOA shall have the meanings given to them in the SOA. The provisions of Clauses 1.2 to 1.8, 10.7, 7 and 15, 22, 23 and 25 to 29 of the SOA apply equally to this Agreement.



Page 1

2 Seismic Operations Matters

- 2.1 If Soma or any of its current Subcontractors desire to retain any other Subcontractors to assist in the execution of the Exploration Programme, the prior written consent of the Government shall be required.
- 2.2 All Subcontractors must comply with Somalia and relevant international laws, including Corrupt Practices Laws and Soma shall be responsible for performance of such Subcontractors in relation to the Exploration Programme, in addition to its obligations under Article 10.6 of the SOA. Any company which Soma or a Subcontractor requests to become a Subcontractor shall be in compliance with Somali and relevant international laws including Corrupt Practices Laws at and prior to the time of the request.
- 2.3 The Parties shall establish a regular meeting schedule to discuss the status of the Exploration Programme. Meetings shall occur at least once every two months, at the Government's offices in Mogadishu or such other location as the Parties may agree. The Government shall propose a schedule of meeting dates and times consistent with this Clause and Soma shall provide the first draft of the agenda for each meeting.
- 2.4 Soma shall provide written reports on the status of the Exploration Programme to the Government on a weekly basis during the conduct of the seismic survey, and on a monthly basis following completion of the seismic survey.
- 2.5 Soma shall provide prompt written notice to the Government of the occurrence of any of the following:
- 2.5.1 commencement of any material operations during the Exploration Programme;
 - 2.5.2 suspension or termination of the Exploration Programme (in addition to the Notice of Completion under the SOA);
 - 2.5.3 any significant incidents which occur during the prosecution of the Exploration Programme; and
 - 2.5.4 Contact by any third parties expressing interest in the Exploration Programme.

Soma shall direct any third party expressing interest in the Exploration Programme to the Government as the owner of the Data.

3 Government Capacity Support

- 3.1 The Ministry of Petroleum and Mineral Resources (the "Ministry") requires support for its role in connection with the performance of its functions in relation to the Exploration Programme and its other functions under the Petroleum Law 2008, in the following areas:

- 3.1.1 rehabilitation of the Ministry's offices in Mogadishu;
- 3.1.2 furnishing and equipping the Ministry's office, including establishment of a data room;

Page 2



Annex 2.5.d: Capacity Building Support Request Letter

Jamhuuriyadda Federaalka Soomaaliya
Wasaaradda Batroolka & Macdanta
Xafiiska Wasiiirka



جمهورية الصومال الفيدرالية
وزارة البترول والثروة المعدنية
مكتب الوزير

Federal Republic of Somalia
Ministry of Petroleum & Mineral Resources
Office of the Minister

MPMR/OM/00023/2014 **Date:15/03/2014**

Soma Oil & Gas Exploration Limited
1 Finsbury Circus
London EC2M 7SH
United Kingdom
For the attention of: **The Right Honorable**
The Lord Howard of Lympne CH, QC
Chairman

Mr. Basil Shibliq
Executive Director

Mr. Robert Sheppard
C.E.O,

Fax: **+44 (0)207 329 7100**
E-mail: **rhoward@somaoilandgas.com**
bshibliq@somaoilandgas.com
rsheppard@somaoilandgas.com

Dear Sirs:

Re: Ministry Capacity Support Request

The Ministry of Petroleum and Mineral Resources (the "Ministry") is pleased with the progress of the Exploration Program of Soma Oil & Gas Exploration Limited ("Soma") under the Seismic Option Agreement dated 6 August 2013 between the Ministry and Soma. The work that Soma is conducting is generating useful offshore seismic information for Somalia. However, there is a growing need for the Ministry to manage the information expected from the seismic activities.

The Ministry hereby requests that Soma provide financial support to the Government for its role in connection with the performance of its functions in relation to the Exploration Program and its other functions under the Petroleum Law 2008, in the following areas:

- a. rehabilitation of the Ministry's offices in Mogadishu;
- b. furnishing and equipping the Ministry's office, including establishment of a data room;
- c. the hiring and contracting of qualified technical staff and expert consultants and advisors, inside and outside of Somalia, including covering the costs of
 - i. salary or consulting fees;
 - ii. benefits;

Wasaaradda Batroolka & Macdanta, وزارة البترول والثروة المعدنية, Ministry of Petroleum & Mineral Resources
Email: daudbisinle@gmail.com, Tel: 00252-61-2828282



- iii. accommodation allowance; and
- iv. business related travel;
- d. training programs for Ministry staff;
- e. Petroleum regime development programs focused on the following objectives:
 - i. harmonization of Somalia's constitutional provisions governing petroleum and minerals issues;
 - ii. development of petroleum policy, petroleum law, petroleum regulations, and model host government contracts; and
 - iii. conferring and developing consensus with governments of regional member states; and
- f. Other areas as may be agreed in writing by Government and Soma.

The Ministry will make written requests to Soma for each program, providing the amount required and defining the use to which it is to be put as listed above. The Ministry will provide supporting information sufficient to permit Soma to confirm the intended use of the assistance given to the ministry. The written request shall indicate the manner in which such payment will be applicable with Government practices. No payments shall be made by Soma directly to the Ministry or any individual.

Where support is requested under Clause (c) above, the Government shall provide the following information to Soma:

- A. The names of the proposed technical staff, consultants or advisors, and the process followed by the Ministry in selecting such persons;
- B. The salary or consulting fees of such persons;
- C. The function, role and terms of reference for the position;
- D. The duration of the appointment.

Following completion of the expenditure by the Government of any amounts paid by Soma, the Ministry to confirm in writing to Soma the usage of funds for such designated purpose.

Thank you for your consideration, and we look forward to hearing from you.

Yours Sincerely,

H.E. Daud Mohamed Omar
The Minister
Ministry of Petroleum & Mineral Resources
Federal Republic of Somalia



Annex 2.5.e: Capacity Building Agreement



To:

The Minister of Petroleum and Mineral Resources of the Government of the Federal Republic of Somalia
Mecca al-Mukarama Road
Ministry of Telecommunications and Postal Services Building
First floor, Right Wing
Mogadishu
Federal Republic of Somalia

For the attention of: HE Daud Mohamed Omar

Dated: 25th April 2014

Dear Minister

Capacity Building Arrangements

We refer to the Seismic Option Agreement dated 6 August 2013 between the Government of the Federal Republic of Somalia (the "**Government**") and Soma Oil & Gas Exploration Limited ("**Soma**") (a wholly owned subsidiary of Soma Oil & Gas Holdings Limited) (the "**SOA**"). In this side letter, terms defined in the SOA shall have the meanings given to them in the SOA and the provisions of clauses 1.2 to 1.8, 7, 10.7, 11, 15, 21, 22, 23 and 25 to 29 of the SOA apply equally to this side letter.

1 Capacity Building

- 1.1 We understand that the Ministry of Petroleum and Mineral Resources of the Federal Republic of Somalia (the "**Ministry**") requires additional financial support for its role in connection with the performance of its functions in relation to the Exploration Programme and its other functions under the Petroleum Law 2008 of the Federal Republic of Somalia including the hiring and contracting of certain qualified technical staff, consultants and advisors, inside and outside of Somalia.
- 1.2 According to the terms defined in the SOA and subject to the conditions of this side letter, Soma agrees to pay the salary costs of up to a maximum of six (6) such staff, consultants and advisors such salary in each case not to exceed [\$5,000] per month for each person ("**Capacity Support Salaries**") over a 12 month period starting from a date to be agreed between the parties to this side letter. It also pays the cost of office equipment, transportation and other working tools needed which shall not exceed lump sum of [\$40,000]. Soma agrees therefore to pay a total aggregate amount in relation to the Government's request for this specified capacity support not exceeding [\$400,000] (the "**Total Capacity Support**").
- 1.3 The Ministry shall make a written request to Soma for each payment under this side letter, providing details of the amount required and identifying in sufficient detail the use to which

A handwritten signature in blue ink, appearing to be "RUS", is written over the end of the text in clause 1.3.

such funds will be put, including the information required by paragraph 1.6 of this side letter. Each such written request shall be signed by the Minister of Petroleum and Mineral Resources of the Federal Republic of Somalia (the "Minister").

- 1.4 Soma shall make the payment of the Capacity Support Salaries, as agreed between Soma and Ministry to be made pursuant to this side letter, to the designated official bank account of the Government on the [●] day of each month following the date of this side letter the details of which are as follows:

Bank: [Central Bank of Somalia]
Sort Code: [Ministry of Petroleum & Mineral Resources]
Account Number: [1009]
Reference: [Ministry of Petroleum & Mineral Resources]

- 1.5 The Government shall provide supporting information sufficient to allow Soma to confirm the use of each payment made by Soma pursuant to this side letter.
- 1.6 The Government shall provide [monthly] written reports to Soma in relation to the Capacity Support Salaries which reports shall provide the following information to Soma in respect of the Capacity Support Salaries:
- 1.6.1 The names of the proposed technical staff, consultants or advisors, and the process followed by the Ministry in selecting such persons;
- 1.6.2 The function, role and terms of reference for the position;
- 1.6.3 The duration of the appointment; and
- 1.6.4 A copy of the contract of employment for each such proposed member of staff (whose salary costs are to be paid for by Soma).
- 1.7 Each contract for services for each person as contemplated by this side letter shall be on terms and conditions that are in all material respects standard in relation to their role and status.
- 1.8 Following the completion of expenditure by the Government of the Total Capacity Support paid by Soma, the Ministry shall confirm in writing to Soma the usage of funds for such designated purpose.
- 1.9 The Government warrants and undertakes to Soma that it shall not enter into any contract or arrangement with any party in respect of the provision of any service, thing real or personnel as contemplated by this side letter which party constitutes a "connected person".
- 1.10 For the purposes of paragraph 1.9 "connected person" is any person, company, other organisation or legal entity directly or indirectly controlled by any member of the Government or who is otherwise directly or indirectly related to or connected to any member of the Government.
- 1.11 The Ministry confirms that they will comply with all relevant international Corrupt Practices laws (as defined in clause [1.10] of the SOA) in connection with:
- 1.11.1 the execution of this side letter, including the hiring and contracting of technical staff, consultants and advisors, inside and outside of Somalia;

- 1.11.2 the performance of its functions in relation to the Exploration Programme; and
- 1.11.3 its other functions under the Petroleum Law 2008 of the Federal Republic of Somalia.

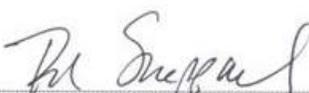
2 Off-set against PSAs

- 2.1 SOMA considers that all payments actually made by Soma pursuant to this side letter will be off-set against the Contractor's (as defined in the PSA) obligations set out in Sections 22.3 (Rental) and 22.4 (Training Fee) under the first [four (4)] PSA(s) to be executed (or as such Sections may be re-numbered).
- 2.2 For the avoidance of doubt, no payments actually made by Soma pursuant to this side letter may be off-set against the Contractor's obligations set out in Section 22.1 (Signature Bonus), in the amount of \$500,000 each, under the [first [four (4)] PSA(s) to be executed] (or as such Section may be re-numbered).

Please confirm your acknowledgement of the proposals set out in this side letter by countersigning this side letter and returning it to us.

Yours sincerely

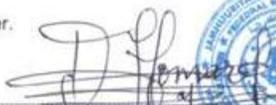
Signed by
Robert Sheppard
duly authorized for and on behalf of
Soma Oil & Gas Exploration Limited



Chief Executive Officer

We acknowledge the proposals set out in the above side letter.

Signed by
HE Duad Omar Mohamed
duly authorized for and on behalf of
The Federal Republic of Somalia by its
Minister of Petroleum & Mineral Resources



Minister of Petroleum & Mineral Resources





Annex 2.5.f: Capacity Building Invoice

Jamhuuriyadda Federaalka Soomaaliya
Wasaaradda Batroolka & Macdanta
Xafiiska Agaasimaha Guud



جمهورية الصومال الفيدرالية
وزارة البترول والثروة المعدنية
مكتب المدير العام

Federal Republic of Somalia
Ministry of Petroleum & Mineral resources
Office of the Director General

Tixraac#WMB/XAG/00073/2014

Taariikh: 08/07/2014

Attention: Philip Wolfe
Soma Oil & Gas Exploration Limited
2nd Floor, 6 Duke Street St James's
London SW1Y 6BN
United Kingdom
pwolfe@somaotilandgas.com

Hassan Khaire
hkhaire@somaotilandgas.com

Invoice No: 002
Date: 08July 2014

Capacity Building

Pursuant to the Capacity Building Arrangements between Soma Oil & Gas and the Ministry of Petroleum & Mineral Resources, Federal Government of Somalia as set out in the letter dated 25 April 2014 please pay the following amounts:

Capacity Support Salaries for 6-months (6X\$30,000.00) – 2014	US\$180,000.00
Office equipment, transportation & other working equipment	US\$0000.00
TOTAL	<u>US\$180,000.00</u>

Due date: Within 15 days of the above date.

Payment instructions

Bank Name: T.C.ZIRAAT BANKASI A.S.
Swift Code: TCZBTR2A
Address: General Mudurlugu Hazine Operayolari Bolom Baskanligi
Maslak Mah. Eski Buyukdere Cad. No: 39 B Block 34398 sisi-Istanbul, Turkey
Account Number: USD # 999022535001
IBAN: TR360001000864999022535001

Special instructions: Bank Name: Central bank of Somalia;
Account number: 1009,
Ministry of Petroleum & Mineral Resources, Federal Republic of Somalia

Signed: 
Name: Jabril Mohamoud Geddi
Title: Director of Administration & Finance Department

Signed: 
Name: Dr. Farah Abdi Hassan
Title: Director General



Wasaaradda Macdanta & Batroolka,
Tel# 252-61-5522003

وزارة البترول والثروة المعدنية
E-mail: faurweyne@mpotr.mn.so

Ministry of Petroleum & Mineral Resources,
faurweyne@mpotr.mn.so, www.mpoetr.mn.so

Annex 2.5.h: Farah Abdi Hassan contract

Jamhuuriyadda Federaalka Soomaaliya
Wasaaradda Batroolka & Macdanta
Xafiiska Agaasimaha Guud



جمهورية الصومال الفيدرالية
وزارة البترول والثروة المعدنية
مكتب المدير العام

Federal Republic of Somalia
Ministry of Petroleum & Mineral resources
Office of the Director General

EMPLOYMENT AGREEMENT

This agreement is made as of **1st March 2014** (the "Effective Date") between THE MINISTRY OF PETROLEUM AND MINERAL RESOURCES, of, referred to below as "The Ministry of Petroleum and Mineral Resources," and Dr. Farah Abdi Hassan, of, referred to below as "Employee":

The Ministry of Petroleum and Mineral Resources desires to hire or continue to employ Employee, and Employee desires to work or continues to work for The Ministry of Petroleum and Mineral Resources in accordance with the terms and conditions set forth below. Therefore, the Ministry of Petroleum and Mineral Resources and Employee agree as follows:

Term and Nature of Employment:

1. The Employee shall enter into the employment of the Ministry of Petroleum and Mineral Resources in the capacity of Director General for the Ministry of Petroleum and Employee shall perform the duties of that position along with such other duties as may be assigned by the authority of the Ministry of Petroleum and Mineral Resources from time to time. Employee shall at all times adhere to the Ministry of Petroleum and Mineral's policies, rules and regulations.
2. This Agreement shall commence as of the Effective Date and shall continue for a period of one (1) year, and, thereafter, shall continue for successive one year periods (it expires on February 28th 2015) unless otherwise terminated. Notwithstanding the foregoing, it is understood that Employee's employment with the Ministry of Petroleum and Mineral Resources is at all times strictly "at-will," and this Agreement and the employment relationship between the parties may be terminated by either Employee or the Ministry of Petroleum and Mineral Resources at any time, for any reason, with four weeks prior notice to the other party.

Devotion of Full Time Employment:

The Employee shall devote the whole of his/her time, attention, and energies to the performance of his/her duties, and shall not, either directly or indirectly, alone or in partnership, be connected with or concerned in any other competing business or pursuit during the term of employment.

Benefits (Salary):

For all services rendered Employee shall receive the sum of \$36,000.00/ (thirty six thousand American Dollar only) per year, payable in regular installments in accordance with Ministry's customary payroll practices, and subject to all applicable withholding for federal, state and local taxes ("Base Salary").

Confidentiality/Non-Disclosure:

1. All records, documents, data, and information, in any form, whether an original or any copy, written, printed, memorized, computerized, electronic, digital, verbal, handwritten or

[1]

reproduced in any form, format, medium, record, recording, document or database, are confidential and are the sole property of the Ministry of Petroleum and Mineral Resources (the "Confidential Information"). The Confidential Information includes, but is not necessarily limited to:

- A. Names, addresses, contact information, account numbers, office managers, purchasing agents, purchasing preferences/requirements, sales volume, buying cycles, quantity, quality, grade, pricing, payment terms, discounts, credit information/history, equipment, inventory, service contracts/records and other information regarding accounts, prospects, leads, referrals, reassignments, walk-ins, call-ins, write-ins, and other, similar, related and derivative relationships;
 - B. Employee and personnel names, addresses, contact information, commissions, job descriptions, job titles, duties, responsibilities, performance evaluations, rankings and other similar, related personnel information;
 - C. Financial, documents and records, strategic and financial statements and plans, revenues, operating expenses, balance sheets, assets, liabilities, equity, debt, and all similar, related or derivative financial plans, proposals or analysis;
 - D. Business and project plans, models or strategies, marketing methodologies, plans, strategies, proposals, acquisition, partnerships, consolidation and other, similar, related or derivative plans;
 - E. Computerized and technical information, software, hardware, technical architecture, designs, source code, functionalities, templates, paradigms, data, databases, and other, related or similar information derived therefrom; and
 - F. All intellectual and intangible property rights, patents, copyrights, trademarks, trade names, inventions, royalties, titles and rights derived therefrom, along with all other information which is not generally known to the public or within the public domain which is valuable to The Ministry of Petroleum and Mineral Resources, would be valuable to a other countries, which The Ministry of Petroleum and Mineral Resources takes reasonable measures to protect, which cannot be lawfully duplicated or easily acquired, and which was developed as a result of The Ministry of Petroleum and Mineral Resources' time, effort and expense.
2. Employee shall not divulge or disclose any Confidential Information, or allow any Confidential Information to be disclosed to any other country or any third party, either directly or indirectly, intentionally or inadvertently, by any means whatsoever, now and forever. During Employee's employment, Employee shall take all reasonable effort to maintain and preserve the confidentiality of the Confidential Information, including immediate notice to the Ministry of Petroleum and Mineral Resources of any facts or circumstances, conduct or activity which may compromise or threaten the confidentiality of the Confidential Information. Employee may use Confidential Information only in the course of fulfilling his/her duties under this Agreement, and in furtherance of The Ministry of Petroleum and Mineral Resource's interests.
3. Upon termination of employment, Employee shall not remove any Confidential Information from The Ministry of Petroleum and Mineral Resources' office or any worksite, and Employee shall immediately return any and all Confidential Information in his/her

[2]

Handwritten signatures in black ink, appearing to be initials or names, located at the bottom right of the page.

possession or control to The Ministry of Petroleum and Mineral Resources. To the extent that any Confidential Information has been disclosed to any third party, Employee shall demand its removal and return to The Ministry of Petroleum and Mineral Resources.

4. These confidentiality/non-disclosure provisions shall survive the termination of this Agreement. The parties agree that any breach or threatened breach of these provisions shall result in immediate and irreparable harm to The Ministry of Petroleum and Mineral Resources, and therefore the parties agree (and Employee expressly consents) that The Ministry of Petroleum and Mineral Resources shall be entitled to the issuance of a temporary restraining order, preliminary and/or permanent injunctive relief prohibiting any such disclosure or threatened disclosure of the Confidential Information.

NON-DISPARAGEMENT:

For a period of one (1) year following any termination of employment, Employee shall not utter, publish, communicate, or cause the communication of any statement which is defamatory, disparaging, untrue, inaccurate, misleading or otherwise may tend to cause the Ministry of Petroleum and Mineral Resources to be held in lower regard.

APPLICABLE LAW:

This Agreement shall be interpreted and enforced according to the law of the civil services (law # 11) of without regard for any conflict of laws provisions. This Agreement shall be binding upon and inure to the benefit of the Ministry of Petroleum and Mineral Resources, its successors, assigns subsidiaries, parent and holding companies, and affiliated and related entities.

REPRESENTATIONS:

Employee has been advised that he/she would be required, as a condition of employment, to sign an Agreement providing for the terms and conditions set forth herein. Employee understands that execution of this Agreement is a condition of employment with the Ministry of Petroleum and Mineral Resources, and by executing this Agreement; Employee freely and voluntarily accepts such condition.

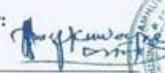
EMPLOYEE ACKNOWLEDGES BY EXECUTING THIS AGREEMENT THAT HE/SHE HAS READ AND UNDERSTANDS THIS AGREEMENT AND ALL OF ITS PROVISIONS. EMPLOYEE HAS HAD AN OPPORTUNITY TO ASK QUESTIONS ABOUT THIS AGREEMENT AND TO CONSULT WITH AN ATTORNEY OF EMPLOYEE'S CHOICE. EMPLOYEE FULLY UNDERSTANDS THE TERMS OF THIS AGREEMENT AND KNOWINGLY AND FREELY AGREES TO ABIDE BY THEM.

Signed by:



H.E. Daud Mohamed Omar
Minister
Ministry of Petroleum & Mineral Resources

Signed by:



Dr. Farah Abdi Hassan
Director General
Ministry of Petroleum & Mineral Resources



Annex 2.5.i: First page of a letter from Royal Dutch Shell plc to Dr. Abdullahi Haider Mohamed, a presidential advisor on Soma's payroll



Shell Exploration & Production

Dr. Abdullahi Haider
Petroleum & Minerals Senior Advisor
Office of the President of the Federal Republic of Somalia
Mogadishu
Federal Republic of Somalia

Shell EP Somalia B.V.
Carel van Bylandtlaan 30
2596 HR The Hague
the Netherlands
Tel: +31 70 377 4423
Fax: +31 70 447 5975

24th July 2013

Dear Dr. Haider,

LETTER OF INTENT

Further to our recent discussions with you and with His Excellency, President Hassan Sheikh Mohamud, we are pleased to submit this letter for the purpose of opening discussions on cooperating with the Federal Republic in areas important for the development of Somalia's oil and gas sector.

As we discussed, as an existing right holder of offshore blocks M-3, M-4, M-5, M-6 and M-7 in accordance with the Concession Agreement for the Exploration and Mining of Hydrocarbons dated 1 November 1988, we are pleased to have the opportunity to work with the Federal Republic in assisting to build the capacity of the government to manage, promote and develop its oil and gas resources.

Areas of support and cooperation could include:

- Capacity building of government institutions such as the Ministry of Natural Resources and Petroleum Commission
- Training and development of government staff in selected oil and gas fields as well as administration
- Assistance in organizing and managing existing oil and gas databases
- Reprocessing of existing data and advice on developing optimum future seismic surveys
- Providing advice on the development of oil and gas legislation and providing industry input to enhance industry interest in investing in the oil and gas sector
- Providing technical advice and assistance in identifying experts and possible interested parties in the study of the viability of development of the Government's onshore gasfield located near Mogadishu

Shell EP Somalia B.V.
Registered Office: The Hague; Trade Register: 27191288

Annex 2.5.k: Central Bank Withdrawal Slips

JEEGGAAN WUXUU KU WAREEGI KARA SOOMAALIYA OO KELIYA THIS CHEQUE MAY CIRCULATE IN SOMALIA		BANKIGA DHEXE EE SOOMAALIYA CENTRAL BANK OF SOMALIA	
	LAANTA <u>Muqdishu</u> BRANCH <u>18/08/2014</u>		
	X/S No <u>1009</u> C/A So.Shs.# <u>3,000/=</u>		
	Aragti ku bixiya jeeggan <u>At sight pay against this cheque</u>		
	Se.Shs.# <u>SADDEX KUM DOLLAR KELIYA</u>		
Amarka <u>MOHAMED ALI-NUR HAGI</u> To the order of			
No <u>094609</u> <i>[Signature]</i>			

JEEGGAAN WUXUU KU WAREEGI KARA SOOMAALIYA OO KELIYA THIS CHEQUE MAY CIRCULATE IN SOMALIA		BANKIGA DHEXE EE SOOMAALIYA CENTRAL BANK OF SOMALIA	
	LAANTA <u>Muqdishu</u> BRANCH <u>18/08/2014</u>		
	X/S No <u>1009</u> C/A So.Shs.# <u>3,000/=</u>		
	Aragti ku bixiya jeeggan <u>At sight pay against this cheque</u>		
	Se.Shs.# <u>SADDEX KUM DOLLAR KELIYA</u>		
Amarka <u>JABRI L MAHAMUD GEDDI</u> To the order of			
No <u>094613</u> <i>[Signature]</i>			

JEEGGAAN WUXUU KU WAREEGI KARA SOOMAALIYA OO KELIYA THIS CHEQUE MAY CIRCULATE IN SOMALIA		BANKIGA DHEXE EE SOOMAALIYA CENTRAL BANK OF SOMALIA	
	LAANTA <u>Muqdishu</u> BRANCH <u>18/08/2014</u>		
	X/S No <u>1009</u> C/A So.Shs.# <u>3,000/=</u>		
	Aragti ku bixiya jeeggan <u>At sight pay against this cheque</u>		
	Se.Shs.# <u>SADDEX KUM DOLLAR KELIYA</u>		
Amarka <u>ABDULKADIR ABUKAE HUSSEIN</u> To the order of			
No <u>094612</u> <i>[Signature]</i>			

JEEGGAAN WUXUU KU WAREEGI KARA SOOMAALIYA OO KELIYA THIS CHEQUE MAY CIRCULATE IN SOMALIA		BANKIGA DHEXE EE SOOMAALIYA CENTRAL BANK OF SOMALIA	
	LAANTA <u>Muqdishu</u> BRANCH <u>18/08/2014</u>		
	X/S No <u>1009</u> C/A So.Shs.# <u>3,000/=</u>		
	Aragti ku bixiya jeeggan <u>At sight pay against this cheque</u>		
	Se.Shs.# <u>SADDEX KUM DOLLAR KELIYA</u>		
Amarka <u>FARAH ABDI HASSAN</u> To the order of			
No <u>094610</u> <i>[Signature]</i>			

Annex 2.5.I: Forged Employee Payslip



Jamhuuriyadda Federaalka Soomaaliya
 Wasaaradda Batroolka & Macdanta

جمهورية الصومال الفيدرالية
 وزارة البترول والثروة المعدنية

Federal Republic of Somalia
 Ministry of Petroleum & Mineral Resources

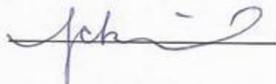
Employee payroll

V# (0056) 2014 Cheque# (103644) Month: Nov/2014

EMPLOYEE	TITLE	AMOUNT IN USD	SIGNATURE
Prof. Abdi Mohamed Siad	Senior Mineralogist.	\$4,000.00	<i>AMSija</i>
Total amount		\$4,000.00	
Comments	US\$ Four thousand for the Payment of November 2014.		
Date Paid	30/11/2014		

Prepared By:

Deputy Director and
Director of Administration
& Finance Department:



Authorized by:

Director General:





Annex 2.5.m: Evaluation Area Extension

Jamhuuriyadda Federaalka Soomaaliya
Wasaaradda Batroolka & Macdanta
Xafiiska Wasiiirka



جمهورية الصومال الفيدرالية
وزارة البترول والثروة المعدنية
مكتب الوزير

Federal Republic of Somalia
Ministry of Petroleum & Mineral Resources
Office of the Minister

Ref: MPMR/OM/00051/2014

Date: 08/05/2014

To:

Soma Oil & Gas Exploration Limited
1 Finsbury Circus
London EC2M 7SH
United Kingdom

For the attention of:

The Right Honorable
The Lord Howard of Lympne CH, QC
Chairman

Robert Sheppard
Chief Executive Officer

Mr. Hassan Khaire
Africa Regional Director

Mr. Basil Shibliq
Executive Director

Fax: +44 (0)207 329 7100

E-mail: mhoward@somaoilandgas.com
bshibliq@somaoilandgas.com
rsheppard@somaoilandgas.com
hkhaire@somaoilandgas.com

Re: **Extension Of Evaluation Area**

Dear Sirs:

The Ministry of Petroleum and Mineral Resources (the "Ministry") is pleased with the progress of the Exploration Program of Soma Oil & Gas Exploration Limited ("Soma") under the Seismic Option Agreement ("SOA") dated 6 August 2013 between the Ministry and Soma and the Reconnaissance Authorization ("RA") dated 9 January 2014. The work that Soma is conducting is generating useful offshore seismic information for Somalia.

In light of this progress, it is the desire of the Ministry that the Evaluation Area (as that term is defined in the SOA and RA) as agreed between the Ministry and Soma be expanded to include a larger area. The Ministry hereby requests that Soma include within its Exploration Program (as defined in the SOA) a 2D seismic survey that extends to the JORA Block as outlined in the attached map.

Wasaaradda Batroolka & Macdanta, وزارة البترول والثروة المعدنية, Ministry of Petroleum & Mineral Resources
Tel: 00252 61-268282, Email: info@petroleum.gov.so, newsletter@petroleum.gov.so, www.mpmr.gov.so



If Soma is prepared to consider this extension, it would be appreciated if you would advise of the design of the seismic program that you would conduct in this area. If approved by the Ministry, the Ministry will then issue either a revision to the RA or a new Reconnaissance Authorization covering the JORA Block. Also, the JORA Block will become part of the area in respect of which Soma may serve a Notice of Application for a Production Sharing Agreement pursuant to Article 2.2 of the SOA.

Thank you for your consideration, and we look forward to hearing from you.

Regards,

H.E. Daud Mohamed Omar
The Minister
Ministry of Petroleum and Mineral Resources
Federal Republic of Somalia



Annex 2.5.n: Letter on Revised Offshore PSA Fiscal Terms



The Minister of Petroleum & Mineral Resources
Government of the Federal Republic of Somalia
Mecca al-Mukarama Road
Ministry of Telecommunications and Postal Services Building
First floor, Right Wing
Mogadishu
Federal Republic of Somalia

For the attention of: HE Daud Mohamed Omar

By email daudbisinle@gmail.com
Cc Director General Farah Abdi Hassan, Ministry of Petroleum & Mineral Resources
fkurweyne@gmail.com
Abdulkadir Abdikar Hussein, Ministry of Petroleum & Mineral Resources
qaadir.abikar@hotmail.co.uk
Mohamed Hagi, Ministry of Petroleum & Mineral Resources,
mohhaggi@gmail.com
Hassan Khaire, Executive Director, Africa, Soma Oil & Gas
hkhaire@somaoilandgas.com

28 November 2014

Your Excellency,

Offshore PSA fiscal terms

The three major items that any prospective partner will evaluate as they decide whether to join Soma in exploring offshore the Federal Republic of Somalia are (i) political risk, (ii) geological prospectivity, and (iii) fiscal terms.

The international oil companies will make their own assessments of both the political risk and the geological prospectivity of the Federal Republic of Somalia.

Therefore, the most critical element (that is within the control of the host country) in attracting international investment into hydrocarbon exploration are the fiscal terms that a country offers.

These proposed fiscal terms must take account of the following considerations:

- **The basin is unproved.** The companies will need to be sufficiently attracted to take on the high risk exploration obligation. Basin-opening terms are always relatively generous; once there is success and the petroleum systems are proved, the terms can be tightened.
- **Much of the basin is in deep or ultra deep water.** The required capital investment for exploring, appraising and developing in deep or ultra deep water is considerably higher than in shallow to medium water depths.

- **Low oil prices and pressure on the IOCs capital budgets.** The IOCs have been under pressure to show more capital discipline and they have all announced cutbacks in exploration and development investments. More recently, the collapse of the oil price to under \$80/bbl has triggered a further round of cutbacks. The competition for exploration dollars will be intense.
- **Gas is particularly challenged.** The 150-200 tcf of gas offshore Tanzania and Mozambique will be competing in the global market with the growing exports from the US (first exports are in 2015). Somalia gas projects will need to be attractive compared to East Africa, especially if the gas/ LNG is to be developed in the next decade or two. In addition, gas to LNG is particularly capital intensive, and in deep water this is especially challenging.

We believe that the oil fiscal terms in the PSA template appended to the Seismic Option Agreement would need to be adjusted for PSAs located in ultra deep water, and that explicit gas fiscal terms need to be included in any offshore PSA.

Proposed offshore fiscal terms

Soma will forward you the proposed fiscal terms for oil with some adjustments and also the terms we propose for ultra deep water oil, gas and ultra deep water gas for the offshore PSAs. Together with the proposed fiscal terms, we will send you a redlined template PSA that incorporates these proposed fiscal terms.

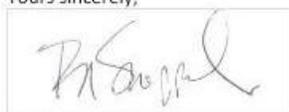
In addition to the proposed royalties and profit shares, we propose that the first term of the offshore PSA be extended from four years to five years for PSAs located in ultra deep water. This recognises the extra planning time required for drilling in ultra deep waters where wells are particularly costly (typically > US\$100 million) and only a small number of rigs have the capability to operate.

We will also send you a review of comparative fiscal terms from relevant frontier provinces and an analysis of the revenues that would come to the Federal Republic of Somalia should exploration and development be successful for four scenarios of oil, ultra deep water oil, gas and ultra deep water gas. We believe that the proposed offshore fiscal terms are a good balance between the need to attract significant frontier exploration investment and the opportunity for substantial revenues to the Federal Republic of Somalia should that exploration be successful.

Soma will be sharing these fiscal terms for the offshore PSAs with the potential partners in December 2014 in order to generate the interest necessary for them to join us in early 2015 in making applications for Production Sharing Agreements.

We stand ready to discuss these proposed fiscal terms with your team as soon as practical.

Yours sincerely,



Robert Sheppard
Chief Executive Officer
Soma Oil & Gas

Annex 2.5.o: Data Room Letter

<p>Jamhuuriyadda Federaalka Soomaaliya Wasaaradda Batroolka & Macdanta Xafiiska Agaasimaha Guud</p>		<p>جمهورية الصومال الفيدرالية وزارة البترول والثروة المعدنية مكتب المدير العام</p>
<p>Federal Republic of Somalia Ministry of Petroleum & Mineral Resources Office of the Director General</p>		
<p><i>Ref:</i> MPMR/ODG/000161/00010/2015</p>		<p><i>Date:</i> 03/03/2015</p>
<p>To: Soma Oil & Gas Exploration Limited 2nd Floor, 6 Duke Street St James's London SW1Y 6BN United Kingdom</p>		
<p>Attention: Board of Directors – Soma Oil & Gas Exploration Limited</p>		
<p><u>RE: UPDATE REPORT ON DATA ROOM IN MOGADISHU</u></p>		
<p>We wish to confirm that on the 18 December 2014, we received your contribution of US\$100,000 towards the rebuilding and the refurbishment of the Ministry building/ the creation of the Data Room, into our account:</p>		
Bank Name:	Central Bank of Somalia	
Account Name:	Ministry of Petroleum & Mineral Resources	
Account Number	1009	
Account Reference Number	TR360001000864999022535001	
Bank Name:	TURKIYE CUMHURİYETİ ZIRAAT BANKASI A.S.	
Country:	Turkey	
<p>We further wish to confirm that these funds are still in the above mentioned account as we have not yet began working on the project as the site for construction is currently occupied by Internally Displaced Persons (IDPs). We have been working on re-homing them, and hopefully will finalise this by the end of this month.</p>		
<p>We will keep you updated you on the progress of the project and how we spend the money that Soma Oil & Gas has contributed towards the Ministry refurbishment/ Data Room.</p>		
<p>Yours sincerely, Jabril Mahamud Geddi Director of Administration & Finance</p>		
<p>Wasaaradda Macdanta & Batroolka, وزارة البترول والثروة المعدنية, Ministry of Petroleum & Mineral Resources.</p>		

Annex 2.5.p: Allied Petroleum Memorandum of Understanding

**MEMORUNDUM OF
UNDERSTANDING (MOU)**

BETWEEN

Ministry of Petroleum & Mineral Resources
Federal Republic of Somalia (FRS)

&

Allied Petroleum (SO) Corp.

On

Building capacity of the Ministry of Petroleum and
Minerals Resources, FRS.

The Ministry of Petroleum and Mineral Resources (the “**Ministry**”) is pleased with the progress of advancing the mutual interest of both parties, under the expected PSA’s between the Ministry and Allied Petroleum (SO) Corp (“**Allied**”) (collectively the “**Parties**”).

The Ministry hereby requests that Allied provide financial support to the Ministry for capacity building, enhancing the core capability of the Ministry and its functionality, in the following areas:

1. Hiring and contracting of qualified technical experts, consultants and advisors from within Somalia and internationally. The support covers the costs of:
 - a. **Salary or consulting fees;**
 - b. **Accommodation allowances; and**
 - c. **Business related travel.**
2. According to the terms defined in this MoU, Allied agrees to pay salaries for a maximum of eight (8) consultants, advisors or employees engaged by the Ministry. Such salaries in each case will not exceed US \$5,000 per month for each person (“**Capacity Support Salaries**”) over a 24-month period starting from the Commencement Date of this MoU. Allied also agrees to pay the cost of office equipment, transportation and other working tools deemed appropriate and necessary which shall not exceed US \$60,000 and shall be paid at a time to be agreed between the Parties.
3. Therefore Allied agrees to pay a total aggregate amount in relation to the Ministry’s request for this specified capacity support not exceeding US \$540,000 per year (the “**Total Capacity Support Per year**”) in installments on dates to be agreed between the Parties to the official account of the Ministry.
4. Allied intends to support the rehabilitation of the Ministry’s offices in Mogadishu; this may include furnishing and equipping the Ministry’s office, including the establishment of a Data Room. The Parties shall agree the form and amount of support to be provided by Allied. Allied has agreed to undertake a needs and viability assessment on a date to be agreed between the Parties.
5. Allied shall make the payment of the Capacity Support Salaries, pursuant to this MOU, to the designated official bank account of the Ministry, on a date on each month to be agreed between the Parties.

1.	Bank Name	International Bank of Somalia
2.	Branch	Main Branch
3.	Customer ID	0015001
4.	Account Name	Ministry of Petroleum & Mineral Resources
5.	IBAN	So22012700015001301840010

6. The Ministry shall provide sufficient supporting information to allow Allied to confirm the use of each payment made by Allied pursuant to this MoU.

7. The Ministry shall provide monthly written Financial reports to Allied in relation to the Capacity Support Salaries. The reports shall provide the following information to Allied in respect of the Capacity Support Salaries:
 - a. The names of the proposed employees, consultants or advisors, and the process followed by the Ministry in selecting such persons;
 - b. The function, role and terms of reference for the position;
 - c. The duration of the appointment; and
 - d. A copy of the contract of employment for each such proposed persons (whose salary costs are to be paid for by Allied.)
8. Each contract of services for each person as contemplated by this MoU letter shall be on terms and conditions that are in all material respects standard in relation to their role and status.
9. Following the completion of expenditure by the Ministry of the Total Capacity Support paid by Allied, the Ministry shall confirm in writing to Allied the usage of funds for such designated purpose.
10. The Ministry confirms that they will comply with all relevant International Corrupt Practices laws, in the process of:
 - a. Execution of this MoU;
 - b. Proper utilization of financial support by Allied and its documentation; and
 - c. Hiring and contracting of local and international technical experts, consultants and advisors.
11. The Commencement Date of this MoU shall be the date, being 90 days following signature of PSA's covering Offshore Jore A, B, C, and D.

Please confirm your acknowledgement of the proposals set out in this MoU by countersigning this side letter and returning it to us.

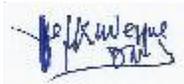
Yours sincerely

Signatures:

For Allied Petroleum Corp.

Signed by	Director
Mr. Justin Dobb. duly authorized for and on behalf of Allied Petroleum (SO) Corp.	Allied Petroleum (SO) Corp 
Date signed	24 November 2014

For Government of Somalia

Signed by	Director
Dr. Farah Abdi Hassan duly authorized for and on behalf of The Federal Republic of Somalia by its Minister of Petroleum & Mineral Resources.	
Date signed	24 November 2014

Annex 2.5.q: Ministry's International Bank of Somalia Account

 **INTERNATIONAL BANK OF SOMALIA**
بنك الصومال العالمي

Date: November 14th 2014

ACCOUNT CONFIRMATION CERTIFICATE

We would like to confirm that the account number of Ministry of Petroleum and Mineral Resources is as follows:

Customer Name: Ministry of Petroleum and Mineral Resources
A/c # IBAN SO22012700010015001301840010
P.O. Box: 51
Mogadishu, Somalia

This letter is issued upon the request of the customer


Customer Service
Corporate section


INTERNATIONAL BANK OF SOMALIA
P.O.Box: 777
MOGADISHU - SOMALIA

International Bank Of Somalia :
P.O.Box : 777, Hamar Wayne, Mogadishu, Somalia, Tel. : +252 5 865999 , Fax: +252 1 922111, www.ibsbank.so

Annex 3

Public financial management and misappropriation

Annex 3.1: SNA financial management and misappropriation

(STRICTLY CONFIDENTIAL)*

* The annex has not been reproduced in the present document because it is strictly confidential.

Annex 3.2: Misappropriation of funds at the Somali Embassy in Nairobi

1. The flow of funds between the FGS and its embassies has been subject to allegations of corruption and the misappropriation of some of those funds. The Monitoring Group revealed in previous reports (S/2012/544, paragraphs 72 and 73 and S/2013/413, paragraphs 18-21) financial irregularities concerning the production and issue of passports and the misuse of funds collected by Somali Government missions overseas. The lack of transparency and accountability and the absence of financial discipline continue to be an issue. Money collected from Somali nationals for passports or other official documents is not always accounted for in full. In fact some Somali heads of mission consider the revenues collected or the money disbursed by the FGS as their own personal reserve. There are no standard procedures for the collection of fees for passports and other travel documents. Due to the fact that Somali banks are not fully functional, the monies collected internationally are transferred to Mogadishu through remittance companies (*hawalas*) or sometimes in cash.

Misappropriation of funds at the Somali Embassy in Nairobi

2. The Monitoring Group has discovered serious irregularities concerning the management of public financial resources at the Somali Embassy in Nairobi and has conducted an investigation into funds collected by the embassy for passports and other travel documents for the period January 2014 to April 2015.

3. The former Somali Ambassador, Mohamed Ali Nur “Americo”, had been in office for more than 10 years and was the longest-serving diplomat in Kenya. He was recalled to Mogadishu in early April 2015. The newly nominated Jamal Hassan began his mandate on 4 August 2015 after the Government of Kenya accepted his credentials. Sources informed the Monitoring Group that approximately 10 days prior to his recall Ambassador “Americo” brought a team of IT specialists into the Embassy, allegedly to perform updates on the embassy’s computers. In fact, information was removed from the computers and many documents were also destroyed.¹

4. Every Somali national applying for a passport in Nairobi has to pay USD 130 and KES 2,000 (USD 19) (available in annex 3.2.a). The Ministry of Interior requires that USD 98 of the fee is transferred to its Dahabshiil account in Mogadishu and USD 32 is kept by the embassy. That means that, for each passport issued, the Nairobi embassy keeps USD 51, including the KES fee. For an emergency travel document, the embassy charges USD 55.² According to high-ranking FGS officials interviewed by the Monitoring Group, all of the money collected by embassies for passports and

¹ SEMG interviews with former Somali diplomat and sources close to the Somali Embassy in Nairobi, 15 April and 10 July 2015.

² For this kind of document, the embassy retains the entire fee.

travel documents should be transferred to the Treasury Single Account (TSA) at the Central Bank and from there the FGS would disburse funds to its embassies according to their needs.³

5. Applicants for travel documents at the Nairobi Embassy deposit the relevant fees into two accounts in the Nairobi branch of the Transnational Bank.⁴ Over 7,500 Somali nationals applied for travel documents during the timeframe of the investigation. The total amount collected in both accounts for this timeframe was USD 960,836. Two remittance companies, Amal Express and Dahabshiil, were used to transfer the funds to Somalia. The assessments of the Group are based on the statements of the two accounts for the period mentioned above and the transfer receipts from the two *hawalas* for the same period.

6. According to bank statements, cash withdrawals were made from the two designated deposit accounts on a regular basis but the amount of money withdrawn was not consistent with the sums transferred to Mogadishu. According to receipts from the two *hawalas*, the total amount transferred between January 2014 and April 2015 to the Ministry of Interior's Dahabshiil account in Mogadishu was USD 486,258. That leads to a difference of USD 474,578. The receipts show that cash transfers were made mainly by an individual named Mohamed Ahmed Anwar (see annex 3.2.b).⁵ The Group learned that he was not even an employee of the Embassy but a friend of Ambassador "Americo". In some rare cases, the ambassador himself made transfers to Mogadishu.

7. The Ministry of Foreign Affairs allocates USD 49,200 for the operation of the Embassy in Nairobi per quarter. For the period mentioned above, in addition to the USD 474,578 from travel document fees that was not transferred to Mogadishu, the FGS allocated an additional USD 246,000 to the Embassy. This adds up to a total Embassy income of USD 720,578.

8. Ambassador "Americo" was recalled to Mogadishu on 2 April 2015. On 4 April, Anwar made six cash withdrawals totalling USD 9,000. At the close of business on 4 April, the two embassy

³ SEMG interviews with Minister of Finance Mohamed Aden Ibrahim by telephone, 10 September 2015, and Fawzia Yusuf H. Adam, Member of Parliament and former Minister of Foreign Affairs and International Cooperation and Deputy Prime Minister by email, 12 September 2015. Ibrahim and Adam confirmed to the SEMG that according to Somali legislation the money collected by embassies must be transferred to the Treasury Single Account (TSA) at the Central Bank. Adam also confirmed that during her mandate she gave instructions to all Somali foreign missions to transfer sums collected to the Central Bank, but that very few complied.

⁴ At the Transnational Bank's Nairobi branch, the Somali Embassy in Nairobi's KES account number is 15555/500TCA00/1 and USD account number is 15555/500TCA01/17.

⁵ When contacted by SEMG, Mohamed Ahmed Anwar initially agreed on 9 September 2015 to a meeting, from which he then withdrew on 10 September 2015, due to an unexpected trip outside Nairobi. He confirmed by telephone on 10 September 2015 that he had never been an employee of the Embassy but is a friend of Ambassador "Americo", and was acting as his private accountant. He also denied knowing anything about the way in which the Embassy's money was spent and that his only job was to manage the Embassy's bank accounts.

accounts were almost empty, with respective balances of only KES 534 [USD 5] and USD 400. This means that the Somali Embassy in Nairobi spent USD 720,178 over 15 months. For comparison, according to the Appropriation Act for the 2015 Budget, the Ministry of Health received USD 793,032 for a period of 12 months, the Ministry of Labour and Social Affairs USD 760,116, the Ministry of Youth and Sport USD 572,220.

9. The Monitoring Group corresponded with Ambassador “Americo” by telephone and email between 7 September and 12 September 2015 while he was in London. When asked about the passport money he stated he used it for

...assistance of refugees in Dadaab and Kakuma, rent of vehicles for dignitaries, assistance to Somalis accused of piracy in Mombasa, assistance of needy Somalis in Kenya, i.e. tickets, school fees, hospital fees, etc. Function for the Embassy. Assist Somalis throughout Kenya who needed assistance. Paid for school fees for students who got good grades for encouragement. Held seminars for the youth in Eastleigh, Mombassa and other cities. Paid hospital fees for mothers, elders and other Somalis who could not pay their hospital fees (sic).⁶

He also claimed that all these expenses were documented.

10. The Monitoring Group contacted the Somali Embassy in Nairobi to verify if the above expenses were accounted for. Embassy officials who were in office when Ambassador “Americo” handed over his duties informed the Monitoring Group that the former ambassador passed on no documents whatsoever at his departure and that even the rent payments for the embassy building were USD 6,000 in arrears. The Monitoring Group also understands that Ambassador “Americo” personally handled the salaries of embassy employees and all expenses.

Chinese Government grant and confusion over legal payments

11. In addition, the Monitoring Group discovered that the Somali Embassy in Nairobi received a USD 1 million grant in April 2013 from the Chinese Government intended for the FGS (see annex 3.2.c), and only transferred USD 479,314 to the Central Bank of Somalia. The remainder was allegedly used to pay legal fees to Ibrahim, Issack & Company in Nairobi for a lawsuit concerning a Somali Government property in the Kenyan capital. In the 1990s, the last Somali ambassador of the Siad Barre regime sold the premises of the Somali Embassy in Nairobi to a local businessman.⁷ Somali authorities challenged the sale at the Nairobi High Court and won the property back in 2013.

12. In a letter addressed to the Finance Minister of Somalia, dated 16 September 2013 (available in annex 3.2.d), the then-Minister of Foreign Affairs and International Cooperation and Deputy Prime

⁶ Email to SEMG from Ambassador “Americo”, 8 September 2015.

⁷ The sale included both the former embassy building and over 9,000 m² of premium real estate situated in Lower Kabete, Westlands, Nairobi.

Minister Fawzia Yusuf H. Adam claimed that Ambassador “Americo” had received the Chinese grant into his own personal account and not into the account of the Embassy. Furthermore, in this letter, Adam stated that Ambassador “Americo” allegedly paid USD 517,686 for legal fees to Ibrahim, Issack & Company law firm in Nairobi. Adam also stated that Ambassador “Americo” got approval for this expenditure from her deputy, Mohamed Nur Ga’al, then State Minister of the Ministry of Foreign Affairs and International Cooperation, while she was away on official business. She claimed however that before leaving Mogadishu, she had appointed the Minister of Justice and Religious Affairs to act on her behalf, not Ga’al. Adam also stated at the end of the letter that the law firm’s original invoice for services rendered was only USD 250,000 and that USD 140,000 had been allocated in 2011 for this purpose by then-Prime Minister Mohamed Abdulahi Mohamed “Farmaajo”.

13. Adam also noted that the law firm’s receipt for the payment received indicated the sum of KES 517,686 (USD 4,916) and not USD. The Monitoring Group verified Adam’s allegations and can confirm that on 4 April 2011, then-Prime Minister “Farmaajo” wrote a letter (available in annex 3.2.e) authorising the releasing of USD 140,000 to

...cover legal fees for solicitors incurred in connection with the recovery of Somali Embassy’s assets in Kenya. Furthermore the aforementioned fund is additionally intended for other expenses that are owed by the injured people that were flown from Mogadishu to hospitals in Kenya. The money should be handed to Ambassador Mohamed Ali Nur.⁸

The money was released to the Embassy on 11 April 2011, where Ambassador “Americo” was the receiving official (available in annex 3.2.f).

14. On 25 April 2013, the law firm Ibrahim, Issack & Company sent a letter to “Americo” acknowledging receipt of payment for USD 517,686 for fees, costs and disbursements (available in annex 3.2.g). However a receipt from the same law firm obtained by the Monitoring Group dated 23 April 2013 indicates that sum of KES 517,686 (USD 4,916) was received from the Somali Embassy, as asserted by Adam (available in annex 3.2.h). The Group cannot confirm the exact amount paid to the law firm, but the fact that a payment of over USD 500,000 is far too large for services rendered in connection with such a lawsuit raises serious questions.⁹ The Monitoring Group could not verify Adam’s claim that the law firm’s original invoice totalled only USD 250,000, but the Group has obtained information from multiple sources that the Somali business community in Nairobi also contributed substantially to the legal expenses relating to the retrieval of the former embassy premises.¹⁰

⁸ Unofficial translation.

⁹ SEMG interviews with lawyers, accountants and real estate experts in Nairobi, May to August 2015.

¹⁰ SEMG interviews with former Somali diplomat and high-ranking FGS official in Nairobi, 15 April 2015 and 3 August 2015.

15. The Monitoring Group contacted Ambassador “Americo” in order to give him the opportunity to reply. Regarding the account into which the Chinese Government grant was transferred, Ambassador “Americo” produced evidence that he had told the Chinese to transfer the funds an account opened at Commercial Bank of Africa (CBA) in the name of the Somali Embassy and not the usual Embassy account at the Transnational Bank. Embassy officials confirmed the existence of the CBA bank account and informed the Group that Ambassador “Americo” closed it just prior to his recall to Mogadishu. Mohamed Ahmed Anwar also confirmed the existence of the CBA account and its closure by Ambassador “Americo”. The existence of another Embassy account at different bank may have created the confusion that led to the allegation that Ambassador “Americo” had used his personal account to receive the Chinese funds.

16. Ambassador “Americo” denied having knowledge of the Somali business community in Nairobi’s involvement in the payment of the legal fees for retrieval of the former embassy premises. He also stated that, to his knowledge, the Transitional Federal Government only released USD 50,000 to cover these legal fees, during the time that Nur Hassan Hussein “Nur Adde” was Prime Minister.¹¹ Ambassador “Americo” stated that he does not recall the USD 140,000 allocated by Prime Minister “Farmajo” in April 2013. The information regarding the USD 50,000 released by Prime Minister Nur Hassan Hussein is new to the Group and raises further questions relating to this case.

17. Ambassador “Americo” also told the Group that the Auditor General, Nur Farah, who has looked into the case of the Chinese Government grant has cleared him of all suspicions.¹² However, in a telephone interview with the Group on 11 September 2015, the Auditor General confirmed that while an investigation into the Chinese grant is ongoing, no conclusions had been reached.

¹¹ Nur Hassan Hussein was Prime Minister of the Transitional Federal Government of Somalia from November 2007 to February 2009.

¹² All responses from Ambassador “Americo” relating to the former embassy premises lawsuit and the Chinese Government grant are sourced from SEMG interviews by telephone and email with “Americo” between 7 to 12 September 2015.

Annex 3.2.a: Receipts for passport fee payments at Somali Embassy in Nairobi

TRANSNATIONAL BANK

BRANCH : Nairobi Teller User : SNTOKOTI 13:04:23:83

[Customer Advice Acknowledgement]

Customer Branch : 1 / Nairobi
Account No: 15595/500TCA01/17 Entry Date : 22/01/2015
Name : TRANSITIONAL FEDERAL GOVERNMENT
Org. Ref. No: Ref. No: TELLER / 104
TXN Date Description Cur Dr Amount
22/01/2015 ~~XXXXXXXXXXXXXXXXXXXX~~ USD PAID 100

PAID 29 JAN 2015 TELLER 22 JAN 2015

EMBASSY OF THE FEDERAL REPUBLIC OF SOMALIA NAIROBI - KENYA

ADVICE NOT VALID IN ABSENCE OF REFNUMBER. International Bank is licensed and regulated by Central Bank Of Kenya

Stamp & signature

TRANSNATIONAL BANK ONLINE AP

BRANCH : Nairobi Teller User : SNTOKOTI 13:04:32:54

[Customer Advice Acknowledgement]

Customer Branch : 1 / Nairobi
Account No: 15595/500TCA00/1 Entry Date : 22/01/2015
Name : TRANSITIONAL FEDERAL GOVERNMENT
Org. Ref. No: Ref. No: TELLER / 103
TXN Date Description Cur Dr Amount
22/01/2015 ~~XXXXXXXXXXXXXXXXXXXX~~ KES CR 100

PAID 29 JAN 2015 TELLER 22 JAN 2015

EMBASSY OF THE FEDERAL REPUBLIC OF SOMALIA NAIROBI - KENYA

Annex 3.2.b: Receipt for money transfer to Mogadishu by Mohamed Ahmed Anwar

AMAL EXPRESS
NAIROBI TOWN NHQ
Phone : 254-02-341284/85/86 mob: 0714760000 Fax : fax:254-02-341287

Cash Receipt

DATE: 4/2/2015 12:31:41 PM XAWAALA_NO: NHQ0592275
Sender: **Mohamed Ahmed Anwar** Purpose: Family_Sup
Address: NAIROBI_TOWN_NHQ, Tell:254722585936 Mob:254722585936
Documents: NA
Amount: \$44,368.00 Comm: \$888.00 Total: \$45,256.00 KES: 4,077,419.20 + 81,607.20
Total KES:4,159,026.40

Receiver: **OSMAN SHEIKH MOHAMED**
Address: MUQDISHO_AIRPORT, Tell: - Mob:252616670434

I certify that I am transmitting funds on my behalf, or on behalf of entity for which I am providing identification of affiliation, that the information I have provided is accurate, that my intended recipient is not a specially designated national (SDN) or blocked person or otherwise prohibited by KENYA Government to receive funds, and that the transfer is not for any illegal purpose including money laundering, or the financing of terrorist activity. Note: this is the only official receipt of AMAL EXPRESS. This agent is not authorized to take any deposit from any customer.

Customer Signature: _____ Agent:  Date: 4/2/2015

Annex 3.2.c: Acceptance certificate of USD 1 million grant to Somalia by Chinese Government



中 华 人 民 共 和 国 大 使 馆

Acceptance Certificate

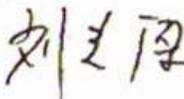
In order to express the friendship of the Chinese Government and Chinese People to the Federal Government of Somalia and Somali People and support the peace process in Somalia, the Chinese Government agreed to grant the Federal Government of Somalia with USD 1,000,000(US Dollar One Million Only). The aforesaid amount shall be disbursed under the grant as stipulated in the Agreement on Economic and Technical Cooperation between the Government of the People's Republic of China and the Transitional Federal Government of the Republic of Somalia signed on 25th December, 2005.

This is an official confirmation that the Federal Government of Somalia has received the above mentioned grant.

Done in duplicate in Nairobi on April 17th, 2013 in both English and Chinese, each side keeping one copy and both texts being equally authentic.



H.E. Mohamed Ali Nur
Ambassador
of the Federal Republic of Somalia



H.E. Liu Guangyuan
Ambassador
of the People's Republic of China


 Embassy of the Federal
 Republic of Somalia
 Nairobi, Kenya

 25 APR 2013

RECEIVED

Annex 3.2.d: Letter to Minister of Finance from the Minister of Foreign Affairs and International Cooperation

JAMHUURIYADDA FEDERAALKA SOOMAALIYA
Wasaarada Arrimaha Dibadda
iyo Iskaashiga Caalamiga



جمهورية الصومال الفيدرالية
وزارة الشؤون الخارجية
والتعاون الدولي

Federal Republic of Somalia
Ministry of Foreign Affairs & International Cooperation

REF: MFA/OM/1380/2013 16 September 2013, Mogadishu

**Ku: Wasiirka Maaliyadda JFS,
Og: Hanti dhawrka JFS
→Og: Raisal Wasaasaraha JFS
Og: Madaxwaynaha Jamhuuriyadda Federaalka Soomaaliya
Mudane Hassan Shekh Mohamud**

Mudane Wasiir,

Ujeedo: Ku tagri fal Hanti Qaran

Tixraac xaashida tiro REF:MFA/SFR/DM/837/2013 ee aad igaga codsatay inaan soo caddeeyo halka ay ku baxday lacagta dhan \$490,000 oo ah deeqdii ay dawladda Shiinuhu siisay Somalia, sanadkan 2013 horraantiisii. Taasoo dhammayd \$1000.000 (Hal milyan oo doolar)
Haddaba iyadoo aan eegaayo masuuliyadda shaqsiyadeed ee ku suntan distuurka qaranka oo qeexaaya in Wasiir walba uu si toos ah uga masuul yahay wasaaradiis kana jawaabaya warqaddaa aad iisoo qortay. Waxaan halkaan kuugu soo caddaynayaa xogta aanu ka helnay sida lacataas loo bixiyay, ciddii bixisay iyo sababta loo bixiyay.
Waxaa lacagtan amarka lagu bixiyay amray Wasiir Mohamed Nur Galal oo ah Wasiirul Dawlaha WAD ee JFS. Waxaanu amray in lacag taas lagu bixiyo sida la yidhi dayn Safaaradda Somaliyeed ee Nairobi lagu lahaa. Faahfaahinta lacagtan siday ku baxday waa sidan:

- 1- Wuxu amray Wasiiru dawlaha Wasaraddu in la bixiyo lacag ka mid ah lacagtaasi kor ku xusan isaga oo adeegsanaaya awood aanu xad u lahayn oo ah bixinta lacagtaasi kuna xusay warqaddiisa in uu ahaa ku simaha Wasiirka iyadoo markaan safarka u baxay aan Acting uga sii dhigay Wasaradda Wasiirka Garsoorka iyo Ariimaha Diinta.
- 2- Waxa ku qoran Warqadda in lacagtaa ka timi shiinaha laga bixiyo lacag uu tilmaamay in ay leeyihiin qareeno difaacayey dacwadii ku saabsanayd dhulka Safaaradda Soomaalida ee Nairobi, Kenya. Waxa la yaable qadarka lacagtaasi uu amray in la bixiyo kuma cada Warqadda, sidoo kale wuxuu sheegayaa in lacagtaasi marka la bixiyo baaqiga lagu wareejiyo

Annex 3.2.e: Letter from Prime Minister "Farmaajo" approving the release of USD 140,000 for legal fees concerning the former embassy premises lawsuit in Nairobi

Jamhuuriyadda Soomaaliya
 Jamadada Federaalka KMG ee
 Soomaaliya

 جمهورية الصومال
 الحكومة الانتقالية الفيدرالية
 مكتب رئيس الوزراء
 The Transitional Federal Government of the Somali Republic
 Office of the Prime Minister

Ref: XRW/00000.518/04/11 Date 04.04.2011

Pk 72/4/11

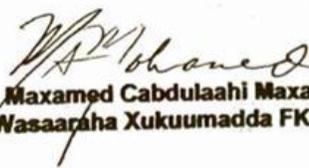
KU: Wasaaradda Maaliyadda =Mogadishu=

Ujeedo: Kharash bixin =Muqdisho=

Waxaa Wasaaradda ay warqaddani sida tooska ugu socoto la farayaa in ay bixiso kharash gaaraya **USD140,000.00 (Boqol & Afartan kun oo Doolar)** oo loo isticmaalay doodii Qareenka Arimihii Guriga Safaaradda Soomaaliya ee Dalka Kenya & waliba kharashaad kale oo leeyihiin Isbitaaladii lagu daweeeyey dhaawacyadii laga khaaday Xamar, waxaadna ku wareejiisan Amb. Maxamed Cali Nuur (Americo)

Sidaa darteed Waxaa la idinka rajaynayaa in aad sida ugu dhaqsaha badan ku siisaan.

Mahadsanid,


Mudane: Maxamed Cabdulaahi Maxamed (Farmaajo)
Ka'assisul Wasaaraha Xukuumadda FKMG



Amina
Fadlan
la bixiy
06/04/11

 +968 1-459271-459324 +2525-941037 Fax +2525-941017 E-mail: pm@tpm.gov.so Mogadishu, Somalia

Annex 3.2.f: Receipt showing the transfer of USD 140,000 to Ambassador “Americo” on behalf of the Somali Embassy in Nairobi

COPY *PV 72/4/11*

From: F.3
Modulo

Somali Republic – Repubblica Somalia
MINISTRY OR OFFICE – MINISTERO OD UFFICIO
WASAARADDA MALIYADDA
Payment Voucher: Other Charges & Below-Line Accounts
Mandato di pagamento: altri impegni e conti sussidiari

HEAD – TITOLO	Sub – Head – Capitolo	Amount – Importo
W/MAALIYADDA	400-411	\$140,000.00
		\$140,000.00

Payee – Benefeciario :-SAFIIRKA SOOMAALIYA EE KENYA
L'Ufficio di contabilita:-MAXAMED CALI NUUR (AMEERIKO)

Detailed Description Descrizione Dettagliata	Rate Tariffa	Amount – Importo	Received – Recvuto
WAA KHARASH KU BAXAY		\$140,000.00	
HAWLO SAFAARADDA KEYNYA			
SIDA KU CAD WARQADAH	GOYSMO	\$	
LIFAAQA			
			Witness to mark Testimonio per l'impronta
	Total	\$140,000.00	

(BOQOLIYOAFARTANKUNDOOLLAR)

Financial Authority – Autorizzazione di Finanza :- **SHIRE AXMED JUMCAALE**
Special Authority (if applicable) correct, latter, etc **AGAASIMAH XISAABAADKA**
Autorizzazione speciale (se applicabile) contratto, lettera, ecc. *mbma*

I certify that (a) the above account is correct and was incurred under the authority quoted and that the service has been duly performed and that the rates charged are according to correct, fair and reasonable, and (b) the amount (s) has/have been entered in my Vote Book (folio No.....) and does/do not overspend the amount (s) allocated to me.

Dichiaro che (a) il sopranotato conto e esatto e che venne contratto dietro l'autorizzazione citata e che il servizio e stato debitamente compiuto che le tariffe quotate sono concordate al contratto giusto e ragionevole, e (b) l'ammontare (ri) e' (sono) stati registrati nel mio libro degli stanziamenti (Foglio N.) e che ditto importo non eccede lo stanziamento assegnatomi.

Date:- 06/04/2011

Aamina
AAMINA SH. CUSMAAN MAXAMED
AGASIMAH GUUD W.MAALIYADDA

Passed for payment firmato per il pagamento
Date – Data

Maxamed
MAXAMED RASHID M. SH. DAANIR
Xisaabiyaha Guud ee Dawladda
Il funzionario contabile

Paid – Pagato

Paying officer
Il funzionario addetto al pagamento

Annex 3.2.g: Letter of acknowledgement of payment from Ibrahim, Issack & Company

IBRAHIM, ISSACK & COMPANY
Advocates, Notaries Public & Commissioners for Oaths

Fred K. Athuok Sospeter M. Njoroge Ali R. Haji Robinson C. Kigen	Tel: 2219714, 2219715, 2212131 & 2230334 Fax: 254-020-2219720 E-mail: info@braissac.com website: www.braissac.com	8th Floor Hughes Building Kenyatta Avenue P.O. Box 66975-0200 Nairobi, Kenya
---	--	--

When replying please quote **Our Ref: 550/25/95** **Your Ref:**

Date: 25th April, 2013

The Hon. Ambassador,
Embassy of the Somali Republic,
P. O. Box 622 – 00606,
NAIROBI.

Dear Sir,

RE: HCCC NO. 1618 OF 1995
MUSA HERSI FAHIYE & ANOR. .VS.
SULEIMAN RAHMTULLAHI OMAR & ANOR

We refer to the above matter and to the discussions between yourself and the undersigned.

We confirm that the said property together with the title thereof has been handed over to you and you are in possession.

We also acknowledge receipt of payment of USD 517,686 in respect of fees, costs and disbursements in this matter. Copies of the High Court Judgment and Order together with the Court of Appeal Ruling have also been forwarded to you.

This marks the end of this matter as far as the High Court proceedings are concerned.

We shall advise on further developments in the Court of Appeal.

Yours faithfully
IBRAHIM, ISSACK & COMPANY


FRED K. ATHUOK
/ea

Annex 3.2.h: Receipt from Ibrahim, Issack & Company for KES 517,686

CLIENT ACCOUNT Receipt No.

Ibrahim, Issack & Company ³⁹⁷¹

Advocates, Commissioners for Oaths & Notaries Public
8th Flr. Hughes Bldg. Kenyatta Ave. P.O. Box 66975, Tel: 2219714/15 Fax: 254 -20 -2219720, Nbi.

Our Ref: SS0/25/195 Your Ref: _____ Date: 23/4/13

Received from Sumer Emdad

Shillings Five hundred Sixty eight and Six hundred eighty six

In Payment of Court fees & charges

Cash / Cheque No: _____

Bank: _____

Branch _____

WITH THANKS 

Kshs. 517,686/= (Cheques subject to payment)

Annex 3.3: Misappropriation of funds for Mogadishu port rehabilitation

Background to the Mogadishu port rehabilitation project

18. In 1993, UNITAF peacekeeping troops took control of the operations of Mogadishu port on behalf of the Government of Somalia, in order to ensure humanitarian access to the country. Operation of the port was subsequently handed over to a joint civilian board composed of representatives from UNOSOM II, UNDP, UNCTAD, and WFP. Revenues gathered from port tariffs were in turn managed in trust by UNDP Somalia and WFP; in July 1997, the entirety of the funds, USD 1,003,930, was transferred into a trust fund managed solely by UNDP Somalia. The fund collected interest, and by January 2008 amounted to USD 1,355,066.

19. In September 2008, the Mogadishu Port Authorities manager of the then-Transitional Federal Government (TFG), Abdi Gino, requested that the funds be repatriated to the TFG.¹³ UNDP Somalia ultimately declined to do so, on the grounds that the TFG was not yet an internationally recognised Government.¹⁴ The funds therefore remained in the UNDP Somalia trust fund.

20. On UNDP Somalia's website,¹⁵ this trust fund is formulated as a "Mogadishu Port Rehabilitation" project that ran from 1 January 2005 until 31 December 2014 (see annex 3.3.a). However, while UNDP Somalia attempted for a number of years to use the funds to purchase a fixed crane for Mogadishu port, ultimately the money was never committed to any development programme.

21. On 17 March 2014, the then-Minister of Ports and Marine Transport, Yusuf Moallim Amin "Baadiyow", sent a letter to the UNDP Somalia Country Director, George Conway (available in annex 3.3.b). The letter demanded the immediate return of the Mogadishu port funds "to its rightful owner, the Government of Somalia", which Amin erroneously alleged had been "acquired without authorization and unconditionally from the Mogadishu Port by WFP and transferred to UNDP".

22. Conway held three meetings with Amin between April and July 2014, at which occasions Amin was "very persistent" in his demands for the release of the funds.¹⁶ Recognising that the funds belonged to the FGS and that UNDP was "duty-bound" to return them, Conway nonetheless insisted that the funds be routed through the FGS' Treasury Single Account (TSA)¹⁷ and ultimately be put

¹³ Minutes from a meeting held in the UNDP Somalia Deputy Country Director's office in Nairobi, 4 September 2008, on file with the Monitoring Group.

¹⁴ SEMG interview with UNDP Somalia Country Director George Conway in Nairobi, 4 September 2015.

¹⁵ Available from <http://open.undp.org/#project/00041503>, accessed 28 August 2015.

¹⁶ The meetings took place on 2 April, 11 May, and 13 July 2014 at the United Nations Common Compound (UNCC) in Mogadishu. SEMG interview with UNDP Somalia Country Director George Conway in Nairobi, 4 September 2015.

¹⁷ This process would be in compliance with a February 2014 Ministry of Finance directive requiring all Government revenue to be deposited in the TSA.

towards fulfilling the objectives laid out by the Ministry's 2014 Work Plan, conditions to which Amin agreed.¹⁸ By this point, the trust fund had grown to over USD 1.8 million with accrued interest.

23. Conway subsequently sought advice from a public financial management advisor working with the FGS, who in a 14 July 2014 email, seen by the Monitoring Group, concurred that the funds should be deposited in "the government treasury rather than the Mogadishu port account", in order to avoid their being "spent on anything else".¹⁹ After receiving approval from UNDP senior management, Conway issued a letter on 4 August 2014 (available in annex 3.3.c), agreeing to release the port funds to the FGS. The letter restated the previously agreed conditions, namely that the funds would be transferred to the TSA and subsequently be put towards the Ministry's 2014 Work Plan, "through Government public financial management systems and budget execution processes".

24. In a 5 August 2014 email (reproduced in annex 3.3.d), Amin supplied Conway with bank details for the transfer; contrary to their previous understanding, however, the email directed UNDP Somalia to route the funds into a newly created Mogadishu International Port account at the Central Bank of Somalia (CBS), #1035, rather than the TSA.

25. On 20 August 2014, a transfer of USD 859,616.10 from UNDP Somalia's office in Nairobi arrived in CBS account #1035. On 11 September 2014, a virtually identical sum of USD 859,616.09 from UNDP Somalia arrived in the account. After deductions of banking fees, the net amount transferred from UNDP Somalia to the account totalled USD 1,693,443.71.²⁰

Misappropriation of funds by former minister Yusuf Moallim Amin "Baadiyow"

26. On 27 August 2014, exactly a week following the first UNDP deposit, Minister Amin sent a letter addressed to the Accountant General, Central Bank, Ministry of Finance, and other parties (see annex 3.3.e). The letter contained instructions specifying that only the undersigned – namely, Amin himself, as well as the Director General of the Ministry, Abdullahi Ali Nur – would be authorised to withdraw funds from account #1035. The Central Bank and the Accountant General in turn approved the request.

27. On 13 September 2014, a withdrawal of USD 600,000.00 was made from the account. On 20 September 2014 an additional USD 600,000.00 was withdrawn, and a final withdrawal of USD 493,400.00 took place on 24 September. Taken together, the three withdrawals totalled

¹⁸ SEMG interview with UNDP Somalia Country Director George Conway in Nairobi, 4 September 2015.

¹⁹ Email on file with the Monitoring Group.

²⁰ UNDP Somalia later transferred an additional USD 86,932.00 on 9 November 2014 to account #1035 in order to compensate for a previous accounting error. This amount remains in the account as of 25 August 2015. With this final deposit, the aggregate amount after banking fees transferred by UNDP Somalia into account #1035 totalled USD 1,806,164.19.

USD 1,693,400.00 – USD 43.71 short of the aggregate amount transferred up to that point by UNDP Somalia.

28. According to the Central Bank Governor, Bashir Isse, all three withdrawals were made via cheques issued to the Ministry's accountant, Ali Abdirahman, by the joint signature of Minister Amin and Director General Nur.²¹ Therefore, while Ali Abdirahman's name appears beside withdrawal entries in CBS records, the withdrawals themselves were authorised by Amin and Nur. Given the absence of prior or subsequent transactions, Amin appears to have created this account for no other purpose than to receive the UNDP funds, away from the knowledge and oversight of the FGS Ministry of Finance. The Central Bank statement for account #1035 is available in annex 3.3.f.

29. In April 2015, a former senior official with the Ministry of Ports and Marine Transport approached the Monitoring Group claiming that Amin, with the cooperation of Nur, had misappropriated almost USD 1.7 million of port rehabilitation funds.²² The official told the Group that he had initially questioned Amin about how the money had been used, but backed off when he realised that the former had withdrawn it for his own purposes.²³ A Somalia anti-corruption organisation corroborated this account of misappropriation by Amin and Nur, citing testimony they obtained from another former senior Ministry official.²⁴ The FGS Auditor General, Nur Farah, also informed the Monitoring Group that investigating Amin and Nur's alleged misappropriation of the port funds was on his "to do list", and he requested the Group's assistance in furthering his inquiry.²⁵

Missing office building

30. The Monitoring Group received information that the port funds had been earmarked within the Ministry for the construction of an office building off Corso Somalia street in Mogadishu.²⁶ On 30 August 2015 the Group obtained a photograph of the building site, which depicts a mostly empty lot containing a solitary kiosk. There is no evidence that development has begun on the site, despite the funds having been withdrawn from the CBS almost one year prior. This photograph, as well as a satellite image showing the location of the building site, is available in annex 3.3.g.

²¹ Email from Bashir Isse to the SEMG, 25 August 2015.

²² Interview in Nairobi between the SEMG and a former senior official at the Ministry of Ports and Marine Transport, 14 April 2015.

²³ Ibid.

²⁴ Information provided to the SEMG on 8 June 2015 by a Somalia anti-corruption group.

²⁵ Email from Nur Farah to the SEMG, 27 August 2015.

²⁶ Information provided to the SEMG on 30 August 2015 by the Somalia anti-corruption group, again citing information received from a former senior official within the Ministry of Ports and Marine Transport.

31. The Monitoring Group contacted Yusuf Moallim Amin multiple times to request an explanation for the missing funds, but received no response. As of 6 September 2015 the Group had been unable to contact the former Director General, Abdullahi Ali Nur.

Annex 3.3.a: UNDP Somalia web page displaying the funds being held in trust for Mogadishu port rehabilitation

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UNDP Somalia Office

Website
<http://www.so.undp.org/>

Mogadishu Port Rehabilitation

MOGADISHU PORT REHABILITATION

[Tweet](#) | [Follow @UNDPSomalia](#) 23K followers

Location



Disclaimer, © Mapbox © OpenStreetMap Improve this map

Somalia at a glance in 2014

Projects	33
Budget Sources	33
Budget	\$51,150,771.00
Expense	\$23,588,268.00

Project Timeline [About the data](#)

Jan 01, 2005 Dec 31, 2014

	Budget	Expense	
2012	\$1,730,056.00	\$10,794.00	
2013	\$1,719,895.00	\$0.00	-100.0%
2014	\$2.00	\$0.00	Na%

Implementing Organization
United Nations Development Pro

Budget Sources
[WORLD FOOD PROGRAMME, GOVERNMENT OF SOMALIA](#)

1 Output

■ **Inclusive & Sustainable Growth**

Mogadishu Port Rehabilitation 00047320

Aid Classification	Budget	Expense
Gender Marker	2014 \$2.00	\$0.00
Gender Equality	2013 \$1,719,895.00	\$0.00
	2012 \$1,730,056.00	\$10,794.00

Budget Sources
[WFP, SOM](#)

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Annex 3.3.b: 17 March 2014 letter from Yusuf Moallim Amin “Baadiyow” to UNDP Somalia Country Director George Conway

JAMHUURIYADDA FEDERAALKA SOOMAALIYA
Wasaaradda Dekadaha & Gaadiidka Badda
Xafiiska Wasiirka



جمهورية الصومال الفيدرالية
وزارة الموانئ والنقل البحري
مكتب الوزير

SOMALI FEDERAL REPUBLIC
Ministry of Ports and Marine Transport
Office of the Minister

Ref: XW/WD&GB/ 32 /2014 Date: 17/03/2014

Fr: Mr. Yusuf Moallim Amin,
Minister of Marine Transport & Ports of
The Government of Federal Republic of Somalia
Mogadishu-Somalia

To: George Conway
UNDP Somalia Country Director (CD)
Email: george.conway@undp.org

CC: Abdiweli Sheikh Ahmed
the Prime Minister of Government of Federal Republic of Somalia
Mogadishu-Somalia

CC: Nicolas Kayn

Subject: Government appeal for immediate return of the Port of Mogadishu funds

Dear George Conway,

Government of Federal Republic of Somalia has inter alia given a high priority strengthening the administrative capacity of the Somali Ports Authority. Improving performance in Somali Ports Authority has been the target of a series of donor-funded programmes, since the establishment of the Government of Federal Republic of Somalia.

The Ministry, under its authority from the Government of Federal Republic of Somalia, is responsible for everything relating to maritime matters within Somalia including but not limited to:

- I. The implementation of all maritime legislation (“**Maritime Law**”),
- II. The operation of Somali flag vessels (the “**Somali Ships Registry**”),
- III. Development and operation of all the Somali Ports (“**Ports Development and Operation**”),
- IV. Security of all land based port infrastructure including the Somali territorial waters (“**Port and Maritime Security**”) and
- V. All educational and training requirements (“**Training**”)

The establishment of a modern port system ranked high on the government's priority list in 2014 -. This includes:

- I. To enhance the effective operation of the Mogadishu Port Authority through the development of a modern organizational, functional and management capability in order to improve the management and functioning of the port system, including the enhancement of maritime safety as it relates to port areas, as well as the application of best practices, measures for sustainability and improved reporting requirements;
- II. To improve the capacity of major stakeholders (mainly shipping agents, licensed porters, stevedores) to implement the relevant port regulations and practices

As authorized representative of the Government of Somalia in the official capacity of Minister of Marine Transport & Ports, the Ministry revisits again, our appeal for immediate return of the Port of Mogadishu funds of \$1.5 Million, removed by WFP from the Port's register (during UNISOM Operation in Mogadishu)) and currently held by UNDP.

Ever since the Hon. Minister Muhammad Ibrahim Habsade, former TFG Minister of Land and Air Transport, the Somali Government on several occasions officially approached UNDP to return the Somali funds which were acquired without authorization and unconditionally from the Mogadishu Port by WFP and transferred to UNDP. Subsequently, UNDP has repeatedly issued conditions for the return of these Somali funds to the Somali Government while UNDP does not have the legal jurisdiction over said funds. Nevertheless, UNDP continues to refuse return of the funds to its rightful owner, the Government of Somalia, Ministry of **Marine Transport & Ports**. During last few years, UNDP have been trying to spend this money to purchase a crane for Mogadishu Port, but unfortunately failed to do so.

We trust UNDP will act favorably and return the Somali funds. Account details to be disclosed at time of transfer to the Government of Somalia, Minister of **Marine Transport & Ports**.

Thank you for your kind consideration. We look forward to finalizing this issue swiftly and amicably.
Sincerely,

Hon. Yusuf Moallim Amin

Minister of Marine Transport & Ports

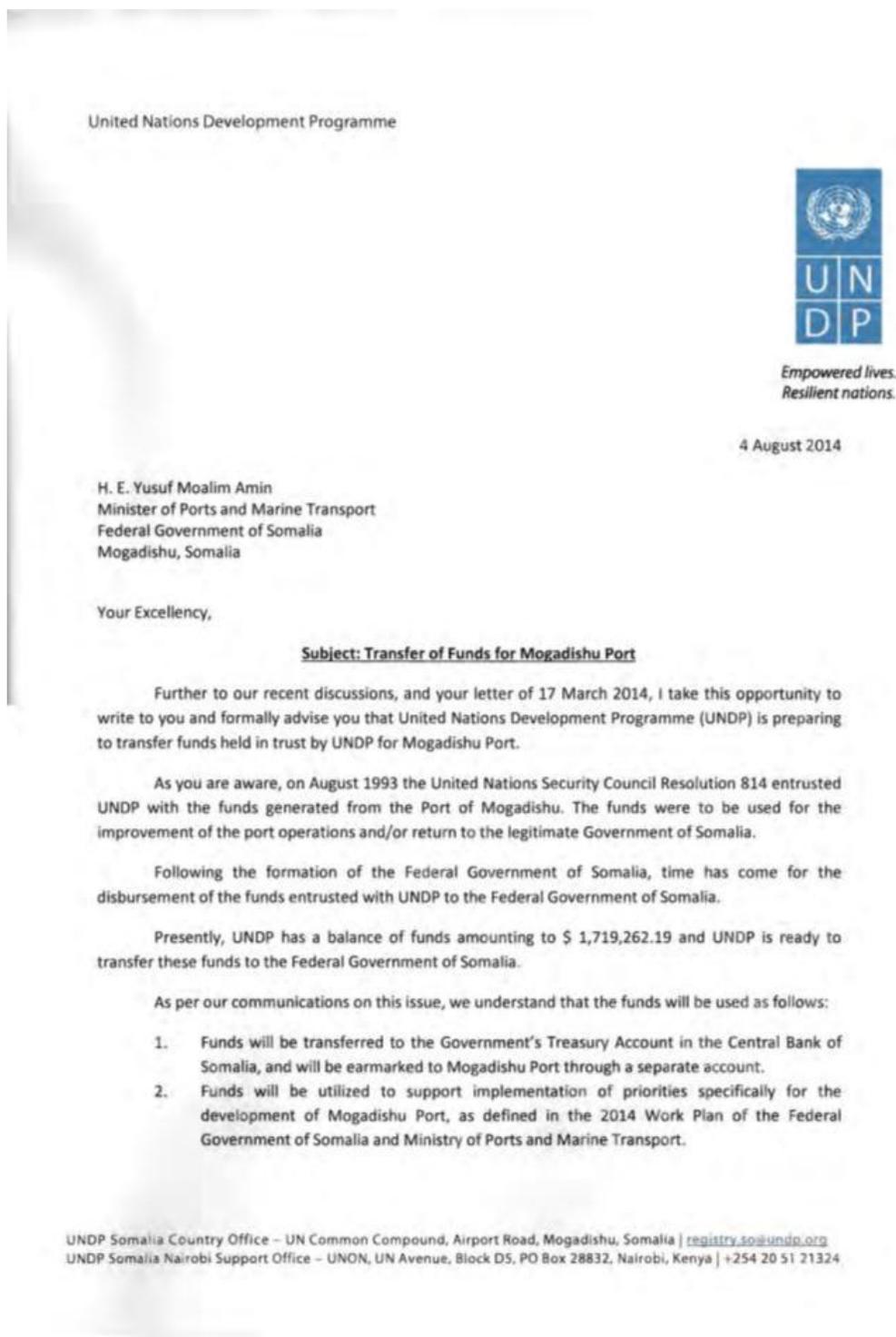
Government of Federal Republic of Somalia

Mobile: 0618200012

Email: yaamin@somalia.gov.so , yusufmoallim@gmail.com



Annex 3.3.c: 4 August 2014 letter from UNDP Country Director George Conway to Yusuf Moallim Amin “Baadiyow” agreeing to transfer the Mogadishu port funds



3. Funds will be utilized through Government public financial management systems and budget execution processes.
4. The utilization of the funds will be reported in line with Federal Government policies and procedures. As per the monitoring and evaluation process defined in the 2014 Government Work Plan, which defines quarterly and annual progress reporting requirements from Ministries to the Ministry of Planning and International Cooperation, with copy to the Office of the Prime Minister and Ministry of Finance, the Ministry of Marine Transport and Ports will include utilization of these funds within its overall such reporting.
5. UNDP will report the transfer of funds within the reporting mechanisms of the Somalia Development and Reconstruction Facility (SDRF) for PSG 4 ("Economic Foundations").

We would appreciate if the Ministry of Ports and Marine Transport could confirm the above points. We would also appreciate if your office could provide UNDP with full banking details to complete the transfer of funds.

I am pleased that this longstanding issue is being resolved, and trust that the funds will contribute meaningfully to the achievement of the work plan and goals of the Federal Government of Somalia, and towards realizing the needs and aspirations of the people of Somalia.

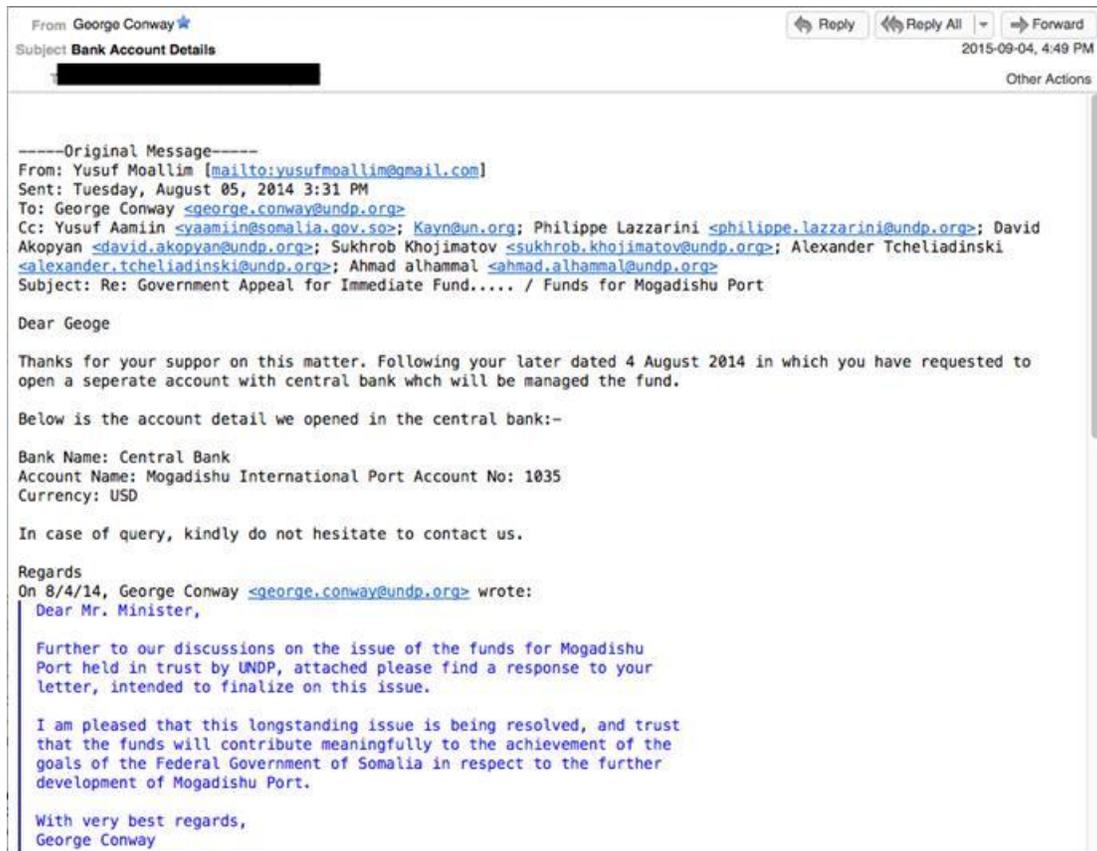
Please accept, Your Excellency, the assurances of my highest consideration.



George Conway
Country Director

Cc: H.E. Abdiweli Sheikh Ahmed, Prime Minister, Federal Government of Somalia
H.E. Hussein Abdi Halane, Minister of Finance, Federal Government of Somalia

Annex 3.3.d: Email from Yusuf Moallim Amin “Baadiyow” supplying bank details to UNDP Somalia Country Director George Conway



Annex 3.3.e: Letter from then-Minister of Ports and Marine Transport, Yusuf Moallim Amin “Baadiyow” authorising himself and Director General Abdullahi Ali Nur to withdraw funds from CBS account #1035

08/11
2014


جمهورية الصومال الفيدرالية
 وزارة الموانئ والنقل البحري
 مكتب الوزير

JAMHUURIYADDA FEDERAALKA SOOMAALIYA
 Wasaaradda Dekadaha & Gaadiidka Badda
 Xafiiska Wasiirka

SOMALI FEDERAL REPUBLIC
Ministry of Ports and Marine Transport
Office of the Minister

Ref: X/W/D&GB/100/2014 TR:27/08/2014

Ku: Xisaabiyaha Guud ee Qaranka
Og: Maareeyah Dekedda Muqdisho
Og: Bankiga Dhexe Soomaaliyaa
Og: Hanti Dhowrka Guud ee Qaranka
Og: Wasaaradda Maaliyadda

1035
 BAHADA DHEXE EE SOOMAALIYA
 C/qaab: Xisaabiyaha Guud ee Qaranka
 Waa. La. Dhexeey-SOMALIYA
 C/qaab No. 276
 Xarimo: 09/09/117
 Waa.

(Accountant General)
 ak
 gadi
 HA-
 27/8/14

Ujeedo: Soo Gudbin Saxiix

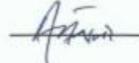
Waxaa Madaxda ay warqadani tooska iyo ogeysiiska ugu socoto halkaan ugu soo gudbinayaa saxiixa lacag ka saarida Xisaabta (Account) hoos ku xusan:-

Magaca Xisaabta (Account Name) Mogadishu International Port
Account Number 1035

Xisaabta kor ku xusan waxaa lacag looga saari karaa saxiixyada hoos ku xusan wada jira

1. Yuusuf Macalin Amiin Wasiirka Dekedaha & Gaadiidka Badda
 2. C/laahi Cali Nuur Maareeyaha Dekedda Muqdisho

Saxiixyada

1) Yuusuf Macalin Amiin   
 2) C/laahi Cali Nuur   

Wada Shaqeyn Wacan.

Md. Yusuf Moallim Amin
 Wasiirka Wasaaradda





Mobile: +252-61-8200012, +252-69-997666 E-mail: yusufmoallim@afpmil.com

1035

Annex 3.3.f: Central Bank of Somalia statement for Mogadishu International Port account set up by Yusuf Moallim Amin "Baadiyow" (#1035)



CENTRAL BANK OF SOMALIA **البنك المركزي الصومالي**

BANKIGA DHEXE EE SOOMAALIYA

Ref: XG-10/218/2015 Date: 25/8/2015

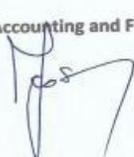
Bank Statement **C/C: no.1035**

To: Mogadishu International Port **Type: C/A USD.**

Mogadishu

Date	Description	Debit	Credit	Balance
20.8.2014	Deposit # 962-By UNDP Nairobi		859,616.10	859,616.10
20.8.2014	Bank comm. 1.5%	12,894.24		846,721.86
3.9.2014	Check book charge	10.00		846,711.86
11.9.2014	Deposit # 57956-By UNDP Nairobi		859,616.09	1,706,327.95
11.9.2014	Bank comm. 1.5%	12,894.24		1,693,433.71
13.9.2014	Ch.No 100926- to Ali Abdirahman *	600,000.00		1,093,433.71
20.9.2014	Ch. No 100927-to ALI Abdirahman	600,000.00		493,433.71
24.9.2014	Ch. No 100928 to Ali Abdirahman	493,400.00		33.71
9.11.2014	Deposit # 64515-By UNDP Nairobi		86,932.00	86,965.71
9.11.2014	Bank comm. 1.5%	1,303.98		85,661.73

Accounting and Finance Department





Annex 3.3.g: Photo of the empty building site intended for a Ministry of Ports and Marine Transport office building

Figure 1 (below): Empty building site, 30 August 2015



Figure 2 (below): Location of building site (coordinates: 2°02'26.1" N 45°20'56.2" E)



Annex 3.4: Illegal agreement relating to the taxation of khat imports

32. The Monitoring Group has uncovered the existence of an illegal agreement between the Somali company ADCO and the Federal Government of Somalia (FGS) for the collection of taxes on khat imported from Kenya through Mogadishu International Airport (MIA).²⁷ The agreement should have been submitted to the Financial Governance Committee (FGC) for review, but was not, so could be classified as part of the phenomenon of “secret contracting” as described by the Monitoring Group in a previous report (S/2014/726, paragraphs 66-69).

33. ADCO is the owner and operator of the K50 Airport, located 50 km west of Mogadishu, that was used for flights for the capital when MIA was closed due to fighting. Until late 2010, K50 Airport operated all flights transporting khat from Nairobi to Mogadishu. After Al-Shabaab took over the K50 Airport in October 2010, ADCO wrote to the Transitional Federal Government (TFG) and proposed to move the site for the import of khat to MIA, where they would collect taxes on the imported khat on behalf of the Ministry of Finance. The khat exporters syndicate – the Mira Umbrella Association (MUA) – wrote a letter to the Ministry of Finance nominating ADCO as their representative.²⁸

34. At that time the Ministry of Finance was collecting USD 75,000 per month from import taxes on khat arriving at K50. ADCO proposed to pay the Ministry a flat fee of USD 120,000 per month. An agreement was signed between the Ministry of Finance and ADCO on 6 June 2011. The TFG authorised the tariffs.

35. The agreement was renewed each year and the monthly fee paid by ADCO increased as follows: USD 300,000 in 2012; USD 600,000 in 2013; USD 650,000 from March 2014; and USD 800,000 from September 2014 (available in annex 3.4.a). The fee increases were consistent with the increasing number of flights and quantity of khat imported through MIA. On 14 May 2015, the Ministry of Finance terminated the contract effective 15 June 2015 (see annex 3.4.b). From this point forward, the Ministry of Finance began to collect the taxes directly. The figures provided by the Ministry of Finance show that USD 401,080 was collected from 15 June to 1 July and USD 1,013,652 was collected in the month of July, already a substantial increase over the previously agreed monthly flat fee.

36. Following the cancellation of the ADCO contract, the MUA requested on 19 May 2015 to pay the tax on khat imports directly into the Treasury Single Account (TSA) and the Ministry agreed. On 16 June 2015, the MUA wrote to the Ministry of Finance requesting to pay a flat fee during the

²⁷ Khat (qat, qaat, ghat, chat, quaad, miraa) is a flowering plant native to the Horn of Africa. The binomial name of the plant is *Catha Edulis*. It contains a monoamine alkaloid called cathinone, an amphetamine-like stimulant. The World Health Organization classified it a drug of abuse in 1980. The production, sale and consumption of khat is legal in most East African countries (Djibouti, Kenya, Ethiopia, Somalia), while it is banned or considered a controlled substance in most others. Khat leaves are usually consumed while they are still fresh, within 48 hours after harvest, before the most potent chemical – the cathinone – decomposes.

²⁸ The MUA is a union of khat exporters and comprises over 40 countries based in Kenya.

fasting month of Ramadan due to low demand. They proposed paying USD 33,000 per day. On 24 June 2015, the Ministry of Finance agreed that the MUA pay USD 33,350 per day or USD 1,000,000 per month (see annex 3.4.c). The agreement with MUA would have been much like the one with ADCO, but for USD 1,000,000 per month instead of USD 800,000. According to the Minister of Finance, Mohamed Aden Ibrahim, there was no written contract and the agreement would have only been in place for a limited period of time.²⁹

37. On 25 June 2015, the Attorney General of Somalia issued a decision declaring that the Minister of Finance's order regarding the taxation of khat by way of a flat monthly fee is against a Council of Ministers' decision and Somali fiscal legislation, and therefore must be stopped (see annex 3.4.d). The decision also stated:

The Attorney General's Office will embark on an investigation as to why illegal modifications/amendments and lowering of taxes were made with regards to the khat tariff regime, bearing in mind that we are all aware of the financial difficulties the country is facing.³⁰

The Ministry of Finance complied fully with the decision and started collecting import taxes on khat through the Customs Office.

38. Tax collection by a private company or entity which pays the government a flat fee and then is permitted to keep the difference in revenues gathered is unacceptable according to international standards. It is also illegal according to Somali fiscal legislation. The Customs Law No. 1, article 5 "Payment of Duties and Charges" states:

The obligation to pay customs duty shall include the obligation to pay when due any duties or charges due upon the goods, the collection of which is a responsibility of the customs authorities, and such payment shall be made before the goods leave the customs area.³¹

39. The last tariff for the import of khat was set by the FGS at USD 2,000 per tonne. With an average of 21 tonnes imported into Mogadishu per day, this equates to possible revenues of USD 42,000 in taxes (USD 1,260,000 per month or USD 15,120,000 per year). Therefore even at the highest flat fee paid by ADCO of USD 800,000 per month (USD 9,600,000 per year³²) the FGS failed to collect around USD 5,520,000 per year. In addition to the monthly flat fee paid to the FGS, ADCO was paying an average of USD 100,000 per month to the local authorities of Benadir region.³³

40. In addition to the average 21 tonnes per day of khat that are imported in Mogadishu, another 21 to 28 tonnes per day are directed to Belet Weine, Adado, Galkayo or other cities according to demand. The Kenyan company Bluebird Aviation operates an average of six flights per day from Wilson Airport in Nairobi to Somalia. Three of them land at Mogadishu International Airport and another

²⁹ Email to the SEMG by the Minister of Finance, 9 September 2015.

³⁰ Unofficial translation.

³¹ The Customs Law in Somalia dates to 31 March 1961, but remains the legislation actually in place.

³² This is the exact amount projected in the 2015 Budget for annual taxation on the import of khat.

³³ SEMG interview with senior FGS official in Mogadishu, 3 June 2015, and confirmed by sources inside MIA.

three in different regions, according to the current demand. Another company, Skyward Express, operates one flight per day to Mogadishu. Kismayo is supplied separately with one daily flight. In northern Somalia, khat is also imported from Ethiopia and Djibouti by road.

41. A conservative estimate suggests that on average a total of 70 tonnes of khat enters Somalia daily. At an average market value of USD 15,000 per tonne, up to USD 1,050,000 worth of khat is imported daily and USD 383,250,000 is imported annually. This makes it one of the most lucrative businesses in the country. In terms of projected budgetary income, the import of khat comes in second after telecommunications. According to the Appropriation Act for the 2015 Budget, the telecommunications sector leads in terms of revenues generated at USD 13 million per year, followed by the taxation of imported khat at USD 9.6 million per year. The value of potential revenues generated from the taxation of imported khat amounts to three times more than import taxes on petroleum (USD 3.1 million) and the taxation of money remittance companies (USD 3.6 million), and four times more than taxes on the import of sugar (USD 2.2 million). The projected income from the taxation of imported khat of USD 9.6 million is based solely on the ADCO contribution, which represents less than one-third of the total khat imported to Somalia, so government revenues could likely be much higher if properly administered.

42. In addition to the social and economic impacts of khat consumption, the issue of lost government revenue is particularly concerning. At the latest FGS import tariff of USD 2,000 per tonne, and with an estimated 25,550 tonnes of khat imported into Somalia per year, a total of over USD 51 million should be collected. But in 2015, only USD 9.6 million of revenues from the taxation of khat imports was forecast in the Appropriation Act for the 2015 Budget.

43. An improvement in tax collection on khat imports is possible. The Ministry of Finance take-over of the tax collection on khat imports should increase the revenues by 40 to 50 per cent, to as much as USD 14 to 15 million per year. An agreement with Somalia's regional governments and with Bluebird Aviation Company to collect taxes on all the khat flown into the country could again double government revenues, as currently there is no accountability for tax collection on khat outside MIA, or how that money is used.

Annex 3.4.a: Final agreement between FGS and ADCO, September 2014

Jamhuuriyadda Federaalka Soomaaliya Wasaaradda Maaliyadda Xafiiska Wasiiro		جمهورية الصومال الفيدرالية وزارة المالية مكتب الوزير
The Federal Republic of Somalia Ministry of Finance Office of the Minister		
Ref: MOF/OM/530/14		September 02, 2014
Ku: Shirkadda ADCO Group of Companies		=Mogadisho=
Ku: Agaasimaha Guud W/Maaliyadda		=Mogadisho=
Ku: Xisaabiyaha Guud ee Dawladda		=Mogadisho=
Og: Agaasimaha Waaxda Furdooyinka		=Mogadisho=
<p>Ujeeddo. Wax ka badalid Heshiiskii ay wada galeen W/Maaliyadda iyo shirkadda ADCO ee taariikhdiisu ahayd 11/03/2013.</p>		
Markaan ogaanay	In amaanita caasimadda uu isbadal ku yimid, dowladda federaalka soomaaliyana ay ka tallinayso, ganacsatadiina ku dhiiradeen in ay dhaqdhaqaaqooda ganacsi kordhiyeen.	
Markaan ogaanay	In magaaladda Mogadisho oo hore u kala xirnayd ay hadda sooqayadeedu isku furan yihiin dawladduna maamulaysa.	
Markii	shirkadda ADCO ay garawsatay soo jeedinta Wasaaradda Maaliyadda, in isbedel lagu sameeyo dakhliga Wasaaradda Maaliyadda ay ka hesho jaadka	
Kadib markii	Wasaaradda Maaliyadda ay ogaatay in heshisyadii kata dambeeyay oo ay la gashay shirkadda ADCO ay fulisay.	
Markaan negay	Isbadalka ku yimid taariikhda jaadka oo ah 2 Dollar Marduufka.	
Waxay Wasaaradda Maaliyadda iyo shirkadda ADCO oo hore heshis toola galay isku waafaqeen qodobada hoos ku qoran:-		
<ol style="list-style-type: none"> 1. In heshiiskii hore oo taariikhdiisu ka bilaabanaysay 13/03/2014 kuna ekaayd 11/03/2015 lagu sameeyey isbedel taariikhda maanta oo ah 01/10/2014 kuna eg 01/10/2015. 2. In shirkadda ADCO oo bil kasta W/Maaliyadda u shubi jirtay dakhli dhan \$650,000, laga dhigay \$800,000 oo saafi ah, aysan ku jirin lacagta Gobolka Banaadir. 		
Ministry of Finance Villa Somalia Mogadishu, Somalia Email: khulac@moa.gov.so; khulac15@somal.gov.so Tel: +252 1 941064; +252 45 7900000 Fax: +252 1941829		

Annex 3.4.b: Letter from FGS terminating ADCO contract, May 2015

mhuurlyadda Federaalka
 Soomaaliya
 Wasaaradda Maaliyadda
 Kafiika Wasiirka



جمهورية الصومال الفيدرالية
 وزارة المالية
 مكتب الوزير

The Federal Republic of Somalia
 Ministry of Finance
 Office of the Minister

MOWSOM/0049/2015 May 14, 2015

KU: Shirkadda ADCO Group of Companies = Muqdisho =
 KU: Agaasimaha Guud W/Maaliyadda = Muqdisho =
 OG: Xisbiyaha Guud ee Dowladda = Muqdisho =
 OG: Agaasimaha Waxaada Fardooyinka = Muqdisho =

Ujeedo: Heshiiska Canshuurta Qaadka

- Iyadoo laga ambaqadayo qoeshaha xukuumadda ee kordhinta dakhliga dowladda;
- Iyadoo la tixgeliyay warqada tariikhdoodu tahay 22/4/2015, kuna saabsaneyd cabasho ka timid Guddiga Dhoofka Qaadka iyagoo caddayey inay kaheerayda kala noqdeen shirkadda ADCO;
- Ka dib markii baaq iyo is-qab-qabsi badan ku soo siyaaday soo dejinta iyo maareynta qaadka ka soo dega garoonka Aden Cadda sababtaayna in shixnado qaad ah garoonka laga celiyo, taasoo keentay in su'aalo fars badan layska weydiyo heshiiska Wasaarada Maaliyadda iyo ADCO loona baahay yahay in Wasaaraddu mugdiga ka saarto maareynta canshuurta qaadka;
- Iyadoo Xukuumaddu dardar geliyayso hufsaanka maamulka maaliyadda lagama maarmaan noqotay in Wasaaradda toos u qaado canshuurta dowladda, waxay Wasaaraddu go'aansatay in laga bilaabo 15ka Jun 2015 cashur bixiyaasha qaadka si toos ah canshuurta ugu shubaan khamada dowladda ee Bangiga Dhexe Soomaaliya;
- Sidaa awgeed, Wasaaradda waxay ku wargelinaysaa shirkada ADCO in heshiiskii u dhaxeeyey labada garrab (REF: MOF/OM/63/14) uu ku eg yahay 15ka Jun 2015 sida waafiqsan heshiiska qodobkiisa 3aad;
- Sida ku cad heshiiska shirkadda ADCO waa inay:
 - dakhliga bisha May soo shubtaa 28ka May 2015
 - dakhliga labada toddobaad ee bisha Jun oo ah US\$400,000 soo shubtaa ugu dambeyn 15ka Jun 2015;
- Wasaaradda Maaliyadda waxay shirkada ADCO iyo maamulkeeda ugu mahad celinaysaa wadaheysta soo jireenka ahayd.

Mahadsanidiin

 Maxamed Axmed Ibraahim
 Wasiirka Maaliyadda



Ministry of Finance-Villa Somalia
 Mogadishu, Somalia
 Email: info@moa.gov.so
 Tel: +252-61-277739
 Fax: +252-1861039

Annex 3.4.c: Letter from FGS agreeing payment terms by MUA, June 2015

Jamhuuriyadda Federaalka Soomaaliya
Wasaaradda Maaliyadda
Xafiiska Wasiirka



جمهورية الصومال الفيدرالية
وزارة المالية
مكتب الوزير

The Federal Republic of Somalia
Ministry of Finance
Office of the Minister

Ref: MOF/OM/00405/15 Jun 24, 2015

Ku : Agaasimaha Waaxda Furdooyinka =Muqdisho=
Og : Gudiga Sare ee Milkiilayaasha Dalada Mira =Muqdisho=
Og : Agaasimaha Guud Wasaaradda Maaliyadda =Muqdisho=
Og : Ra'iisul Wasaaraha Xukuumada F. Soomaaliya =Muqdisho=

Uj: Habka Canshuurta Jaadka

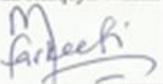
Tixraac warqada sumadeedu tahay MOF/OM/00405/15 taariikhdeeduna tahay 14/05/2015 iyo warqadda XGM/MQ-123-15 kuna saabsanayd codsi ka yimid xafiiska Guddiga Sare ee Dalladda Mulkiilayaasha.

Maadaama ay jirto hoos u dhac dhaqaale oo ku yimaada ka ganacsiga qaadka bisha Ramadan iyo labada bilood ee ka dambeeya, isla markaana loo baahan yahay in qaadka si deg deg ah uga baxo Garoonka Diyaaradaha ee Aadan Cade loogana fogaado buuq iyo is qab-qabsi, lagama maarmaana tahay in dakhliga dowlada ka soo gala jaadka kor loo qaado waxaa la farayaa Dalladda Mulkiilayaasha in bil kasta ay soo shubaan lacag dhan US\$1,000,000 iyagoo maalin walba khasnada Dowladda ku soo shubi doonaan \$33,350.

Agaasimaha Waaxda Furdooyinka waxaa la farayaa in amarkan siduu yahay u fuliyo kana ilaaliyo Garoonka buuq iyo isqab-qabsi.

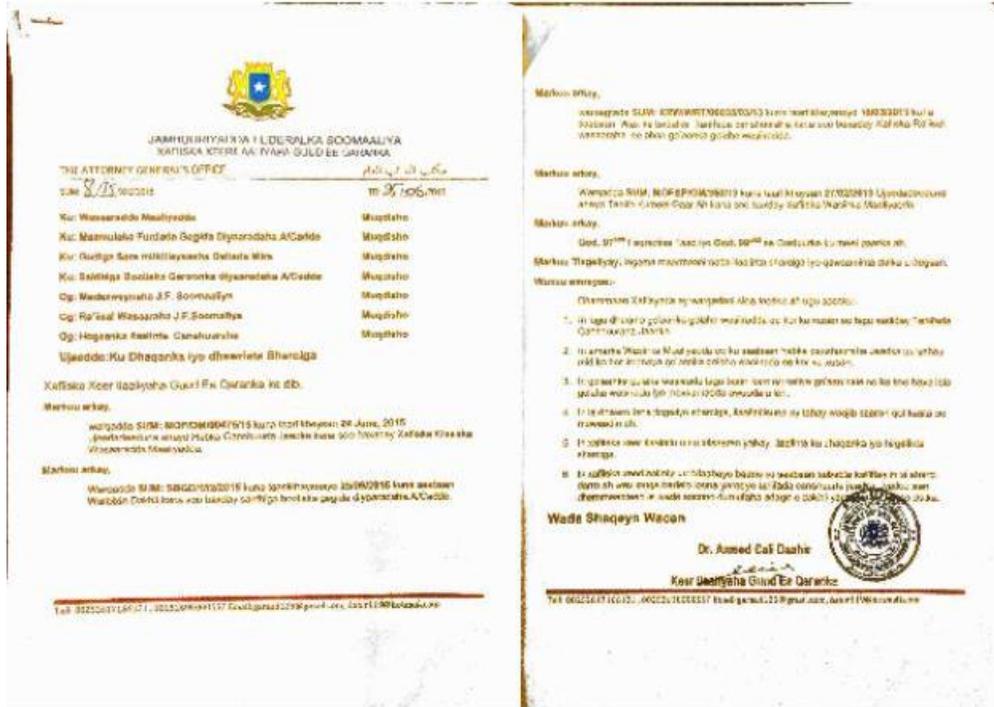
Wasaaraddu waxay ka baaran degi doontaa sida ugu haboon ee loo canshuuro jaadka waxayna dib u eegis ku sameyn doontaa habka canshuurta jaadka seddex bilood ka dib.

Wada Shaqeyn Wacan




Maxamed Aadan Ibraahim
Wasiirka Wasaarada Maaliyadda

Annex 3.4.d: Letter from the Attorney General's Office outlining the decision regarding the taxation of khat imports



Annex 4

Harakaat al-Shabaab al-Mujaahidiin

Annex 4.1: Mogadishu hotel attacks

1. In the Monitoring Group's previous report (S/2014/726, annex 1.3), the Group noted Al-Shabaab's more frequent use of improvised explosive devices (IEDs) and in particular the "growing modification" in the use of vehicle-borne improvised explosive devices (VBIEDs). During the mandate, Al-Shabaab has continued to carry out frequent 'complex' terror attacks in Mogadishu using VBIEDs. The group's most typical Tactic, Technique, and Procedure (TTP) is to use a VBIED to breach a perimeter, after which suicide gunmen or suicide bombers penetrate through the breach towards an inner target. The preferred targets during this mandate have been prominent Mogadishu hotels, often those at which Members of Parliament (MPs) or foreign delegates habitually congregate. Four such attacks are profiled below.

2. In its last report, the Monitoring Group commented on the level of infiltration of the Federal Government of Somalia (FGS) security forces by Al-Shabaab, and even indicated that the Amniyat had "infiltrated the FGS at the highest levels" (S/2014/726, annex 1.3). In at least two of the four cases profiled below, potential Al-Shabaab infiltration of the security forces, in particular the police and National Intelligence and Security Agency (NISA), appears to have played a role in the attacks.

Jazeera Palace Hotel (26 July 2015)

3. On 26 July 2015, a lorry carrying a VBIED rammed the gate of the Jazeera Palace Hotel, which housed both the Chinese Embassy in Mogadishu as well as other diplomatic missions. At least 13 people were killed, including a Somali journalist. The attack was notable for being the largest bomb employed in a terror attack in Somalia since 4 October 2011, when a suicide bomber drove a VBIED into a Transitional Federal Government complex in Mogadishu, killing 100 people, mostly students queuing for Turkish scholarships. The size of the blast indicated an explosives weight of roughly 400 kg of TNT or 2,000 kg of HME (homemade explosives).¹ Annex 4.1.a displays two photographs of the lorry containing the VBIED, shortly prior to detonation.

4. According to credible information,² the lorry was able to access the point of detonation because concrete barriers had been shifted the day before the attack. The reported rationale for this movement of these barriers was to allow access to vehicles engaged in the eviction of squatters from a neighbouring building.³ If so, it is possible that the attackers had received prior information of the movement of the barriers from FGS security forces personnel involved with shifting the barriers.

¹ Estimate provided by an international agency and private security company on the ground in Mogadishu.

² Provided by an FGS security agency.

³ Ibid.

5. Additional credible information suggests that an FGS police commander as well as other officers had been arrested over their possible collaboration with the attackers, again suggesting potential Al-Shabaab infiltration of FGS security forces.

Makka Al-Mukarama Hotel (27 March 2015)

6. In a demonstration of the typical Al-Shabaab TTP discussed above, a VBIED detonated at the gate of Makka Al-Mukarama Hotel, which lies on the road linking Villa Somalia to the airport, on 27 March 2015. Five gunmen clad in Somali National Army (SNA) uniforms then entered the compound, initiating a siege that ended only hours later, when NISA special forces (*Gashaan*) stormed the building. At least 14 people were killed, including the FGS Ambassador to Switzerland, Yusuf Mohamed Ismail “Bari-Bari”.

Central Hotel (20 February 2015)

7. In another example of the typical TTP, on 20 February 2015 a pre-deployed VBIED exploded inside the compound of the Central Hotel, where FGS officials were engaged in Friday prayers. Following the breach at the main gate, an Al-Shabaab suicide bomber penetrated the compound and blew himself up, according to police.⁴

8. At least 10 people were killed in the attack. The FGS Deputy Prime Minister, Mohamed Omar Arte, was present at the hotel and was injured during the attack, while two MPs were killed.⁵

9. Lul Ahmed Dahir, a Dutch national who worked at the hotel reception, is believed to have facilitated the entry of the VBIED into the Central Hotel compound.

Figure 1 (below): Scene of the Central Hotel attack



⁴ Abdi Sheikh and Feisal Omar, “Suicide attack targets Somali officials in hotel, kills 10 people”, *Reuters*, 20 February 2015.

⁵ One Western security source in Mogadishu suggested that Arte was the primary target of the attack.

SYL Hotel (22 January 2015)

10. On 22 January 2015, a VBIED exploded at the gate of the SYL Hotel, located in the vicinity of Villa Somalia. At the time of the attack a bilateral meeting between FGS officials and Turkish delegates was taking place, one day before Turkish President Recep Tayyip Erdoğan was due to visit Mogadishu. At least two police officers were killed in the explosion, though no members of the Turkish delegation were harmed.⁶

11. The Monitoring Group obtained a copy of a preliminary report, in the Somali language, prepared by a national committee appointed by President Hassan Sheikh Mohamud to investigate the SYL attack. The report revealed that in the aftermath of the incident, police removed or looted evidence from the scene, including the mobile phone used by one of the attackers. The owner of the vehicle used in the attack, identified as a 2002 white Toyota Ipsum, was taken into custody. In addition, the report concluded that,

... at least 30 minutes before the explosion, the police that were assigned to the strategic venues that were essential to the security of the hotel and the guests had vacated their positions (unofficial translation).

12. In early March 2015, 11 members of the security forces – including three Al-Shabaab defectors working for NISA – were arrested in connection to the SYL attack.⁷ Both of these events appear to indicate that infiltration by Al-Shabaab of the security forces, including NISA, was a factor in the planning of the SYL attack. However, by 11 June 2015, according to FGS Attorney General Dr. Ahmed Ali Dahir, all 11 suspects had been released.⁸

⁶ Abdi Sheikh and Feisal Omar, “Bomb explodes near Turkish delegation in Somalia day before president’s visit”, *Reuters*, 22 January 2015.

⁷ Information provided to the SEMG by a senior FGS intelligence official, 19 March 2015.

⁸ SEMG interview with Dr. Ahmed Ali Dahir in Mogadishu, 11 June 2015.

Annex 4.1.a: Lorry used to transport VBIED to the Jazeera Hotel, shortly before the detonation



Annex 4.2: Garissa University College attack

Overview

13. In the early morning hours of 2 April 2015, four Al-Shabaab gunmen⁹ stormed the campus of Garissa University College in North-Eastern Kenya, roughly 150 km from the border with Somalia. After killing at least a dozen students in an initial massacre, the militants herded others into Elgon B, a dormitory for female students, and barricaded themselves within (see satellite image in annex 4.2.f for the route taken by the attackers). The dormitory was strategically located in the rear of the university's campus and offered clear lines of sight across multiple directions and approach vectors. Indeed, once the militants had entered the dormitory, one gunman ascended to the second floor stairway, which he used as a sniper's nest to fend off Kenyan security forces personnel, as well as shoot at students sheltering in a neighbouring dormitory across a field (a photo of this sniping position is provided in annex 4.2.d).

14. Kenyan security forces personnel were slow to arrive on the scene. The General Service Unit's (GSU) elite commando unit, RECCE Squad, eventually arrived from Nairobi in the late afternoon and launched an assault on the dormitory, killing all four gunmen.¹⁰ By roughly 6 p.m. the siege had ended. By that time the militants had executed over a hundred students holed up in the dormitory. The aggregate death toll from the attack amounted to 148, marking the attack as the deadliest on Kenyan soil since the 1998 U.S. Embassy bombing in Nairobi.

15. Following the attack, the Kenyan Government quickly named the Al-Shabaab regional leader Mohamed Mohamud "Gamadheere" ("long arms") as its mastermind, and raised the bounty on his capture (see annex 4.2.c for a photo of "Gamadheere"). "Gamadheere" had been previously linked to two Garissa church attacks in 2012, as well as the more recent 22 November 2014 massacre of bus passengers near Mandera.

Timeline of the Garissa University Attack

Prior to attack

- Multiple security sources informed the Monitoring Group that the attackers were present in Garissa 10-14 days prior to the attack, moving between residences in Garissa's market district (*Bulo Mugdi*).

⁹ The gunmen were armed with AK-47 assault rifles and grenades; while it was widely reported in the media that they were equipped with suicide vests, the Monitoring Group has determined this not to be the case. SEMG interviews with Garissa University College campus security officer, 17 June 2015, and regional security source, 18 June 2015. However, one of the militants may have rigged a number of grenades to serve as a makeshift suicide device.

¹⁰ Abdirahim Abdullahi, a law graduate and the son of a prominent Mandera official, was identified as one of the gunmen killed in the attack.

2 April 2015

05:30-06:30:

- Four attackers reach the main gate at Garissa University College in two Toyota Proboxes. They shoot dead two unarmed guards manning the gate and injure two others. The militants' entry to the campus is facilitated by an unsecured pedestrian gate, which is open to allow residents of the town to attend the campus mosque for Friday prayer;
- Two additional guards run into the campus mosque for cover and are unharmed;
- The attackers engage two policemen once inside the compound; the latter quickly retreat following a brief exchange of fire;
- The gunmen proceed to a classroom being used as a Good Friday prayer centre, where they shoot and kill between 12 and 18 students engaged in prayer or working on school assignments;
- The attacks split into two teams, herding students towards the Elgon dormitories at the South-Eastern end of the campus;
- Between 107 and 113 students are massacred in Elgon B dormitory, the majority within an hour of the attackers entering the campus.

06:30-06:45:

- Police officers arrive at the university campus and begin to cordon off the scene.

07:00-07:30:

- Kenya Defence Force (KDF) special forces troops from the nearby Garissa barracks arrive at the campus.

10:00:

- Mobile phone coverage to the surrounding area is switched off.

12:45:

- Al-Shabaab-linked media outlets announces a recent press conference held by Al-Shabaab military spokesman Sheikh Abdulaziz Abu Muscab, in which the group claims responsibility for the attack.

14:00-15:00:

- GSU RECCE squad arrives in Garissa.

17:00-18:00:

- GSU RECCE squad storms the dormitory, bringing the siege to a close.

3 April 2015

- A survivor of the attack, Tanzania national Rashid Charles Mberesero, is found hiding in Elgon B. Although he claims to be a student, he is implicated in the plot and arrested at the scene.

Failure of security

16. At the time of the Al-Shabaab attack, Garissa University was protected by four police officers and 12 unarmed private guards – five stationed by the main gate and seven by the rear of the campus. A breach in the compound’s wall had been recently repaired at the insistence of the university’s principal, Dr. Ahmed Osman Warfa.¹¹ Warfa told the Monitoring Group that he was aware that the campus’ security arrangements were inadequate, and that he had contacted local authorities on numerous occasions but had “not been taken seriously by anyone”.¹²

17. The Monitoring Group has obtained copies off five letters sent by Warfa from December 2014 to March 2015 to various senior Kenyan officials, warning of a potential attack and requesting security upgrades to the university campus. The first of these, a 4 December 2014 letter from Warfa to the Deputy County Commissioner for Garissa, requested the deployment of additional police:

Following many incidences of terrorist attacks in many parts of northern Kenya which has posed a great security threat to Garissa town and its environs, I write to request for additional six police officers to help beef up security at the campus...In the view of the above, some students are worrying and panicking about their security.¹³

18. In an 18 December 2014 letter to the local division police commander, Warfa requested the creation of a police post at the university, as “a matter of urgency”.¹⁴ A 9 January 2015 letter to the Garissa County Commissioner – the presidential appointee responsible for coordinating security countywide – described local insecurity causing students to “fear for their safety as they

¹¹ SEMG interview with Ahmed Osman Warfa in Garissa, 17 June 2015.

¹² Ibid.

¹³ Letter on file with the Monitoring Group.

¹⁴ Letter on file with the Monitoring Group.

are returning from holidays”.¹⁵ The final letter from Warfa, dated 16 March 2015, just over two weeks prior to the attack on the university, repeated his previously unheeded request for the creation of a campus police post to the County Commissioner:

This [police post] will help enhance and beef up our security on campus. There are four police officers currently deployed to the University College, as well as police patrols around the college at night. I would appreciate if you take this as a matter of urgency and consider our request. (This letter is reprinted in its entirety in annex 4.2.a).

Despite Warfa’s requests for assistance, no additional security measures were put in place by local or national authorities.

Failure of communication

19. The success of Al-Shabaab’s attack on Garissa University College was more due to a failure of communication than a lack of actionable intelligence. Since at least 25 March 2015, intelligence warning of an imminent attack against an educational institution in Kenya had been widely disseminated; the University of Nairobi, Kenyatta University, and the United States International University – all institutions based in Nairobi – were on high alert. A note dated 25 March 2015 and posted around the campus of the University of Nairobi warned students and staff that “intelligence reports indicate that the al-Shabaab terror group is planning retaliatory attacks on...a major university”.¹⁶ In addition, Western embassies warned of an imminent attack on an education institution in Kenya; however, it appears as if the Kenyan security forces did not regard Garissa University as a primary target.¹⁷

20. On the evening of 31 March 2015, Warfa received an SMS alert from police advising of a possible attack against four targets: Garissa Teachers Training College, NEP Technical Training Institute, Garissa Medical Training College, and Garissa University College. Warfa told the Monitoring Group that the SMS only advised recipients to “be alert” and was similar to others he received on a regular basis.¹⁸ The generic nature of the message, said Warfa, led him to believe that the threat was not credible, or at least not out of the ordinary.¹⁹

21. However, an SMS received by a senior Kenya police officer based in Wajir fewer than 12 hours prior to the attack (see annex 4.2.b) is evidence of the fact that more detailed intelligence of the Garissa University plot existed immediately prior to its execution. The SMS

¹⁵ Letter on file with the Monitoring Group.

¹⁶ Elsa Buchanan, “Garissa University attack: Kenyan universities warned of pending al-Shabaab ‘retaliation’”, *International Business Times*, 2 April 2015. Available from <http://www.ibtimes.co.uk/garissa-university-attack-kenyan-universities-warned-pending-al-shabaab-retaliation-1494711>.

¹⁷ SEMG interviews with Kenyan intelligence officials and security analysts.

¹⁸ SEMG phone interview with Warfa, 31 August 2015.

¹⁹ Ibid.

makes reference to Al-Shabaab operatives 30 km from the town, imminently poised to attack either Garissa University or Garissa Teachers Training College. This message was not transmitted to Warfa until over a month after the fact. Since Kenyan police evidently possessed the intelligence, it is unclear why it was neither acted upon – for example, by heightening the police presence in or near the university – nor transmitted to the administrators of the targeted institutions. A regional security source summarised the problem when he told the Monitoring Group that in the Kenyan security forces, there is a “disconnect between the collection of intelligence and the use of intelligence”.²⁰

22. This disconnect between the collection and actioning of intelligence was also a factor in the failure to prevent the Westgate shopping mall attack (“*Badru Nairobi Operation*”) of 21 September 2013. In the run up to the incident, available intelligence indicators prior to the attack were ignored or not passed on to the relevant security forces on the ground (see S/2014/726, strictly confidential annex 2.1). In the case of the Garissa University attack, conversely, the intelligence was both available and passed on to the local police; however, the police failed to effectively transmit the information to relevant parties on the ground, or take effective security measures of their own.

Failure of coordination

23. During the Westgate shopping mall attack (“*Badru Nairobi Operation*”), failure of coordination between the Kenyan security forces was a defining factor in the response to the attack. Both KDF and GSU units arrived at the scene, and confusion over the command and control structure, as well as inter-agency rivalry, contributed to a botched response that allowed the siege to drag out over three days. The lack of coordination also resulted in the GSU RECCE squad commander being killed by friendly fire.

24. While the Kenyan security forces’ response to the Garissa University attack avoided the command and control failings of the Westgate incident – the KDF cordoned off the area and duly waited for the RECCE unit to arrive – the slow response of the local police, and the logistics of transporting RECCE squad from Nairobi, were immediately identified for criticism. As the police air wing in Nairobi was unavailable, the GSU RECCE squad travelled by a combination of commercial airplane and road, despite the availability of KDF helicopters. It is unclear why GSU did not request the use of KDF aerial assets, though inter-agency rivalries may have played a role.²¹ As a result, it was ten hours before the RECCE squad was in position to launch an assault against the militants’ position.

²⁰ Interview with the SEMG in Nairobi, 4 July 2015.

²¹ SEMG interview with a regional security source in Nairobi, 11 April 2015.

Aftermath and Kenyan Government response

25. On 4 April 2015, Al-Shabaab released a statement blaming the Kenyan government for “unspeakable atrocities against the Muslims of East Africa”, and further stated,

We will, by the permission of Allah, stop at nothing to avenge the deaths of our Muslim brothers until your government ceases its oppression and until all Muslim lands are liberated from Kenyan occupation.

The message aligned with the stated aim of Al-Shabaab’s regional operations, which is to strike on the home fronts of countries contributing troops to the AMISOM mission.

26. In the aftermath of the attack, the Kenyan Government offered a KES 20,000,000 (USD 190,000) reward for information leading to “Gamadheere’s” capture. The Monitoring Group has been unable to establish a definitive link between “Gamadheere” and the attackers. However, two regional security sources told the Group that “Gamadheere” had been in mobile phone contact with a campus security officer who assisted the attackers by conducting reconnaissance, and was found with photographs on his mobile phone in the aftermath of the attack – probably intended for propaganda purposes.

27. In June 2015, five suspects were charged in Kenyan court with a combined 152 terrorism offences, including the Tanzania national arrested at the scene, Rashid Charles Mberesero.

28. The Kenyan Government also published a list of 86 companies and individuals suspected to be lending support to Al-Shabaab; these included a number of *hawala* transfer companies and bus companies, as well as NGOs. Thirty of these names later appeared in a second, confidential list on 25 April 2015 as participants in the illicit sugar trade, which is a known source of revenue for Al-Shabaab (see strictly confidential annex 4.2.e for a copy of this list).

Annex 4.2.a: Letter from Garissa University College principal Dr. Ahmed Osman Warfa to the Garissa County Commissioner, requesting the creation of a police post



GARISSA UNIVERSITY COLLEGE
(A Constituent College of Moi University)
OFFICE OF THE PRINCIPAL

P.O. BOX 1801-70100 Garissa, Kenya TEL:0773827763 E-mail: guc@mu.ac.ke Website: www.guc.ac.ke

REF: GUC/P/EC/24/VOL.1

DATE: 16th March, 2015

The County Commissioner,
Garissa County
P.O. Box 2
Garissa

Dear Sir,

RE: CREATION OF A POLICE POST AT GARISSA UNIVERSITY COLLEGE

In reference to the above, I write to request for creation of a police post at Garissa University College.

This will help enhance and beef up security on campus. There are four police officers currently deployed to the University College, as well as police patrols around the college at night.

I would appreciate if you take this as a matter of urgency and consider our request.

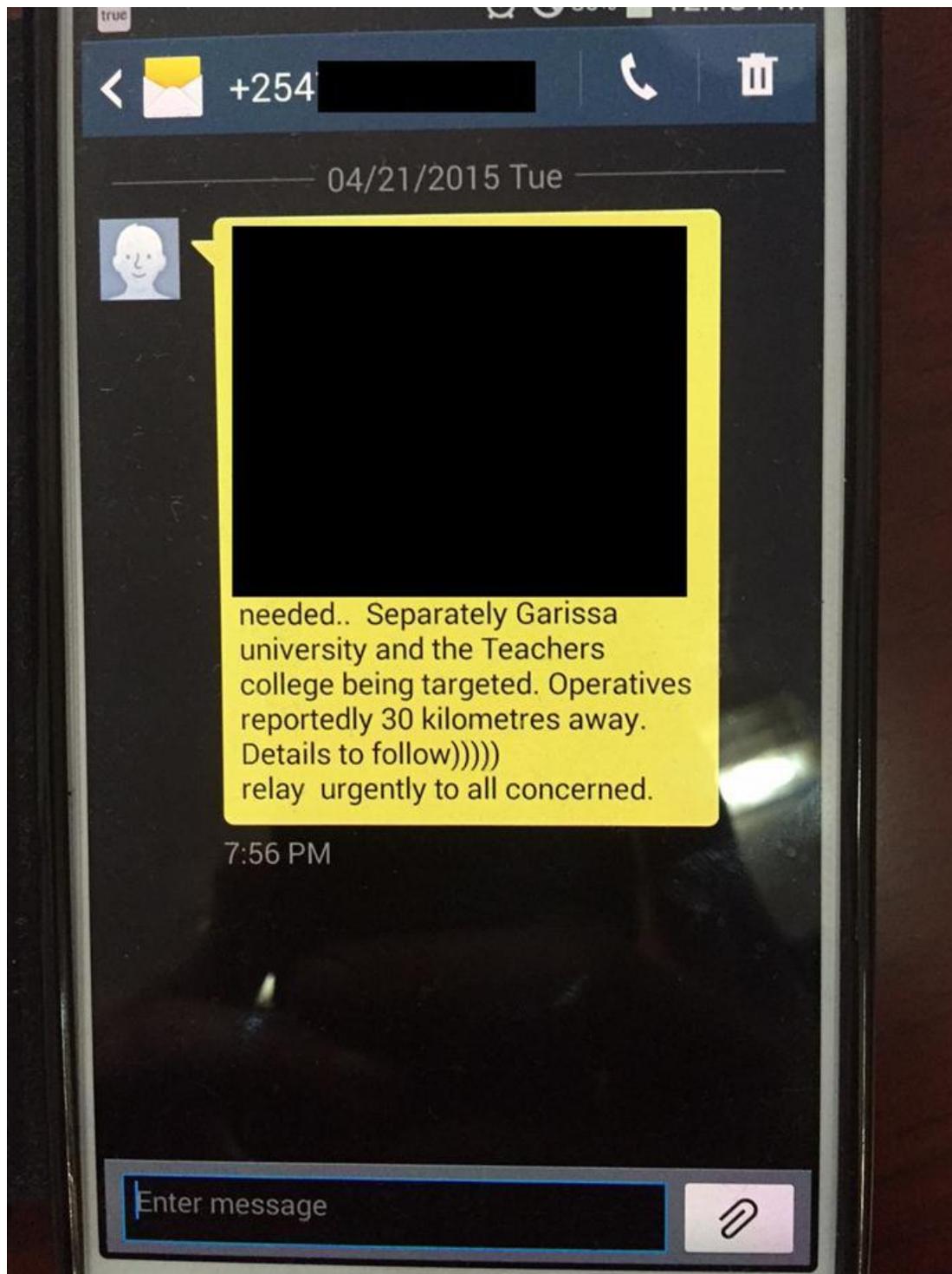
Yours faithfully

A handwritten signature in black ink, appearing to read 'Ahmed O. Warfa', written over a printed name and title.

Prof. Ahmed O. Warfa, PhD
Ag. Principal,

Cc: *Cabinet Secretary, MOEST*
Principal Secretary, MOEST
Vice Chancellor, Moi University
County Education Officer

Annex 4.2.b: Text message warning of an imminent attack against Garissa University



Annex 4.2.c: Photo of Mohamed Mohamud “Gamadheere”, the suspected mastermind of the Garissa College University attack



Annex 4.2.d: Photographs of Garissa University campus

Figure 1 (below): Classroom used as Good Friday prayer centre, where four Al-Shabaab gunmen killed between 12 and 18 students



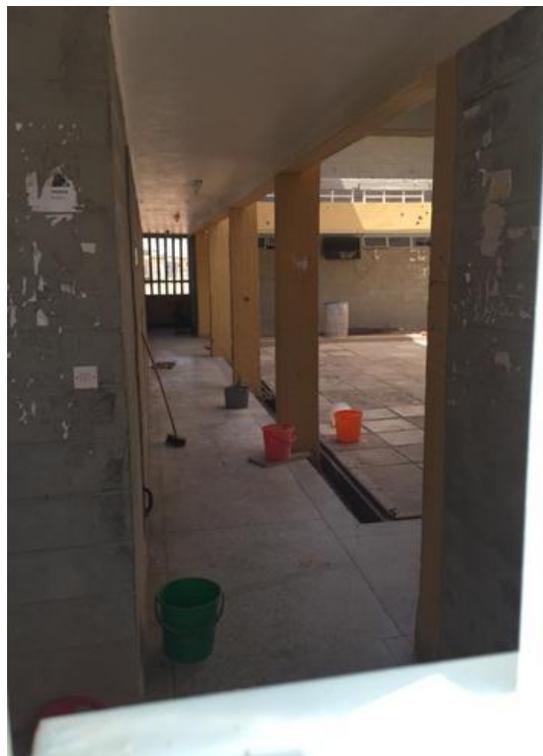
Figure 2 (below): Elgon A dormitory



Figure 3 (below): Second floor stairway used as a sniper nest by one of the militants



Figure 4 (below): Interior of Elgon B dormitory, where militants executed the majority of the students held hostage within

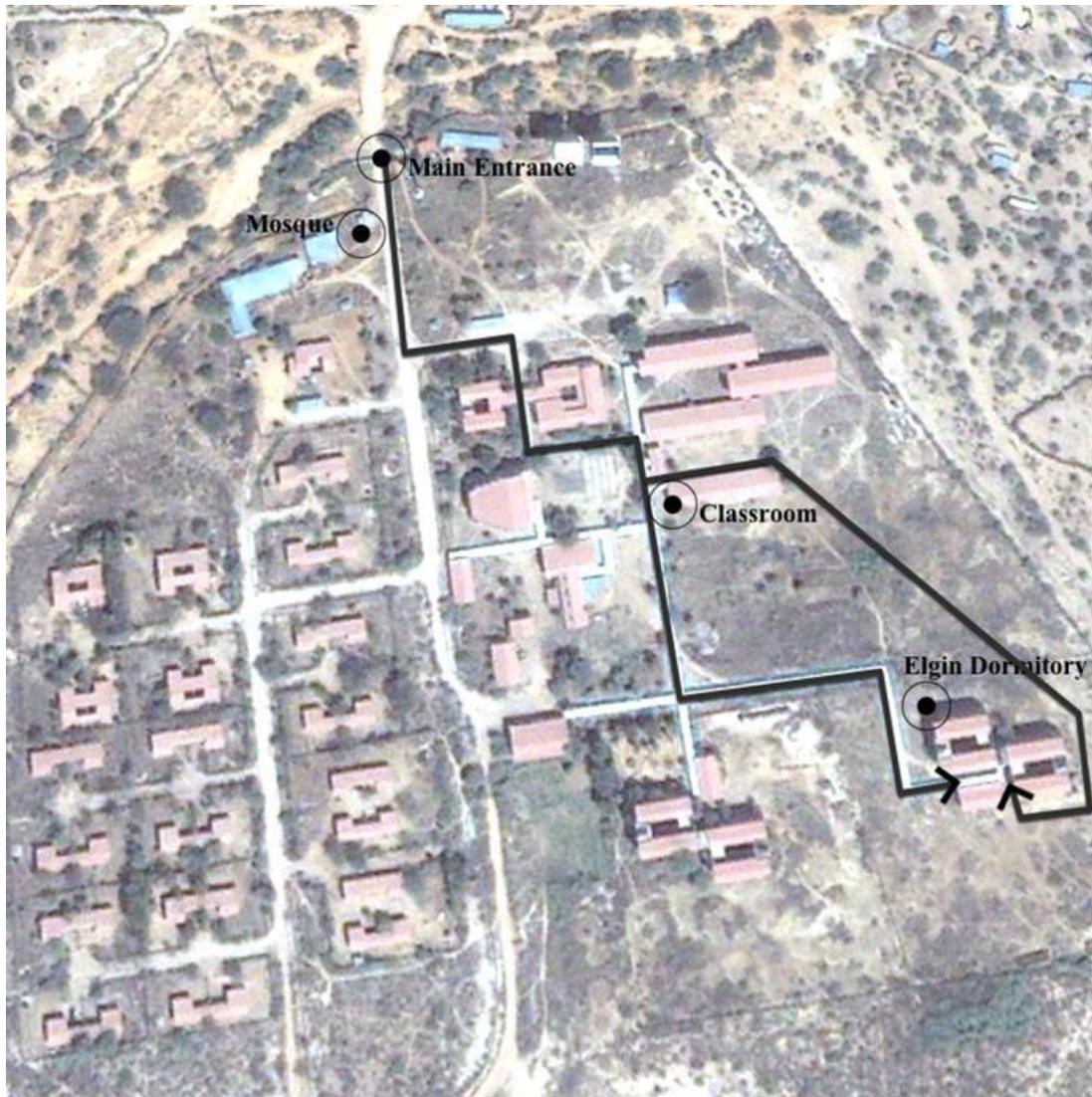


Annex 4.2.e: Confidential Kenyan Government list of 30 individuals implicated in sugar smuggling

(STRICTLY CONFIDENTIAL)*

* The annex has not been reproduced in the present document because it is strictly confidential.

Annex 4.2.f: Garissa University College campus, showing the route taken by the attackers



Annex 4.3: Failed January 2015 Al-Shabaab plot in Djibouti

(STRICTLY CONFIDENTIAL)*

* The annex has not been reproduced in the present document because it is strictly confidential.

Annex 4.4: Al-Shabaab and heroin trafficking

29. The eruption of the Syria conflict in 2011, as well as improved law enforcement measures along traditional heroin smuggling routes, has resulted in East Africa increasingly being used as a route to traffic heroin from Afghanistan into Europe.²² Commentators have speculated that Al-Shabaab earns revenue off the East Africa heroin trade, though no conclusive evidence has yet been presented to support this claim.²³

30. Pursuant to its investigations into the financing of Al-Shabaab, the Monitoring Group has received credible information regarding the MV *Amin Darya* (IMO #8630784)²⁴, a vessel carrying as much as 800 kg of heroin intercepted on 15 July 2014 by Kenyan authorities and subsequently destroyed.²⁵ Nine foreign nationals were arrested in Kenya over the bust: six Pakistanis, two Indians and an Iranian.²⁶

31. The Group's information indicates that the vessel stopped for 10 days off the coast of Hobyo, in Central Somalia, prior to proceeding towards Kenya. During that time it took on supplies as well as gunmen – possibly affiliated with Al-Shabaab – who later disembarked. A businessman in Dubai, also possibly with links to Al-Shabaab, was in continual contact with the traffickers.²⁷ The Monitoring Group has ascertained the name of this businessman to be Javed Ali. Ali was reportedly in continual contact with the arrested traffickers through the phone selector 971 556 [REDACTED], and he has been linked the email address [REDACTED]@yahoo.com.²⁸ The Monitoring Group attempted on multiple occasions, beginning in May 2015, to contact Javed Ali through both his email address and mobile phone, but both appeared to be inactive. The Dubai-based company A. Ebrahimi & Partners²⁹ appointed one of the suspects who was intended to serve as the clearing agent in Mombasa for the seized vessel.³⁰

²² “The Smack Track: East African states are being undermined by heroin smuggling”, *The Economist*, 17 January 2015. Available from <http://www.economist.com/news/middle-east-and-africa/21639560-east-african-states-are-being-undermined-heroin-smuggling-smack-track>.

²³ As one example, two researchers investigating East Africa ivory smuggling routes for an international consultancy queried the SEMG about Al-Shabaab's links to heroin trafficking during a 21 July 2015 meeting in Nairobi.

²⁴ The MV *Amin Darya*'s flag state is alternatively listed as Iran or Sierra Leone.

²⁵ While most media reported the MV *Amin Darya* to be carrying between 300 and 400 kg of heroin, a source with intimate knowledge of the case told the SEMG that the amount to be closer to 800 kg.

²⁶ “Kenya charges 9 foreigners including two Indians over 377-kg heroin haul”, *Reuters*, 31 July 2014. Available from <http://in.reuters.com/article/2014/07/31/uk-kenya-drugs-idINKBN0G022M20140731>.

²⁷ Information provided to the Monitoring Group by a Kenyan security agency, 15 May 2015.

²⁸ *Ibid.*

²⁹ Name of company provided by regional security source. Open source maritime databases list the shipowner of the MV *Amin Darya* as Ebrahim A.M. of Dubai.

³⁰ Information provided to the Monitoring Group by a Kenyan security agency, 15 May 2015.

32. The Monitoring Group sent official correspondence³¹ to the UAE on 5 August 2015 requesting detailed information concerning Javed Ali and A. Ebrahimi & Partners/Ebrahim A.M. and their possible links to Al-Shabaab, but did not receive a response.

33. Although Al-Shabaab maintains a presence in Hobyo, it is not a major base of operations for the group. It is therefore possible that the crew of the MV *Amin Darya* was involved in smuggling of other goods into central Somalia, unconnected to Al-Shabaab. Over the course of its mandate, the Monitoring Group has received numerous unconfirmed reports of Iran-flagged vessels involved in the transport of weapons and fuel to central Somalia.³² The Group also notes that Javed Ali, the Dubai businessman in contact with the traffickers, bears an Iranian name.

34. The Group is continuing its investigation into Al-Shabaab's possible links to heroin trafficking.

³¹ S/AC.29/2015/SEMG/OC.34.

³² The existence of an Iran-based fuel smuggling network into central Somalia was strongly advocated by a regional intelligence source in a 6 August 2015 interview with the SEMG.

Annex 5

Obstruction of humanitarian assistance

Annex 5.1: Denial of humanitarian access¹

1. This annex addresses both some of the most persistent and serious obstructions to humanitarian access observed during the mandate.

Implications of Al-Shabaab territorial retreat and transfer of authority²

2. Access by civilian populations to essential goods and services continued to be a battleground in the conflict between the FGS and its partners and Al-Shabaab.

3. Al-Shabaab actively obstructed access both inside and outside of its shrinking territory, driven by both ideological and strategic objectives, conducting attacks on humanitarian workers and operations but also on private entities providing basic necessities and services.³ In areas where it remained the predominant authority it ensured a hostile environment for humanitarian operations, banning certain non-governmental organisations (NGOs) and United Nations (UN) agencies, restricting freedom of movement, and forcing the confinement of the civilian population. In some instances, individuals and their families were punished for accessing humanitarian assistance outside of Al-Shabaab controlled territory.⁴ In others, threats by Al-Shabaab to prospective beneficiaries of assistance resulted in the postponement of distributions.⁵

4. In many instances where it had officially ceded territory, Al-Shabaab continued to make its presence felt, creating a climate of fear which dissuaded humanitarian operations. In Dinsor for example, over a month after the official transfer of authority, in late August 2015 night time incursions by Al-Shabaab and phone threats to residents made the situation very tense and humanitarians reluctant to return.⁶

5. The most significant obstruction to both humanitarian and basic livelihood activities, however, was Al-Shabaab's violent enforcement of economic blockades on towns and key access routes in Bakol, Hiran and Lower Shabelle, involving the killing of civilians and livestock, and the burning of vehicles. In Walag village, for example, six civilians and their donkeys were killed during one night alone on 31 May 2015, allegedly as punishment for

¹ Denial of humanitarian access entails blocking the free passage or timely delivery of humanitarian assistance to persons in need as well as the deliberate attacks against humanitarian workers.

² Sourcing for some elements of this section is absent for security reasons.

³ See, for example, reports that Al-Shabaab fighters ambushed ENDF forces escorting a food aid convoy in Luuq Jeelow on 7 January 2015. Email from reliable NGO source, 8 January 2015.

⁴ See annex 6.2a and strictly confidential annex 6.2.b.

⁵ Specific instances were documented by the Monitoring Group.

⁶ See UN inter-agency assessment mission report, Dinsoor, Bay region, 18 August 2015 on file with the Monitoring Group.

transporting goods to Wajid town.⁷ The blockades against Buloburte⁸ and Hudur⁹ was also strictly policed, although by July 2015 it was being reported that there was an improved range and volume of food in the markets of the latter.¹⁰

6. Al-Shabaab blockades not only impacted movement of goods but also access to farmland and agricultural labour opportunities in the hinterland, directly as a result of checkpoints and restrictions of movement, but also indirectly, in terms of movement of fuel for farm machinery, tools and seeds. A month after Dinsor changed authority, for example, Al-Shabaab continued to impose a blockade and collect ‘taxation’, disrupting farming and other productive activities.¹¹ These activities not only impacted their immediate target but had a cascade effect on security and markets in other towns. The populations in the surrounding villages also greatly suffered. Around Hudur, for example, not only were local farmers unable to sell their goods in the town, they were also forced to continue paying taxes on produce which they could not sell.¹²

7. The presence of Al-Shabaab near access routes presented an even greater threat as the third phase of the anti-Al-Shabaab offensive scaled up in early 2015. As main transport routes became increasingly dangerous, both humanitarian and commercial contractors suspended operations, particularly affecting Wajid and Hudur in Bakol.¹³ It was noted by a number of interlocutors that the intensity of operations in Bakol, and the nature of the forces conducting them (many outside of the AMISOM concept of operations) had particularly dissuaded contractors.

8. As a result, and notwithstanding enhanced efforts to provide air support, vulnerable populations were exposed to acute food insecurity.¹⁴ In Hudur in April 2015, one third of IDPs were assessed as reliant on one meal a day.¹⁵ By July 2015, following the commencement of Operation Jubba Valley, Global Acute Malnutrition (GAM) rates in Hudur, were “very critical” at 32.7 per cent, with an “alarming three-fold increase” in Severe Acute Malnutrition (SAM)

⁷ Email from reliable NGO source, 1 June 2015.

⁸ See, for example, a report that on 13 June 2015 Al-Shabaaab burned four donkey carts and the food they were carrying and arrested six people in connection with the incident in Caag bashir in Bulo Burte district. Email from reliable NGO source, 14 June 2015.

⁹ See, for example, the report that on 26 March 2015 Al-Shabaab beheaded two businessmen and arrested three others in Doondardiir village south west of Hudur, allegedly for smuggling food to Hudur. Email from reliable NGO source, 27 March 2015.

¹⁰ Interview with UN staff member, Nairobi, 7 July 2015.

¹¹ Inter-agency assessment mission report, Dinsoor, Bay region, 18 August 2015, on file with the Monitoring Group.

¹² Inter-agency assessment mission report Mission Report, Hudur, Bakool region, 29 April 2015, on file with the Monitoring Group.

¹³ Interview UN staff member, Nairobi, 7 July 2015. See also UNOCHA Humanitarian Bulletin, July 2015, 20 August 2015.

¹⁴ Since August 2014, a total of 2,650 metric tonnes of goods have been transported by humanitarian cargo plane into southern and central Somalia. The low volume is due to the restricted airfield capacity of areas in Somalia which need air access.

¹⁵ The primary cause of the food insecurity was the Al-Shabaab blockade. See Inter-agency Mission Report, Hudur, Bakool Region, 29 April, 2015, on file with the Monitoring Group.

rates between June and July.¹⁶ In Buloburte, six months after the change of authority, it was assessed that an estimated 8900 people were in acute food insecurity Crisis (IPC Phase 3) or Emergency (IPC phase 4) in the town.¹⁷ By July 2015 GAM rates were at almost 25 per cent, although there had been a “significant improvement” in SAM levels from 21 per cent in June to 7.7 per cent between June in July, due to sustained humanitarian efforts.¹⁸ In Wajid in May 2015 it was reported that the price of food and essential items had doubled in two months.¹⁹ To supplement World Food Program (WFP) air cargo the population had been depending on food brought in by donkey cart and “human back” and sold at an unaffordable price for vulnerable households.²⁰ On 15 May 2015, two children reportedly died of malnutrition related conditions.

9. There was also evidence of small-scale attempts by pro-FGS forces to block the movement of goods to Al-Shabaab areas. In one incident in December 2014 in Seynilow in Bakol, for example, soldiers reportedly seized three trucks which were transporting commercial food to Al-Shabaab held areas.²¹ In the wake of a series of large scale attacks on civilians in Eastern Kenya the Kenyan authorities refused some NGOs permission to transfer humanitarian supplies to southern and central Somalia across the border at Mandera. Health clinics ran out of essential supplies and one closed as a result of the impasse.²² An airlift was eventually authorised.²³

10. In resolution 2182 (2014) the Security Council described securing key supply routes as “imperative” in view of the “deteriorating humanitarian situation” and called on AMISOM and the SNA to give the “utmost priority” to the task.²⁴ Resolution 2232 (2015) reiterated this call.²⁵ Efforts were made in August and September to clear access routes in Bakol, Hiran and Galgadud. In addition, AMISOM provided convoy protection for bilateral aid which alleviated the pressure on some towns such as Buloburte.²⁶

¹⁶ UNOCHA Humanitarian Bulletin, July 2015, 20 August, available at http://reliefweb.int/sites/reliefweb.int/files/resources/150820_Somalia%20Humanitarian%20Bulletin_August%20final.pdf.

¹⁷ See Inter-agency assessment mission report, Bulo Burto, Hiran region, 23 September 2014, on file with the Monitoring Group. The town came under the control of FGS forces on 13 March 2015.

¹⁸ UNOCHA Humanitarian Bulletin, July 2015, 20 August, http://reliefweb.int/sites/reliefweb.int/files/resources/150820_Somalia%20Humanitarian%20Bulletin_August%20final.pdf.

¹⁹ See UN monitoring mission report, Waajid, Bakool region, 31 May 2015, on file with the Monitoring Group.

²⁰ See UN monitoring mission report, Waajid, Bakool region, 31 May 2015, on file with the Monitoring Group.

²¹ Email, reliable NGO source, 17 December 2014.

²² Interview NGO staff member, Nairobi, 28 August 2015.

²³ Email UN staff member, 6 September 2015.

²⁴ Resolution 2232 (2015) at paragraph 29.

²⁵ Resolution 2232 (2015) at paragraph 11.

²⁶ Interview with UN staff member, Nairobi, 2 September 2015.

11. In the context of the increasingly complex picture of armed activity in Somalia there is need for effective implementation of the Somalia Country Specific Humanitarian Civil-Military Coordination Guidelines, agreed at the end of 2014. Although there has been some progress, support for training of Civil-Military Cooperation (CIMIC) officers in the sectors is needed alongside broader support for a more effective CIMIC component overall.²⁷ At the same time, it is vital that military or ‘securitisation’ strategies are not the only ones pursued. Space for humanitarian actors and local communities to freely and independently engage in acceptance and negotiation access strategies needs to be created: in some areas, for example, local authorities were able to negotiate around blockades, albeit through the payment of checkpoint taxation.²⁸ No UN actors and increasingly few humanitarian actors negotiate access directly with Al-Shabaab.

Use of bureaucratic impediments and misuse of official power to obstruct access

12. In its 2014 report (S/2014/727), the Monitoring Group described how, with the formalisation of new layers of federal architecture, the number of bureaucratic impediments and revenue seeking efforts which complicated and sometimes prevented access had multiplied significantly. During the mandate not only did those practices intensify, but with new entities asserting legitimacy the number of authorities with which the humanitarian community was forced to negotiate also rose. The operational capability of non-governmental humanitarian organisations was particularly affected. Annex 5.2 provides an overview of the scope and impact of these practices in the context of humanitarian obstruction.

Humanitarian principles and challenges of access

13. A number of senior UN and NGO staff expressed concern to the Monitoring Group that the erosion of space for humanitarian operations to abide by humanitarian principles had particularly endangered the quality and scope of humanitarian access to populations in need during this mandate.

14. The Somalia Compact which was agreed between the FGS and international partners in 2013 firmly stated a commitment to “the humanitarian principles of humanity, neutrality, impartiality and operational independence endorsed in General Assembly resolutions 46/182 and 58/114”.²⁹ It further asserted that the government would not interfere with “humanitarian actors’ neutrality, impartiality and independence from political, economic and military processes”. Since then there appears to have been a shift in the political optics. The High-Level Partnership Forum draft documents produced in 2015, for example, emphasised that “services delivered by NGOs or the private sector on behalf of the government will fall under a government-led framework

²⁷ Phone interview with UN staff member, 30 August 2015.

²⁸ Phone interview with UN staff member, 30 August 2015.

²⁹ Federal Government of Somalia, The Somali Compact, text on file with Monitoring Group. The Somali Compact was validated in September 2013 in Mogadishu.

agreement”, intended to “increase the ownership and visibility of government in programme design and delivery”.³⁰ Other developments echoed this approach. Against a background of a significant decrease in humanitarian funds, some donors have encouraged humanitarians to seek support from development donors or donors with a political agenda for basic humanitarian projects, such as hospital services.³¹

15. NGOs have expressed concern that unless carefully managed, this new framework, including the proposed ‘branding’ of activities, could reinforce the politicisation of aid. As one donor said, “change of authority is not an argument for action”.³² In addition, especially in areas where there is lack of clear FGS control, it could put humanitarian workers in danger.³³ The rise in threats to, and attacks on, humanitarian workers during 2015 reflects the fragility of the environment: attacks on humanitarian workers came not just from Al-Shabaab but from other parties to the conflict which made assumptions about the presence and acquiescence of NGOs with Al-Shabaab’s former rule.³⁴ Compounding the challenge are the increased numbers of armed actors taking part in the conflicts and the range of military assets apparently available to Al-Shabaab.³⁵ This makes the need for humanitarian distancing more acute. As one senior NGO staff member put it: “principles are also tools to allow you to work. The problem of bending the neutrality principle in a conflict zone is that it will backfire”.³⁶

16. More broadly NGO and UN humanitarian workers told the Monitoring Group that they believed that the decision to integrate the political and humanitarian pillars of the UN mission in Somalia at the beginning of 2014 had complicated already polarised interpretations of the humanitarian role and may have both undermined access and increased the dangers faced by humanitarian workers.³⁷ Some cited the increase in abductions of local NGO staff on the ground and statements by Al-Shabaab during 2014 which conflated humanitarian actors with the United

³⁰ High-Level Partnership Forum, Draft document, Delivery and state building: concrete measures and way forward, 2015.

³¹ For example, DEVCO as opposed to ECHO in the European system of donor support. The EU Commission's Directorate-General for International Cooperation and Development (DG DEVCO) is responsible for designing European international cooperation and development policy and delivering aid throughout the world. See https://ec.europa.eu/europeaid/general_en. ECHO is the EU Humanitarian Aid and Civil Protection Department. <http://ec.europa.eu/echo/>.

³² Interview with staff of donor, Nairobi, 20 January 2015.

³³ Email from NGO staff member, 10 September 2014, reflecting the views of a group of NGOs.

³⁴ There were arrests of NGO staff in formerly Al-Shabaab held areas by the newly occupying security forces, on the grounds of collusion. Details on file with the Monitoring Group.

³⁵ Interview UN staff member, 3 September 2014.

³⁶ Interview with NGO staff member, Nairobi.

³⁷ In Resolution 2093 (2013) at paragraph 20 the Security Council requested that “by 1st January 2014 the post of Deputy Special Representative of the Secretary-General/Resident and Humanitarian Coordinator (DSRSG/RC/HC) will have been established and structurally integrated into the new United Nations Mission, which will operate alongside AMISOM”.

Nations as “invaders” that “do bad things”.³⁸ The Monitoring Group was not able, however, to identify particular incidents where a heightened threat or attack was casually linked to the new framework. Some agencies in fact reported by mid 2014 that staff on the ground had not seen any change in the security climate which could be linked to integration.³⁹

17. In August 2015 a year long review of the consequences of the UN integrated mission in Somalia on humanitarian action and access to population in need was published by Action Contre la Faim (ACF). While ACF agreed that that it was difficult to disaggregate the effects of stabilization, integration and counter-terrorism policies, it did find that integration had resulted in: “a decreased focus on the public defense and application of humanitarian principles; an increased politicization and militarization of humanitarian aid and access strategies, with clear consequences for the population in need and for the humanitarian personnel; [and] a disappearance of attempts to gain access through acceptance and negotiation to rural areas of South Central Somalia, where needs are among the highest”.⁴⁰

³⁸ See annex 7.1, S/2014/726. Prior to the United Nations decision to integrate its mission in January 2014, 17 NGOs providing humanitarian and development assistance in Somalia had written to the SRSG to express that: “[g]iving the political mission authority over United Nations humanitarian and development actors could create the perception (or reality) that assistance is provided based on political objectives rather than need – providing an excuse to expel agencies and also increasing security risks to beneficiaries and staff”. Letter to the SRSG, undated, signed by 17 NGOs providing humanitarian and development assistance in Somalia. One INGO with some of the largest programs in Somalia withdrew its membership of the Humanitarian County Team as a result of these concerns, as it rendered the United Nations humanitarian wing, “no longer a neutral body”. Interview with INGO staff member, 18 July 2014, Nairobi.

³⁹ Interview with INGO staff member, Nairobi, 18 July 2014.

⁴⁰ See ACF, Case study: Impact of UN integration on principled humanitarian action and access to population in need in Somalia, August 2015, on file with the Monitoring Group.

Annex 5.2: Bureaucratic impediments and misuse of official power to obstruct access

19. During the mandate the number of entities with which the humanitarian community was forced to grapple with for access multiplied as two new interim regional administrations (IRAs) came into being, alongside declarations of legitimacy and control by rival putative states claiming the same territory.⁴¹ In 2014 for example, the United Nations (UN) recorded 76 incidents of interference by government authorities with humanitarian activities. 71 per cent of these related to bureaucratic constraints with the other 29 per cent constituting direct operational interference. By the end of the first seven months of 2015 the number of incidents had already reached 51.⁴² This annex overviews some of the practices purportedly intended to regulate humanitarian action which often had the effect of obstructing and preventing it, across different layers of government. These practices not only immediately impacted operations but also exposed humanitarian operations to the perception that they had been co-opted in support of particular authorities.

The Federal level

20. There is still little coordination between Federal Government of Somalia (FGS) ministries in terms of regulation and facilitation of humanitarian operations.⁴³ Although the existence of multiple interlocutors is not in itself problematic, the approach of these entities, including around efforts to gather revenue, made it difficult for the humanitarian community to mount a coordinated and consistent response. A number of times, for example, duty free goods were held ‘hostage’ at Mogadishu port and airport as Ministry of Finance officials refused to issue tax exemptions. Meanwhile government officials from different Ministries attempted to extort payments from both non-governmental organisations (NGOs) and UN entities on various official pretexts.⁴⁴ On one occasion vital humanitarian supplies used in the treatment of severe acute malnutrition were held at port on the ground that employees at the importing NGO were not paying tax, and that an employee list had not been provided. As an alternative, payment of import tax on the goods was demanded by the Ministry for Finance. Eventually the supplies were released upon the payment of a proportional percentage tax on the import. That these are not isolated incidents but systematic was reinforced by the fact that an agent approached the

⁴¹ The declaration of a ‘state’ by ASWJ was accompanied by new directions to the humanitarian community; there were also efforts by the authorities of ‘Khatumo state’ to impose administrative regulations in its areas of control.

⁴² Email from UN staff member, 6 September 2016.

⁴³ NGOs are obliged to negotiate with a variety of Ministries, such as the Ministry of Labor around employee issues, with the Ministry of Finance for duty free import of humanitarian supplies and with line Ministries around project implementation. As part of the effort to leverage humanitarian engagement in support of state-building, some donors are now requiring agencies to work with or agree memoranda of understanding with Ministries relevant to their areas of input. In addition to concerns about maintenance of independence there are also worries that additional revenue will be sought to support such engagements. Interview, NGO staff members, Nairobi, 28 August 2015.

⁴⁴ Interview with NGO expert 24 August 2015; interview with UN staff member, Nairobi, 6 September 2014.

organization and offered to negotiate with the authorities to ensure that its next shipment would be treated as tax exempt—for a fee.⁴⁵

21. In mid 2015 the Ministry for Labour asked all NGOs working in Benadir to provide them with a list of all staff declaring that each staff member would be required to pay a 20 USD fee for an ID card from the Ministry.⁴⁶ Not only did this raise safety and security questions for individual staff, it also appeared to have no legal basis. A number of organisations which did not comply received visits from the National Intelligence and Security Agency (NISA) and the Ministry of Labour, asking them to provide staff lists or risk being closed. Those who questioned the scheme were told that a draft law was being developed which provided a framework for the scheme, but that it had not yet been approved by Parliament.⁴⁷

22. Although an NGO Bill is still in draft form, national organizational registration is required through the Ministry of the Interior and Federalism upon the payment of fees of 1000 USD for an international organisation and 500 USD for a local organisation.⁴⁸ The Ministry asserts that federal level registration is all that is required, but, as discussed below, this is ignored at the regional level. The attempt to appoint regional focal points to help manage the impact of interaction between federal and regional regulation in August 2014 has had little effect.

Regional authorities

23. The replication of central government bureaucracy at the regional level resulted in the replication and multiplication of practices related to the regulation and control of humanitarian operations, some of which amounted to obstruction.

24. Echoing the approach of Somaliland and Puntland, the new IRAs also attempted to demand payment of registration fees by humanitarian organisations.⁴⁹ Instructions from the Interim Jubba Administration (IJA) Ministry of Planning and International Relations and Humanitarian Programs, for example, advise that payment of an annual fee of 1000 USD for an INGO and 500 USD for an NGO for registration—a sum equal to the federal requirement.⁵⁰ If these practices spread, an NGO intending to operate across the country could find itself forced to pay

⁴⁵ Interview with NGO staff member, Nairobi, 28 August 2015.

⁴⁶ Email from reliable NGO source, 10 September 2015; interview with NGO staff member, Nairobi, 28 August 2015.

⁴⁷ Despite discussions there is no federal NGO law yet in place.

⁴⁸ The certificate of registration received is valid for one year and costs 1000 USD for INGO and 500 USD for an NGO. A variety of documents must constitute the application including proof of donor funds received, *curriculum vitae* of national and international staff (in Somalia) and justification for the use of international staff.

⁴⁹ As noted in the Monitoring Group's 2014 report (S/2014/726) registration is also required in Puntland and Somaliland.

⁵⁰ It is not clear in practice whether if this fee is only being applied to newly registering organisations. Phone interview, former government official, IJA administration, 29 August 2015.

considerable fees in registration alone. There was also evidence that registration and taxation was being demanded at local district levels throughout southern and central Somalia, and in Puntland.⁵¹

25. Amidst competing authorities, the experience of NGOs operating under IJA claimed territory was particularly confusing. Although a Non-governmental Organizations Coordination Act (2015) was developed, different approaches to regulation both in Kismayo and in the districts made adherence difficult.⁵² In Dhobley, for two days in March 2015, for example, field activities by local NGOs had to be suspended when the local administration ordered that only vehicles hired from it could be used. Five vehicles were subsequently impounded.⁵³ In Luq in Gedo, a 30 per cent tax demand was issued to local NGOs by the local District Commissioner in August 2015 and three organisations were forced to temporarily suspend operations.⁵⁴ Although in most of these situations the matter was ultimately resolved either through strong local representations or support from the UN, it made for a very difficult environment.

26. The final form of regulation of humanitarian activity in the Interim South West Administration (ISWA) was under discussion at time of writing. Although a letter from the ISWA Ministry for Humanitarian and Disability Affairs on 12 April 2015 invited “all humanitarian agencies [in] ISWA regions” to “come forward for registration between 14th and 30th April”,⁵⁵ the authorities subsequently entered into dialogue with NGOs on how registration will operate, including on the question of fees.⁵⁶ How the registration question is managed will also have implications for other issues such as work permits for foreign staff members and staff taxation.

27. Although as noted in the Monitoring Group’s 2014 report (S/2014/726) Somaliland presented one of the least obstructive environments for humanitarian operations, increased political and security instability provided the backdrop to some new challenges.⁵⁷ In terms of bureaucratic constraints, efforts by local administrative entities to exert control on operation and contracting were the main obstacles encountered.⁵⁸ In both Somaliland and Puntland, issues

⁵¹ Email from NGO staff member, 10 September 2015; interview with senior INGO staff member, Nairobi, 25 February 2015.

⁵² See Non-governmental Organizations Coordination Act (2015), Jubbaland State of Somalia, No 1 of 2015. Date of assent 14 April 2015.

⁵³ Email from UN staff member, 18 March 2015. International and UN entities were not affected.

⁵⁴ Interview with NGO staff member, Nairobi, 26 August 2015.

⁵⁵ Letter on file with Monitoring Group.

⁵⁶ Phone interview with NGO expert, 24 August 2015; Interview with NGO 28 August 2015. See, draft registration certificate on file with the Monitoring Group.

⁵⁷ There were also public statements and official discussions raising questions about “foreign workers” which added to the pressure.

⁵⁸ In late July 2015 for example it was reported that the Governor of Awdal had decreed that it was obligatory for contracts such as for rental of vehicles etc., to be issued to local companies and that the local administration must be present during the bidding process. Email from reliable NGO source, 27 July 2015.

around the taxation of local UN staff saw the UN ultimately being constrained to share lists of its national employees with local authorities in June 2015.

28. In Puntland the range of obstructive practices described by the Monitoring Group in its 2014 report (S/2014/727) continued to be experienced, including layers of registration at district level. Nevertheless, both UN agencies and NGOs reported during the mandate that there was greater willingness to discuss and negotiate these impediments. In terms of clarifying the framework, an NGO Bill is under discussion and NGOs have been able to submit views on the text.⁵⁹ At the same time, efforts by the Government to direct the involvement of the Puntland Tender Board in the award of contracts worth over 5000 USD are causing significant tension.⁶⁰ The Government asserts that engagement is necessary to prevent corruption in the granting of contracts. NGOs claim that involving the Tender Board is unlikely to have that effect. In addition, it is unclear that a public procurement law, intended to govern the award of public contracts, can apply to NGOs which are private entities. The UN has also been embroiled in this issue. In January 2015 a letter to the UN from the Puntland Minister for Finance and Minister for Planning and International Cooperation advised, *inter alia*, that income tax would be due from rental properties and vehicles leased to or hired by the UN.⁶¹ The letter also declared that “a registration tax” would be levied on “vehicle hire contract by the UN before the contractual amount is paid”. It also purported to order that “contracts awarded and funded by the UN” would be required to pay “registration tax of 2.5% on total gross contract value”. The National Tender Board of Puntland would also collect “a service charge of 0.5% on total gross contract value”. Beyond ensuring that contractors present evidence of tax compliance, the humanitarian community has attempted to resist involvement of the Tender Board. At the time of writing the situation remained at a stalemate.⁶²

29. Finally, although not constituting deliberate humanitarian obstruction, in the absence of funding being found for construction of a parallel runway, the planned closure of Garowe airport to facilitate a major renovation funded by the Government of Kuwait was expected to have a huge impact on UN access from the beginning of October 2015.

Other authorities

30. It was not just the formally recognised IRAs and Al-Shabaab which attempted to use administrative regulation and ‘taxation’ to leverage the resources of the humanitarian community

⁵⁹ Phone interview UN staff member, Nairobi, 31 August 2015.

⁶⁰ Letter to the humanitarian community from the Puntland Tender Board, dated 30 July 2015. The letter referenced a Presidential Decree of 25 July 2015, in turn referring to Law No 11, the Puntland Public Procurement Law. On file with the Monitoring Group.

⁶¹ Letter from the Minister for Finance and Minister for Planning and International Cooperation to the Resident and Humanitarian Coordinator, 17 January 2015, on file with the Monitoring Group.

⁶² Phone interview with UN staff member, Hargeisa, 10 September 2015.

for their own purposes. On 22 March 2015, for example, after the take over of Guriel by Ahlu Sunna wal Jama'a (ASWJ), the "Office of Humanitarian Assistant" of the Guriel District Commissioner issued a statement entitled, "Conduct of International Organisations and Local NGOs operating in Guriel".⁶³ Among the instructions given were that international and local NGOs should "register from the local municipality office", pay "registration fees" and obtain an "acceptance letter". Agencies were also purportedly required to submit "the number of staff, number of houses and rented vehicles they are going to hire and all necessary needs", in order that, "the government fairly allocate the resources". It is understood that the matter was resolved locally. NGOs did not report that they acceded to the payment request, but did register.⁶⁴ In June 2015 with the declaration of a parallel state in Dhusamareb. ASWJ authorities also told the humanitarian community that they were the new authority and called on them to register with them.⁶⁵

31. In Sool and Sanaag, political and ideologically grounded access impediments rooted in contestation of authority remained a challenge. As noted in the Monitoring Group's 2014 report (S/2014/727) there was very little humanitarian access to the area, with UN standard operating procedures preventing travel of UN staff and restricting the forms of aid which could be transferred. In November 2014 approximately 300 tons of food aid donated from the Turkish Government intended for Salax Dheer were diverted to Garowe in the wake of disagreement between pro-Puntland politicians who had secured the delivery and the self-declared Khatumo state administration.⁶⁶ Against the background of intensifying armed engagement between the parties, Khatumo officials increasingly attempted to control revenues in its areas of control including those of the humanitarian community.⁶⁷ A statement by the Minister of the Interior of Khatumo state in March 2015, for example, warned that the administration "would not be responsible for the security of agencies coming from Puntland or Somaliland and that NGOs should contact the administration for their presence to be recorded".⁶⁸

32. As the number of regional entities increases, and both they and parallel authorities jockey for control of power, resources and political legitimacy, humanitarian organisations will come under greater pressure. In the short term, it is vital that the humanitarian community takes a coordinated approach to challenging efforts by regional and local authorities to 'regulate' access where such purported 'regulation' in fact amounts to co-option by extortion/diversion and

⁶³ Office of Humanitarian Assistant of the Guriel District Commissioner, statement, "Conduct of International Organisations and Local NGOs operating in Guriel", on file with the Monitoring Group.

⁶⁴ It is understood that the registration fee demanded was 200 USD.

⁶⁵ Interview with UN staff member, Nairobi, 31 August 2015.

⁶⁶ Email from reliable NGO source, 26 November 2014. Interview with senior member of Khatumo community, London, 12 March 2015.

⁶⁷ In April 2015, for example, Khatumo authorities in Buhodle issue a statement announcing the introduction of new vehicle number plates and warning that vehicles without the new plates would be confiscated. Email from reliable NGO source, 14 April 2015.

⁶⁸ Email from reliable NGO source, 29 March 2015.

obstruction of access. This should include agreement on ‘lines in the sand’. In the absence of such collaboration, the ‘divide, threaten and control’ strategy of many entities, will continue to suck scarce financial and human resources. In the longer term, coordinated authority over humanitarian access throughout Somalia is needed through a transparent regulatory framework which clarifies the requirements for operations and supports independent and impartial humanitarian action.

Annex 5.3: Diversion and misappropriation of humanitarian assistance

34. This annex details particular categories of perpetrator, and particular areas of diversion which contributed to the obstruction of humanitarian assistance during the mandate. Developments in the approaches taken by the humanitarian community to prevent and respond to diversion and misappropriation are also described.

Al-Shabaab

35. In areas of its direct control Al-Shabaab continued to systematically divert humanitarian aid through registration fees, “taxation” of projects and non-governmental organisation (NGO) staff, and control of sub-contracting.⁶⁹ As the Monitoring Group noted in its 2014 report (S/2014/276), the contraction of Al-Shabaab territory during 2014 added to the difficulties faced by humanitarian entities on the ground in resisting the practice. This pressure increased during 2015. Agencies operating in areas still fully controlled by Al-Shabaab were under greater pressure to contribute to a resource-stretched campaign. In areas officially ‘recovered’ from Al-Shabaab, the group continued to extort, facilitated by mobile money and other forms of remittance services. The complexity and oscillations of authority noted in by the Monitoring Group in 2014 (S/2014/276) as having emerged in recovered areas during 2013 and 2014 only deepened during the current mandate. Al-Shabaab was adept at exploiting these security and political vulnerabilities.

36. In some Al-Shabaab controlled areas there were indications that the Amniyat was superseding local responsibility and authority to negotiate humanitarian space (including management of taxation) and overruling previous agreements. If this indeed is a new development it would further contribute to expanding the distance between humanitarian actors, Al-Shabaab and communities on the ground. It may also constitute a new threat to the safety and viability of humanitarian activities in Somalia.

37. Operating in areas directly, and sometimes, indirectly controlled by Al-Shabaab presented a huge challenge to the humanitarian community not only programmatically, but also with respect to risk management and donor accountability. Despite the ‘humanitarian carve out’ extended by

⁶⁹ Due to the highly dangerous context for humanitarian operations in Al-Shabaab areas sourcing for this section is not provided.

the Security Council in paragraph 41 of resolution 2182 (2104), the impact of national and other international sanctions regimes tended to undermine its effectiveness.⁷⁰

Diversion by regional and local administrations

38. In its 2014 report (S/2014/727), the Monitoring Group described how the process of federalisation had increased the layers of bureaucratic impediments which both complicated and prevented access. Those holding power saw humanitarian streams of finance as a source of income. In some areas demands for access to humanitarian resources—whether directly through ‘taxation’ or additional ‘registration’ of organisations, projects, or contracts, or indirectly, through efforts to control tendering or gather information on staffing—made access negotiations and operations more complex, and, in some cases, impossible.⁷¹ In Gedo, for example, and during August 2015 alone, three local NGOs were forced to close temporarily as a result of repeated unacceptable demands for taxation.⁷² The situation was particularly acute in areas newly ‘recovered’ from Al-Shabaab authority. Annex 5.2 on bureaucratic constraints and misuse of official authority offers a more detailed overview of these practices.

39. Regional authorities also attempted to misuse their authority to wield power over donor decision-making on funding and grant making and derive a benefit from humanitarian inputs. In one case documented by the Group, for example, it was implied strongly by the administration that a funder would find operating in the state extremely difficult if funding was not granted to a particular NGO with which a senior advisor to the administration had close connections.⁷³

40. Regional administration and security officials also directly diverted humanitarian inputs. In one case reported to the Monitoring Group local administration officials and regional security forces threatened IDPs not to occupy shelters which had been constructed for them, later

⁷⁰ Paragraph 41 reaffirmed that “until 30 October 2015 and without prejudice to humanitarian assistance programmes conducted elsewhere, the measures imposed by paragraph 3 of resolution 1844 (2008) shall not apply to the payment of funds, other financial assets or economic resources necessary to ensure the timely delivery of urgently needed humanitarian assistance in Somalia, by the United Nations, its specialized agencies or programmes, humanitarian organizations having observer status with the United Nations General Assembly that provide humanitarian assistance, and their implementing partners including bilaterally or multilaterally funded NGOs participating in the United Nations Consolidated Appeal for Somalia”. The Security Council also reduced the burden of reporting on the UN Emergency Relief Coordinator, requesting only one report on “the delivery of humanitarian assistance in Somalia and on any impediments to the delivery of humanitarian assistance in Somalia” prior to the consideration of mandate renewal.

⁷¹ Interview with local NGO leader, Nairobi 17 December 2014. For more on bureaucratic constraints on access see annex 5.2.

⁷² Interview with reliable NGO source, Nairobi, 26 August 2015.

⁷³ Interview with former administration official, Nairobi, 7 July 2015. Misuse of humanitarian operations and inputs, including through diversion for private gain has been previously documented by the Monitoring Group in relation to this senior advisor.

dismantling the structures and sharing out the materials.⁷⁴ In another instance security force personnel took control of wells dug for the community and demanded payment for access to water. Evictions were also strategically arranged to take place just after inputs by humanitarian agencies had rendered the land occupied by the IDPs more valuable. Local businessmen connected with the administration then took possession.

Diversion of food aid, including emergency aid from bilateral donors

41. The arrival into Somalia's ports of large amounts of food and non-food emergency aid from bilateral donors created a ripe context for diversion. The Monitoring Group received a series of allegations from credible sources that some of this aid was misappropriated at the point of entry and either sold directly in the markets or exchanged in kind. Aid was used, for example, to pay members of the Regional Assembly and officials in one interim regional administration (IRA).⁷⁵ Meanwhile, the FGS also began to investigate food aid diversion by Government officials, particularly through the efforts of the Office of the Attorney General (AG). Seven people were arrested further to the AG's investigations into allegations of diversion of Turkish food aid in Buloburte, including senior administration officials.⁷⁶

42. The Monitoring Group received extensive documentation from the Ministry for Interior and Federalism and from donor states on the delivery and distribution of emergency bilateral aid at the end of the mandate. Investigations are ongoing. Meanwhile, in the light of its preliminary findings, the Group urges bilateral donors to require greater levels of accountability from both the Somali federal or regional entity responsible for receiving and distributing the aid, and the implementing NGO. It would also be important for donors to consider providing support for the process of distribution and monitoring. Donors frequently do not arrange for distribution costs or other in-kind assistance to support distribution. Although lack of resources for distribution is not the cause of aid diversion it can be considered an enabling factor.

Diversion and non-governmental organisations

43. As noted above diversion occurs at all points of the aid distribution cycle. During the last three years diversion by local NGOs has been the main focus of a number of United Nations (UN) investigative bodies.⁷⁷ Similar patterns, scale and methodologies as those reported by the Monitoring Group in 2014 (S/2014/726) continued to be identified in cases of systematic diversion shared with the Monitoring Group this mandate.⁷⁸ With respect to the latter these

⁷⁴ Email from former staff member of NGO, 31 August 2015. Full details of these incidents are on file with the Monitoring Group but are not disclosed for reasons of the safety and security of interlocutors.

⁷⁵ Interview with former official, Interim Juba Administration, location undisclosed, 20 June 2014.

⁷⁶ Interview with FGS Attorney General, Nairobi, 2 July 2015.

⁷⁷ See, for example, strictly confidential annex 7.6, S/2014/726 S/2014/727.

⁷⁸ It should be noted that the majority of the cases under investigation relate to a similar time period. Interview with UN staff member, Nairobi, 30 January 2015.

include the manufacture of false documentation—whether through invention of false vendors or collusion—false reporting and absence of implementation.

44. In terms of scale, in one project implemented by an international organisation, 100 per cent of costs incurred were found to be unaccounted for or unsubstantiated; other projects saw a rate of 80 per cent.⁷⁹ Although local NGOs have tended to be the focus of investigations, this year saw the beginning of a number of enquires into allegations of diversion or misappropriation involving international NGOs.⁸⁰ Separate to these findings the Group received a variety of testimonies throughout the year from staff of local NGOs describing how routine diversion was in some operations. One former staff member of a local NGO for example described how only 5 per cent of hygiene kits in a Water, Sanitation and Hygiene (WASH) project were given to the intended beneficiaries and how other inputs were regularly redirected to the local security forces.⁸¹

45. Jurisdictional tensions between accountability and investigative entities in the UN system can impede investigations. Going forward there will be an increasingly small number of local and international NGOs which enjoy support from the international community, resulting in multiple entities funding the same NGO or private contractor. There is a need for a multi-agency approach to investigations within the UN and greater openness to collaborating on enquires and sharing findings. Although cross notification of investigations does occur at the moment there is duplication in investigative activities which sometimes leads to interference with evidence and greater opportunity for the target of the investigation to conceal information.

Links between conflict and the diversion or manipulation of humanitarian assistance

46. In resolution 2111 (2013) the Security Council condemned “any politicization of humanitarian assistance, misuse or misappropriation” and called upon the UN and Member States to “take all feasible steps to mitigate these [...] practices in Somalia”.⁸² A key characteristic of Somalia’s humanitarian aid model, however, is that NGOs or particular branches of INGOs or UN agencies are generally associated with—and viewed as a source of income for—particular communities and clan networks. Allegations that aid inputs are used to fund conflicts or political positions or campaigns go hand and hand with this reality.

47. Over the last two years, as areas have been ‘recovered’ from Al-Shabaab control, clan conflicts and political violence, frequently overlaid with involvement of government administration and security entities, have escalated. Claims that the place and power of

⁷⁹ Interview with UN staff member, Nairobi, 20 August 2015; interview with UN staff member, Nairobi, 26 February 2015.

⁸⁰ Interview with UN staff member, Nairobi, 14 August 2015.

⁸¹ Email from NGO staff member, 31 August 2015.

⁸² Resolution 2111 (2013) at paragraph 11.

humanitarian organisations in local communities have been used and manipulated by parties to these conflicts have increased. During the mandate the Monitoring Group received credible information that humanitarian actors abused humanitarian principles and misused humanitarian inputs in the pursuit of clan dominance, including through use of violence, in a number of places, but in particular in Lower Shabelle and in Hiran.⁸³ In some communities, the allegiance of particular NGOs with particular militia/SNA units and direct funding of the latter operations have been open secrets in the humanitarian community and indeed accepted as the price of access in highly militarised and polarised contexts.⁸⁴

48. At the same time, UN and other entities are increasingly asking questions about clan make-up and networks of current and potential partners.⁸⁵ It may be that single clan affiliated organizations are appropriate interlocutors in some circumstances. The majority of those consulted by the Monitoring Group were of the view, however, that clan capture of an NGO's operations could be best mitigated by insisting on mixed clan management in NGOs.

49. Assessment of how power dynamics in a community, including clan and other socio-economic dynamics, are engaged with and understood, prior to deciding to move forward with a particular partner or input, should be more regularly conducted. In making such assessments, however, it is essential that channels other than traditional interlocutors be considered. Powerful and convincing gatekeepers can prevent even diligent humanitarian actors from fully comprehending the context, especially in situations where victim and potential beneficiary communities are severely marginalized, and often fearful. Efforts should be made therefore to reach out to traditionally excluded communities to ensure their voices are heard and that they can function as partners in humanitarian activity.⁸⁶

50. Special capacity building efforts may need to be made in this regard. Communities which have had historically very limited dialogue with the international community may find it difficult to provide the 'right' inputs in the 'right' form, whether in terms of needs assessments or project proposals. There will be significant resistance from those who currently control the Somali aid

⁸³ Annex 6.3.a and strictly confidential annex 6.3.b describes some of the allegations received with respect to the connection between access to, and the perceptions of access to, humanitarian assistance and the conduct of attacks on the Surre/Dir community in Hiran.

⁸⁴ Specific and credible allegations were received during the current and previous mandate relating to the misappropriation of inputs by clan aligned-NGOs in Lower Shabelle, Hiran and Jubbaland. Multiple interviews with NGO, INGO and diplomatic staff, 2014 and 2015.

⁸⁵ Interviews UN staff members, Nairobi and Somalia, throughout the mandate. Some in the humanitarian community were reluctant to view partners – or even staff – as coming with a clan agenda which would automatically impose on humanitarian operations.

⁸⁶ The 100 % coalition is one important initiative in this regard. In September 2014 a group of representatives self-described as the "Bajuni, Barawe, Banadiri, Bantu, and Nilot communities" joined together to create a coalition to engage more effectively with the humanitarian and development community. In January 2015 the Coalition members named itself, The 100% Coverage Coalition, rebuilding Somalia for Everyone, Everywhere for Everybody.

enterprise, similar to the dangers associated with challenging hegemonies in any area of Somali business.⁸⁷ Defying one of the foundations of—and in some case even the *raison d'être* for—NGO operations in Somalia will be difficult. It is a long-term project involving sustained civic education and inter-community dialogue.⁸⁸

Measures to enhance compliance

51. The humanitarian aid community continued to pursue the positive steps identified by the Monitoring Group in its 2014 report (S/2014/276) both with respect to acknowledging the scale of diversion, and continuing to develop the effectiveness of risk management mechanisms.

52. Within the UN Country Team, the Risk Working Group facilitated exchange of information and the development of common standards and procedures to mitigate risk and respond to diversion.⁸⁹ Reflecting previous Monitoring Group recommendations, in January 2015 an NGO focal point was appointed to the UN Risk Management Unit (RMU), setting the stage for enhanced cooperation and information sharing between UN entities and the NGO humanitarian community. Among the other key developments since the Monitoring Group's last report were:

- (a) agreement on standards on information collection (UN Minimum Information Collection Standards);⁹⁰
- (b) the adoption of a Common Working Agreement on Risk Management by the UN Country Team;⁹¹
- (c) initiation of a Civil Servant and Ministry Payment Tracking system⁹² and increased use of the Contract Information Management System (CIMS) databases with contracts of approximately USD 3.8 billion now recorded with information on risk occurrences.

⁸⁷ The Monitoring Group has documented threats received by groups perceived as “minorities” who have attempted to seek access to funding sources, including engaging with the UN humanitarian cluster system. Interview references.

⁸⁸ See, *inter alia*, interview with senior UN staff, Nairobi, 14 August 2015.

⁸⁹ The Risk Working Group is a cross-agency risk management working group (RWG) was convened under the Office of the Resident Coordinator/Humanitarian Coordinator which was established in May 2014. It comprises the Risk Management Unit (RMU) and Risk Focal Points from the United Nations Country Team (UNCT).

⁹⁰ The standards specify the information and documentation that each UN entity should collect from prospective partners to inform the decision to engage (or not) with such partners.

⁹¹ The Agreement specifies the minimum investments that each UN entity operating in Somalia must make into the collective risk management system: it covers commitments in the areas of information sharing, the development of collective approaches/tools, and communication protocols with external partners. UN Risk Management System in Somalia: Working Agreement, copy on file with the Monitoring Group.

⁹² This system allows the UN to record payment to individual civil servant and ministries in order to determine duplication and diversion, and to monitor adherence to Somalia Civil Servant Salary Scale.

53. More broadly there was enhanced, although uneven, collaboration between various UN analytic units and across functions—political, security and programmatic—to share information on persons of interest, context and networks.⁹³ The RMU also convened a regular Multi Party Risk Management Forum, which brought together the UN, the World Bank, donors and NGOs in a strategic dialogue on issues such as fraud management, capacity assessments, and collective solutions.

54. To some extent, more conscious engagement with the realities of diversion in Somalia and improved risk management efforts are minimising losses. Against the background of an overall diminishing aid budget, however, increasingly risk averse donors, coupled with increased bureaucracy and administration, are creating unintended consequences whether in terms of costs or program focus.⁹⁴ In this regard, the Deputy Special Representative of the Secretary-General/Resident Coordinator/Humanitarian Coordinator initiated a ‘structured dialogue’ with international partners which attempted to parse out the ‘cost of delivery’ in Somalia. The dialogue was designed “to bridge the gap between level of ambition and discourse” with respect to the year of “delivery” and the levels of investment needed to achieve this, including in the context of risk management.⁹⁵

55. Finally, with increased focus on risk management, monitoring and due diligence, third party monitors and external auditors have become an increasing part of the humanitarian aid landscape, adding significantly to program costs.⁹⁶ Although this new layer of accountability is welcome, there is a danger that they in turn may be co-opted by the pervasive elements of the system.⁹⁷

⁹³ Keeping track of the network of individuals involved in diversion or other misuse of aid and who have the skills and capacities to create and run NGOs with an ‘acceptable face’ for the international community but who move between entities is important. When one NGO is suspended from partnership it is not unusual for the same networks of control to reproduce under a new name. A mechanism for pooling and cross-referencing connections and networks would be extremely helpful in understanding the context within which NGOs emerge and retreat – and be invaluable in understanding risk.

⁹⁴ Interview with NGO staff member, Nairobi, 28 January 2015.

⁹⁵ Email from UN staff member, 9 September 2014.

⁹⁶ Significant amounts of money are now being spent by UN agencies on the work of third party monitors and special audits, sometimes with respect to the same entities or areas on the ground. Although some sharing of information is occurring through the Risk Working Group a more formal mechanism for sharing information– alongside a mechanism for cost sharing – could be considered.

⁹⁷ The Monitoring Group is currently investigating a number of credible allegations in this regard.

Annex 6

Violations of international law involving the targeting of civilians

Annex 6.1 Violations of international law involving the targeting of civilians¹

1. This annex provides an overview of key areas of concern and investigations conducted by the Monitoring Group with respect to responsibility for violations of international law involving the targeting of civilians during the mandate.

Al-Shabaab

2. Although the two anti-Al-Shabaab offensives which got underway during the mandate period significantly reduced the territory officially held by the group, they also forced a change in tactics and operations both inside and outside of its areas of control. This had a significant impact on civilians, intensifying trends identified by the Monitoring Group in 2014 (S/2014/726). Greater numbers of civilians were affected by Al-Shabaab direct attacks, including across the border in Kenya where civilians have been the group's primary targets.² One assessment of available data shows that Al-Shabaab almost doubled its share of responsibility for overall violence against civilians in 2014.³

3. Suicide attacks on civilian targets in urban areas, particularly hotels and public institutions, resulted in significant casualties.⁴ Although the expected peak of annual violence by Al-Shabaab during Ramadan did not occur, eleven civilians were killed at least 20 injured in Mogadishu alone during the period.⁵ At the end of July 2015 Al-Shabaab again warned civilians to stay away from Government and United Nations (UN) facilities and from hotels.⁶ Violence meted out by Al-Shabaab in its policing of blockades on towns where there had been changes of authority saw arrests, killings and destruction of property.⁷

4. In the context of the anti-Al-Shabaab military offensive AMISOM, the Somali National Army (SNA) and its partners were often overstretched and forced to relinquish captured areas. Al-Shabaab subsequently committed violent reprisals on the civilian population perceived to have acquiesced in the transfer of power. In Qoryoley in Lower Shabelle, for example, the

¹ The Monitoring group is required, *inter alia*, to report on “violations of applicable international law in Somalia involving the targeting of civilians including children and women in situations of armed conflict, including killing and maiming, sexual and gender-based violence, attacks on schools and hospitals and abduction and forced displacement” (Resolution 2093 (2013), paragraph 43 (a)), in addition to those “being political or military leaders recruiting or using children in armed conflicts in Somalia in violation of applicable international law” (UN Resolution 2093 (2013) paragraph 43 (d)).

² For more on Al-Shabaab's attacks in Kenya see annex 4.2.

³ Analysis produced by the Armed Conflict Location and Event Data Project (ACLED) for the Monitoring Group, February 2015.

⁴ On 26 July 2015, for example, a truck laden with explosives detonated outside the Jazeera Palace Hotel, killing fifteen people, including two UN third-party contractors, and injuring many more. The blast caused structural damage to the hotel and nearby buildings, including three UN compounds. See annex 4.1 for more details of this attack.

⁵ Email from UN staff member, 9 September 2015.

⁶ Statement by Sheikh Ali Mohamoud Rage aka Ali Dheere, 26 July 2015.

⁷ For more on Al-Shabaab blockades see annex 5.1.

Monitoring Group received testimony of how the withdrawal of the AU Mission in Somalia (AMISOM) after four days of occupation, saw killings and torture of civilians, with bodies “hung up on trees” as a warning to “collaborators”.⁸ Many fled the area.⁹ Similar incidents occurred elsewhere, including in Hiran and Gedo.¹⁰

The situation in Al-Shabaab controlled areas

5. Al-Shabaab imposed violent punishments and severe restriction of rights on civilians still residing in its areas of control. Extrajudicial killings, torture, detention—for purposes of extortion and punishment—and denial of life-saving assistance were among the tactics deployed to both maintain its grip on the population and generate resources for an intensified military campaign. Execution of spies was a frequent practice.¹¹ Annex 6.2.a and strictly confidential annex 6.2.b describe commission of violations of international law by Al-Shabaab against members of the *Bantu/Wagasha* community in the Juba Valley.

Federal Government of Somalia (FGS) security forces

6. The conduct of extrajudicial executions were among the allegations received by the Monitoring Group with respect to FGS security forces, against the background of huge operational and command challenges, including non payments of salaries and stipends.¹²

7. As the Monitoring Group described in its 2014 report (S/2014/726), personnel of the SNA – and sometimes the Somali Police Force (SPF), alongside assets of the security forces, including vehicles, weapons and ammunition, were also deployed in attacks on civilian areas in pursuit of clan agendas or resources. During the current mandate the Monitoring Group examined allegations with respect to specific cases in Hiran and Lower Shabelle. Annex 6.3.a and strictly confidential annex 6.3.b contain the Monitoring Group’s findings with respect to allegations of the commission of violations of international law involving the targeting of civilians in the villages of Kabxanley and Defow, Hiran, between December 2013 and June 2015.

⁸ Telephone interview with Somali activist with family from the area who had spoken to residents, 17 August 2015. Dar Salaam and Mubarak were particularly affected.

⁹ Informal submission by the 100% coalition to the Monitoring Group, August 2015, providing details of displacement of households in fourteen villages in the area. Some of the displaced went to the Badbaado 1 camp in Mogadishu and others to Ceel Jaale near Merka.

¹⁰ It was reported that at least 13 people were arrested in the wake of Ethiopian National Defence Forces (ENDF)/SNA pull out from areas around Halgan in Hiran in mid August 2015. See Shabelle News, Al Shabaab details 13 people over coalition forces links, 18 August 2015 at <http://shabellenews.com/?p=12188>; Email from reliable NGO source, 19 August 2015.

¹¹ On 4 September 2015, for example, four men were publically executed by firing squad in Bu’ale town in Middle Juba, accused of spying for FGS forces. Four others were transferred to prison in Jilib. Email from reliable NGO source, 5 September 2015.

¹² See, for example, a report that on 18 August 2015 SNA soldiers executed an Al-Shabaab member known as Kobyere some time after his capture from Kulunjerer in Wajid district. Email from reliable NGO source, 19 August 2015. For more on non-payment of SNA salaries see strictly confidential annex 3.1.

Lower Shabelle

8. In some areas, the complexity of interaction and engagement between clan militia, the SNA and Al-Shabaab both on the ground and in local perception created a highly uncertain environment, including in terms of attribution of responsibility for violations. There was evidence that Al Shabaab (both in itself, and in terms of the threat it represents) was leveraged, and in turn was leveraged by, those progressing clan conflict for broader political and resource goals. The Monitoring Group particularly examined two such incidents during the mandate.

9. In Lower Shabelle, for example, the Monitoring Group continues to investigate individual responsibility for a series of attacks on civilians in Qoryoley district, in particular on the villages of Buulo Sheikh, Hadoman and Farhano in early January, February and March 2015.¹³ Conducted by a combination of SNA personnel (with SNA assets), clan militia and elements of Al-Shabaab, the attacks demonstrate the complexity of alliances and cross cutting interests emerging between Somalia's conflict parties at the local level. The violations unfolded against the backdrop of an ongoing conflict between the *Salaax* militia and *Hawiye* (primarily *Haber Gedir*, but also *Hawadle* and *Murosade*) militia in the area and the broader conflict with Al-Shabaab. The *Salaax* militia are a defensive militia created by the *Bantu* community and led by a *Bantu Digil-Mirifle/Dube*, Shiekh Salaax.¹⁴

10. Credible information received by the Monitoring Group indicates that the attack of 3 January 2015 on Buulo Sheikh and Hadoman resulted in the extrajudicial killing of at least five civilians, the rape of four women and the torture of three young men. Hostages were taken but later released. Many civilians fled their homes. This pattern of conduct was repeated in the subsequent attacks carried out later in January, February and March 2015. One of the characteristics of these combined forces attacks was the taking of hostages and their transfer to Al-Shabaab custody. One hostage captured in an attack on Hadoman village and handed over to

¹³ Information on the attacks was gathered from NGO staff members, individuals with knowledge of the conflict cycle in the region, and UN staff members between March and early September 2015. Interviews with local elders in two villages particularly affected by the attacks were also conducted on 5 September 2015 on behalf of the Monitoring Group. Email from interlocutor of the Monitoring Group, 6 September 2015. The names of some of the victims named in this account are on file with the Monitoring Group.

¹⁴ The mission of the group is avowedly to defend *Bantu* communities of various clan allegiance (particular *Digil-Mirifle* and *Biomaal*) which have disproportionately suffered in the context of historical and current land-grabbing in the area and from attacks on civilians, primarily killings and sexual violence by Somali security forces and *Haber Gedir* militia. In furtherance of these goals the militia has taken revenge on particular individuals who it views as having violently expropriated land. It also conducted a series of attacks aimed at undermining the viability of those farms which the community asserts were unjustly taken from them: this has included threats to Bantu who chose to work on such farms. Information on the *Salaax* militia was gleaned from multiple interviews with local NGO activists, government officials, and regional intelligence sources, March to September 2015. Eleven members of the *Salaax* militia were arrested in May 2015 in unusual circumstances which confirm some of the complex alliances which are emerging the area, complicating analysis of the violence and also, arguably, AMSIOM's mission in relation to Al-Shabaab. See Strictly Confidential annex 6.1.1 which describes the circumstances of the arrests.

Al-Shabaab was subsequently beheaded. A large-scale hostage-taking incident confirmed from different sources involved the kidnap of 30 *Bantu* community members from outside of a mosque in Bandar village on 20 March 2015, and their transfer to Al-Shabaab's Donburale village base. Community outcry subsequently forced the release of 25 or 27 of the hostages. At the time of writing, the fate of the remaining hostages is not known.¹⁵

11. The killing of then District Commissioner (DC) of Janale, Garad Ibrahim Sid Ali, in early August, also occurred in unclear circumstances. A *Biomaal Bantu* recently returned from diaspora, the DC was particularly renowned for his assistance to *Biomaal* and *Bantu* farmers in the area, including with respect to resisting pressure to sell or relinquish land in the context of ongoing inter-clan conflict in the area. The killing of the DC on 3 August 2015 at his home, alongside his colleagues Abdule Barre and Hassan Abdille, was reported widely as attributable to Al-Shabaab.¹⁶ The Monitoring Group's enquiries, including in interviews with the DC's family and in accounts received of the circumstances of the killing itself, suggest that although the particular individuals who carried out the attack were indeed affiliated with Al-Shabaab¹⁷, the motivation related to the ongoing conflict over land ownership and control in the area.¹⁸ As one local activist described it: "Al-Shabaab did it, but he was stopping Hawiye businesses".¹⁹

Interim Regional Administration forces

12. The Monitoring Group also received allegations against regional security forces outside the control of the FGS. In this regard, the unlawful use of force attributed to the forces of the Interim Jubaa administration (IJA), including detentions, unlawful killings and torture, were the most frequently alleged. The most common allegation from clan representatives, non-governmental organisation (NGO) staff members and members of the government was of assassinations of members of particular clans not allied to the government structure (particularly *Bantu*,²⁰ *Adjuran* and *Marehan*), often disguised as Al-Shabaab killings.²¹

¹⁵ Interview with expert with knowledge of conflict cycles in Lower Shabelle, Nairobi, 25 March 2015.

¹⁶ See, for example, Garowe on line, Janale District Commissioner killed in raid, 4 August 2015, available at <http://www.garoweonline.com/page/show/post/3283/somalia-janale-district-commissioner-killed-in-raid>.

¹⁷ Names of some of the alleged attackers were provided to the Monitoring Group.

¹⁸ For more on the background to this context see annex 3.2, S/2014/726 on threats to peace and security in Lower and Middle Shabelle.

¹⁹ Interview with Somali activist with knowledge of the area, Nairobi, 27 August 2015; interviews with Somali NGO staff member, Nairobi, 6 September 2015; phone interview with members of the family of the Commissioner, 6 September 2015.

²⁰ The *Bantu* in addition suffered from killings from what appeared to be acts of casual racist violence. A number of such incidents in 2014, including the killing of a shoeshine boy, were corroborated by members of the *Bantu* community and witnesses from other clans. Members of the *Bantu* community also reported killings at checkpoints. One account received by the Monitoring Group was of the killing of four brothers at Jambalubi checkpoint at a date in early 2015. A fifth brother survived and went into hiding in Kismayo.

²¹ The Monitoring Group conducted interviews with witnesses to the finding of bodies, with NGO sources and with members of the government, between June and September 2015. There was great fear of retaliation expressed by all those interviewed so some details are deliberately vague to protect witnesses.

13. As part of its preliminary investigations, the Monitoring Group was able to investigate and corroborate information on the killing of Sheikh Nadir Sokorow in late June 2014. Sheikh Nadir's body was found dumped in a sack on the morning of 24 June 2014 at the site of the Kismayo hospital, which at the time was under construction. His body bore 9 bullet wounds and signs of torture. Credible testimony received by the Monitoring Group indicates that he had been taken into custody the previous night from his father's home by the then-Head of the Intelligence Service. The arrest came further to an explosion in the Shangala District near the madrasa at which Sheikh Nadir taught, and subsequent to the torture of one of his colleagues by security forces. Information on five other cases which involved the death of individuals subsequent to their arrest by security forces, including photographs of the deceased and testimony, are under examination by the Monitoring Group.

International forces

14. A significant development during the mandate was the increasing scale of engagement—both in terms of personnel numbers and means and methods deployed—of international forces in Somalia, including forces which appeared to operate outside the AMISOM Concept of Operations.²² Various entities operated in different combinations alongside SNA, clan militia, and regional forces, including engaging in armed action which was not always connected with the conflict against Al-Shabaab.²³ A variety of credible allegations, including from eyewitnesses, were brought to the attention of the Monitoring Group, particularly towards the end of the investigative phase of the mandate when Operation Juba Corridor got underway. Nevertheless, the preliminary findings of the Monitoring Group's enquiries into the conduct and operation of AMISOM troops and of the Liyu police in a number of incidents are highlighted here.

AMISOM

15. July and August 2015 saw a major uptick in civilian casualties attributable to AMISOM.²⁴ Twenty-two people were killed by AMISOM in Merka in the last ten days of July 2015, coming

²² Operation Juba corridor was launched by African Union Mission in Somalia (AMISOM) and Somalia's National Armed Forces (SNAF) with parallel operations reportedly conducted by the Ethiopian National Defence Forces (ENDF) and the Kenya Defence Forces (KDF). Disquiet within AMISOM on this framework became public on 17 August 2015 when the Commander of AMISOM Sector 4 Colonel Abdourahman Abdi Dembel gave a radio interview claiming that some Ethiopian troops were not operating in direct cooperation with AMISOM. See, There are Ethiopian forces that are not part of AMISOM troops and present in Somalia, 17 August 2015, www.hiiraanonlinenews.com. Although the claims were later denied by the Somali Minister for Defence, a number of days afterwards the President of Somali Region of Ethiopia Abdi Illay made a speech noting that the Liyu police was operating inside the Somali border.

²³ Multiple examples during July, August and September 2015 from UN and NGO sources.

²⁴ Between January and June 2015 30 AMISOM violations were documented, primarily maiming and abductions/detentions. The July figure of 22 is a major shift in both the scale and the pattern of violations. Email, UN staff member, 11 September 2015.

against the background of almost of a year of rising tensions and casualties.²⁵ The events in Merka were followed by the killing of five civilians by AMISOM personnel in Halgan in Hiran on 8 August.²⁶ In addition there were 13 reported civilians casualties suffered as a result of Ethiopian National Defence Forces (ENDF) air strikes in July.²⁷

16. AMISOM Boards of Enquiry were established to investigate the Merka and Halgan incidents. It is understood that the Board of Enquiry for the 21 July 2015 killings had reported by the time of finalisation of this report although the outcome is not known. Further, a joint investigation into the events in Halgan and Merka was announced after a meeting between the FGS Parliamentary Defence Committee and the Special Representative of the Chairperson of the African Union Commission (SRCC) and his Deputy. A delegation subsequently conducted a visit to Merka.²⁸ Meanwhile Human Rights Watch conducted its own investigation which determined that six members of the Moalim Iidey family who were preparing for their daughter's wedding were deliberately shot inside the Iidey home by AMISOM soldiers.²⁹ The Monitoring Group spoke with members of the *Bendadiri* community and, via an interlocutor, with an Iidey family member.³⁰ The information they provided reflected UN and NGO accounts of the event, including the allegation that two of those shot died from their injuries at the house subsequent to the shooting as they were prevented from seeking medical assistance. A number of interlocutors, including one eyewitness to the event, however, also mentioned that Somali security personnel or militia were also present alongside the AMISOM unit at the time of the killings.

17. It is clear that the operational situation for AMISOM in Merka was, and is, extremely difficult with a long-standing complex inter-clan conflict affecting the town and an isolated SNA contingent co-located at the AMISOM base. Al-Shabaab has been able to carry out numerous IED and grenade attacks on AMISOM in the town. At the same time retaliatory and disproportionate responses to these attacks from AMISOM have resulted in death and injury of civilians and ever-increasing isolation from the community.³¹ In this context, the escalated gravity and the community impact of the recent incidents suggests that a Board of Enquiry – with

²⁵ On 21 July 15 people were reported killed in separate incidents in the Aw Balle, Jujuma, and Rusiya neighborhoods; on 31 July 7 people from one family were killed in one incident which occurred inside the family home of six of those killed while wedding preparations were ongoing.

²⁶ A security source of the Monitoring Group claimed that Liyu police were also present during the incident, alongside the AMISOM ENDF contingent. On 27 August 2015 there was a further report that ENDF/Liyu police had opened fire on a civilian mini bus in Gedo (Qoond Hood) and had killed at least four civilians but the Monitoring Group was unable to get further information on the incident.

²⁷ Email from UN staff member, 9 September 2015.

²⁸ Email from UN staff member, 7 September 2015.

²⁹ See Human Rights Watch, AU forces linked to wedding killings, 13 August 2015, available at <https://www.hrw.org/news/2015/08/13/somalia-au-forces-linked-wedding-killings>.

³⁰ Interview with Somali NGO staff member, Nairobi, 10 August 2015; interview with Benadiri elder, Nairobi, 11 August 2015; Interview with Somali activist, Nairobi, 16 August 2015.

³¹ For example, a former source of the Monitoring Group, AY, was killed in the course of indirect fire from an AMSIOM operation in Merka on 14 November 2014.

its inherently restricted jurisdiction, capacity and ‘insider’ nature – may not be the most effective mechanism to address the violence. In this regard it should be noted that the killings of the Iidey family occurred less than a week after the Board of Enquiry for the first incident had visited Merka in the course of its investigations.³² The Monitoring Group believes that consideration must be given to a more independent and transparent mode of investigation and venue for redress.

18. More broadly, there is also a need for AMISOM to examine the larger implications of the situation in Merka in terms of its operations and disposition. In mid 2015 the AMISOM Civilian Casualty Tracing, Analysis and Response Cell (CCTARC) was finally established.³³ It would be important that troop contribution countries urgently scale up collaboration and information sharing with the CCTARC in order that lessons learned from these and other incidents are swiftly integrated into operations.

The Liyiu police

19. The Liyiu police, an Ethiopian paramilitary force based in Region 5 of Ethiopia, has been increasingly active in Somalia. Allegations of serious violations have accompanied their engagements, including with respect to killing, sexual violence and disappearances.³⁴ One source of the Monitoring Group asserted that at least 4800 Liyiu police were operating in Bay and Bakol alone by the end of August 2015.³⁵ During July 2015, the UN received reports of civilian killings in Bay (Buur Hakaba) and in Bakol (Tieflow) during July. In addition, as noted in annex 6.3.b the Liyiu police were also alleged to have become involved in, or operated alongside, the *Surre/Hawdle* conflict in Hiran in June 2015.

20. The Monitoring Group received a variety of allegations relating to the conduct of the Liyiu police.³⁶ The most serious related to a large-scale attack on villages, *inter alia*, in Galgadud on the Somali/Ethiopia border where it was alleged that over 50 people were killed. The Monitoring Group began an investigation into the attack and ascertained that the attack on the border villages, in particular Garsaale and Laba Ceel, appears to have been launched in retaliation for a large attack by hundreds of *Haber Gedir* militia from across the region on the Liyiu police in which as many as 30 officers reportedly died. It was the culmination of an escalated conflict

³² There are also indications that the same AMISOM commander may have presided over the two events.

³³ See, *inter alia*, resolution 2182 (2014), paragraph 3.

³⁴ See, for example, a report on 24 March 2015 which claimed that a Liyiu police officer had been shot in Abudwaaq allegedly in revenge for the dead man’s engagement in handing over detainees to intelligence sources across the border. Email from reliable NGO source, 5 March 2015.

³⁵ Interview with security source with knowledge of armed operations in the region, Nairobi, 7 September 2015. The same source claimed that a total of 17,000 members of the security forces of Ethiopia were present in various forms in Somalia, including the authorized AMISOM contingent number.

³⁶ See interview with government official, 16 August 2015. In addition to violence against civilians, there were a number of reports of interference with humanitarian operations by the Liyiu police. See interview, NGO staff member, 28 January 2015.

between the *Haber Gedir* and the Liyu police, which had initially erupted following a dispute over access to a water point.³⁷ Although the units and command of the Liyu police involved have been identified, the Monitoring Group is continuing to investigate the circumstances of the attack and impact of the attack on civilians.³⁸ The information available to the Monitoring Group suggests that the number of people killed in the attack was been 30 and 40.

Torture, unlawful killing and kidnapping

21. Notwithstanding the 2011 commitment declaring a moratorium, there was a rise across Somalia in the number of death penalty sentences passed, and executions carried out during the mandate.³⁹ In Somaliland, where no executions had been carried out for for a number of years, six executions were conducted. Particularly in southern and central Somalia, the circumstances in which some of these individuals in the military court system were tried, sentenced, and executed cumulatively raised questions of compliance with customary international law relating to the conduct of non-international armed conflict, and thus violations of the mandate.⁴⁰ These included, *inter alia*, lack of effective access to legal representation, charge sheets and evidence, and extensive reliance on confessions as the basis of convictions. In one case being followed closely by the Monitoring Group the military court passed two death sentences for murder after a trial which appeared to lack fundamental fairness. In all the circumstances of the arrest of the accused, and in combination with the nature of the prosecution witnesses presented before the court, it is likely that the case was hijacked by clan interests.⁴¹ An appeal was allowed, however, and the case is ongoing.

22. Further to its reporting in S/2014/726 the Monitoring Group continued to receive allegations, although fewer in number, of the use of torture during interrogations by the security

³⁷ Interview with security expert with knowledge of the region, Nairobi, 17 June 2015 and 1 July 2015. Credible reports suggest that the ENDF attempted to interpose themselves between the Liyu police and border but failed to stop the assault.

³⁸ A number of victims of the attacks have been identified further to an interview with an NGO staff member in Nairobi on 30 June 2015.

³⁹ According to the UN by the end of August 2015 there had been 26 death penalty sentences passed (Mogadishu 12; Puntland 11; Somaliland 3) in contrast with 22 for the whole of 2014. With respect to executions in 2015 6 were conducted in Mogadishu and Baidoa further to sentences of the military court; four in Puntland and 6 in Somaliland.

⁴⁰ Interview with UN staff member, Nairobi, 15 January 2014; see also, Human Rights Watch, *The Courts of absolute power: Fair trial violations by Somalia's military court*, May 2014 at page 1.

⁴¹ Decisions of the court with respect to the imposition of the death penalty on file with the Monitoring Group. See also interview with Somali activist, 15 August 2015. See strictly confidential annex 6.1.1 for further information on this case.

forces, particularly at Godka Jilicow.⁴² One case is currently under investigation. The Monitoring Group also continued to receive credible allegations relating to the phenomenon of arrest, detention and beating of individuals at secret locations by NISA officers as a form of extortion, especially of those perceived as coming from the diaspora.⁴³ The SPF was also reported to be involved in this practice, however the conduct and ill treatment generally involved only unlawful arrest and detention.

23. In February 2015 the Monitoring Group began to receive reports that an SNA paramilitary unit referred to by communities as, “Alpha 4” was “systematically abducting and arresting Barawani teen age boys and accusing them for being members of Al-Shabab, and demand money of up to USD 500 per person for their release”.⁴⁴ A *Barawanese* elder confirmed to the Monitoring Group that between nine and ten incidents of abduction of young *Barawanese* men residing in Barawe or in Mogadishu had been recorded by families of his acquaintance.⁴⁵ He recounted how on one occasion in 2015 his nephew had visited Barawe from abroad and had been abducted from his home by armed security officers in full-face masks. No reason for the arrest was given.⁴⁶ Further to his abduction—as is the practice which has allegedly developed since the phenomenon began—the family contacted an “agent” in Mogadishu who made arrangements for the young man’s elder brother to travel to Mogadishu and be given sight of the “prisoner” where he was being held in an ordinary house in an area of Mogadishu. Payment terms were agreed and upon the handover of 2000 USD cash to the armed “agent” the young man was released immediately to his brother. Two other *Barawanese* elders contacted by the Monitoring Group expressed the view that there was deliberate targeting of families who were understood to have access to resources either directly or through supportive relatives abroad. The young men who were abducted and later released reportedly told the elders that they were questioned very simply at the time of arrest, transferred to Mogadishu and then simply held until their release. No ill treatment was described. In no case of which the elders were aware were individuals charged with any offence after their abduction; the extortion of payments was the primary objective of the arrests. The Monitoring Group is continuing its investigation into this phenomenon.

⁴² Interview with Somali activist, London, 4 December 2014; Interview with senior INGO staff member, Nairobi, 30 June 2015; On 31 August 2015 a statement by the Benadir Al-Shabaab Wali Sheikh Ali Jabel claimed responsibility for the complex attack carried out on the same day on Godka Jilicow, claiming that “Muslims have been tortured and punished there”; See also the report of the killing as a result of torture further to interrogation of a man arrested in possession of IEDs accused of being an Al-Shabaab operative by Somali security forces in Dollow in Gedo on 17 October 2014. Email from reliable NGO source with knowledge of Dollow, 19 October 2014.

⁴³ Interview with senior INGO staff member, Nairobi, 30 June 2015.

⁴⁴ See, *inter alia*, email from UN staff member, 19 February 2015.

⁴⁵ Interview with *Barawanese* elder, undisclosed location, 16 July 2015.

⁴⁶ The date of the abduction is not provided here for security reasons. It was noted that in Mogadishu the armed security officers were accompanied to the homes of those abducted by “local people”. It is not clear in what capacity these civilians operated.

Annex 6.1.a: Arrest of 11 members of the Salaax militia, 20 May 2015

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* The annex has not been reproduced in the present document because it is strictly confidential.

Annex 6.2.a: The situation of the *Bantu/Wagosha* community in Al-Shabaab held areas of Lower and Middle Juba

26. Since Al-Shabaab seized control of the Juba Valley members of the *Bantu/Wagosha*⁴⁷ farming community who inhabit the riverine villages and key towns have become increasingly subject to systematic violations of international law, including killing, maiming, torture and inhuman or degrading treatment or punishment of civilians, and sexual and gender-based violence. The violations have increased in number and ferocity as pressure on resources and territory from an ongoing offensive see Al-Shabaab prepare for a ‘final stand’.⁴⁸

27. The range of persistent and serious violations experienced by the community as documented by the Monitoring Group may constitute war crimes in non-international armed conflict and also crimes against humanity, including with respect to the underlying acts of persecution, murder, torture and sexual slavery.⁴⁹ The nature and scale of the persecution and forced displacement of the community, coupled with allegations of inward transfer of population to lands from which the community has been displaced (yet to be investigated by the Monitoring Group) may also be understood as ethnic cleansing.⁵⁰

28. Members of the community interviewed perceived their current treatment by Al-Shabaab as an escalation in a continuum of persecution by dominant groups and clans who have viewed the *Bantu* as second class “adoons” (slaves). There is a long history of severe persecution of the community, including, as well-documented, by *Hawive* and *Darood* militia in the wake of the fall of Siyaad Bare regime. This led some of those interviewed to describe Al-Shabaab as the

⁴⁷ Although the terms *Bantu/Jareer* (hard hair) are not anthropologically accurate and have pejorative implications they have been reclaimed by the community and are used here. Among other pejorative terms used for the Bantu are Adoon (slave), Habash (servant), Ooji (from either Italian Oji “today” or Swahili Uji “porridge”) Jereer (kinky hair), Sankadhadhi (broad nose). See note below for an account of the origin of the community.

⁴⁸ The majority of the violations documented by the Monitoring Group occurred in the context of extortion and taxation land grabbing, repression of culture and language and punishment of Al-Shabaab decreed ‘offences’.

⁴⁹ Articles 8(2)(c) and (e) of the ICC Statute describe war crimes in non-international armed conflicts. The essence of crimes against humanity is an attack (whether armed or unarmed) directed against a civilian population. Crimes against humanity comprise various “underlying acts” – such as murder, extermination, deportation or forcible transfer of population, persecution, rape and other inhumane acts – which are “committed as part of a widespread or systematic attack directed against any civilian population”. See ICC Statute, art. 7(1). Persecution as a crime against humanity is constituted by “the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity” committed in the context of an “widespread and systematic attack” on the civilian population. (Art. 7(2)(g) Statute).

⁵⁰ Ethnic cleansing is “a purposeful policy designed by one ethnic or religious group to remove by violent and terror-inspiring means the civilian population of another ethnic or religious group from certain geographic areas”. See Part III, B Final Report of the Commission of Experts Established Pursuant to UN Security Council Resolution 780 (1992), 27 May 1994 (S/1994/674). Although ethnic cleansing is not a crime as such, acts carried out in furtherance of a policy of ethnic cleansing may, in certain circumstances, constitute crimes defined in articles 6 to 8 of the Rome Statute of the International Criminal Court.

new face of a continuum of oppressors: Al-Shabaab was “the worst of the colonial entities”.⁵¹ Yet another called the collective experience of persecution and displacement as “genocide”.⁵²

29. The Monitoring Group’s focus therefore not only highlights that this community is the current target of systematic violations of the mandate. It is also intended to warn that it is potentially vulnerable in the context of any change of authority. One elder described the situation in Al-Shabaab-held areas as the latest episode in a “long term strategy” to “get rid of” the *Bantu* from the Juba Valley.⁵³ Grave concern was expressed that patterns of killing, extortion, forced displacement and violent land-grabbing experienced under Al-Shabaab would continue if local power elites were permitted to continue to assert control in a new ‘liberated’ framework.⁵⁴ It was claimed that the senior leadership of Al-Shabaab in the region were from dominant clans and that many had ongoing business and security relationships with clan, business and military/security networks of the Interim Jubbaland Administration (IJA) and Kenyan and Ethiopian military structures.⁵⁵ Indeed as this report was being finalised in late August 2015 reports were being received that Ethiopian and Somali security forces were removing *Bantu* farmers from their lands around Bardhere (south towards Sakow) in order ostensibly to clear mines. Refusal to leave was being met with beatings. Members of the community told Monitoring Group sources that they were fearful that this clearing was in fact a land-grab. The Group was unable to corroborate these reports, but they do reflect the level of fear of the community.⁵⁶

30. With the community effectively held hostage and subject to forced recruitment by Al-Shabaab, the anticipated military offensive was a major concern to all those interviewed with family members in the area. In addition to the expected deaths of children who had been conscripted, members of the community were fearful that the *Bantu/Wagosha* community more broadly would be scapegoated and persecuted in the context of any transfer of power.⁵⁷

Methodology

31. Over eighty individual and focus group interviews were conducted in person and on the telephone with recent direct victims of violations allegedly committed during 2014 and 2105, indirect victims, and with individuals in the diaspora with family members currently living in

⁵¹ Interview with AJ, United States of America, 1 June 2015.

⁵² Interview with AA, United States of America, 30 May 2015.

⁵³ Interview with Mursal Hayder, Head of Seattle Bantu, 30 May 2015.

⁵⁴ Indeed one of the frequent suggestions was that the delay in the launch of the offensive to “liberate” the Juba Valley was part of a strategy to ensure that both the community was displaced as much as possible from its land and that those remaining could be easily dispossessed of their land and accused as collaborators with Al-Shabaab.

⁵⁵ The exclusion and marginalization experienced by the community in Kismayo exacerbated this perception. In July a new *Haber Gedir* commander was appointed by Al-Shabaab in Lower and Middle Juba.

⁵⁶ Email from *Bantu* activist in the US, 24 August 2015.

⁵⁷ The period of time when the UN was in control in the region was cited by many as a period of protection and safety.

areas of the Juba Valley under the control of Al-Shabaab, including those with family members who are low-ranking members of Al-Shabaab.⁵⁸ The majority of testimonies were collected from family members of victims and victims from rural communities and small villages outside the big towns. Although the majority of those interviewed had left Somalia up to ten years previously, some had been able to return to meet family members in Kenya or Kismayo more recently.⁵⁹ Other interviews were conducted with refugees who had fled villages in the Juba Valley during the last twelve months. Journalists, UN and international non-governmental organisation (NGO) and local NGO staff members, and academics were also consulted.

32. The testimonies contained in this report relate to events which allegedly unfolded in villages between and around Jilib and Jamame in Middle and Lower Juba between 2013 and 2015. The precise names of the places where the events occurred are not used in the report for reason of the safety of those interviewed and their families. It was not possible to investigate and corroborate individually the over one hundred incidents described. The main focus therefore was on identifying case patterns both in terms of prohibited conduct and geography and corroborating the information with reliable UN and non-governmental organisation (NGO) sources. Due to the highly isolated nature of the community efforts were made to reflect as much as possible of the individual experiences for the record.

33. The details of the findings of the Monitoring Group's investigation are presented in strictly confidential annex 6.2.b.

A note on the origins of the *Bantu/Wagosha* community

34. Although all histories of identity in Somalia are highly contested, Somali and international academics consulted by the Monitoring Group suggest that there is consensus around the *Bantu* community having two roots: the first is in indigenous communities who were the first inhabitants of south and central Somalia along the Shabelle and Juba valley and elsewhere; the other is in escaped slaves originally from Tanzania, Malawi, and Mozambique who fled to the Juba Valley in the mid 1800s and settled along the river banks⁶⁰ In their isolated forests and farms of the Juba Valley these communities were able to maintain a homogeneous culture, with distinct language and traditions. Those who did integrate closer to the Somali population either

⁵⁸ Interviews were conducted in Kenya, Somalia the United Kingdom, and the United States. Due to the extreme fear expressed by the community, including in particular the threat of retaliatory attacks on family members, names and places of interviews are indicated only by initials. Consistent fear and suspicion was expressed not just of Al-Shabaab but of 'Somalis' whom the community were convinced still had the power to control and disrupt their lives in exile. It is difficult to convey the depth of the fear which was observed, including with respect to the safety and security of meeting rooms thousands of miles from the Juba Valley.

⁵⁹ It was not possible to direct conduct interviews with individuals living in the area although some phone interviews were conducted indirectly by Somali interlocutors.

⁶⁰ The villages and towns in Bantu areas of Lower and Middle Juba with their Swahili based names reveal the origin of these towns: Cha mama (became Jamame); Osman Moto (an original Shekih of the community).

came directly under protection of other clans adopting a dual-identity, (as *Biomaal/Jareer* or *Digle/Jareer*, for example) or maintained an evolved but separate identity, Mahaway, including speaking the Maay Maay language. Both communities are collectively termed, “*Wagosha*” or the “people of the forest”.

35. *Bantu* communities are often considered as second-class citizens and ‘not true Somali’ because of their ethnic difference.⁶¹ The continued marginalization and vulnerability of the *Wagosha* community of the Juba Valley in their different alignments also allowed them to be easily manipulated, divided, and controlled. As a result, tensions between the Zigua speaking community and the Maay Maay speaking *Bantu* community are significant, including around what is perceived as different levels of compromise and collusion with those which are viewed as the dominant clans.

36. In a forthcoming academic article it is estimated that the population of *Bantu* in the Juba Valley is between 851,206 and 1,571,302 or 6.9 per cent to 14.9 percent of the national population.⁶² This is significantly greater than previously understood with implications for the participation of the community in the federal process.

⁶¹ The level to which this exclusion has been absorbed is reflected in the fact the many in the community refer to other Somalis as simply “Somalis”.

⁶² See, Dan Van Lehman and Risa Proehl, Population Estimates of Somali Bantu with East African Slave Ancestry, draft 1 September, 2015, forthcoming, Journal of Somali Studies.

Annex 6.2.b: The situation of the *Wagasha/Bantu* community in Al-Shabaab held areas of Lower and Middle Juba

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Annex 6.3.a: Commission of violations of international law involving the targeting of civilians in the villages of Kabxanley and Defow, Hiran, December 2013 – 2015

39. Between 2013 and late 2014 a series of large scale attacks on *Surre (Dir)* farming villages of Kabxanley and Defow in Hiran on the banks of the river Shabelle resulted in killing and maiming of civilians, the commission of sexual and gender based violence and forced displacement.⁶³ The attacks were carried out by *Hawadle (Hawiye)* clan militia augmented and constituted by personnel of the Somali National Army (SNA) and Somali Police Force (SPF), and supported politically and financially by regional and national government leaders and powerful members of the *Hawadle* clan.⁶⁴

40. After the first attack on Kabxanley in December 2013 a Government enquiry found that the fighting had caused huge losses in terms of death, injuries and the burning and destruction of the whole village.⁶⁵ Among the comprehensive recommendations of the delegation was that the “government” would “take the responsibility [to pay] for the damages caused by the fighting such as burned down houses and water pumps”. The agreement was never implemented. In the wake of the attack a series of small clashes between respective militia continued with violence against civilians committed by both sides.

41. On 15 July 2014, a second major attack by forces allied with the *Hawadle* began in the village of Defow, another *Surre* village where many civilians displaced from Kabxanley had taken refuge. Once again the village was destroyed and the population fled. Almost the entire *Surre* civilian population in Kabxanley and Defow, estimated at over 12,000 people, were displaced including across the border into Ethiopia. Eventually the *Surre* community regrouped and with support of fighters and equipment from *Surre* clans in other parts of the country, and others, led a series of counter attacks. The force ousted the *Hawadle* militia from primary control of Kabxanley and Defow in a series of fierce battles between January and March 2015.

42. The *Surre* community have described the attacks on their villages as constituting a “calculated plan spearheaded by the regional administration to takeover some of the best commercial farmlands in Hiiraan and distribute among the Hawadle clan which dominates the political affairs”.⁶⁶ The *Hawadle* community, on the other hand, contend that the *Surre* had only

⁶³ The residents of Kabxanley are primarily the *Surre/Fiqi Omar* and those of Defow the *Surre/Fiqi Mohamed*. The *Surre* is a *Dir* clan, with two branches, *Abdalle* and *Qebeys*, found in Mudug, Hiran, Gedo and the Jubbas.

⁶⁴ Some small scale support for the attacks was also initially provided by members of the *Makane* community, also inhabitants of the Shabelle river area, and in some respects, rivals with the *Surre* farming communities. It was alleged that humanitarian inputs were used to induce and secure their cooperation.

⁶⁵ Copy on file with the Monitoring Group. Quotations in English from the resolution are informal translations by an interlocutor of the Monitoring Group.

⁶⁶ Written submission on behalf of the *Surre* community, June 2015; this statement is also reflective of the views expressed by many of those interviewed.

recently arrived in the area and had no entitlement to the land and its benefits.⁶⁷ Previous to the attacks large numbers of *Hawadle* from other parts of Hiran were invited and supported to settle in areas close to the two villages, induced by the promise of land. These settlements, referred to as “villages created by force” or ‘*tuulo soog*’ by the *Surre* community, constituted militia encampments and rear bases for the attacks.

43. In all of these circumstances, the phrase “ethnic cleansing” has been used to describe the violence against, and displacement of, the *Surre* community.⁶⁸ The complete impunity of the military and political leaders who funded and planned and perpetrated the attacks on Kabxanley and Defow not only created a human rights and humanitarian crisis, it has also permitted an escalation in the intensity of the violence and the range of actors involved in the conflict. External support to the *Surre* became inevitable. At the time of writing the two sides are in military stalemate, peace talks are stalled, and the majority of the civilian population of Kabxanley and Defow are still in exile. Meanwhile a state formation process is ostensibly underway for Hiran and Middle Shabelle.

44. Due to the ongoing fragility of the context, with almost weekly engagements between the parties, a full and detailed account of the attacks, the violations committed, the humanitarian impact and a discussion of allegations relating to those militarily, financially and politically responsible, is set out in strictly confidential annex 6.3.b.

⁶⁷ The *Surre* claim that they have been connected to Kabxanley and Defow for at least 500 years.

⁶⁸ See, for example, interview with international non-governmental organisation (INGO) staff member with knowledge of the situation in Hiran, Nairobi, 27 March 2015. Ethnic cleansing is “a purposeful policy designed by one ethnic or religious group to remove by violent and terror-inspiring means the civilian population of another ethnic or religious group from certain geographic areas”. See Part III, B Final Report of the Commission of Experts Established Pursuant to UN Security Council Resolution 780 (1992), 27 May 1994 (S/1994/674.) Although ethnic cleansing is not a crime as such, acts carried out in furtherance of a policy of ethnic cleansing may, in certain circumstances, constitute crimes defined in articles 6 to 8 of the Rome Statute of the International Criminal Court.

Annex 6.3.b: Commission of violations of international law involving the targeting of civilians in the villages of Kabxanley and Defow, Hiran, December 2013 – 2015

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Annex 6.4: Sexual and Gender Based Violence (SGBV), recruitment and use of children in armed conflict and forced displacement

47. This annex contains summaries of the main trends in violations with respect to these three areas of focus of the mandate including addressing developments in practices and the legal framework which tend to prevent occurrence of such violations and enhance compliance with the sanctions regime.

Sexual and Gender Based Violence (SGBV)

48. Since S/2014/726 there has been little change in the pattern and scale of allegations of the commission of SGBV. Armed actors remain the main perpetrators of the commission of rape by a stranger. The right to remedy remains almost never fulfilled. Between January and December 2014, the Gender-Based Violence Information Management System (GBVIMS) recorded 4,737 cases (50.9 per cent physical assault, 27.4 per cent rape, 9.5 per cent sexual assault, 7.1 per cent denial of resources, opportunities and services, 3.4 per cent psychological abuse and 1.7 per cent forced marriage). 84 per cent of the survivors were IDPs.⁶⁹

49. In Al-Shabaab-held areas there were a range of violations documented by the Monitoring Group, including forced marriage and a practice called ‘*Dumaashhi*’ involving the taking of new brides by Al-Shabaab fighters, in particular in Lower and Middle Juba.⁷⁰ Inter-clan conflict was once again a context in which rape was used as a tool to punish and assert dominance with specific allegations received by the Monitoring Group on the commission of SGBV by clan militia in Lower Shabelle and Hiran.⁷¹

50. In the wake of allegations regarding the commission of SGBV by AMISOM personnel – including by Human Rights Watch⁷² and the Monitoring Group⁷³ – the summary findings and recommendations of an Independent Investigation Team established to investigate allegations of Sexual Exploitation and Abuse by AMISOM personnel were published in April 2015.⁷⁴ The report determined that only two of the allegations were founded, including one case which had been investigated and documented by the Monitoring Group in S/2014/726.⁷⁵ Despite the

⁶⁹ The data is only from reported incidents to service providers directly working with GBV survivors. The consolidated data is in no way representative of the total incidents or prevalence of GBV in Somalia. See <http://www.gbvims.com/what-is-gbvims/>.

⁷⁰ See annex 6.2.a and strictly confidential annex 6.2.b.

⁷¹ See, inter alia, annex 6.3.a and strictly confidential annex 6.3.b. ‘Clan militia’ in many cases were also SNA personnel.

⁷² Human Rights Watch, “The Power These Men Have Over Us – Sexual Exploitation and Abuse by African Union Forces in Somalia”, 8 September 2014.

⁷³ S/2014/726, strictly confidential annex 8.4. See also paragraphs 32 – 34, resolution 2182 (2014).

⁷⁴ Press release, “The African Union releases the key finding and recommendations of the report of investigations on sexual exploitation and abuse in Somalia”, 21 April 2015.

⁷⁵ Although two troop contributing countries (TCCs) launched their own investigations relating to the allegation, TCCs were very reluctant to share information with the team.

Security Council urging AMISOM to implement the recommendations of the report, there has been little change on the ground.⁷⁶ Meanwhile the Monitoring Group received reports of the commission of SGBV by international security forces operating outside of the AMISOM framework.⁷⁷

51. There were small steps forward in terms of improving the national framework of prevention and redress for SGBV crimes. At the federal level the Federal Government of Somalia (FGS) Attorney General initiated a new approach to prosecuting SGBV crimes, including with the engagement of two female prosecutors.⁷⁸ In Somaliland crimes increased support for prosecutors and investigators resulted in increased prosecutions of SGBV. By late August 2015, Sexual Offences Bills were under development—albeit at different stages—at the federal level, and regionally in Somaliland, Puntland and the IJA. With the highest global incidence of female genital mutilation (FGM), presentation of a bill to outlaw the practice to the Puntland parliament and the development of a similar bill at the federal level, represented significant breakthroughs. The National Action Plan for Sexual Violence in Conflict, presented at the June 2014 London conference, however, still awaits implementation and funding.

52. Nevertheless, pursuing justice for SGBV crimes remained extremely difficult. Huge obstacles are integral to the system, including in particular the conduct of officials charged with receiving and investigating allegations. One severe illustration of this during the mandate involved a young girl of fifteen who approached the FGS Criminal Investigation Division in Mogadishu with an allegation of gang rape. She, her mother and a staff member of a non-governmental organisation (NGO) accompanying her were insulted, interrogated, and finally arrested, accused of inventing the claim.⁷⁹

Recruitment and use of children in armed conflict

53. Against the background of an intensified campaign against Al-Shabaab, and as clan, business and political networks positioned themselves to contest control of land and populations, new cycles of conflict and militarization created an opportunity for increased child recruitment.⁸⁰

⁷⁶ Preamble, resolution 2232 (2014).

⁷⁷ Interview with security expert, Nairobi, 7 September 2015.

⁷⁸ Meeting with staff of the Office of the Attorney General, 2 July 2015, Nairobi.

⁷⁹ See, Strategic Initiative for Women in the Horn of Africa (SIHA) and Somali Women Development Centre (SDWC), Press release: “Mogadishu: student gang raped”, 1 July 2015, on file with the Monitoring Group.

⁸⁰ The Report of the Secretary General on Children and armed conflict for 2014, 5 June 2015, (A/69/926–S/2015/409) documented the recruitment and use of 819 children (779 boys, 40 girls) by Al-Shabaab (437), national army and allied militia (197), Ahlu Sunna wal Jama’a (109) and other armed elements (76). It was noted that these numbers should be understood against reduced capacity to access and verify reported incidents. Three parties continued to be listed for 2014: Al-Shabaab (recruiting, killing and maiming), ASWJ (recruiting) and the SNA (recruiting, and killing and maiming).

54. The gravest violations were seen in Al-Shabaab held areas, including in Middle and Lower Juba where the Monitoring Group documented an increase of child recruitment from early 2015.⁸¹ This included situations where whole villages were forced to render their children and young men (or pay for an exemption) and where young boys ‘disappeared’ *en masse* from Al-Shabaab madrasas.⁸² Across the border in Kenya the Monitoring Group received reports of radicalisation and recruitment through madrasas in the refugee camps.⁸³ Children were used both in support functions and in direct operations, including incidents where explosive devices were used.⁸⁴

55. In the context of a rise in military activity in Sool and Sanaag reports were received of the deployment of children as young as 10 or 12 in support of the armed forces of Somaliland.⁸⁵ Children were also observed at checkpoints operated by other militia in the areas. Ahlu Sunna wal Jama’a (ASWJ) was listed for the second year in the report of the Secretary-General on children and armed conflict for child recruitment.⁸⁶ More broadly the Secretary-General expressed particular concern about “the ongoing recruitment and use of children by clan militias”, with implications for joint operations by national forces and AMISOM, including with respect to delegation of control for ‘recovered’ areas.⁸⁷ 197 incidents of child recruitment and use by the SNA and allied militia were documented during 2014.⁸⁸

56. Under the stewardship of the SNA Child Protection Unit, however, efforts continued to prevent child recruitment to the SNA. A vetting process of prospective recruits conducted in Kismayo in June, for example, saw the screening out of 36 children. As the numbers of those defecting or being separated from armed groups rises, whether in the context of amnesty or FGS/AMISOM operations, ensuring that such children are safely received and transferred to the appropriate protective actors, and that recycling does not occur, is critical.⁸⁹ In January 2015 seven human rights monitors were trained and deployed in the context of Somalia’s “National Programme for the Treatment and Handling of Disengaging Combatants and Youth at Risk in Somalia”.

⁸¹ There were 451 verified incidents of child recruitment during the first six months of 2015, with Al-Shabaab remaining the main perpetrator. Email, UN staff member, 10 September 2015.

⁸² See annex 6.2.a and strictly confidential annex 6.2.b.

⁸³ Interview with refugee leaders, Nairobi, 31 October 2014.

⁸⁴ Interview with explosives expert, Mogadishu 3 February 2015; email, security source, 23 May 2015.

⁸⁵ Phone interview with Las Anod resident, 26 June 2015.

⁸⁶ See A/69/926–S/2015/409, 5 June 2015.

⁸⁷ A/69/926–S/2015/409, paragraph 147.

⁸⁸ A/69/926–S/2015/409, paragraph 147. There were incidents in which children were used by AMISOM in “support functions”. See also Report of the Secretary-General to the Security Council on Children in armed conflict, 5 June 2015, (A/69/926–S/2015/409), paragraph 147.

⁸⁹ The Monitoring Group received credible information from a number of sources that children in one reintegration centre were used for intelligence gathering activities.

57. In December 2014, the FGS Parliament adopted a law ratifying the Convention on the Rights of the Child which was signed by the President of Somalia on 20 January 2015.

Forced displacement⁹⁰

58. There was little relief for over 1.1 million internally displaced persons (IDPs) in Somalia.⁹¹ During the mandate the largest displacements of people were caused not by conflict, but by forced evictions of IDPs and urban poor by government and private actors.⁹²

59. Almost 100,000 IDPs alone were pushed out of city settlements, victims of the rush to invest in Somalia's booming real estate sector, facilitated by an environment of corruption and unregulated land speculation.⁹³ The use of force in some of these eviction operations resulted in death, injury and demolition of homes, generating additional violations of the mandate. In two days in early March 2015, for example, security personnel forcibly evicted over 21,000 IDPs from the Maslax and Aslubta areas of Kahda district, beating many, destroying shelters and preventing the collection of personal belongings.⁹⁴ There were serious protection and humanitarian consequences. At the end of August 2015 over 42 per cent of the population of Benadir were in the crisis or emergency phase of food insecurity.⁹⁵ The protection, peace and security implications of forcing an estimated 100,000 vulnerable IDPs into the Afgoye corridor—an area with increasing Al-Shabaab presence—appear not to have been considered. Despite calls by the Security Council for “relevant national law” to govern the conduct of

⁹⁰ The Monitoring group is required, *inter alia*, to report on “violations of applicable international law in Somalia involving the targeting of civilians including children and women in situations of armed conflict, including [...] forced displacement”, Resolution 2093 (2013), paragraph 43 (a).

⁹¹ As noted in S/2014/726 and throughout this report, victims of forced displacement and confinement were more likely to be exposed to a variety of other violations of international law, including of attacks on civilians, sexual and gender based violence (SGBV), forced recruitment and denial of access to humanitarian aid.

⁹² The term “forced evictions” is defined as the permanent or temporary removal against their will of individuals, families and/or communities from the homes and/or land which they occupy, without the provision of, and access to, appropriate forms of legal or other protection. See United Nations Committee on Economic, Social and Cultural Rights (CESCR), General Comment No. 7: The right to adequate housing (article 11.1): forced evictions, 20 May 1997, E/1998/22.

⁹³ Over 96,000 people, the vast majority of whom are IDPs were forcibly evicted from Mogadishu and other major urban areas in Somalia such as Baidoa, Bosaso, and Kismayo between January and May 2015.

⁹⁴ See, for example, Human Rights Watch, “Somalia: Forced Evictions of Displaced People - Tens of Thousands at Risk in Capital”, 20 April 2015. The Monitoring Group was also informed that two police officers and a young girl were killed in the course of a forced eviction and demolition by Somali security forces which met armed resistance. The incidents occurred at Jaale Siyaad Military academy in Mogadishu on 27 May 2015. Email from NGO source, 28 May 2015.

⁹⁵ FAO Food Security and Nutrition Analysis Unit (FSNAU), FSNAU-FEWS NET Technical Release, August 31, 2015. The Integrated Food Security Phase Classification (IPC) is a set of tools and procedures to classify the severity of food insecurity using a five-phase scale.

evictions, the adoption in October 2014 of a new national policy on internal displacement has had little impact.⁹⁶

60. Conflict related displacement continued to force waves of flight and return, as some areas changed authority multiple times. Meanwhile populations suffered forced confinement in Al-Shabaab territory.⁹⁷ The new anti-Al-Shabaab offensive which began in July 2015 resulted in the displacement of over 40,000 people in Bakool, Bay, Galgadud, Gedo, Hiran and Lower Shabelle, often to towns already stretched by previous waves of displacement.⁹⁸ In addition, inter-clan and political conflicts—often intertwined with Al-Shabaab engagement—forced communities to flee their homes in Lower Shabelle, Hiran, Sool and Sanaag.⁹⁹

61. By 30 August 2015, 3510 refugees had returned from Kenya to Baidoa, Kismayo, Luq and Benadir under a special pilot voluntary return program. On 29 July 2015 a meeting of the Tripartite Commission for the Voluntary Repatriation of Somali Refugees from Kenya agreed that the “safe, dignified and voluntary repatriation” of Somali refugees would be “scaled up”.¹⁰⁰ At the same time almost 26,000 Somalis, alongside almost 3000 Yemeni refugees, had returned from Yemen where they held refugee status.¹⁰¹ Meanwhile a voluntary return program from Ethiopia is under discussion. In the context of these large-scale returns, continuing cycles of internal conflict and expected environmental phenomena such as El Niño, the number of those internally displaced in Somalia is expected to climb. The design of comprehensive solutions rather than tactical responses to immediate crisis is badly needed.¹⁰²

⁹⁶ In resolution 2232 (2015) the Security Council expressed “concern at the increase in forced evictions of internally displaced persons from public and private infrastructure in major towns in Somalia”. It stressed that “any eviction should be consistent with relevant national and international frameworks” (paragraph 30).

⁹⁷ See annex 6.1.

⁹⁸ Email from UN staff member, 9 September 2015.

⁹⁹ Forced displacement of civilians may, in certain circumstances, constitute war crimes in non-international armed conflict or crimes against humanity. See, inter alia, Rome Statute of the International Criminal Court article 7 (1) (d) and (h) and article 8(2) (e) (viii).

¹⁰⁰ See, Joint Communiqué Tripartite Commission for the Voluntary Repatriation of Somali Refugees from Kenya, 30 July 2015, Kenya (on file with the Monitoring Group). The Commission pledged to support returns to any place in Somalia with a special focus on six districts identified for comprehensive return and reintegration support: Mogadishu, Afgoye, Jowhar, Balad, Wanlaweyn and Belet Weyne.

¹⁰¹ As of 31 August 2015 there were 28, 887 people of concern who had register with UNHCR upon arrival from Yemen: 25,802 Somali returnees; 2,872 Yemeni prima facie refugees and 213 third country nationals. See Somalia Task Force on Yemen Situation, Weekly Inter-Agency Update # 35, 25 – 31 August 2015. The authorities in Puntland and Somaliland have been at the forefront of the response. There have been no reports of *refoulement*.

¹⁰² In November 2013 UNHCR launched a Global Initiative on Somali Refugees (GISR) with the aim of “seeking ways to create and advance durable solutions for Somali refugees”.
<http://www.unhcr.org/pages/527b8f7d6.html>.

Annex 7

Arms embargo regime

Annex 7.1: Management of weapons, ammunition and military equipment

1. In resolution 2182 (2014) the Security Council recalled that “improved arms and ammunition management in Somalia is a fundamental component of greater peace and stability for the region”.¹ When renewing the partial lifting of the arms embargo, the Council linked future renewal of the provision with the Government’s reasonability “to ensure the safe and effective management, storage and security of their stockpiles”.²

2. This annex examines a key area of the Federal Government of Somalia (FGS) weapons and ammunition management (WAM) responsibility with respect to managing materiel controlled by its own security forces: progress relating to registration, recording, distribution and accounting for weapons and ammunition.³ The Monitoring Group also assessed progress in two other areas which impact the overall environment of control of the use of arms and related materiel and have the potential to impact peace and security: the management of FGS security force uniform stocks and prevention of their unauthorised use; and the regulation and oversight of weapons held by private individuals and entities. Compliance by the FGS and the African Union Mission in Somalia (AMISOM) with obligations to document captured military equipment pursuant to paragraph 6 of resolution 2182 (2014) is addressed in annex 7.4.

Development of a comprehensive WAM system

3. In October 2014 the Council acknowledged that while there had been steps taken to establish effective mechanisms for weapons and ammunition management, the appropriate structures were “not functioning with the required level of efficiency nor at all levels of Government”.⁴ In response to this criticism the FGS redoubled its efforts to establish a project to develop a comprehensive approach to WAM management. The project was initiated during 2014 in collaboration with the United Nations Assistance Mission in Somalia (UNSOM) Rule of Law and Security Institutions Group (ROLSIG) and the UN Mine Action Service (UNMAS). The project envisaged the creation of a framework of

¹ Preamble, Security Council resolution 2182 (2014).

² Preamble and paragraphs 8 and 9, resolution 2182 (2014).

³ The two other pillars of effective WAM are the development of adequate storage infrastructure and procedures for weapons and ammunition, including physical security and stockpile management and the ability to identify and track those personnel authorised to be issued with weapons: FGS obligations with respect to clarity on force structure are discussed in annex 7.3.

⁴ Resolution 2182 (2014) paragraph 4. The institutional architecture charged with the development of effective weapons and ammunition management includes: the Arms and Ammunition Steering Committee (AASC) which provides strategic guidance and is chaired by the National Security Adviser and composed of representatives of the FGS, the UN, the African Union Mission in Somalia (AMISOM), the European Union, bilateral partners, and non-governmental implementing partners; the Somalia Explosives Management Authority (SEMA) responsible at the operational level for ensuring effective WAM throughout the Somali security forces; and the Weapons and Ammunition Management Technical Working Group (WAM TWG) which is composed of: FGS representatives; UN entities; AMISOM, the European Union and other bilateral partners and, NGOs.

standards, systems, and procedures alongside the provision of equipment and conduct of basic training, intended to ensure marking, record keeping, management, distribution and verification of weapons, including small arms and ammunition in Somalia.⁵ It was also geared towards assisting the FGS in its compliance with Security Council reporting and notification requirements. Despite a number of requests to donors, including to Member states via the Committee, by 31 August 2015 the project had not yet been funded.⁶

4. Notwithstanding the absence of funding for the project as a whole, some of the initiatives comprised in the project plan were implemented. First, baseline surveys of arms and ammunition were conducted and completed in three locations, Mogadishu, Baidoa and Beletweyne.⁷ Second, in July 2015 and August 2015 UNSOM and UNMAS trained 25 personnel from all four FGS security forces and the Office of the National Security Advisor (NSA) in the destruction of non-serviceable small-arms and light weapons.⁸ Weapons marking, registration and record keeping training by UNMAS and the Regional Centre on Small Arms in the Great Lakes Region (RESCA) is also ongoing. Meanwhile the UN Institute for Disarmament Research (UNIDIR) began a consultation process to develop national frameworks for WAM, in cooperation with the FGS and UN partners.⁹ A small arms and light weapons survey project by the Small Arms Survey is expected to report in November 2015.

5. Despite these concrete steps, major gaps in the overall Somali WAM framework—from lack of clear standards and procedures to implementation capacity—continue to hamper the ability of the FGS to comply with Security Council requirements under the partial lifting of the arms embargo. The Monitoring Group urges Member States continue to support the development of a comprehensive WAM framework, not least as the number of weapons under FGS control has increased since the partial lifting of the arms embargo and will only further increase as support for the Gulwade plan gets underway.¹⁰

⁵ WAM Pilot project draft, 22 June 2015, on file with the Monitoring Group. For a more in depth discussion of international support to the FGS to build compliance capacity see annex 7.5

⁶ See, for example, letter dated 20 December 2014 from the Permanent Mission of Somalia to the United Nations addressed to the Chair of the Committee, S/AC.29/2014/COMM.124, transmitted to the Committee as S/AC.29/2014/NOTE.130, 31 December 2014 (The delay in circulation was a result of the Secretariat's attempts to reach out to competent Somali authorities for clarification on the intended recipients.)

⁷ The findings of these baseline surveys were shared with the Security Council.

⁸ UNMAS newsletter, undated (July) on file with the Monitoring Group; 150 unserviceable weapons were destroyed. One more weapons shears training is planned to be conducted in 2015 which will destroy the remaining stocks of unserviceable weapons from the Police and NISA. Phone interview, UN staff member, 1 September 2015.

⁹ See, *inter alia*, Towards a National Framework for Arms and Ammunition Management in the Federal Republic of Somalia. Geneva: United Nations Institution for Disarmament Research (UNIDIR), forthcoming (2015).

¹⁰ For a discussion of numbers of weapons and ammunition imported further to notification to the Committee see annex 7.2.

Procedures for registration, distribution, use and storage of weapons

6. The FGS has shown the greatest WAM progress in the area of weapons marking and registration. In October 2014 the Security Council had expressed disappointment that a weapons marking and registration process had not yet commenced, urging the FGS to implement the process “without further delay”.¹¹ By the end of July 2015 over 4600 weapons (both imports and existing weapons) in service with, or allocated to, Somali National Army (SNA), National Intelligence and Security Agency (NISA) and private security company personnel, had been marked and registered.

7. The first marking machine arrived at the Ministry of Internal Security (MIS) in August 2014. By the 31 August 2015 1776 weapons had been marked at the MIS, 350 of which were weapons assigned to NISA and the remainder part of a programme of marking and registering weapons held by private security personnel entities. It is understood that preparation for the marking of weapons in service with the Somali Police Force (SPF) is underway.¹²

8. Further to training in February 2015 conducted by UNMAS and UNSOM, in March a 12-man SNA team began work at Halane Central Storage facility, marking AK47s and pistols using a second marking machine donated by UNMAS. The Monitoring Group visited Halane armoury on 11 March 2015 and observed weapons marking in progress.¹³ Eventually managing to mark at a commendable rate of 10 weapons per hour, the SNA team’s progress was later slowed by both the movement of stockpiles and the distribution of unmarked weapons to personnel.¹⁴ The momentum was further interrupted when seven members of the weapons marking team coming from marking weapons at Villa Somalia found themselves in the vicinity of an attack on a vehicle in which two members of Parliament were travelling and were arrested. Alongside many others who were in proximity to the attack at the time, the team was swept up in the security response to the killing. It is understood that the intervention of the President secured the release of the markers a number of days later. In the aftermath of the arrests, SNA weapons marking stalled and only resumed in late June 2015, and then sporadically. On 19 August 2015 weapons marking began again in earnest.

¹¹ Resolution 2182 (2014) at paragraph 5.

¹² The marking machine was donated by the Regional Centre on Small Arms in the Great Lakes Region (RESCA). As part of the handover RESCA carried out training of MIS personnel in marking and registration procedures consistent with the Nairobi Protocol for the Prevention, Control and Reduction of Small Arms and Light Weapons in the Great Lakes Region, the Horn of Africa and Bordering States (2004). The handover of the machine and training of personnel took place on 19 and 20 August 2014.

¹³ Approximately 2000 rifles were being stored at the site at the time alongside heavier weapons and ammunition.

¹⁴ Due to the movement of stockpiles the team moved from the Halane armoury to Villa Somalia and Gashandeega (Ministry of Defence) to mark unregistered weapons priority issued to units based there. This approach also allowed the team to deliver instruction to personnel on weapons cleaning and safety alongside marking effort.

9. In late June 2015, upon the invitation of the FGS, a spot check on all of the categories of weapons in stock at the facility found that every weapon examined had been registered in the correct format and the appropriate record keeping completed.¹⁵ By the end of July 2015 the FGS told the Monitoring Group that a total 2480 weapons had been marked at Halane and 406 weapons at Villa Somalia.

10. Nevertheless, significant challenges remain. At the time of writing, the MIS-based marking machine was broken and was awaiting the arrival of spare parts. Registration of weapons had not yet commenced for either the SPF or the custodial corps. Although newly imported weapons were being marked at Halane armoury, registration of other weapons in service – the largest task – had only begun in Mogadishu and then only for a small number of weapons at Villa Somalia.

11. Overall, therefore, despite significant efforts the pace and scope of weapons marking is inadequate in the context of the scale of the task. The insufficient number of marking machines is the primary impediment to the process. Provision of additional marking machines, particularly the mobile types, along with spare parts, is critical. In late August 2015 three Schmidt-type marking machines – appropriate for mobile use – finally arrived in Mogadishu.¹⁶ Although these will facilitate marking in the sectors, vehicles and generators will also be required to get mobile units into the field. With the appropriate support, the FGS intends to dedicate two of the newly arrived machines to mobile teams with the third being shared between NISA and the SPF. The arrival of the new machines has also created an opportunity for additional training of personnel in weapons marking and registration, including for the first time, personnel from the SPF and Custodial Corps.¹⁷ The FGS has indicated that at least four additional marking machines will be needed for the constitution of mobile teams which will focus on the registration of weapons in service across the security services.

Record-keeping and tracking

12. The Council has placed considerable emphasis on the need for the FGS to show tangible progress in weapons marking and registration.¹⁸ Marking and registration however are of little use without effective record keeping, distribution and tracking and verification practices. Progress in these areas was slow, with little change in the situation on the ground during this mandate. As a starting point the

¹⁵ Phone interview with UN staff member, 31 August 2014.

¹⁶ Email from UN staff member, 31 August 2015. The machines were sourced by UNMAS and are expected to be transferred to the NSA under a right of use agreement.

¹⁷ Email communication with UN staff member, 1 September 2015. It is understood that an additional twelve personnel, two NISA four SPF, two Custodial Corps, one SNA and one civilian from the Office of the NSA will be trained in weapons marking and registration between 13 and 17 September 2015. A second training is also planned for October.

¹⁸ In the light of the fact that most weapons will already have serial numbers upon import, and that it consumes some of the best of the SNA's human resources, this emphasis has been questioned by some interlocutors. The FGS view marking as a critical component of tackling diversion of weaponry.

formalisation of weapons flows practices at Halane armoury around weapons management through the documentation of practice should be encouraged. This can then begin to be rolled out to the sectors.

13. As this work gets underway there will also be a need to ‘join up’ different efforts. Coordination between, common standards for, and integration of, various marking/registration/record-keeping initiatives – such as the initiative conducted at the MIS for private security companies and personnel, and at Halane – should be encouraged. It is understood that RECSA is planning to support the development of centralised record-keeping software for all of the security forces, and that the FGS is considering how best to adapt the system.¹⁹ There have also been discussions around how the system of biometric registration of forces – currently being conducted by the UN Office of Project Services (UNOPS) – might be linked to the nascent weapons card system.²⁰

14. Lack of funding for both the comprehensive WAM management project noted above and for the Joint Verification Team (JVT) has significantly hampered progress with respect to this area of FGS compliance.²¹

Unlawful transfer and diversion of weapons from FGS government stocks²²

15. The Security Council has prohibited the sale, transfer or use of weapons sold or supplied for the development of the security forces of the FGS to or by any individual or entity not in the service of the FGS security forces.²³ Nevertheless since the partial lifting of the arms embargo, the Monitoring Group has documented leakage of weapons and ammunition from Government stocks, most recently in its 2014 report (S/2014/726). This has involved, *inter alia*, the identification of FGS notified imports being offered for sale in illegal Mogadishu weapons markets; evidence that such weapons have been deliberately supplied to clan militia; and the discovery of ‘unaccounted for’ weaponry and ammunition during WAM surveys. The Monitoring Group continued to document such violations during the current mandate.

16. In September 2014 a baseline survey on arms and ammunition conducted in Baidoa found that 31,415 rounds of ammunition (AK 47, PKM, DShK and SPU) supplied to Sector 3 during 2013 and 2014 were “unaccounted for”, in that there were neither records of their distribution nor any arms or

¹⁹ Phone conversation with UN staff member, 1 September 2015.

²⁰ As noted above, a weapons card system has been developed but appears only to have been rolled out for private security personnel and civil servants authorised to bear arms.

²¹ See annex 7.5 for details on the development of the JVT.

²² Paragraph 8 resolution 20182 (2014) provides that, “weapons or military equipment sold or supplied solely for the development of the Security Forces of the Federal Government of Somalia may not be resold to, transferred to, or made available for use by, any individual or entity not in the service of the Security Forces of the Federal Government of Somalia.

²³ Resolution 2182 (2014) at paragraph 8.

ammunition observed in the Sector 3 armoury at the time of the survey team's visit.²⁴ The Head of SNA logistics told the survey team that the ammunition had been distributed to SNA troops on the front line, and that "a separate addendum to address the discrepancies [would] be sent after the operation". The FGS has, however, been unable to provide any additional information to the Monitoring Group on the whereabouts of this ammunition.

17. In March 2015, further to a request from the Monitoring Group, NISA provided photographs of three weapons described as having been used in the attack by Al-Shabaab on the Mogadishu International Airport (MIA) AMISOM protected area on 25 December 2015 and seized in the aftermath.²⁵ Two of the weapons appeared to be new Type 56-2 Kalashnikov assault rifles. This weapon type was the focus of the Monitoring Group's 2014 investigation (S/2014/726) into leakage from Government stocks of a large FGS weapons and ammunition purchase from Ethiopia.²⁶ Photographic and testimonial evidence analysed by the Monitoring Group indicated that the new Type 56-2 rifles found in Mogadishu arms markets had come onto the market from SNA stockpiles and had never been seen in the markets prior to the Ethiopian stock delivery in Mogadishu in September 2013. Further the factory markings and sequence of serial numbers on the weapons found in two markets in Mogadishu matched those also seen in FGS stocks at Halane.²⁷ Finally the Monitoring Group also viewed an Al-Shabaab propaganda video which showed an Al-Shabaab fighter cleaning a brand new Type 56-2 rifle.²⁸ Although the Monitoring Group was unable to match the partially remaining serial numbers on the two weapons captured in the aftermath of the MIA attack with the serial numbers of the Ethiopia September 2013 shipment, in the light of the Monitoring Groups 2014 findings, and further to a visual comparison of pictures of the weapons, it is highly likely that they come from the same source (see annex 7.1.a).

18. In early September 2015 the Monitoring Group received reliable and credible information from local sources on weapons sales at Bakara market. It was asserted that SNA personnel are among the suppliers of these weapons. A table of the average prices observed is set out below.

²⁴ See annex 9, report of the Federal Government of Somalia pursuant to paragraph 9 of resolution 2142 (2014), 16 September 2015, /AC.29/2014/COMM.83 attaching, Federal Government of Somalia (FGS) Arms and Ammunition Baseline Survey Phase II: Baidoa, 8 September 2014.

²⁵ The serial numbers of the two weapons seized had been partially removed; it was also likely that their receiver covers had been replaced.

²⁶ Annexes 6.1 and 6.2, S/2014/726.

²⁷ Annex 6.2, S/2014/726 at paragraph 48.

²⁸ Annex 6.2 (e), S/2014/726

Weapons type	Price (USD)	Price of a round/rocket (USD)
Dushka (Heavy Machine Gun)	25,000	6
RPG	700	300
PKM	12,000	1.5
AK 47 (original version)	1,500-1,800	1.5 (empty magazine: 30-40)
Makarov (pistol)	1,700	16 (empty magazine: 70)
Tokarev 33 (TT pistol)	1,100	5 (empty magazine : 35)
Grenade (F1)	80	n/a

19. Pursuant to paragraph 8 of resolution 2182 (2014) even a temporary transfer of weapons supplied to support FGS security forces to individuals “not in the service of the Security Forces” is prohibited.²⁹ Accurate monitoring of compliance with paragraph 8 is, however, complicated by the ever-changing composition of the FGS security forces and its allied militia. First, SNA weapons and ammunition stocks are sometimes shared with militia engaging in joint or allied military operations. The evolution of regional forces allied with the emerging federal architecture which may operate on behalf of the FGS, or in joint operations with the SNA, in advance of formal integration, further adds to the complexity of the situation. Whether such forces can be understood as comprised within “FGS security forces” is a critical question for purposes of application of the arms embargo. In this regard, the scope of FGS reporting requirements in the context of the partial lift includes provision information on “the structure, strength and composition (*including the status of allied militia*) of the Security Forces of the FGS [emphasis added]”.³⁰ Unfortunately this latter information is generally missing from FGS reporting on force structure and composition.³¹

20. In order that the lawfulness of onward distribution of weapons by FGS security forces to allied militia is correctly assessed it is vital that the FGS report periodically, and, ideally, as soon as there are changes, on integration of militia and other forces into its structure. In the absence of such notification onward distribution of weaponry imported under the partial lift to such forces should be considered as unlawful. In addition, establishment of the JVT is an important initiative that will help mitigate the diversion of arms and ammunition to entities outside of the security services of the FGS including by providing greater capacity to trace and investigate leakage of weaponry.

²⁹ Resolution 2142 (2014) at paragraph 8.

³⁰ Resolution 2142 (2014) at paragraph 9(a).

³¹ See annex 7.3.

Addressing the challenges of weapons held by private individuals and entities

21. Against the background of over 20 years of conflict and a culture in which use of force was an accepted method of settlement of disputes, there remain an uncounted numbers of weapons in circulation throughout Somalia. Registration and tracking of weapons held by private individuals and entities in Somalia is therefore an important part of an effective WAM strategy. As a starting point, the Small Arms Survey, funded by United Nations Development Program (UNDP), has planned an eighteen month small arms and light weapons survey to generate baseline information on arms, ammunition and armed violence in Somalia; the objective is to determine priorities, prioritize and design programmes, and assess impact of interventions.³² In terms of the broader legal framework, a revised public order law (originally dating from 1963), adopted by the Council of Ministers, is currently under development, in addition to a Bill on Control of Firearms.³³

22. One area of private ownership and use of weapons which is already beginning to be more effectively managed and controlled is the operation of private security companies (PSCs). In 2014 further to the issue of a Ministerial directive, the MIS commenced a program of registration and marking of weapons in use by PSCs, in line with a registration process for the companies themselves, and a vetting procedure for their personnel conducted by the Criminal Investigation Division (CID).³⁴ This process has been very effective with at least 600 weapons now registered and recorded as issued to a specific vetted employee with a particular company identifier. Biometric chip weapons cards have been created for all registered personnel. During 2014 24 companies completed the vetting process and were registered with the Ministry, although it is understood that the registration of only 11 is current.

23. Despite these developments, the increase and evolution in the use of PSCs by private companies, Member States, and even potentially the UN itself, give rise to a number of difficulties in terms of the

³² See, Small Arms Survey, presentation, “Somalia National Survey on Small Arms and Light Weapons” 22 June 2015, on file with the Monitoring Group. A small arms and light weapons survey generally seeks to determine “the extent of distribution and impact of small arms and light weapons; public and stakeholder perceptions regarding small arms and light weapons, armed violence and related issues; and the capacity to respond to the challenges posed by small arms and light weapons”. The findings of the survey are intended to be presented in November 2016.

³³ A Bill on Control and limitation of firearms was introduced by the Ministry of the National security to the parliament in the last quarter of 2014 (Bill/No. 314, 6.9.2014) but returned to the ministry for review.

³⁴ See Ministry of Interior and National Security, Draft Private Security Service Providers Regulations 2013, In Reference to Public Order Law No. 21 of 26 August 1963 Part VI Articles 63, 64, 65 (regarding private security companies); These companies have also been required to make undertakings relating to monitoring and training of personnel and armoury management. The Monitoring Group understands that in parallel with this process “PSC licences” have also been issued by other authorities such as the Benadir Regional Government, Lower Shabelle Regional Government, the Interim South West Regional Government and Lower Jubba Regional Government (Kismayo). It is not clear what standards are applied for these latter registrations.

application of the arms embargo.³⁵ In Puntland and Somaliland PSCs are being granted licences to operate including offshore in Somali territorial waters.³⁶ Depending on the modalities – including scale, how weapons and ammunition are procured, the manner in which personnel are deployed and their framework of operation – these activities may constitute violations of the arms embargo or threats to peace and security more broadly.³⁷

Management and tracking of non-lethal military equipment: uniforms of the FGS security services

24. Management and tracking of imported weapons and ammunition has understandably been the focus of FGS efforts and international support. There are other aspects of FGS obligations with respect to receipt and management of military equipment, however, which have critical peace and security implications. The import and management of FGS security force uniforms constitutes one area of concern.

25. Al-Shabaab continues to use uniforms in its attacks. During the current mandate, the Monitoring Group confirmed that Al-Shabaab militants disguised themselves using SNA or other military uniforms during at least five major terror attacks in Somalia.³⁸ It is understood that concern about misuse of uniforms is one of the reasons that AMISOM does not generally co-locate with the SNA.³⁹ In addition, the Monitoring Group is aware that military uniforms are routinely employed in a spectrum of crime in Somalia, in particular the establishment of illegal roadblocks, as well as assassinations and armed robbery.

26. In October 2014 an illegal shipment of military materiel was seized by the FGS in Mogadishu port. The majority of the shipment consisted of military clothing including 4,360 military boots 2,960 military uniforms; 3,600 military tea-shirts, 138 “camouflage”, 111 female veils and 24,328 meters of military textile.⁴⁰ Whether intended for sale generally for use in offensive operations by Al-Shabaab, the scale of this shipment demonstrates the size of the market for military uniforms which exists. Indeed uniforms are readily available in Mogadishu markets to those who wish to purchase them. The Monitoring Group received corroborated information that Somali national army uniforms with the

³⁵ Third party monitoring of humanitarian projects, for example, is conducted by companies which have a private security division.

³⁶ See annex 2.3 on the continued privatisation of Somalia’s maritime space.

³⁷ With respect to armed PSC’s entering and operating in Somali territorial waters, the Council has requested the FGS and the Monitoring Group to formulate an exemption proposal pursuant to paragraph 10 of resolution 2182 (2014). See annex 7.6 for a discussion of these developments.

³⁸ Mogadishu International Airport (25 December 2014); regional presidential palace in Baidoa (12 March 2015); Makka Al-Mukarama Hotel (27 March 2015); FGS Ministry of Higher Education (14 April 2015); and Hotel Weheliye (11 July 2015).

³⁹ The misuse of AMISOM uniforms as a ruse in a potential attack has also been the subject of intelligence threat information.

⁴⁰ See discussion of this shipment at annex 7.4.

Somali flag were available during August 2015 at the Bakara market at an average price of USD 30 and military boots at USD 15. It was also confirmed in early September 2015 that Somali and Ugandan uniforms were being sold in Hamar Weyn district and at a dry-cleaners near the port at an average price of USD 50 for old uniforms, and USD 100 for new uniforms.

27. As a condition of the partial lift of the arms embargo the Council requires the FGS to provide advance notification on imports of non-lethal military equipment, including uniforms. Between 1 August 2014 and 31 August 2015 the FGS and Member States notified the Committee about the prospective import of a large volume of military clothing including, for example, 9,742 military uniforms, at least 20,958 rigid caps, 6,500 helmets, in addition to over 100,000 pieces of underclothing and other uniform elements. The Monitoring Group also received uncorroborated information that in addition to these notified donations a very large number of uniforms—as many as 30,000—may also have been donated without notification.

28. The FGS is obliged to report on the infrastructure in place to ensure the safe storage, registration, maintenance and distribution of such military equipment.⁴¹ The Committee, however, has received no reporting on procedures for the receipt and management of uniforms. It is understood that uniform distribution is controlled via the SNA Deputy Commissioner of Logistics from Villa Baidoa.⁴² Police uniforms are kept at the police academy storeroom prior to distribution.

29. With the growing number of actors – national, regional and international – involved in Somalia’s proliferating conflicts control of uniforms distribution is essential. It is critical to ensuring identifiable command and control, the creation of civic trust in government security personnel and, not least, to holding those who have been given the right to use force appropriately accountable for adhering to the principle of distinction. The Monitoring Group understands that a new uniform tracking procedure is planned for the SPF. Similar initiatives might be considered in terms of the SNA.

⁴¹ Resolution 2142 (2014) at paragraph 9(b).

⁴² Email from UN staff member, 30 August 2015.

Annex 7.1.a: Two weapons used in the 25 December 2015 MIA attack, juxtaposed with 56-2 rifle photographed on 20 April 2014 at KM5 market in Mogadishu

Figure 1 (below): Rifle used in the MIA attack, being stored at NISA CID



Figure 2 (below): Rifle used in the MIA attack, being stored at NISA CID



Figure 3 (below): 56-2 rifle photographed on 20 April 2014 at KM5 market in Mogadishu



Annex 7.1.b: SEMG inspection of Halane armoury in Mogadishu, 18 March 2015

Figure 1 (below): Assault rifle being marked at Halane armoury



Figure 2 (below): Rifle with “SO XDS 2015” marking. “XDS” indicates that the rifle is intended for use by the Somali National Army (SNA)



Annex 7.2: Compliance with the exemption framework and with notification requirements under the arms embargo

31. Under the arms embargo and partial lift, the Federal Government of Somalia (FGS), Member States and international, regional and sub-regional organisations, all have obligations to notify the Committee when their responsibility is engaged by the transfer of military materiel or assistance to Somalia. The Security Council has repeatedly emphasised the “fundamental importance of timely and detailed notifications to the Committee”, including in the context of concerns relating to diversion of arms and ammunition.⁴³

32. This annex assesses the compliance of the FGS, Member States and international organisations with both notification requirements and related responsibilities under the standing exemptions to the arms embargo. The Group makes recommendations on where clarification and modification of these obligations might generate greater compliance and ensure that the objectives of the arms embargo are achieved.

Compliance by the Federal Government of Somalia with notification requirements under the terms of the partial lift

33. Under the terms of the partial lift the FGS must notify the Committee, for its information only, at least five days in advance of any deliveries of weapons or military equipment or the provision of assistance intended solely for the development of its security forces.⁴⁴ A detailed advance notification, as well as two forms of post-delivery confirmations and notifications to the Committee, must be made.⁴⁵ Although the FGS retains the primary obligation to notify the Committee, Member States or the international organisation which responsibilities are engaged by the delivery of the assistance,

⁴³ Resolution 2182 at paragraph 2.

⁴⁴ Resolution 2093 at paragraph 38. Resolution 2111 (2013) added a requirement that the “specific place of delivery” of the material or assistance must be stipulated.

⁴⁵ The current requirements are as follows: Advance notification: At least five days in advance of any delivery of materiel or assistance a notification to the Committee which includes “details of the manufacturer and supplier of the arms and ammunition, a description of the arms and ammunition including the type, calibre and quantity, proposed date and place of delivery, and all relevant information concerning the intended destination unit in the Somali National Security Forces, or the intended place of storage” must be submitted (paragraph 5 resolution 2142 (2014)); Post delivery confirmation: No later than 30 days after the delivery of arms or ammunition, the FGS must submit to the Committee a written confirmation of the completion of the delivery, including “the serial numbers for the arms and ammunition delivered, shipping information, bill of lading, cargo manifests or packing lists, and the specific place of storage” (paragraph 6 resolution 2142 (2014)). Post distribution information: Within five days of the distribution of imported arms or ammunition, the FGS must inform the Committee in writing of the “destination unit in the Somali National Security Forces or the place of storage” (paragraph 7 2142). See also Guidelines of the Committee for the Conduct of its work as consolidated, revised and adopted by the Committee on 30 March 2010, 30 May 2013, 27 November 2013 and 25 March 2014, paragraph 10 (l), (m) and (n).

may also make the advance notification “in consultation” with the FGS.⁴⁶ Post delivery reporting remains the sole prerogative of the FGS.

34. The Council has emphasised that extension of the partial lift of the arms embargo is conditional, *inter alia*, on FGS fulfilment of its notification requirements.⁴⁷ The Monitoring Group reviewed notifications relating to support for the FGS security forces received by the Committee between 1 August 2014 and 31 August 2015. As part of this review the Group shared a table of notifications and analysis of gaps with the FGS National Security Advisor (NSA), providing an opportunity to his Office to update the information and to consider making appropriate, albeit out of time, notifications to the Committee.

35. Overall there was a significant improvement in the timeliness and comprehensiveness of notifications, particularly with respect to advance notifications. The Monitoring Group believes that ongoing challenges with respect to advance notifications are less a matter of willingness, than capacity or inadequate sharing of information with the Office of NSA, whether by FGS security forces internally, or by donors themselves.

36. The Committee received thirteen advance notifications from the FGS pursuant to paragraph 3 of resolution 2142 (2014)⁴⁸ in parallel with six notifications of the same shipments by Member States pursuant to paragraph 4 resolution 2142 (2014).⁴⁹ Eleven advance notifications were made solely by Member States or an international organisation pursuant to paragraph 4 resolution 2142 (2014). The quality and timeliness of the FGS advance notifications improved: ten out of thirteen of the advance notifications submitted by the FGS arrived within the correct time period and contained the full information required by the resolutions.

37. The quality and timing of post-delivery confirmations and distribution information notifications—for which FGS has sole responsibility in terms of notification to the Committee—was, however, poor. There were 6 occasions on which post-delivery confirmations were required. Only

⁴⁶ Resolution 2142 (2014) at paragraph 4.

⁴⁷ See, *inter alia*, resolution 2182 (2104)”, any decision to continue or end the partial suspension of the arms embargo on the FGS will be taken in the light of the thoroughness of the FGS’s implementation of its requirements as set out in this and other relevant Security Council resolutions”, preamble.

⁴⁸ In some cases, due to the timing, advance notifications lacked the necessary detail to fulfil Security Council requirements. Some of these were rectified with subsequent notifications. Two advance communications were received from the FGS with respect to one particular shipment, including very near the time of scheduled delivery. In all these cases only one advance notification was counted. In some cases one single advance notification was received for multiple shipments.

⁴⁹ Although this does not pose a problem in itself, in the context of scarce resources at the Office of the NSA it is recalled that the FGS does not need to notify where a Member State has already done so. It may be that enhanced communication between Member states and the Office of the NSA will reduce the burden and make clear when the FGS primary obligation to notify has been fulfilled “in the alternative” by the Member State.

arms and ammunition – and not other forms of military equipment, training or other assistance – require notification to the Committee post-delivery. Only two such shipments, however, were the subject of post-delivery confirmations by the FGS, both of which were received late, and one of which related to material which had been notified as received prior to August 2014, but in respect of which a complete post-delivery confirmation could not be made until October 2014.

38. In both of these cases issues with the engagement of the donor state were cited for the delay. Although serial numbers – a requirement of post-delivery confirmations – were provided to the Committee for both shipments, with respect to one, only partial lists could be offered as weapons serial numbers had been removed prior to import. As a result, a marking exercise had to be undertaken by the FGS before the conditions for a post-delivery notification could be met. The Committee has not yet received the serial numbers for the remainder of the weapons.⁵⁰ In late August 2015, however, the Office of the NSA told the Group that the weapons had been marked and that the numbers would shortly be communicated to the Committee. It was commendable, however, that some of the information provided in FGS notifications communications went beyond what was required, including, for example, listing the names of the personnel to whom each numbered weapon had been issued. Finally, although described as post-delivery confirmations, these two communications to the Committee contained sufficient categories of information—albeit only partially complete—to serve the post distribution information requirement.

39. The three other post-delivery notifications received by the Committee from the FGS were not in fact required as the deliveries did not involve arms or ammunition, but rather training, uniforms, vehicles or other equipment.⁵¹ These confirmations included in some instances very detailed information such as serial numbers of items and vehicle chassis numbers.

40. No post-delivery or post distribution confirmations or notifications, however, were received in respect of the four other weapons and ammunition deliveries which were notified to the Committee and intended to arrive between 1 August 2014 and 31 August 2015. The Monitoring Group had observed some of these weapons in the Halane arms stores during its March visit. The FGS advised the Group in late August 2015, however, that due to problems with an Ethiopian weapons shipment there had been returns and subsequent re-stocking. Ethiopian sourced ammunition had already been

⁵⁰ The FGS has undertaken in a letter to the Committee that the, “[r]emaining 157 unmarked assault rifles which were assigned to NISA agents located in the periphery regions will be completed soon and reported back to the Committee”, S/AC.29/2014/COMM.107, transmitted to the Committee, 24 October 2014, S/AC.29/2014/NOTE.61/Add.

⁵¹ One of these post delivery notifications was in fact not required as it related to delivery of training and not to arms and ammunition. In one case the FGS submitted two advance notifications, with the latter providing details of an imminent shipment: but a post delivery notification did not follow. It may be that the latter was assumed, erroneously, to suffice.

distributed. The Monitoring Group understands that further to finalising the marking a full account of the arrival, return, and re-delivery of the Ethiopian weapons purchase will be made.

Summary table of notifications

Requirement	FGS	Member State/International Organisation
Advance Notifications	13	17 (6 in parallel to FGS notifications and 11 pursuant to paragraph 4 resolution 2142)
Post delivery Confirmations	2 of 6 required	N/A
Post distribution Information	2 of 6 required	N/A

Assistance to FGS security forces not notified to the Committee

41. The FGS did not notify to the Committee all assistance it received. It was publically reported in May 2015, for example, that the United Arab Emirates (UAE) had funded the construction of a military training centre which was formally opened by the President in Hodan District in Mogadishu.⁵² In August 2015 a tweet by the Ministry of Internal Security described a ceremony at which the Japanese Government donated 56 military vehicles.⁵³

Enhancing compliance

42. The current official procedure for import of weapons and ammunition and other forms of military equipment or assistance involves:

- (a) import authorisation from the Ministry of Defence, in consultation with the Ministry of Finance, under the overall authority of the President;
- (b) import of the materiel by the SNA (further to appropriate notifications to the Office of the NSA for onward notifications to the Committee);
- (c) distribution to other security agencies, with notification to the Office of the NSA.

43. Halane armoury, located in the MIA protected area, is the designated repository and processing depot for all imported arms and ammunition. This procedure is not always followed. In one instance

⁵² See, for example, Jowhar.com, Somali President opens National Army Training Camp built by UAE in Mogadishu, available at <http://www.jowhar.com/somali-president-opens-national-army-training-camp-built-by-uae-in-mogadishu/>.

⁵³ Tweet from @MoIS_Somalia, 9 August 2015.

during the reporting period, material was shipped and distributed to the Rapid Reaction Team of the police, via the Police Commander of the Police Academy. Although the supplying state had notified the Committee of the donation it is not clear what communication, if any, police personnel had with the Office of the NSA.⁵⁴ As noted by the Monitoring Group in its 2014 report (S/2014/726), the timeliness and accuracy of notifications continues to be affected by the fact that individual security forces sometimes liaise directly with donors.

44. With improved arms and ammunition management in Somalia considered “a fundamental component of greater peace and stability for the region”, the Council has explicitly encouraged Member States to assist the FGS in improving its compliance with the arms embargo and the system of notifications to the Committee.⁵⁵ As noted above a Member State may choose to make the advance notification to the Committee “in consultation” with the FGS.⁵⁶ The Council has also recognised the value of supplying states submitting post delivery information—similar to that which the FGS is required to provide to the Committee in its 30 days post-delivery notification—“in cooperation with” the FGS.⁵⁷ Where such notifications were not made, the provision by Member States to the FGS of complete—and translated—information on planned shipments made it easier for the Office of the NSA to extract the correct details for making a formal notification for the Committee. Requests for the generation by the FGS of official documents prior to shipment such as end user certificates, or the conclusion of cooperation agreements as a framework for the transfer, also contributed to supporting the FGS ability to fulfil its notification requirements.

45. Some Member States, however, neglected to appropriately consult with the FGS on donations. Some sent shipments without prior notice, impeding timely FGS notification of deliveries and rendering the supply in violation of the arms embargo. Others failed to provide sufficient documentation to facilitate FGS compliance with advance notifications, or provided partial shipments, second hand or faulty equipment, or unmarked weapons.

46. The primary obligation with respect to notification rests with the FGS.⁵⁸ There are a number of areas however where donor States might assist the FGS to put itself in a better position to fulfil its obligations. The first would be to consider notifying the Office of the NSA of prospective assistance to FGS security forces, notwithstanding parallel discussions or agreement with particular forces. Indeed the Security Council, upon the request of the FGS, has already suggested to Member States that “all deliveries of military equipment and notifications should be coordinated through the Office

⁵⁴ The obligation on supplying state is to notify the Committee “in consultation with” the FGS, but there is no stipulation as to which entity it must consult.

⁵⁵ Resolution 2182 (2014) at preamble and paragraph 2.

⁵⁶ Resolution 2142 (2014) at paragraph 4.

⁵⁷ Resolution 2142 (2014) at paragraph 6; this occurred in two instances during the mandate.

⁵⁸ With the exception of certain restricted material pursuant to paragraph 7 of resolution 2111 (2013).

of the National Security Adviser”.⁵⁹ Second, the FGS has indicated that it would be optimal if all deliveries were addressed initially to the central Halane armoury for import delivery inspection, prior to onward distribution to the appropriate force or unit. Third, where a Member State notifies the Committee of an intended export to Somalia a copy should be provided to the Office of the NSA, including to avoid FGS duplication of the procedure: in any event the resolutions require that any notification by a Member State or an international organisation must be done “in consultation with” the FGS.

Compliance by Member states and international, regional and sub-regional organisations with notification obligations

47. Outside the context of the partial lift enjoyed by the FGS and its security forces, Member States and international, regional and sub-regional organisations also have obligations to notify the Committee. There are three categories of notification through which such obligations are fulfilled:⁶⁰

- requests for the Committee’s approval pursuant paragraph 7 of resolution 2111 (2013);
- notifications for the Committee’s consideration pursuant to paragraph 11 (a) of resolution 2111 (2013);
- notifications for the Committee’s information pursuant to paragraph 10 (g) of resolution 2111 (2013).

Requests for Committee’s approval

48. Under paragraph 7 of resolution 2111 (2013) certain types of military equipment destined for the support of FGS security forces must be approved by the Committee in advance of their import.⁶¹ Between 1 August 2014 and 31 August 2015 two such requests were submitted by Member States for Committee’s consideration and were approved.

⁵⁹ Security Council Presidential statement, 22 May 2014, S/PRST/2014/9.

⁶⁰ For details on procedures and the scope of these requirements see Guidelines of the Committee for the Conduct of its work as consolidated, revised and adopted by the Committee on 30 March 2010, 30 May 2013, 27 November 2013 and 25 March 2014 (hereafter, Committee Guidelines) at paragraph 10.

⁶¹ Detailed information must be provided in the notification, including: the type, quantity and technical specification of weapons, ammunitions, military equipment and materiel to be delivered; the means of transport to be used for the supply of the equipment; the proposed date of delivery; the specific place of delivery in Somalia. A five-day non-objection approval process applies. See, Committee Guidelines, paragraph 10 (d) and (e).

Notifications for Committee's consideration

49. Paragraph 11(a) resolution 2111 (2013) provides a modality for Member States and international organisations to provide support to security entities not under the command of the FGS.⁶² In paragraph 11(a) the Council decided that the arms embargo would not apply to “[s]upplies of weapons or military equipment and technical assistance or training by Member States or international, regional and sub-regional organizations intended solely for the purposes of helping develop Somali security sector institutions”. Committee’s consideration under a five-day non-objection procedure was, however, required. Between 1 August 2014 and 31 August 2015 only one notification for Committee’s consideration was received from a Member state pursuant to paragraph 11(a). This concerned provision of non-lethal assistance to the Puntland police force.⁶³

50. International and sub-regional organisations have also provided support and assistance to “other Somali security sector institutions” during the mandate. Between 1 August 2014 and 31 August 2015 two notifications for Committee’s consideration were made by international organisations, both in relation to non-lethal support (training, spare parts for engines etc.).⁶⁴ The Monitoring Group has, however, documented a series of occasions on which assistance was not notified. It is clear that not all UN bodies are aware of the range of circumstances in which notification to the Committee is required, particular where the assistance is in the form of infrastructure construction and refurbishment, training or provision of uniforms.

51. Similarly the Monitoring Group notes that assistance – both lethal and non-lethal – continues to be sought and provided by Member states to “Somali security sector institutions” not under the control of the FGS.

52. On 28 May 2015, for example, the FGS drew the Committee’s attention to a potentially unlawful delivery of a significant volume of military equipment from the UAE to Kismayo and the Interim Jubba Administration (IJA).⁶⁵ Images seen by the Monitoring Group show the IJA President Ahmed

⁶² The information submitted as part of the notification for consideration must include: the type and technical specification of the equipment and/or technical assistance and training; the intended recipient and end-user of the equipment and/or of the technical assistance and training; the means of transport to be used for the supply of the equipment; the port of entry into Somalia. See Committee Guidelines paragraph 10 (g) – (j) inclusive.

⁶³ Two other notifications were made by international organizations for training and non-lethal equipment.

⁶⁴ Not all communications to the Committee were timely or in the correct format. In one of these cases although a communication was made to the Committee it was not made in the correct form and ultimately was not circulated as a ‘notification for Committee’s consideration’ but as a general communication.

⁶⁵ See FGS letter to the Committee 28 May 2015, S/AC.29/2015/COMM.33 (S/AC/29./2015/NOTE.34). The FGS letter expressed regret that the Somalia government was not provided with “prior notification of the delivery as specified in paragraph 5 of 2142 (2014)” and stated that it would “immediately request Interim Jubba Administration and the Government of UAE to provide a comprehensive inventory listing of the equipment delivered to IJA on May 25th”; the arrival of shipment was widely publicised.

‘Madobe’ receiving the vehicles at Kismayo port on 25 May 2015, including RG-31 type armoured mine-protected personnel carrier vehicles and Toyota pick-up trucks.⁶⁶ The Committee had not received any notification for its consideration of this shipment.⁶⁷ The Monitoring Group has also received credible reports of the import of small amounts of weaponry by other Interim Regional Administrations.

53. Numerous sources have confirmed that Member State support has been extended to some of Puntland’s security institutions such as, for example, the Puntland Marine Police Force (PMPF). The President of Puntland, Abdiweli Mohamed ‘Gaas’ has openly called for support in the form of military equipment from the international community in order to continue his forces fight against Al-Shabaab in the Galgala mountains.⁶⁸ Somaliland has also announced plans to create an Oil Protection Unit (OPU) to protect commercial oil operations; the OPU would be drawn from its police and military forces, and trained and coordinated by a private security company in collaboration with international oil companies.⁶⁹

Notifications for Committee’s information

54. Member States and international organisations also have an obligation to notify “supplies of non-lethal military equipment intended solely for humanitarian or protective use” under a ‘for information’ procedure pursuant to paragraph 10 (g) of resolution 2111 (2013).⁷⁰ Purely private entities do not have standing to notify the Committee where their responsibilities are engaged by the arms embargo. They can, however, violate the terms of the embargo if notification is not made in connection with the proposed import by a Member State or appropriate international organisation. Between 1 August 2014 and 31 August 2015, nine notifications for information pursuant to paragraph 10 (g) were received from Member States and international organisations, primarily for the

⁶⁶ Pictures of the reception of the shipment and the vehicles are attached in annexes 7.2 .a and 7.2.b. Pictures from public domain and FGS letter to the Committee 28 May 2015, S/AC.29./2015/COMM.33.

⁶⁷ The Monitoring Group wrote to the UAE on 10 August 2015 recalling its obligations relating to notification and requesting additional information on the shipment but had not received a reply by the time of reporting. See letter dated 10 August 2015 from the Coordinator of the Monitoring Group addressed to the Permanent Representative of the UAE to the UN in connection with UAE support to Somali security sector institutions, S/AC.29/2015/SEMG/OC.36, transmitted to the Committee 12 August 2015 via S/AC.29/2015/NOTE.58.

⁶⁸ See also “Priority Need of Puntland Defense Forces”, 12 March 2015, on file with the Monitoring Group.

⁶⁹ Further to concerns expressed by the Monitoring Group in its 2014 reporting (S/2014/727) Somaliland authorities have been engaging with the Group on the process for seeking approval from the Security Council for the supply of assistance the Unit.

⁷⁰ Para 10 (g) notifications must be submitted in writing to the Chair five days in advance by the Member State, international, regional or sub-regional organisation supplying the equipment, and shall provide the following information: (i) the type and technical specification of the equipment; the intended recipient and end-user of the equipment; (ii) the humanitarian or protective use to which it will be put; (iii) the means of transport to be used for the supply of the equipment; (iv) the port of entry into Somalia. See Committee Guidelines, paragraphs 10(o) and (p).

benefit of private entities, including NGOs engaged in humanitarian work, or companies operating in the area of private security.

Improving compliance of Member States and international organisations with notification obligations

55. The Security Council has stressed “the need for all Member states to respect and implement, in accordance with relevant Security Council resolutions, their obligations with respect to preventing unauthorized deliveries of weapons and military equipment to Somalia”.⁷¹ Nevertheless, as noted above, on a number of occasions during the mandate, Member States and international organisations failed to abide by the obligation to notify supplies of assistance and material to “Somali security sector institutions” for Committee’s consideration pursuant to paragraph 11 (a) of resolution 2111 (2013). It is clear that there is considerable confusion about the scope of paragraph 11(a).⁷²

56. First, there seems to be some uncertainty as to whether in addition to provision of lethal assistance such as arms and ammunition, assistance in the form of building of infrastructure or training or payment of security service salaries also requires approval from the Committee through a five working day ‘non-objection procedure’. At a minimum there is a need for awareness raising on the existence of the obligation to both notify and seek the Committee’s consideration of lethal and non-lethal assistance to non-FGS “security sector institutions”. The Council might wish to recall and reiterate that obligation in its next resolution addressing the arms embargo.

57. Second, there is also ambiguity surrounding the scope of the phrase “Somali security sector institutions”, in particular in the context of the evolution of the federal architecture. Based on Committee practice, paragraph 11(a) resolution 2111 (2013) is applicable in the context of support to the security forces of Puntland and Somaliland. The Council has not, however, received notifications for consideration with respect to receipt of support by other entities. Greater clarity is needed, for example, on the applicability of paragraph 11(a) to the security forces of the Interim Regional Administrations. Unfortunately, the Council has not been given an opportunity to make an interpretative determination on this issue.

58. With claims to legitimacy by regional forces outside the FGS force structure, in addition to declarations of statehood challenging the federal architecture, clarity on which entities can lawfully receive supplies of materiel pursuant to paragraph 11(a) will be increasingly important.⁷³ The Monitoring Group recommends that the Council encourage Member States to engage with the

⁷¹ Resolution 2182 (2014), preamble.

⁷² Conversations between Monitoring Group and staff of UN entities, diplomatic missions and international non-governmental organisations during the mandate.

⁷³ See discussion on the composition of FGS and allied forces in annex 7.3 including the recognition that even after integration of the SNA certain regional forces will remain outside central FGS command. The picture is complex: currently some regional coastguards, outside those of Puntland and Somaliland, operate outside FGS command.

Committee and actively seek the Guidance of the Committee in specific instances when they propose to support “Somali security sector institutions” outside those of the FGS.

59. One of the challenges to effective Committee oversight of the provision of military equipment and other assistance to “Somali security sector institutions” under paragraph 11 (a) is that unlike with respect to FGS security forces, there is no information provided to the Committee on their structure, composition and assistance needs. The Committee might wish therefore to consider modifying the range of information required when submitting a notification for Committee’s consideration as stipulated in paragraph 10(h) of the Guidelines of the Committee for the Conduct of its Work. Such information could include, for example, descriptions of structure of the concerned security entities (including political and military command and control), disposition, scope of operations and an overview of lethal and non-lethal equipment needs. Entities currently subject to potential exemption under paragraph 11(a) have prepared similar assessments, albeit outside the context of notifications to the Committee.

60. It is vital that the Committee has a genuine opportunity to exercise effective oversight and control of weapons and assistance flows to “security sector institutions” outside FGS security forces: not only does the “development” of a parallel security architecture outside that of the FGS itself raise questions about long term peace and security, but the interaction of the operation and disposition of such forces with the international effort to support “the security forces of the FGS”— the *raison d’être* of the partial lift—must be considered.

Standing exemptions to the arms embargo

61. In addition to the exemption arrangements discussed above, the arms embargo contains a range of standing exemptions which apply to the supply of certain materiel to specific entities and for particular purposes.⁷⁴ These standing exemptions primarily facilitate the smooth operation of

⁷⁴ As resolution 2111 (2013) confirmed, the arms embargo does not apply to the supply of the following materiel: supplies of weapons or military equipment or the provision of assistance, intended solely for the support of or use by United Nations personnel, including the United Nations Assistance Mission in Somalia (UNSOM) (paragraph 10 (a)); supplies of weapons and military equipment, technical training and assistance intended solely for the support of or use by the African Union Mission in Somalia (AMISOM) (paragraph 10 (b)); supplies of weapons or military equipment or the provision of assistance intended solely for the support of, or use by, AMISOM’s strategic partners, operating solely under the African Union Strategic Concept of 5 January 2012 (or subsequent AU strategic concepts), and in cooperation and coordination with AMISOM (paragraph 10 (c)); supplies of weapons and military equipment, technical training and assistance intended solely for the support of or use by the European Union Training Mission (EUTM) in Somalia ((paragraph 10 (d)); supplies of protective clothing, including flak jackets and military helmets, temporarily exported to Somalia by United Nations personnel, representatives of the media and humanitarian and development workers and associated personnel for their personal use only (paragraph 10 (f)). There is one additional exemption that requires a form of notification to the Secretary General and relates to entities “undertaking measures to suppress acts of piracy and armed robbery at sea off the coast of Somalia” (paragraph 10 (e) resolution 2111 (2013).

AMISOM, the European Union Training Mission (EUTM) in Somalia, UNSOM, AMISOM's "strategic partners", and humanitarian, media and development workers.

62. The Monitoring Group notes that during the mandate the number and scale of international and Somali actors which are engaged in the third phase of the anti-Al-Shabaab offensive, has grown. One question which has arisen in terms of understanding whether the supply of certain military equipment into Somalia falls within the standing exemptions to the embargo relates to the understanding and identification of the scope of "AMISOM's strategic partners". Paragraph (c) of resolution 2111 (2013) provides for an exemption for material "intended solely for the support of, or use by, AMISOM's strategic partners, operating solely under the African Union Strategic Concept of 5 January 2012 (or subsequent AU strategic concepts), and in cooperation and coordination with AMISOM".

63. There have been both public and internal discussions around the extent to which some Member States forces' have been engaged in military operations on Somali territory which have not been conducted "solely under the African Union Strategic Concept of 5 January 2012 (or subsequent AU strategic concepts), and in cooperation and coordination with AMISOM", in particular elements of the Jubba Valley operation in July and August 2015.⁷⁵ Although, as AMISOM troop contributing countries were among those participating, cooperation at contingent level is assumed. Further it is clear that, on the ground at the local level, SNA personnel are involved in joint operations with these forces, alongside local and regional militia and other forces. The lack of clarity surrounding the framework for, and command of, these operations, not only raises questions regarding violation of the arms embargo, it also has implications for other areas of the sanctions regime.

64. Neither the Committee nor the FGS has any oversight over the volume or nature of the military equipment imported into Somalia under the standing exemptions, including that distributed onwards to other actors acting "in support of" operations. In contrast with the stringent weapons and ammunition and equipment import and tracking obligations imposed on the FGS under the partial lift, these provisions therefore potentially authorise wide distribution of limitless arms and ammunition. In light of previous Monitoring Group reporting on the leakage of weapons from AMISOM stocks, for example, this "blind-spot" in the Committee's visibility on arms flows into Somalia is of concern to the Monitoring Group.

65. In this context, the Security Council has specifically condemned the flow of weapons to "armed groups which are not part of the security forces of the Federal Government of Somalia", expressing "serious concern at the destabilizing impact of such weapons".⁷⁶ In the short term, the strategy of

⁷⁵ Discussions with individuals present at the AMISOM CONOPS review in Nairobi, August 2015; see, also, statements by the Commander of the AMISOM's Fourth Division Colonel Abdirahman Abdi Dhimbil questioning whether some of the troops engaging in operations in Hiran were operating under AMISOM command, reported by www.hiiraanonlinenews.com, 17 August 2015.

⁷⁶ Resolution 2182 (2014) at paragraph 14.

engaging a variety of force multipliers in the conflict against Al-Shabaab, or providing support to regional entities to enhance stability through a turbulent federalisation process, may be practical. In the long term, however, it can encourage greater fragmentation of the emergent security sector and sow the seeds of instability. For example, after the FGS planned process of demobilisation and integration of forces under Federal command is completed, it is foreseen that the, “lawful regional authority” may establish regional security forces under their control.⁷⁷ The current evolution and legitimisation of regional forces allied with the emerging interim regional administrations – and their receipt of support from the international community – is pre-empting this picture. In one SNA sector the Monitoring Group was told that soldiers were ‘defecting’ to the regional *darawish* command – which received international support – due to better pay and conditions.⁷⁸

⁷⁷ See, FGS, Strategic framework for the management of security forces and militia integration and demobilisation, draft 1 February 2015, on file with the Monitoring Group.

⁷⁸ Telephone interview with expert with knowledge of the security sector, 12 August 2015.

Annex 7.2.a

Armoured vehicles received by the Interim Jubba Administration at Kismayo Port



Annex 7.2.b

Photographs of armoured vehicles and pick-up trucks



Annex 7.3: Federal Government of Somalia compliance with reporting requirements under the arms embargo partial lift

66. With the partial lifting of the arms embargo in resolution 2093 (2013), the Security Council sought increased visibility on the composition, structure and weapons and equipment management capacity of Federal Government of Somalia (FGS) security forces.⁷⁹ The FGS is required therefore to report to the Security Council every six months on:

- (a) the structure, strength and composition (including the status of allied militia) of the Security Forces of the FGS, including the names of current commanders, the locations of the headquarters, and the status of militias;
- (b) the infrastructure in place to ensure the safe storage, registration, maintenance and distribution of military equipment by the Security Forces of the FGS, including details of all available armouries and storerooms, their location, storage capacity, staffing capacity, arms and ammunition management systems and status of use; and
- (c) the procedures and codes of conduct in place for the registration, distribution, use and storage of weapons by the Security Forces of the FGS, and on training needs in this regard, including procedures for receipt, verification and recording of weapons imports through any Federal Government controlled port of entry, procedures for the transport of weapons and ammunition with the Security Forces of the Federal Government of Somalia.⁸⁰

67. FGS reporting requirements were designed, *inter alia* to improve transparency in the stockpiling, accounting and distribution of weapons and ammunition of the Somali National Army (SNA) and to allow Member States to target assistance to Somalia's Security Forces in a more systematic and informed manner.

68. In S/2014/726 the Monitoring Group noted that there had been some improvement over time observed in the FGS first four reports, particularly as a result of support provided by the UN Assistance Mission in Somalia (UNSOM) and its international consultants.⁸¹ However, there continue to be significant gaps in the information provided when assessed against Security Council

⁷⁹ Resolution 2093 (2013) at paragraph 39. Resolution 2142 expanded on the level of detail required in this reporting.

⁸⁰ Resolution 2142 (2014) at paragraph 9.

⁸¹ Annex 6.1, paragraph 19, S/2014/726.

requirements, both in terms of comprehensiveness and detail. This applies particularly to reporting on the structure, strength and composition of the security forces of the FGS.⁸²

69. The FGS's 5th report was transmitted to the Committee on 18 September 2014.⁸³ In terms of force *structure and personnel* the report recorded a number of minor developments such as changes in the command of the National Intelligence and Security Agency (NISA) and the Somali Police Force (SPF) and the delivery of external training in Italy, Sudan, Turkey, Uganda, and the United Arab Emirates.⁸⁴ FGS weapons and ammunition management was described as "progressing rapidly" with the arrival and handover of a marking machine and the delivery of related training a significant breakthrough.⁸⁵ It was also reported that the Ministry of National Security had developed an electronic weapon ID card and licensing system for all personnel registered to carry a weapon.⁸⁶ With respect to WAM *physical infrastructure* the report noted that in cooperation with the Mines Advisory Group (MAG) construction had been completed on four armouries, with more planned.⁸⁷ Perhaps the most significant development recorded was the conduct of arms and ammunition surveys in Mogadishu, Baidoa, and Belet Weyne.⁸⁸ The texts of the findings of two of the surveys (Baidoa, 10 June 2014 and Belet Weyne, 8 September 2014) were reproduced in annexes 8 and 9 of the reporting.⁸⁹

⁸² At the same time, the reporting does include a range of additional information, not strictly required by the provisions of resolutions 2142 and 2182, which contributes to overall understanding of the challenges facing, and potential needs of, FGS forces. A third report is due to be submitted by 30 September 2015.

⁸³ S/AC.29/2014/COMM.83 dated 13 September, transmitted to the Secretariat on 16 September 2014.

⁸⁴ Along with information that an SNA training directive was being developed it was also noted that a *Ministerial Guidance on the Defense Policy for the year 2014 – 2016*, had been issued.

⁸⁵ The report did note, however, that a second UNMAS procured marking machine had "not yet [been] delivered".

⁸⁶ This system involved "providing an electronic card with a biochip for each weapon registered to a bearer, who will be the sole individual registered to carry that particular weapon". A database and a mobile card reader facilitated tracking and verification.

⁸⁷ Additional support needs were the focus of a 26 August 2014 meeting of the Weapons and Ammunition Management (WAM) Technical Working Group where there was discussion and review of the technical work plan on WAM physical security and stockpile management. Minutes of the meeting were attached in annex 7 of the report.

⁸⁸ As described in the report, "[t]he objective of the baseline survey is to assess arms depots and storage facilities as well as associated logbooks of the SSF; review all relevant documents associated with the receipt and distribution of arms and ammunition; quantify and identify the types of arms and ammunition in the stockpiles of the SSF and also ascertain the destination of the imported arms and ammunition". The conduct of a "baseline" survey was a recommendation to the National Security Advisor by the Secretary-General in S/2014/243, although the scope and focus intended was considerably broader.

⁸⁹ The Mogadishu baseline was completed on 3 May 2014 and shared with the Committee in the report of the Federal Government of Somalia submitted pursuant to paragraph 9 of resolution 2142 (2014), S/AC.29/2014/COMM.53.

70. The FGS submitted its 6th paragraph 9 report to the Committee on 30 March 2015.⁹⁰ There reportedly continued to be no “major changes” in the structure and strength of the security forces since the previous September and June 2014 reports⁹¹ save new appointments and some minor changes in the internal divisional arrangements at the SPF and NISA.⁹² In terms of *weapons marking, registration and accountability*, it was reported that UNSOM and UNMAS had trained 12 SNA personnel in weapons registration, marking, and record keeping. With respect to captured weaponry, item lists from three caches of weapons, ammunition and other equipment respectively seized in Mogadishu, in Bulo marer, and at Mogadishu port, were provided, with reference to FGS obligations under “paragraph 6”.⁹³ Progress was also reported with respect to enhancement of WAM *physical infrastructure* through the construction of 12 armouries (at unspecified locations) in Mogadishu and pending construction of others.⁹⁴

71. Both the September 2014 and March 2015 reporting contained updates on Al-Shabaab’s intent and capacity with the former encompassing a review of the impact of operations Eagle and Indian Ocean.⁹⁵

⁹⁰ S/AC.29/2015/COMM.21 dated 30 March 2015.

⁹¹ The report in particular referred to annexes 4 to 7 of the FGS June reporting (S/AC.29/2014/COMM.53) for SNA structure and function and to the September 2014 reporting (S/AC.29/2014/COMM.53) for that of the Custodial Corps.

⁹² These include an enlargement of the structure and functions of the National Intelligence and Security Agency to include five new units within the Intelligence Division – including a team dedicated to counter-intelligence tasks and a team dedicated to regional analysis – as well as the expansion of the Supply and Logistics Division to incorporate an Internal Security unit. The conduct of a variety of training for security forces by international partners was also described, including on explosive and weapons safety, the human rights due diligence policy, military leadership and various military specialisations, and weapons identification and tracking training for NISA.

⁹³ Paragraph 6 of resolution 2182 requires the FGS and AMISOM to “document and register all military equipment captured as part of offensive operations or in the course of carrying out their mandates, including recording the type and serial number of the weapon and/or ammunition, photographing all items and relevant markings and facilitating inspection by the SEMG of all military items before their redistribution or destruction”. See discussion in annex 7.1.

⁹⁴ The Mines Advisory Group (MAG) had led this work in cooperation with the FGS and had also carried out training for three storekeepers and one armoury manager.

⁹⁵ An overview of meetings conducted by the SEMG with the FGS during its visit to Mogadishu between 17 and 19 March 2015, was also appended in annex 7 to the March reporting (S/AC.29/2015/COMM.21).

Assessment of FGS reporting⁹⁶

*Structure, strength and composition of forces*⁹⁷

72. Clarity on the composition of the security forces is instrumental in the implementation of the arms embargo partial lift and exemption regime through identifying who is entitled to receive arms, other assistance, and under what conditions. It is also the precondition for an effective weapons and ammunition management (WAM) system. Although a detailed security forces organogram was provided by the FGS—with minor updates since the last provision of a full organogram in June 2014—there are a number of gaps which impede an accurate description of FGS security forces scope and composition.

73. First, there are units of FGS forces, including those receiving international support, which are not identified, or not identified with sufficient precision. These include the Mogadishu maritime police/incipient Somali coastguard and specialist divisions of the National Intelligence and Security Agency (NISA), the SNA, and the Somali Police Force (SPF). The former have received UN and bilateral assistance, including some notified to the Committee. The latter have also received targeted support and mentoring from AMISOM and Member States and are regularly mentioned in public media reports. During the mandate, for example, support to the SPF Rapid Reaction Team, for example, was notified to the Committee. The unit does not appear, however, in the latest police structure provided to the Committee.

74. Second, FGS reporting continues to assert that there has been no change in the strength of forces since June 2014. It is unlikely that there has been zero recruitment, particularly in the sectors. The scale up in recruitment during the first phase of the anti-Al-Shabaab offensive was well documented—including in the FGS's own reporting. Since then the second and third phases of the offensive have gotten underway, alongside recovery of significant territory. The SEMG has received a range of reports on ongoing SNA recruitment and training and weapons distribution. On 9 March 2015, for example, in Huduur the local authority and the SNA were reported to have distributed 270 AK47s for “newly trained” soldiers who were described as “the last batch of SNA soldiers trained in the town for deployment in Bakol.”⁹⁸

75. The other cross-cutting area of force structure, strength and composition which requires greater elaboration is the integration of militia and regional forces. In its March 2015 report, the FGS

⁹⁶ As required by paragraph 12 of resolution 2142 (2014), the Monitoring Group provided feedback to the FGS on its reporting during the mandate period, including to assist with its 30 September reporting.

⁹⁷ Reporting on force structure, strength and composition by the FGS also included (required) description of a range of training initiatives received or planned. Absent a baseline assessment of needs it is difficult to assess progress against overall objectives/training plan.

⁹⁸ Email from UN staff member, 11 March 2015.

signalled the challenges of moving towards a more unified force structure, including the process of integration of forces, which would “require significant resources and assistance”.⁹⁹ The report did not, however, provide any background of details of these plans which would permit the Committee to examine any arms embargo implications. A snapshot of how the situation in the Interim Jubba Administration (IJA) is described in the reporting juxtaposed with other sources, illustrates some of the discrepancies. The latest force composition reported for the Middle and Lower Jubba-based Sector 43 of the SNA is “3,034”.¹⁰⁰ Further in its March 2015 report the FGS noted that there were 2283 soldiers—described as “the forces in Kismayo”—who remained to be trained under the Human Rights Due Diligence Policy. At the same time, information from the National Commission for the Integration of the Somali Armed Forces (NIC) and other involved in the integration process indicated that there was a target of 2880 personnel for integration into the SNA in territory of the IJA, with 50 per cent expected to come from serving militia/IJA aligned forces and 50 per cent from non-aligned groups and new recruits.¹⁰¹ On 27 July 2015 a swearing in ceremony took place for 1517 new SNA personnel from Lower Jubba/Kismayo, attended by the Presidents of both the IJA and the FGS.

76. It is vital that the impact on FGS force structure and command of both ongoing and planned integration is accurately described in future reporting. The FGS in the past provided relevant information—including details of command, force strength and disposition—when elements of ASWJ were integrated.¹⁰² In this regard, it would also be appropriate to note where forces, and/or particular units, have been removed FGS command, whether due to realignment of political allegiance or demobilisation. A significant program of demobilisation, for example, is planned under the auspices of the NIC.¹⁰³ The Monitoring Group recognises, of course, that there will tend to be a degree of fluidity as the FGS reshapes its forces.

77. Finally the Security Council has asked the FGS to reflect on the status of “allied militias” as an integral part of its reporting on the structure, strength and composition of its forces.¹⁰⁴ The SNA, AMISOM, and other “strategic partners” rely on allied militia, in particular clan militia—including through sharing weaponry and ammunition—in fighting Al-Shabaab.

⁹⁹ S/AC.29/2015/COMM.21 at page 4.

¹⁰⁰ Report of the Federal Government of Somalia pursuant to paragraph 9 of resolution 2142 (2014), S/AC.29/2014/COMM.53.

¹⁰¹ See, *inter alia*, FGS, Strategic framework for the management of security forces and militia integration and demobilisation, draft 1 February 2015, on file with the Monitoring Group.

¹⁰² See, Report of the Federal Government of Somalia pursuant to paragraph 9 of resolution 2142 (2014), S/AC.29/2014/COMM.53.

¹⁰³ See for example plans for the review and adjustment of existing SNA forces in the South Central region to ensure multi-clan composition, National commission for the integration of the Somali Armed Forces Presentation at the 22 July 2015, High Level Partnership Forum.

¹⁰⁴ Para 9 resolution 2142 (2014) required the FGS to report biannually on, “the structure, strength and composition (*including the status of allied militia*) [emphasis added] of the Security Forces of the FGS”.

78. Clarity on the composition of armed forces is essential for determining compliance with the arms embargo, not just for the FGS, but also for AMISOM, its “strategic partners” and Member States assisting the FGS.¹⁰⁵ The integration of SNA forces in Sector 43 in Kismayo, for example, was preceded by a widely publicised military equipment delivery to Kismayo, including Casspir APCs, armoured cars and pick up trucks, for which the Committee did not receive a notification.¹⁰⁶ It is unclear whether this material was intended for the SNA integrated component of IJA forces or other forces such as the IJA’s Ras Kamboni militia. The fact that the FGS was not advised of the shipment indicates that it was likely intended for the later.¹⁰⁷ AMISOM and bilateral partners are also providing training, equipment and other support to various forces in Kismayo.

79. Strictly confidential annex 3.1 provides a comprehensive account on the SNA force structure in relation to salary and ration distribution.

Infrastructure and procedures

80. While FGS provided updates efforts on progress in weapons marking and registration of imports and with respect to steps to develop a comprehensive WAM system, reporting again fell short in providing the full information required by the Council, particularly with respect to “procedures and codes of conduct in place for the registration, distribution, use and storage of weapons [...] including procedures for receipt, verification and recording of weapons imports [...] and procedures for the transport of weapons and ammunition”.¹⁰⁸ Although the focus of the reporting has been on the processing and registration of imports, what happens post is still unclear.

81. Reference was again made in reporting during this mandate to WAM procedures and codes of conduct, as described in the FGS February 2014 reporting. Over a year and a half later, however, this system is still understood to be more of an aspirational framework than a reflection of procedures actually in place. Information on the development of a weapons card system, for example, was encouraging, although no information was provided on the scope of its implementation. (The Monitoring Group understands that the system is in use with respect to personnel of private security companies and for civil servants who are authorised to bear arms.) While recognising that significant work is being undertaken on putting in place new systems, descriptions of the current practice would

¹⁰⁵ It is also fundamental to understanding both political and military command responsibility affecting the scope of Somalia and other Member state’s responsibilities under national and international law, including with respect to the sanctions regime.

¹⁰⁶ See discussion of this shipment in annex 7.2.

¹⁰⁷ See FGS letter to the Committee 28 May 2015, S/AC.29./2015/COMM.33

(S/AC/29./2015/NOTE.34). The FGS letter expressed regret that the Somalia government was not provided with “prior notification of the delivery as specified in paragraph 5 of 2142 (2014)” and stated that it would “immediately request Interim Jubba Administration and the Government of UAE to provide a comprehensive inventory listing of the equipment delivered to IJA on May 25th”.

¹⁰⁸ Resolution 2182 (2014) at paragraph 9(c).

be helpful, including how weapons are distributed beyond Mogadishu and transported to and managed in the sectors.

82. Although information on various infrastructure construction projects underway or completed was provided in both the FGS September and March reports, comprehensive information on “storage capacity, staffing capacity, arms and ammunition management systems and status of use” of each currently available, and planned, armoury and storeroom as required by the Council was lacking.¹⁰⁹ The Committee would benefit an overview—as opposed to submission of isolated information on various projects—which could be regularly and easily updated (perhaps in tabular format) as projects complete and new needs are identified.¹¹⁰ Although there is an understandable focus on weapons and ammunition storage in FGS reporting on infrastructure, the Committee also requires information on the safe storage, registration, maintenance and distribution of “military equipment”. Information should be provided on measures taken to store/garage and ensure accountability for the distribution and use of other military equipment subject to the arms embargo, such as, for example, combat vehicles and uniforms.¹¹¹

¹⁰⁹ Resolution 2182 (2014) at paragraph 9.

¹¹⁰ UNMAS maintains a database that brings together information from a range of partners on ongoing and planned construction: this could constitute a starting point for the generation of such an overview.

¹¹¹ See discussion on the need to improve management of military uniforms in annex 7.1.

Annex 7.4: Military equipment captured during offensive operations by AMISOM and FGS security forces: implementation of paragraph 6 resolution 2182 (2014)

83. With the escalation of joint operations against Al-Shabaab in 2014 and 2015, the question of management of seized weapons and equipment became increasingly pertinent. In September 2014, the Federal Government of Somalia (FGS) told the Committee that it had seized two surface to air missiles in Buulo Mareer on 31 Aug 2014; a Carl Gustave 84 mm High Explosive Anti-Tank round in Mogadishu on 19 June 2014; and “caches of arms and ammunition” in the Hereryale (Warta Nabadda District) of Mogadishu” on 7 August 2014.¹¹² At the same time it was clear that all seized weaponry was not being recorded, and that some was being recycled, and, in some cases, distributed onwards by both FGS security forces and the African Union Mission in Somalia (AMISOM).

84. The lack of information on these seizures not only undermined the Committee’s capacity to assess the evolving arms, ammunition and equipment needs of FGS forces it also hampered tracking of unlawful equipment imports, possible leakage from Government stocks, and, potentially developing analysis of Al-Shabaab operations and supply routes.¹¹³

Adoption of paragraph 6 resolution 2182 (2014)

85. In October 2014—further to recommendations from the Monitoring Group in S/2014/726¹¹⁴--the Security Council decided that the Somali National Army (SNA) and AMISOM would be required to “document and register all military equipment captured as part of offensive operations or in the course of carrying out their mandates, including recording the type and serial number of the weapon and/or ammunition, photographing all items and relevant markings and facilitating inspection by the Monitoring Group of all military items before their redistribution or destruction”.¹¹⁵

86. Although resolution 2182 (2014) does not require the FGS or AMISOM to notify the Committee of the captured materiel within a specified time period, the need for Monitoring Group access prior to disposal requires agreement on procedures for handling and storage of such equipment by, and between, FGS security forces and AMISOM, in addition to timely information sharing with the Monitoring Group. In this regard, on 21 April 2015 the Chair of the Committee wrote to the FGS National Security requesting details of efforts made by the SNA to meet the requirements of

¹¹² S/AC.29/2014/COMM.83 dated 13 September, transmitted to the Secretariat on 16 September 2014.

No information was provided, however, on the handling, storage or tracing of this weaponry. With respect to the August 2014 seizure, no details were provided on the type of materiel captured.

¹¹³ The change in means and methods of warfare by anti-Al-Shabaab forces – such as for example the increased use of air power – may influence a change in the type and sourcing of weaponry by Al Shabaab. In early August 2015 for example a number of reports surfaced indicating that Al-Shabaab may have taken possession of a Surface-To-Air Missile (SAM-7), imported via Yemen.

¹¹⁴ Paragraph 181 (d), S/2014/726.

¹¹⁵ Resolution 2182 (2014) at paragraph 6.

paragraph 6 of resolution 2182 (2014).¹¹⁶ The same request in respect of AMISOM forces was sent to the African Union Special Representative for Somalia (SRCC).¹¹⁷

87. Although there was no FGS response to the Chair's letter, at the end of March 2015 the FGS provided information in its regular "paragraph 9" reporting on three incidents where weapons and other materiel subject to the arms embargo had been seized, one of which operations had been conducted jointly with AMISOM.¹¹⁸ The following information was provided by the FGS, referencing its "paragraph 6" obligations:

88. On 15 August 2014 weapons, ammunition, and military equipment were recovered during a joint search operation by NISA and AMISOM Sector 1 at the residence of Mr Ahmed Dai [Ahmed Hassan Adow], former Madina District Commissioner in Mogadishu. The material – including weapons, explosive materials, large bombs and IED components – was confiscated and recorded by an AMISOM Sector 1 officer and later transferred to NISA, less some of the material which was noted as taken by "NISA Col Coffi from SFC" (Annex 5 A);

89. On 28 October 2014 a joint SPF and NISA operation at Mogadishu port led to the seizure of magnets (for IED attachment) and other military equipment and accessories. On 17 November the container and goods were transferred to NISA. The inventory taken of the materiel included 1000 magnets, 2960 military uniforms, 4360 military boots; 3600 military t-shirts; 120 knives; 138 camouflage; 111 female veils; and 24,328 meters of military textile (Annex 5 B);

90. Although not described or referred to in the narrative reporting by the FGS, Annex 5 B also included a list entitled "On November 11th and 15th, 2014 items seized in Buula Mareer and Janaale districts". The materiel consisted primarily of 93 solar engines of different sizes, solar powered torches, fans, lamps, charging batteries, generators, invertors, irons and batteries. It was noted that the materiel had been stored at NISA.

91. The current whereabouts of this materiel is unclear. Some is reportedly stored at the National Intelligence and Security Agency (NISA). The FGS asserts that the August 2014 materiel jointly seized with AMISOM was not in fact given to NISA – that only detainees were transferred to NISA custody.

¹¹⁶ Letter from the Chair of the Committee to the FGS National Security Adviser, 24 April 2015 (S/AC.29/2015/OC.10). The letter was dated 21 April 2015 but transmitted on 24 April 2015.

¹¹⁷ See letter from the Chair of the Committee addressed to His Excellency, Ambassador Maman Sambo Sidikou, African Union Special Representative for Somalia (SRCC) and Head of AMISOM (S/AC.29/2015/OC.8). The letter was dated 21 April 2015 but transmitted on 24 April 2015.

¹¹⁸ The information was included in a section of the FGS March paragraph 9 report headed "draft legislation against possession of non-registered lethal weapons". S/AC.29/2015/COMM.21 dated 30 March 2015.

92. In March 2015, in response to a specific request from the Monitoring Group, NISA provided photographs of three weapons allegedly used in the attack by Al-Shabaab on the Mogadishu International Airport (MIA) on 25 December 2015 and seized in the aftermath.

Current practices in relation to captured weaponry and equipment

93. Contradictory information exists, however, on current AMISOM and FGS practices with respect to handling of captured weaponry and equipment. It is understood that FGS expectation is that weapons captured by AMISOM are transferred to NISA for storage, tracing and, ultimately, disposal. This does not appear to be the AMISOM understanding.¹¹⁹ Neither do FGS security forces follow a standard practice on captured weaponry or other materiel. In Mogadishu transfer of such materiel to NISA or the police does occur.¹²⁰ Fifteen NISA personnel in particular have been provided with specialist training on weapons identification and tracking and a separate section of the NISA armoury is allocated for captured weaponry.¹²¹ According to the FGS, NISA have processed, registered and photographed some 35 captured weapons.

94. The President conducted an internal meeting on 19 May 2015 with heads of the security forces and relevant parties to discuss management and accounting for captured weapons. In the sectors, however, it is understood that weapons transfer to NISA or the police rarely happens, whether due to operational necessity, or more probably, the deeply rooted tradition that captured weaponry is shared as spoils with the successful fighters. Challenging these practices will require significant awareness raising not just with respect to Security Council obligations but also on the value and potential impact on the conflict of the identification and tracing of captured material in terms of generating greater intelligence on sources of weaponry and tactics. In this regard the Monitoring Group received a significant number of independent reports of weaponry and other materiel seized during the mandate by the SNA and other FGS forces, none of which, other than that set out above, has been notified to the Group.

95. AMISOM practices are also unclear. In mid June 2015 an AMISOM official told one interlocutor of the Monitoring Group that although AMISOM had previously transferred captured weapons to NISA it “no longer” did so. Another view reflected to the Monitoring Group was that there was a requirement for AMISOM to report to the FGS on captured weaponry but not to transfer it to its custody. AMISOM has not provided any information on captured weaponry or military equipment to the Monitoring Group during the mandate. The Group is, however, aware that such seizures have been

¹¹⁹ See discussion below.

¹²⁰ On 17 August 2015, for example, a joint operation by AMISOM police and FGS security forces in the Yaqshid/Sigale market neighbourhood of Mogadishu resulted in the recovery of pistols, electric detonators and explosive powder. This material was reportedly transferred to the SNPFC Criminal Investigations Division. Email, UN from staff member, 17 August.

¹²¹ Phone interview, UN official with knowledge of the security sector, 25 August 2015.

made, including in the context of joint AMISOM/FGS security forces operations as was the case at the home of Ahmed Hassan Adow in August 2014 noted above.

96. In April 2015 the Monitoring Group met with Dr Maman S Sidikou, African Union (AU) Special Representative for Somalia (SRCC) in Nairobi. During the discussion the team expressed concern about the dearth of information available to the Monitoring Group on weapons captured by AMISOM. By letter in late May 2015 the SRCC advised that operational and sector commanders had been specifically advised of the sanctions documentation and inspection obligations and that “all sectors” had been directed to “produce regular briefs on captured weapons” for forwarding to Force Headquarters.¹²² It is understood that no such briefs have yet been received from the sectors. According to the SRCC, the mission has faced a number of obstacles in compliance, including lack of storage facilities in the sectors and guidance on “modalities”.

97. In late June 2015 AMISOM wrote to the Monitoring Group to reflect further on the challenges encountered.¹²³ These included: lack of common approach in the sectors to the implementing Security Council requirements on captured weapons; lack of understanding of the circumstances in which captured weapons may be handed over to the FGS (and the modalities for such hand-over) or destroyed; and other unspecified “logistical challenges”. The mission requested that the Monitoring Group provide a briefing for AMISOM operational commanders which would provide “answers/solutions to the issues raised” on 3 July 2015, noting that the upcoming offensive was likely to lead to additional seizure and capture of weapons. Unfortunately, due to the very short notice, the SEMG was unable to take part in this session.

Improving implementation of paragraph 6 resolution 2182 (2014)

98. Effective implementation of paragraph 6 will require the FGS and AMISOM to agree on responsibilities for documentation, registration, tracing and analysis of captured weapons and other materiel as appropriate, a transfer procedure to the responsible entity, a framework for storage and disposal of the materiel retained or transferred, and a protocol for informing the Monitoring Group of the seizure. Both AMISOM and FGS would likely require development of Standard Operating Procedures (SOPs) to operationalise any agreement.¹²⁴ Arrangements for sharing the findings of the analysis and tracing of the equipment subsequently conducted—whether by the FGS, the Monitoring

¹²² Letter dated 30 May 2015 from the Special Representative of the Chairperson of the African Union Commission (SRCC) for Somalia and Head of AMISOM (S/AC.29/2015/COMM.36). The letter was a response to enquires from the Chairperson of the Committee on efforts made by AMISOM to discharge its obligations under paragraph 6 of resolution 2182 (2014).

¹²³ Email from the Office of the SRCC to the Coordinator of the Monitoring Group, 26 June 2015.

¹²⁴ Clarification of AMISOM procedures and capacity to manage captured weaponry will also be important in the context of plans for AMISOM engagement in the national integration and disarmament process. The current strategic plan indicates that AMISOM is likely to be mandated to control surrendered weapons, with UNMAS assisting on safe handling, registration and storage.

Group, AMISOM or Member States—could help demonstrate the benefits of compliance for all parties. Finally, the Monitoring Group recommends that troop contributing countries also be reminded of their obligations and urged to direct their AMISOM contingents to comply with directives from Force Headquarters on the documentation, storage and disposal of captured military materiel.

99. Training in weapons documentation, identification and tracking will be necessary for the various entities charged with processing captured weapons. Conflict Armament Research conducted training in 2015 for 15 NISA personnel in identification and tracing of arms and ammunition: for this training to be operationalised, the provision of a weapons marking machine will be critical. Alongside this training it is understood that a template for the recording and analysis of captured weaponry has been developed.¹²⁵

Captured weaponry and equipment and the role of “other Somali security sector institutions” and bilateral partners

100. ‘Other Somali security sector institutions’ not under FGS command also seize weapons, ammunition and equipment from armed actors, both within and outside the context of the conflict with Al-Shabaab. In Puntland, for example, the PMPF has captured weapons and ammunition from vessels engaging in illegal trade, such as illegal fishing, human trafficking, weapons and ammunition smuggling.¹²⁶ Engagement on land with Al-Shabaab by regional forces, such as those controlled by the Interim Jubbaland Administration (IJA) and the Somaliland and Puntland authorities, also result in seizures.¹²⁷ With reports of illegal weapon flows from Yemen and the increasing concentration of Al-Shabaab fighters in Somaliland and Puntland, incidents in these latter jurisdictions are expected to rise. Operations by international forces operating bilaterally also reportedly result in weapons and other military equipment seizures.¹²⁸

101. In the light of the growing complexity of forces engaged in Somalia’s various conflicts, and the continued capacity demonstrated by Al-Shabaab to procure ample and increasingly heavy weaponry, the need for more systematic identification and tracing of weapons and materiel is acute. A centralised

¹²⁵ Introduction of such a template and its standardisation throughout FGS forces – and indeed more broadly among the armed forces operating in Somalia – would permit swifter more effective tracing and analysis of patterns but also facilitate sharing and cross-referencing of information.

¹²⁶ Email from expert with knowledge of the security sector, 25 March 2015.

¹²⁷ See for example a report of the arrest of 5 suspected Al-Shabaab members in possession of an unspecified quantity of explosives in Awbarkhadle (east of Hargeisa). Email from UN staff member, 12 July 2015. The Monitoring Group understands that there has been some discussion with donors around capacity building in processing and tracing of captured weapons for “other security sector institutions” in particular those in Puntland and Somaliland. The authorities there appear open to this support.

¹²⁸ On 26 August 2015, for example, it was reported that fighting in Kulunjerer in Bakool between Al-Shabaab and the SNA, engaging alongside the Ethiopian Liyu police had led to the capture of two PKM and one RPG. Email, UN staff member, 28 August 2015.

information flow on captured weapons would also assist the FGS with tracking and responding to weapons diversion from its own stocks.

102. In this context the Committee may wish to consider a mechanism which would facilitate and invite reporting on captured weaponry by non-FGS forces present in Somalia, whether Somali or international, including through a modification of the scope of paragraph 6 of resolution 2182 (2014). The information collected by the Monitoring Group in this regard could also be shared, where appropriate, with the FGS.

Annex 7.5: Enhancing compliance: international assistance to the Federal Government of Somalia (FGS)

103. The Security Council has recognised the need for the FGS to receive international assistance in order to achieve progress in complying with the terms of the partial lift. In resolution 2142 (2014) the Security Council requested the Secretary-General to provide options and recommendations on the assistance needs of the FGS, specifically how FGS capacities “in the safe and transparent storage, distribution and management of weapons and military equipment, including in monitoring and verification” could be improved.¹²⁹ Following a mission to Somalia in March 2014, the Secretary-General presented the findings of his assessment on 3 April 2014¹³⁰.

104. Among the Secretary-General’s key recommendations was the establishment of a joint verification team (JVT) which would conduct independent monitoring of Government weapon and ammunition stocks. The JVT would report to the Weapons and Ammunition Technical Working Group (WATG) established under the authority of the Arms and Ammunition Management Steering Committee (AAMSC) and onwards to the Committee, including via the Monitoring Group which sits on the WATG. With a strong national capacity building component, the JVT was designed to complement the work of, and coordinate with, the Monitoring Group, including due to the operational constraints facing the latter.¹³¹ Finally it was also intended that the impact of the JVT would be to assist in “mitigating the diversion of arms and ammunition to entities outside of the security services of the FGS”.¹³²

105. In its response to the Secretary-General’s report, the Security Council urged Member States to “provide sufficient financial resources to support the prompt establishment of this team”.¹³³ It also appealed to Member States to prioritize the provision of other support and equipment to the FGS which would (1) improve FGS compliance on reporting and notifications; (2) facilitate the conduct of a baseline registration survey of the Somali Security Sector and (3) commence a weapons marking and registration process (including to “inform future verification activities”).¹³⁴

106. Although support since the Security Council’s call has scaled up, international assistance to the FGS to achieve these priorities remains insufficient. Despite the very specific request by the Security Council in May 2014 for assistance from the international community for the provision of at least five

¹²⁹ Resolution 2142 (2014) at paragraph 10(b).

¹³⁰ S/2014/243.

¹³¹ See S/2014/243 and S/PRST/2014/9. Access to many sites is not possible for the group’s members due to UN movement restrictions.

¹³² Resolution 2182 (2014) at paragraph 7.

¹³³ S/PRST/2014/9.

¹³⁴ S/PRST/2014/9.

weapon marking machines, by mid August 2015 only two had been delivered.¹³⁵ Other critical initiatives which would support achieving the priorities identified by the Security Council's remain unfunded: three of these are discussed below.

Developing a comprehensive approach to WAM management

107. At the end of December 2014 the FGS wrote to the Committee to seek support from the UN and Member States for a 12-month pilot project that would, *inter alia*, assist the FGS to¹³⁶:

- Develop and implement a national framework and standards in accordance with the International Small Arms Control Standards ISACS and the International Ammunition Technical Guidelines (IATG);
- Develop and implement safe and transparent procedures for the reception and distribution of weapons and ammunition;
- Establish a weapons and ammunition marking and registration system (newly imported as well as old arsenals);
- Conduct regular verification to ensure safety and transparency in the management and distribution of weapons and ammunitions;
- Support the FGS in preparing and submitting all necessary reports and notifications to the UNSC.¹³⁷

108. Three months later in March 2015 in the course of its paragraph 9 reporting, the FGS advised the Committee that funding for the project had not yet been secured.¹³⁸ At the time of finalisation of this report the project was still stalled.

¹³⁵ Three additional marking machines did reach Mogadishu by 31 August 2015 and were awaiting conclusion of agreements for use with the UN Mine Action Service (UNMAS) at time of finalisation of this report.

¹³⁶ Letter dated 20 December 2014 from the Permanent Mission of Somalia to the United Nations addressed to the Chair of the Committee, S/AC.29/2014/COMM.124, transmitted to the Committee as S/AC.29/2014/NOTE.130, 31 December 2014 (The delay in circulation was a result of the Secretariat's attempts to reach out to competent Somali authorities for clarification on the intended recipients).

¹³⁷ The project was developed in collaboration with the United Nations Assistance Mission in Somalia (UNSOM) Rule of Law and Security Institutions Group (ROLSIG) and UNMAS. The project envisaged the retention of a consultancy team (120 days contract over a 12 month period) coordinated by UNMAS. In addition, 2 local staff would be hired for 12 months to provide regular support follow up and mentorship to the FGS WAM authorities.

¹³⁸ S/AC.29/2015/COMM.21 dated 30 March 2015.

The Office of the National Security Advisor

109. The Security Council has underlined the “urgent need” for support for the Office of the National Security Advisor (NSA).¹³⁹ It continues to operate without sufficient capacity support. Assistance in kind has been provided by the UN, in particular by the UN Mission in Somalia (UNSOM), the United Nations Coordinating Action on Small Arms (CASA) and the Security Council Affairs Division (SCAD). This work has particularly centred on coordinating FGS reporting obligations to the Security Council, including the development of templates and advice on compliance. Nevertheless, despite demonstrated willingness by the NSA to improve compliance, direct support for personnel and equipment is lacking. Without such support it will be difficult for the NSA to function effectively against the background of an expanding folder of obligations.¹⁴⁰

Progress in the establishment of the Joint Verification Team (JVT)

110. In October 2014 the Security Council reiterated its request to the FGS – with the support of international partners – to “establish a joint verification team which would conduct routine inspections of government security forces’ stockpiles, inventory records and the supply chain of weapons” and provide its findings to the Committee.¹⁴¹ In March 2015 the FGS reported that there had been little progress on the establishment of the team. It described “significant challenges”, noting in particular the “lack of resources”, the “significant” security problems and the “mandate limitations of international partners to access Somali Security Forces situated in the theatre of operations”.¹⁴² Nevertheless the FGS reiterated its intention to finalise terms of reference for the JVT, in cooperation with the Monitoring Group, emphasising the need for Member States to provide sufficient financial resources. Three arms and ammunition baseline surveys conducted in Mogadishu, Baidoa and Belet Weyne in the second half of 2014 were described as “a foundation” for the process. On 21 April 2015 the Chair of the Committee requested the Arms and Ammunition Standing Committee (AASC) to provide information on progress towards establishing the JVT.¹⁴³ At the time of writing, the AAMSC has yet to respond. Although some progress was recorded in the June 2015 AASC meeting in terms of the development of a concept note and the Terms of Reference for the team, the question of the funding for the team was not clarified.

111. Despite these setbacks, the FGS was determined to move forward in fulfilling its obligations. In late June 2015 it entered into discussions with Conflict Armament Research (CAR)—an independent private consultancy which had offered its services pro bono—to begin the work in the

¹³⁹ S/PRST/2014/9.

¹⁴⁰ See annex 7.3.

¹⁴¹ Resolution 2182 (2014) at paragraph 7.

¹⁴² S/AC.29/2015/COMM.21 dated 30 March 2015.

¹⁴³ Letter from the Chair of the Security Council Committee to Abdirahman Sheikh Issa, Chair of the Arms and Ammunition Management Steering Committee and National Security Adviser, Office of the President of the Federal Republic of Somalia in Mogadishu (S/AC.29/2015/OC.11).

interim until an appropriate funding stream was identified. A Terms of Reference document for the JVT was finally agreed between the FGS, UNSOM and CAR on 22 August 2015. Operating under the overall authority of the AAMSC, the JVT will “conduct routine inspections of the FGS’ security forces’ stockpiles, inventory records and the supply chain of weapons for the purposes of mitigating the diversion of arms and ammunition to entities outside of the security services of the FGS”.¹⁴⁴ The team will be composed of four FGS security officials and four international personnel from which co-team leaders will be drawn.¹⁴⁵ The JVT will submit quarterly reports to the AAMSC which members—including the Monitoring Group—may submit queries or points of clarification. UNSOM will provide the logistics support for the team. Funding for the sustainable operation of the team is still awaited.

¹⁴⁴ See, Terms of Reference for the establishment of the Joint Verification Team of arms and ammunition, on file with Monitoring Group.

¹⁴⁵ See, Terms of Reference for the establishment of the Joint Verification Team of arms and ammunition, on file with Monitoring Group.

Annex 7.6 Implementation of, and recommendations related to, modifications of the arms embargo stipulated in resolution 2182 (2014)

112. There have been two significant developments with respect to the scope of the arms embargo since S/2014/727. First, in paragraph 15 of resolution 2182 (2014), the Council acting under Chapter VII authorised Member States, in certain circumstances, to conduct interdiction in Somali territorial waters and on the high seas. Second, the Council requested the Monitoring Group and the Federal Government of Somalia (FGS) to work together to present a proposal to provide for an exemption to the arms embargo for weapons on board vessels engaged in commercial activity in Somali territorial waters and in Somali ports.¹⁴⁶ These developments respond to challenges surrounding enforcement of the charcoal ban and arms embargo, and also reflect the need to adapt the regime to changing realities on the ground. This annex assesses the implementation of the Council's authorisation of interdiction in resolution 2182 (2014) and describes the progress made in developing a proposal to provide for an exemption for armed security on commercial vessels in certain circumstances.¹⁴⁷

Interdiction on the high seas and territorial waters

113. In S/2014/727, against the background of ongoing violations of the arms embargo and charcoal ban and the need for more effective enforcement measures, the Monitoring Group recommended that the Security Council provide international maritime forces with the power to interdict vessels on the high seas and within Somali territorial waters in certain circumstances.¹⁴⁸ The FGS had also written requesting Council's support in this regard.¹⁴⁹

114. In response, the Council authorized Member States, for a period of twelve months, to inspect vessels bound for Somalia where there are reasonable grounds to believe that the vessel is, *inter alia*,

¹⁴⁶ Resolution 2182 (2014) at paragraph 10.

¹⁴⁷ Paragraph 49 of Resolution 2182 (2014) requests the Monitoring Group to report on the implementation of the authorization set out in paragraph 15 of the same resolution, as part of its regular reporting to the Committee.

¹⁴⁸ S/2014/727 paragraph 181.

¹⁴⁹ Letter dated 10 October 2014 from the Deputy Permanent Representative of the Somali Republic to the United Nations addressed to the President of the Security Council and copied to the Secretariat of the Committee, enclosing a letter dated 8 October 2015 from the President of the FGS (S/AC.29/2014/COMM.104). The letter requested "further assistance from the Council in authorising existing international maritime forces to take measures at sea to prevent the export of charcoal from Somalia and the delivery of weapons and military equipment into Somalia in violation of the arms embargo".

carrying materiel in violation of the arms embargo on Somalia.¹⁵⁰ On 7 January 2015 the President of Somalia wrote to the Secretary-General advising that it would be acceptable to the FGS for “selected Member States who are member nations of Combined Maritime Forces [CMF]” to make such inspections.¹⁵¹

115. Since then, discussions on operationalisation of the authorisation to interdict arms and military equipment being carried in violation of the arms embargo have taken place in a number of fora, including most intensively at CMF headquarters. The Monitoring Group alongside the FGS National Security Advisor (NSA) and UN agencies, has contributed to these debates. Progress however has been slow: no arms interdiction operation has yet been conducted. It is understood that among the challenges is the question of how to interpret and apply certain provisions of the authorisation, particularly with respect to dealing with individuals found on board interdicted vessels, and the documentation and disposal of weaponry, including in the context of European Union legal requirements.¹⁵² The situation with respect to arms interdiction contrasts with the situation regarding maritime interdiction of charcoal also authorised in paragraph 15 of resolution 2182 (2014). Despite ongoing discussion on options for charcoal disposal, one successful interdiction has been conducted by international maritime forces and significant surveillance information has been shared with the Monitoring Group by Member States participating in the effort.

116. The need for paragraph 15 to be operationalised and for arms interdiction to commence remains acute. Further to a CMF meeting in August 2015 the FGS NSA wrote to the CMF Commander, copied to the Chair of the Committee, urging the Commander to “encourage CMF to begin the naval maritime interdiction process and the systematic monitoring of weapons particularly

¹⁵⁰ Paragraph 15 of resolution 2182 (2014). The authorisation specifically provided that Member states, acting individually or collectively, in cooperation with the FGS, and further to appropriate notification to the Secretary-General (and onwards by the Secretary-General to member States), could “take all necessary measures commensurate with the circumstances” to inspect such vessels bound for Somalia on the high seas and in Somali territorial waters (paragraph 15, resolution 2182). The high seas were the defined as waters “off the coast of Somalia extending to and including the Arabian sea and Persian Gulf”. The resolution also authorized the interdiction of vessels “carrying charcoal from Somalia in violation of the charcoal ban”.

¹⁵¹ See letter from the President of the Federal Republic of Somalia to the Secretary General, 7 January 2015, JFS/XM/NUN6/SG/1/15. Selected Member states of the CMF include Australia, Bahrain, Canada, Denmark, France, Germany, Italy, Japan, the Netherlands, Norway, Portugal, Saudi Arabia, Singapore, Spain, Turkey, UAE, UK and the US. Following a letter dated 25 July 2015 from the National Security Advisor to the President of the Federal Republic of Somalia to the Commander of the Combined Maritime Forces copied to the Chair of the Committee, New Zealand was added to the list above.

¹⁵² The provisions governing the authorisation set out a detailed framework within which the power may be operationalized including addressing issues such as the obligations of flag states, the need for the conduct of inspections to accord with international humanitarian and human rights law, seizure and disposal and the reporting requirements consonant on such inspections. See S/RES/2182 (2014) paragraphs 15 – 22 inclusive.

coming from Yemen to Somalia”.¹⁵³ The letter particularly expressed concern regarding an “influx of arms and ammunition” along the coast of Puntland and Somalia, noting that, “it is a growing security concern that we may soon see surface to air missiles among other destructive weapons reaching Somalia from Yemen”.

117. Illegal imports of weapons, explosives and other military equipment to Somalia, including via maritime channels, continues to pose a serious threat to peace and security in Somalia. In the global context of the Yemen crisis, and in particular as the anti-Al-Shabaab offensive escalates and AMISOM and its strategic partners deploy new tactics and weaponry, sourcing of new and heavier weaponry by Al-Shabaab is a likely countermeasure. Unconfirmed reports have already surfaced that Al-Shabaab may be seeking, and even have obtained, Surface to Air Missiles just as military helicopters are preparing to be deployed in support of AMISOM operations for the first time.¹⁵⁴ The Group thus recommends that the interdiction authorisation in paragraph 15 resolution 2182 (2014) be renewed for an additional twelve months and Member States be urged to offer the assistance of their maritime forces.

118. In view of the ongoing implementation challenges, development of a specific implementation assistance notice should be considered. In the interim the sharing of real time information with the Monitoring Group on vessels which may be operating in violation of the arms embargo should be encouraged.

Implementation of paragraph 10 of resolution 2182 (2014) on private maritime security operations

119. The Gulf of Aden—including Somali territorial waters—is designated as a High Risk Area for maritime piracy and armed robbery. As a result, a significant number of commercial trading vessels entering Somalia’s territorial waters and calling at Somali ports are protected against possible piracy attacks by privately contracted armed security personnel (PCASP). The use of PCASP aboard commercial vessels is consistent with international maritime security best practices in the Gulf of Aden as a means to deter, prevent, and repress acts of piracy and armed robbery at sea. In resolution 2125 (2013) the Security Council in fact encouraged States to develop regulations for the use of PCASP on board ships, aimed at preventing and suppressing piracy off the coast of Somalia.¹⁵⁵

¹⁵³ See letter dated 25 July 2015 (received by the Secretariat on 1 August 2015) from the National Security Advisor to the President of the Federal Republic of Somalia to the Commander of the Combined Maritime Forces, which is copied to the Chair of the Committee, S/AC.29/2015/COMM.50. Transmitted to the Committee, 5 August 2015, S/AC.29/2015/NOTE.56.

¹⁵⁴ See, inter alia, paragraph 14 of resolution 2232 (2015).

¹⁵⁵ Resolution 2125 (2103) at paragraph 26.

120. Meanwhile, under the current provisions for arms embargo on Somalia, the carriage of weapons by PCASP and their potential use in Somalia (whether in its territorial waters, at port or on land) constitutes a breach of the arms embargo. As a result, owners, operators and security providers of commercial vessels which enter Somali territory with PCASP on board are in breach of the arms embargo. The resulting contradiction between protection and potential violation of the arms embargo tends to undermine the safe management of commercial maritime traffic and may unduly hamper legitimate economic activities.

121. In this context, and further to the Monitoring Group's recommendation, in paragraph 10 of resolution 2182 (2014), the Security Council requested the FGS and the Monitoring Group to work together to formulate a proposal to provide for an exemption to the arms embargo for weapons on board vessels engaged in commercial activity in Somali territorial waters and in Somali ports.¹⁵⁶

122. On 25 February 2015 further to an exchange of views and written correspondence between the Monitoring Group and the National Security Advisor, the Monitoring Group Coordinator wrote to the Committee to update members on the state of the discussion that set out two options for the creation of such an exemption.¹⁵⁷ The first was to create a standing exemption involving a "for information" notification only.¹⁵⁸ The second involved stipulation of an advance request for approval procedure permitting the Committee to review and approve exemption requests on a case-by-case basis.¹⁵⁹ The FGS later indicated that it had a preference for the granting of "permission on a case by case basis rather than a blanket exemption".¹⁶⁰

123. With respect to both options it was emphasised that only temporary transit in Somali territorial waters and at Somali ports would be permitted: the exemption would not apply to the disembarkation of weapons or equipment from those vessels onto land. Only weapons and related security equipment owned and operated by registered PCASPs and carried solely for maritime security purposes could

¹⁵⁶ Resolution 2182 (2014) at paragraph 10.

¹⁵⁷ Letter dated 25 February 2015 from the Coordinator of the Somalia and Eritrea Monitoring Group, S/AC.29/2015/Monitoring Group/OC.4. In parallel with the Monitoring Group's letter, the FGS NSA also wrote to the Committee to advise that it required additional time to consult with various stakeholders, including regional states, the International Maritime Organization and the Federal Parliament of Somalia. It requested three months to more thoroughly consider the proposal. Letter dated 25 February 2015 from the National Security Adviser to the President of Somalia, S/AC.29/2015/COMM.13, transmitted to the Committee, S/AC.29/2015/NOTE.014.

¹⁵⁸ Such an exemption would enter into force with the adoption of a Security Council resolution and would not require any form of additional approval by the Committee. This option would permit the Committee to maintain visibility on the movement of weapons into Somalia territorial waters with limited administrative burden.

¹⁵⁹ In order to help minimise the administrative burden on the Committee entailed by an approval process, it was suggested aggregate request could be made, rather than for every individual vessel or movement. The advantage of this option was greater exercise of control over the movement of weapons into Somalia's territorial water and ports.

¹⁶⁰ S/AC.29/2015/COMM.21 dated 30 March 2015.

benefit from the exemption. Detailed information on the weapons and equipment and on the vessel upon which they are carried would be required.¹⁶¹ Finally the Monitoring Group suggested that the FGS receive copies of the information provided to the Committee.¹⁶²

Update on engagement

124. In the course of its mandate the Monitoring Group has had an opportunity to refine its thinking on options for the proposal. This has involved analysis of both the evolving situation along the Somali coastline and the development of coast guard and maritime capacities (albeit in their infancy) in areas under FGS control and in the regions. The context includes the expansion of illegal fishing activities and the potential for other forms of commercial activity in Somali waters such as seismic survey operations etc., which may raise broader peace and security issues. The Group has also consulted with PCASPs.¹⁶³

125. The Monitoring Group therefore recommends that the following additional issues are taken into account in the formulation of the exemption:

- the need to restrict the scope of the exemption to protection activities in support of lawful commercial activity;
- a requirement for PCASPs to operate standard procedures relating to weapons carriage both on sea and when berthing in Somali ports, including operation of a bonded store,
- recognition of a right of inspection of the vessel by appropriate Somali authorities in Somali territorial waters and in Somali ports, including inspection of the bonded store

¹⁶¹ It was suggested that among the details required would be name of the vessel and IMO number; voyage details (including estimated time of entering and departure from Somali territorial waters, and ports to be visited); name and contact details of the captain of the vessel; full name, address of registration and contact details of the contracted security provider; name and contact details of the responsible director of the contracted security provider; names and passport details of the security guards on board; flag State approval letter; number of weapons, type, serial numbers and end-user certificates; protection and Indemnity 'statement' acknowledging use of armed guards on board of the vessel while transiting Somali territorial waters and ports; valid Class certificate ensuring that the vessel is compliant with Class regulations.

¹⁶² During consultations with the Committee on the Monitoring Group's October 2014 report the FGS had expressed concerns that "authorizing private maritime security companies, operating within our territorial jurisdiction without our consent may negatively affect our sovereignty". Statement made by the National Security Adviser to the President of the Federal Republic of Somalia during the informal consultations of the Committee on 10 October 2014 (S/AC.29/2014/NOTE.111). The FGS announced also that it proposed to conduct a "joint assessment of the implications of private maritime security forces, bearing in mind that that the Federal Government of Somalia is developing its own Coast Guard to detect and control illicit activities". It indicated that the report would be submitted to the Security Council by June 2015.

¹⁶³ See annex 2.3.

and the need for information to be provided to the Somali authorities to facilitate such inspection.

126. Finally, in terms of communication with the Committee, it is only member states which obligations are engaged by the proposed PCASP activities, or international organisations, which can make the notification or request for approval. As the International Maritime Organisation (IMO) operates a system of registration for PCASPs, consideration might be given to the development of a capacity within the IMO to operate as a clearing house and point of submission of requests for approval or notifications for information. This could reduce some of the administrative complications entailed by required notifications to original from flag states and states of registration of the PCASP.

Annex 8

Violations of the charcoal ban

Annex 8.1: Charcoal Stockpiles¹

Barawe Stockpile

1. Satellite imagery of the Barawe stockpiles demonstrates the movement of significant volumes of charcoal in the immediate aftermath of the town's recovery from Al-Shabaab in early October 2014 and the arrest of several local officials in late November 2014, following which stockpiles appear to remain untouched. The aerial photograph taken in March 2015 – towards the end of the long dry season when charcoal production is historically near its peak – shows no activity around the stockpile.



¹ All satellite images were acquired from Digital Globe: www.digitalglobe.com.





Barawe charcoal stockpiles in March 2015²



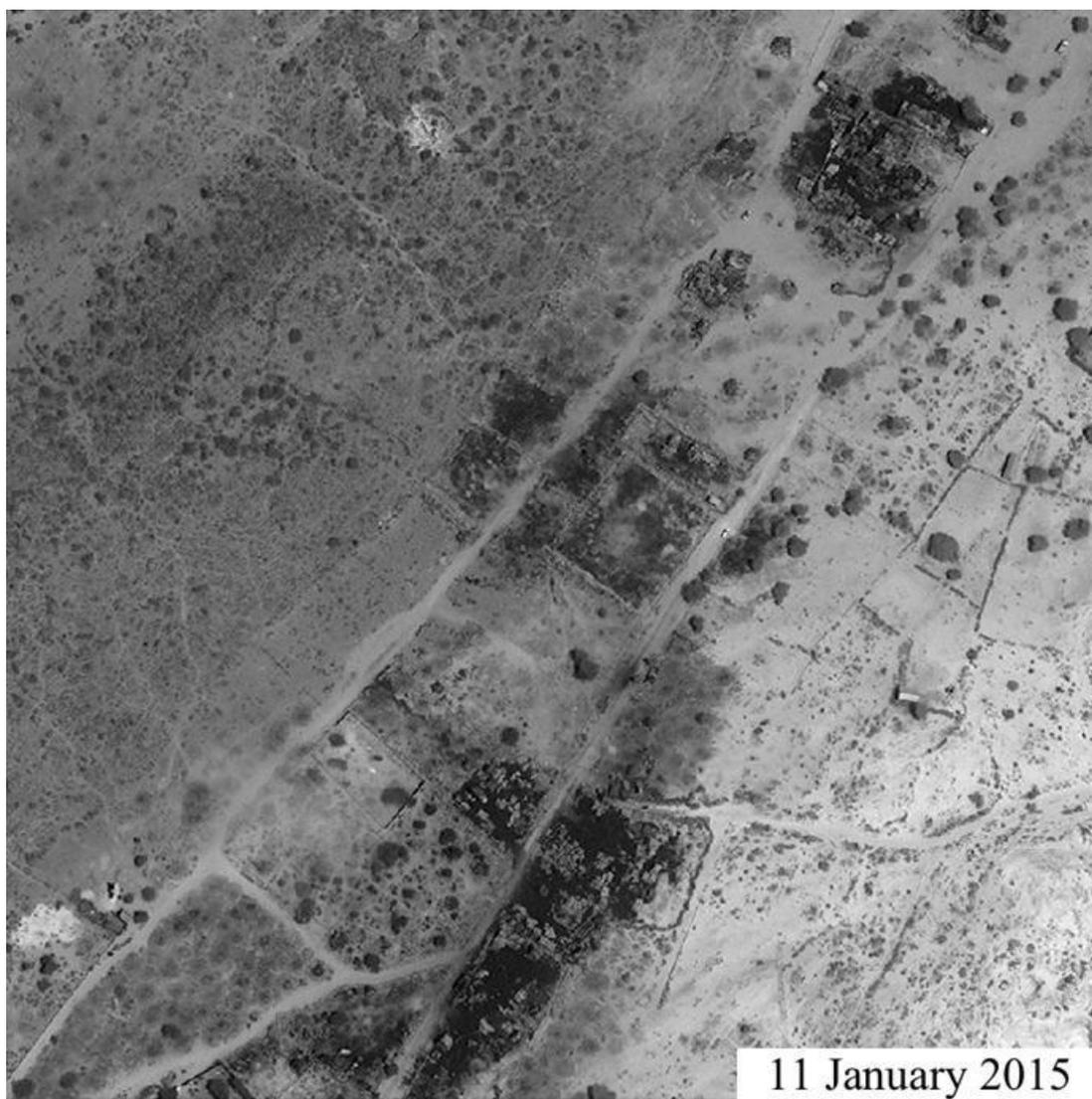
² Aerial photograph acquired with support from regional Naval forces.

Kismayo southern stockpile

2. Satellite imagery of the Kismayo southern stockpile shows significant depletion of considerable charcoal stocks in late 2014. By January 2015 stocks are replenished before gradually depleting again over the course of 2015, supporting the assertion that elements of Al-Shabaab were actively frustrating the trade from Kismayo in early 2015.



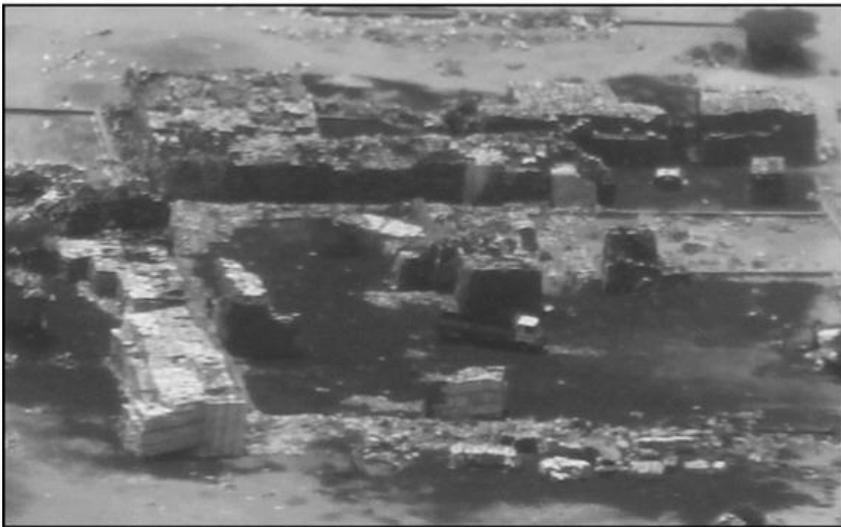
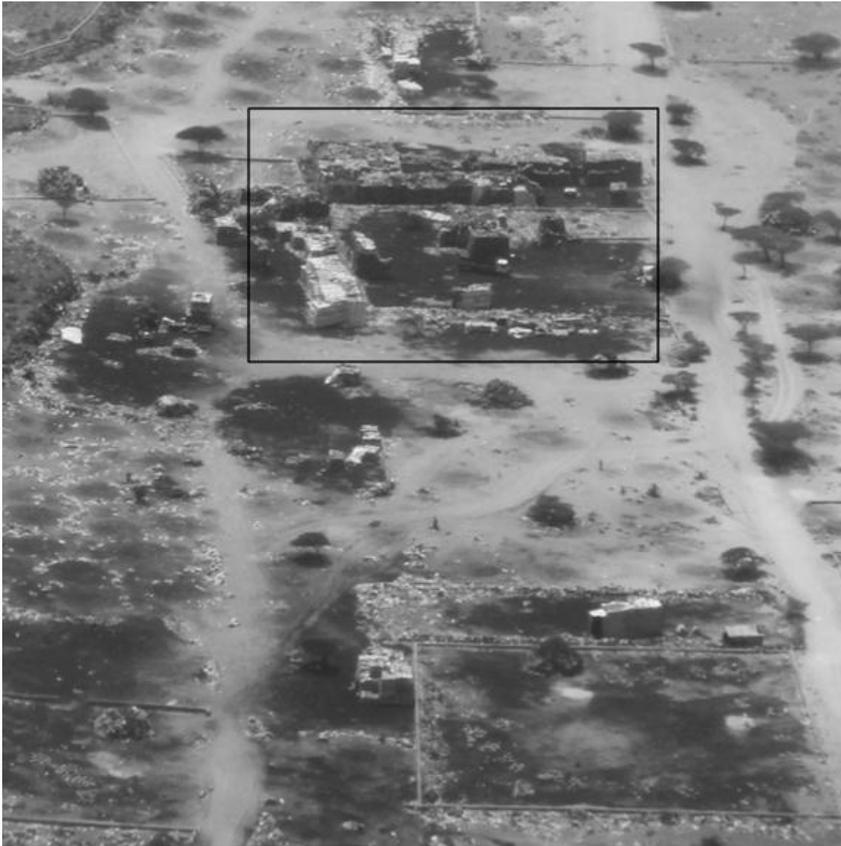








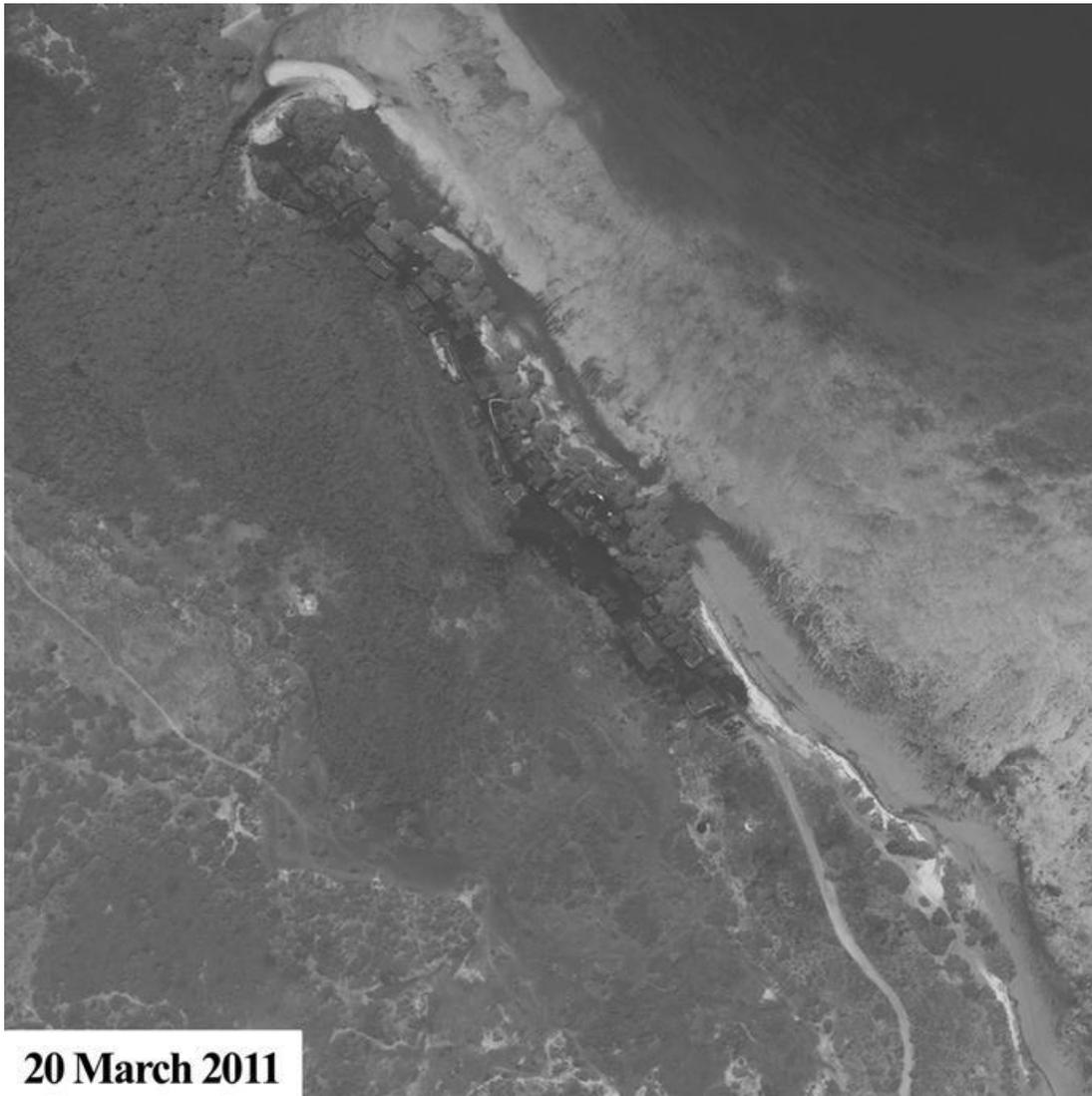
Kismayo southern stockpile, 27 April 2015³

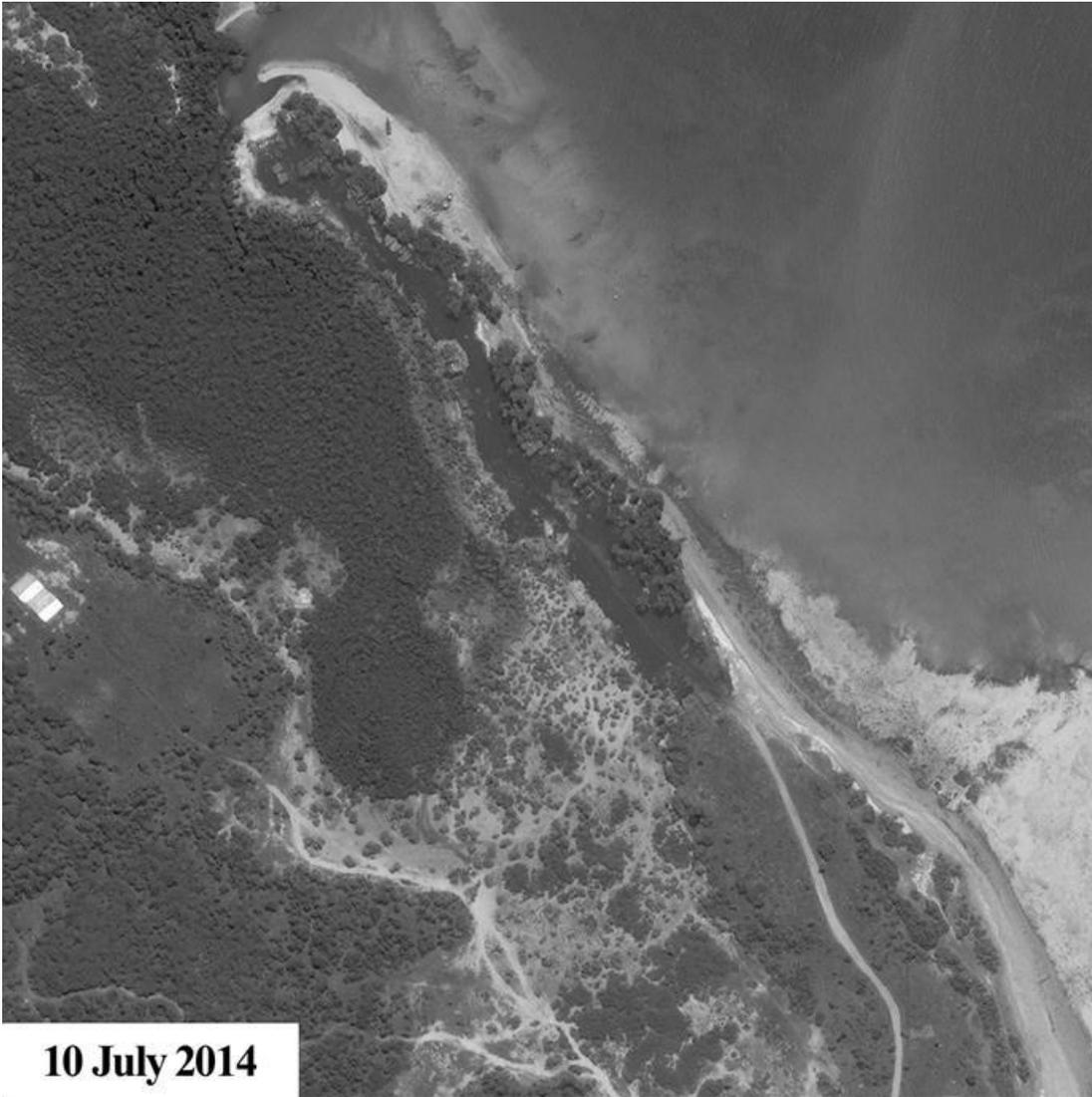


³ Image taken by the Monitoring Group.

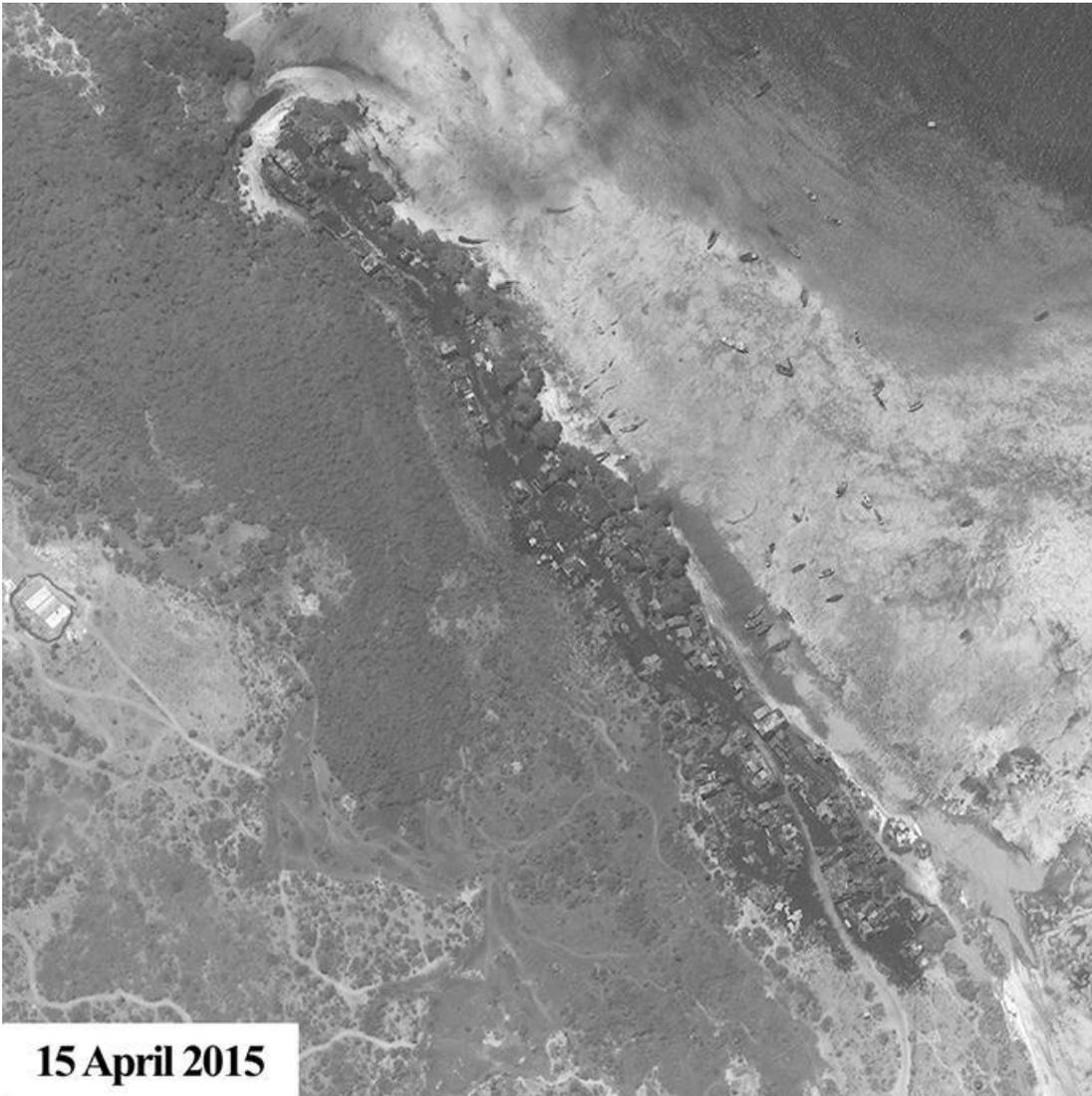
Buur Gaabo Stockpile

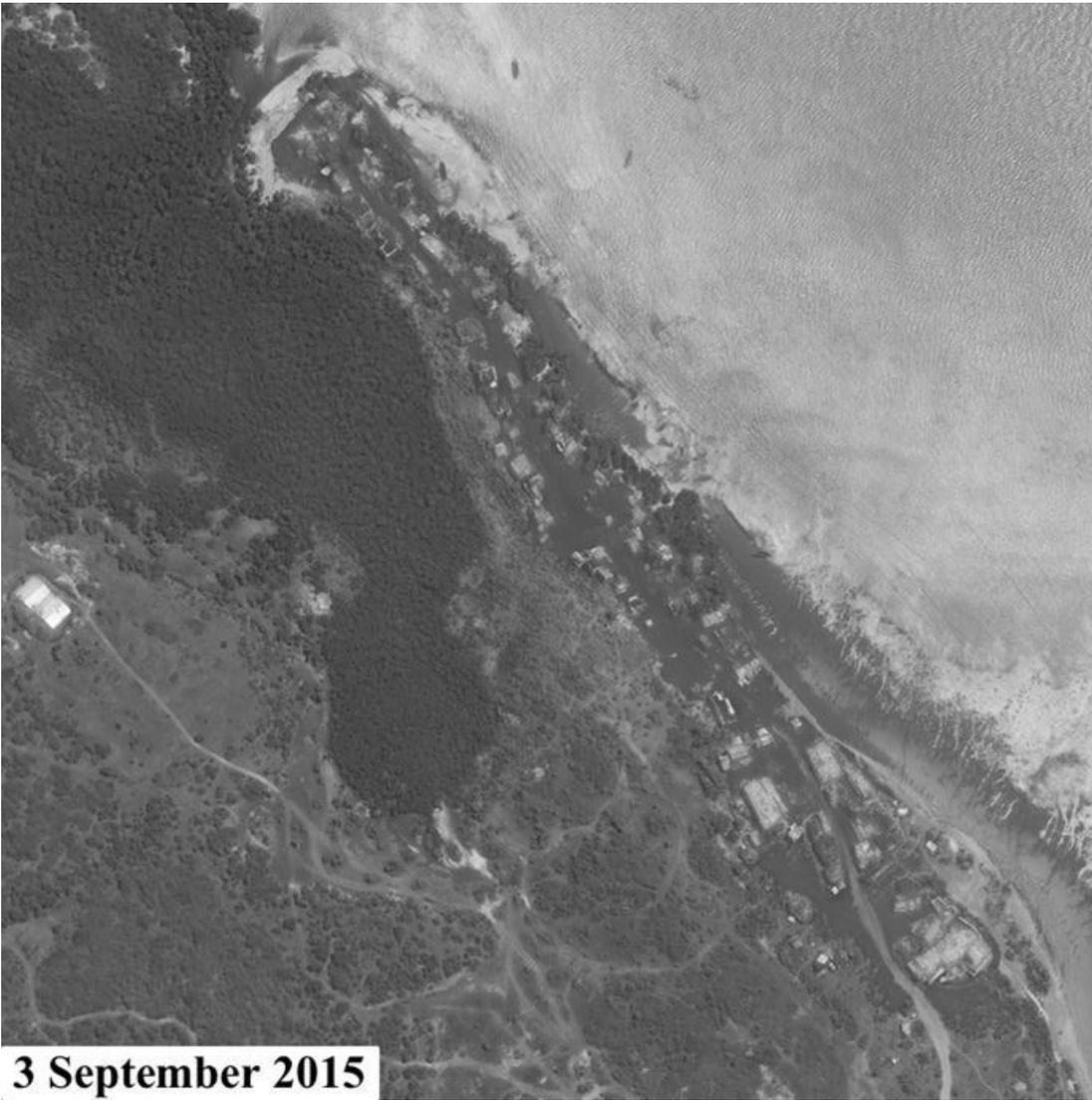
3. Satellite imagery shows the rapid expansion of the Buur Gaabo stockpile area and activities between mid 2014 and early 2015. As of September 2015, Buur Gaabo retained significant stockpiles, with a number of cargo vessels still present.





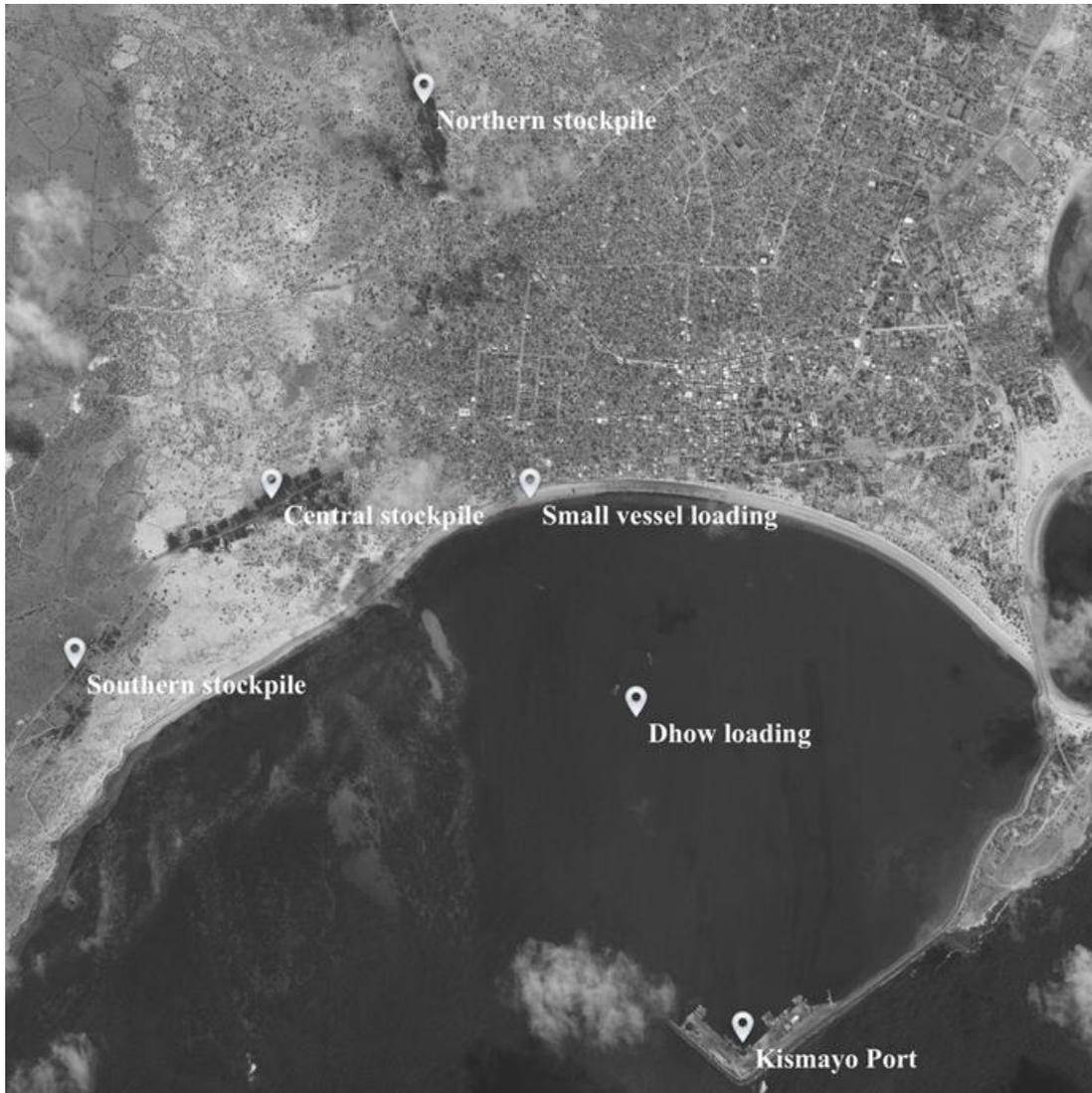
10 July 2014





Annex 8.2: Kismayo charcoal operations

Map of Kismayo charcoal stockpiles and loading areas



Charcoal being loaded on vessels in Kismayo bay area⁴



⁴ Photograph acquired with support from regional Naval forces.

Annex 8.3: MSV *Raj Milan*

4. The MSV *Raj Milan* (MMSI 419956307), an Indian flagged dhow known to the Group (S/2014/726, annex 9.2) left Kismayo Port in late February 2015 carrying 24,712 bags of Somali charcoal. The Monitoring Group and international maritime forces jointly tracked her movements in real time from 20 March until it reached Port Rashid in the United Arab Emirates in the afternoon of 23 March. Upon arrival at Port Rashid, and with support from UAE authorities, the Monitoring Group was able to interview the captain, Mohamed Sadiq, and inspect the vessel. Despite documentation indicating that the shipper of the cargo was a ‘Moon Transport & Services’ from the Union of Comoros, the vessel’s captain confirmed that it had loaded charcoal at Buur Gaabo, approximately 125 km south-west of the port city of Kismayo.⁵ Once loaded at Buur Gaabo, the vessel stopped at Kismayo Port to collect the shipping documentation, including a bill of lading and cargo manifest.

5. Though not disclosed to the Monitoring Group at Port Rashid, evidence later obtained by the Group confirms that the captain also had in his possession original Somali documents, including a Bill of Lading, Cargo Manifest and Port Clearance from Kismayo, all of which were stamped and signed by the Kismayo Harbour Master. The original documentation lists the shipper as Yusuf Jamac Mohamed of Kismayo Shipping Agency Ltd, and the consignee as Cabdi Shakur Sheikh Ibrahim. This consignee was confirmed by UAE officials using the phone number listed in the falsified documentation. Details of the consignee were shared with UAE authorities who committed to conducting their own investigation into this individual, which they agreed to share with the Monitoring Group. At the time of writing findings of the investigation had not been shared with the Group.

6. On 10 June 2015 UAE authorities confirmed to the Monitoring Group that they had seized MSV *Raj Milan* and they had confiscated the shipment for disposal. On the same day, the UAE consulted with the Committee with regard to their consideration of disposing of the seized charcoal through resale at a public auction; on 16 July 2015 the Committee agreed to the proposed course of action

⁵ Data collected on the vessel’s Automatic Identification System (AIS) transmissions confirmed that it had docked off the coast of southern Somalia before sailing northwards to the United Arab Emirates.

MSV Raj Milan prior to docking at Port Rashid, United Arab Emirates



Original cargo manifest

SHIPPER	CONSIGNEE	MARKS	DISCRIPTION	WEIGHT
Yusu F Jann C Maltomed	CASDI SHAKOR SHEEKH IBRAHIM		IN BAGS Charcoal	24712 07 BAGS Charcoal

JAMHURIYADA FEDERALKA SOMALIYA
 SOMALI FEDERAL REPUBLIC
 KISMAYO SHIPPING AGENCY L.T.D TO MUDHAWA
 CARGO MANIFESTS
 MV/MSV RAJMI LAN CALL SIGN _____ MASTER NAME Maltomed DATE 26/2/2015
 PORT OF LOADING Kismayo PORT CHARGE Dubai UAE

03.2015
 NEIGHBOUR MASTER KISMAYO

Original port clearance


Somali Republic
WAAXDA BADDA 73
Marine Department

Lambar: _____ Date: 26 / 2 / 2015
 W/B/MHM/N. Kismayo 201
 Number: 93 Time of Selling:

Rukhso Dhoofin – Port Clearance

Magaca Gaadiidka: RAJ MILAN
 Name of Ship
 Flag of Ship
 Magaca Kabtanka: Mohamed Sadi P.
 Name of Master
 Tirada Badmaaxa: 13 PERSONS
 Number of crew
 Badeecada La saaray: Other goods
 Shipped Cargo
 Rakaabka Dhoofay: Nil
 Passengers
 Xoolaha La saaray: Nil
 Livestock Laded
 Remarks: From Kismayo port
 N.B: The above mentioned vessel is clear from Kismayo port our
 Work DUBAI UAE And Master Expert
 regulation.



15 03 2015

Original bill of loading


 REPUBLIC OF SOMALIA

Bill Of Loading
To be used with charter parts

B/L No: 97
 Shipper: YUSUF JAMAC MOLTAMED
 Consignee: Abdi SHAKUR SHEKH IBRAHIM
 Vessel: RAT MILAN Port of loading: Kismayo
 Port of discharge: Dubai UAE
 Shipper's Description of goods: CHARGED gross weight: 24.712
07 BAGES CHARGED

(Of Which _____ on deck at shipper's risk the center of Used responsible for loss or damage however arising)

<p>Freight payable as per Charter partly dated: _____</p> <p>Freight advance Received an account of freight</p> <p>_____</p> <p>Figure used for loading _____ days _____ Hours</p>	<p>SHIPPED at port of loading in apparent Good Order and condition on board the vessel or Carriage to the port of discharge or so near there to as she may safely get the goods Specified above</p> <p>Weight, measure, quality, condition, comments and value unknown</p> <p>In witness where of the master or agent of the said vessel has signed the number of bill of loading indicated below all of this tenor and date any one of which being accomplished the others shall be void</p> <p style="text-align: center;">FOR CONDITIONS OF CARRIAGE SEE OVERLEAF</p>
---	---

place and date of issue: _____
 Signature: _____



Number of original B/L _____

16.03.2015

Falsified cargo manifest



MANIFEST DE SORTIE

SAILING DATE: 15/2/2015

M/V: # MSV RAJ MILAN (2808)

PORT OF LOADING: MORONI

NAKHOUDA: MAHEMAD SABIR SULEMAN SAP

PORT OF DISCHARGE: PORT RASHID DUBAI OR SHARJAH
SOHAR PORT OMAN/ KUWAIT DOHA PORT

PAVILLON: INDIA

TONNAGE: 451.31 G.T

B/L N 1 Shipper 2 Consignee 3 Notify party

Marks, Nrs	No and Kind of packages	Weight in Kgs	Volume in CBM
------------	-------------------------	---------------	---------------

MOON TRANSPORT & SERVICES
139 MORONI (Grande Comore)
TEL : +269-3435544
UNION OF COMOROS

26000	MASHAWI CHARCOAL	650000	
-------	------------------	--------	--

Mohd Ali Shaheen - Gen Trd LLC

G.S. N° 393
Centre Dougnier Moroni Port
Brigade De Surveillance Portuaire
Vu au depart et arrete la present
Manifeste du nombre de 26000 colis
Pour Export Pieces Montees
Moroni Le 15/02/2015



26000



Address: Moroni, Grande Comore, Comores
moon.ta@mail.com

Falsified bill of lading

**BILL OF LANDING
NON NEGOTIABLE
CARGO RECEIPT**

145

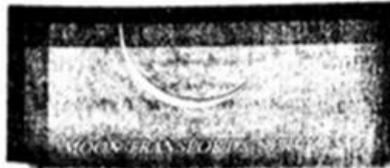
CODE NAME : "KMMUP" EDITION 15/02/2015

BILL OF LADING B/L N°: KMMUP 145

Shipper

Réf.No.: KMMUP/ 0145/2015

**MOON TRANSPORT & SERVICES
MORONI - GRANDE COMORE
UNION OF COMOROS**



Consignee
Mohd Ali Shaheen Gen Trd LLC

Notify adress : SAME ABOVE

Port of Loading : MORONI PORT

VESSEL NAME : MSV RAJ MILAN

Port of Discharge : PORT RASHID DUBAI OR SHARJAH
SOHAR PORT OMAN/ KUWAIT DOHA PORT

Number of original B/L: (145)

Shipper's description of goods

Quantity/Pcs Gross Weight/Kgs

BAGS OF MASHAWI CHARCOAL	26000	650000
TOTAL	26000	650000

Prepaid as per
CHARTER-PARTY Dated.

SHIPPED at the port of loading in apparent good order and condition on board the vessel for carriage to the Port of Discharge or so near there to as she may safely get

FREIGHT ADVANCE
Received on account of freight:

Weight, measure, quality, quantity, condition, contents and value unknown.

Time used for loading...4..... Day.....hrs

IN WITNESS where of the Master or Agent of the said Vessel has signed the number of Bills of Lading indicated below all of this tenor and date, any one of which being accomplished the others shall be void.

Freight payable at 15/02/2015
"PREPAID"

Place and date of Issue : Moroni Port
UNION OF COMOROS

FOR CONDITIONS OF CARRIAGE SEE OVERLEAF

Address: BP 399, Moroni, Grande Comore, Comoros. Tel: (+269) 343554
moon.t@email.com

