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**Lettre datée du 9 octobre 2015, adressée au Président
du Conseil de sécurité par le Président du Comité
du Conseil de sécurité faisant suite aux résolutions
751 (1992) et 1907 (2009) sur la Somalie et l'Érythrée**

Au nom du Comité du Conseil de sécurité faisant suite aux résolutions 751 (1992) et 1907 (2009) sur la Somalie et l'Érythrée et en application du paragraphe 47 de la résolution 2182 (2014) du Conseil, j'ai l'honneur de vous faire tenir ci-joint le rapport sur la Somalie établi par le Groupe de contrôle pour la Somalie et l'Érythrée.

Le Comité vous serait reconnaissant de bien vouloir porter le texte de la présente lettre et du rapport à l'attention des membres du Conseil de sécurité et de le faire distribuer comme document du Conseil.

Le Président du Comité du Conseil de sécurité
faisant suite aux résolutions 751 (1992)
et 1907 (2009) sur la Somalie et l'Érythrée
(Signé) Dario Ramirez **Carreño**



**Lettre datée du 22 septembre 2015, adressée au Président
du Comité du Conseil de sécurité faisant suite aux résolutions
751 (1992) et 1907 (2009) sur la Somalie et l'Érythrée
par les membres du Groupe de contrôle pour la Somalie
et l'Érythrée**

En application du paragraphe 47 de la résolution 2182 (2014) du Conseil de sécurité, nous avons l'honneur de vous faire tenir ci-joint le texte du rapport sur la Somalie établi par le Groupe de contrôle pour la Somalie et l'Érythrée.

Le Coordonnateur du Groupe de contrôle
pour la Somalie et l'Érythrée
(Signé) Christophe **Trajber**

Expert en finance
(Signé) Nicholas **Argeros**

Spécialiste des transports
(Signé) Zeina **Awad**

Expert des groupes armés
(Signé) Jay **Bahadur**

Expert en finance
(Signé) Bogdan **Chetreanu**

Experte en questions humanitaires
(Signé) Déirdre **Clancy**

Expert régional
(Signé) James **Smith**

**Rapport du Groupe de contrôle pour la Somalie
et l'Érythrée en application de la résolution 2182 (2014)
du Conseil de sécurité : la Somalie**

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Résumé

Bien des choses ont changé depuis l'élection du Président Hassan Sheikh Mohamud à la tête du Gouvernement fédéral somalien à la fin de 2012. D'importants gains territoriaux ont été réalisés aux dépens de la Harakat el-Chabab el-Moujahidin (« les Chabab »), grâce à l'appui apporté par la Mission de l'Union africaine en Somalie (AMISOM). Trois nouvelles administrations régionales provisoires ont été mises en place et viennent compléter la nouvelle carte fédérale de la Somalie. Avec le tracé de ces lignes, de nouvelles possibilités s'offrent aux réseaux claniques, commerciaux et politiques de faire mainmise sur des ressources publiques. La course engagée par ces réseaux fauteurs de troubles empêche l'élaboration d'un accord politique associant toutes les parties et menace de torpiller les gains militaires obtenus au détriment des Chabab. Pour pouvoir en tirer parti, la classe dirigeante politique somalienne doit établir ses priorités, à savoir l'objectif à long terme d'édification d'un État ou celui à court terme d'appropriation des ressources publiques. Tout échec en la matière, alors que la Somalie s'apprête à amorcer la prochaine phase de transition en 2016, fait peser une menace considérable contre la paix, la sécurité et la stabilité à long terme. Un mouvement Chabab résurgent semble de plus en plus en mesure d'exploiter les failles de ses adversaires pour consolider son pouvoir, établir des administrations locales, assurer la sécurité et renforcer la confiance du public.

Le contrôle des ressources en terres et en eau de la Somalie et l'accès à ces ressources étaient contestés bien avant l'effondrement de l'État en 1991. Si les Chabab, au cours de leur règne sur la majeure partie du sud et du centre de la Somalie, ont été impitoyables, ils ont réussi à atténuer bon nombre de conflits intercommunaux séculaires pour tout ce qui touchait aux ressources en terres et en eau. La perte de territoires à l'issue de défaites militaires et l'absence d'administrations civiles viables pour prendre le relais ont entraîné une résurgence des conflits intercommunaux dans des régions du sud et du centre de la Somalie. Les Chabab ont néanmoins réussi à exploiter le conflit à leur avantage. L'exacerbation des conflits intercommunaux séculaires sur les ressources en terres, en eau et autres ressources naturelles, dans les régions relativement plus stables du Somaliland et du Puntland, dénote l'importance de suivre des démarches globales pour parvenir à la signature d'accords locaux s'agissant du partage des ressources.

La Constitution provisoire de 2012 et la fédéralisation en cours ont montré combien il était urgent de conclure des accords nationaux de partage des ressources. Le fait que des entreprises privées soit en quête de richesses minières et maritimes constitue une menace considérable au vu de la précarité en cours. Une gestion efficace des richesses de la nation de la part d'institutions compétentes pourrait renforcer l'économie de la Somalie et la rendre plus prospère. L'enquête du Groupe de contrôle sur la Soma Oil & Gas Holdings Limited, qui avait révélé que de hauts dirigeants somaliens avaient accepté des pots-de-vin sous couvert d'un programme de « renforcement des capacités », a démontré que ce type d'institutions n'avaient pas encore vu le jour. La mise en place aboutie de véritables programmes de renforcement des capacités devrait être le préalable au développement du secteur des industries extractives en Somalie.

Le déclin rapide des actes de piraterie au large de la Somalie depuis 2012 peut être attribué à l'action menée à l'étranger. Les informations faisant état de l'implication de chefs pirates notoires à la suite de la capture récente de deux boutres de pêche iraniens rappellent, s'il en était besoin, que les conditions sur terre qui ont engendré ces actes de piraterie perdurent pour l'essentiel. Si la menace que représentent les pirates pour les navires marchands demeure faible, le Groupe de contrôle craint que la pêche illégale, non déclarée et non réglementée, de la part de navires étrangers, rétablisse la dynamique du conflit, auprès des communautés locales de pêcheurs, qui avait entraîné une recrudescence des actes de piraterie, il y a 10 ans. Lorsqu'ils ont diminué, on a assisté à une augmentation proportionnelle de l'intérêt manifesté par des sociétés privées étrangères pour l'exploitation du secteur de la pêche et la fourniture de services de sécurité maritime. Avec la sensibilisation croissante sur les plans tant national qu'international aux ressources maritimes de la Somalie, l'absence de réglementation et de contrôle a créé une nouvelle source de revenus pour les responsables fédéraux et régionaux, notamment au moyen de l'octroi de permis de pêche, ce qui a alimenté la corruption.

Plus généralement, la corruption continue de compromettre l'action visant à reconstruire des institutions efficaces dans l'ensemble de la Somalie. Le fait que l'issue d'importants débats menés par l'organe de décision suprême du Gouvernement fédéral somalien, « la Maison du peuple », soit influencée par le versement de pots-de-vin à ses membres montre à quel point la corruption entrave le processus encore bien fragile d'édification de la nation. Des efforts louables ont été consentis au cours du mandat pour consolider les règlements financiers et appliquer les nouveaux instruments. Si le Groupe de contrôle se déclare optimiste quant à la poursuite de cette tendance, il convient, pour combattre efficacement les détournements frauduleux de grande ampleur en Somalie, d'introduire une réforme systématique qui aille bien au-delà des institutions financières du pays. L'absence de contrôle efficace de la part de l'administration civile sur le budget de l'Armée nationale somalienne crée de nouvelles occasions de détournement frauduleux généralisé, y compris les soldes des militaires. Du fait de ramifications évidentes, sur le plan de la sécurité, il importe de suivre une démarche globale à l'introduction d'une réforme. L'annonce faite le 9 septembre 2015 par le Président Hassan Sheikh Mohamud quant à des réformes financières radicales dans le secteur de la sécurité est une première mesure louable.

La capacité des forces de sécurité de défendre le peuple somalien contre les Chabab a été éprouvée au cours de ce mandat. L'élimination de plusieurs chefs notoires semble n'avoir affaibli en rien la détermination et l'aptitude de ce groupe à déstabiliser la région. Le changement de tactiques chez les Chabab, y compris le retour à des attaques classiques contre des cibles militaires, tant l'AMISOM que l'Armée nationale somalienne, suscite une vive préoccupation, notamment au vu des réductions dans le budget de l'AMISOM et des problèmes liés au versement des soldes. Les Chabab continuent de s'adapter au gré des circonstances et d'exploiter les failles dans les structures de la sécurité et de la gouvernance. Face aux avancées des forces alliées contre les villes et villages qu'il détient, le groupe peut se replier, empêcher l'acheminement de fournitures essentielles aux populations « libérées », ou simplement attendre que la force de sécurité faiblisse suffisamment ou se démoralise pour frapper à nouveau. Tandis que les avancées militaires se poursuivent, l'AMISOM, l'Armée nationale somalienne et les forces alliées sont mises à rude épreuve, ce qui rend les bases de plus en plus vulnérables à toute attaque. On mesure

encore mal les retombées à long terme d'attaques d'envergure contre les forces de l'AMISOM comme celles à Ligo (26 juin 2015) et à Janale (1^{er} septembre 2015).

Plutôt que d'affaiblir les Chabab, le déplacement territorial du groupe des principaux centres urbains en Somalie l'a aidé à étendre sa présence dans la région de la Corne de l'Afrique. Les Chabab continuent d'être en mesure de recourir à des tactiques relativement simples qui ont des effets ravageurs, comme l'a montré l'attaque contre l'Université de Garissa en avril 2015. Il existe un besoin croissant d'adopter une démarche coordonnée sur le plan régional, face à la menace que représentent les Chabab et d'autres mouvements militants fondamentalistes dans l'ensemble de la Corne de l'Afrique.

La levée partielle de l'embargo sur les armes, introduite par la résolution 2093 (2013) du Conseil de sécurité, a été motivée notamment par la nécessité de renforcer les capacités des forces nationales somaliennes face à la menace militaire que représentent les Chabab. Le Groupe de contrôle continue de recevoir des rapports indiquant que ces forces sont mal préparées pour ce faire. S'il peut à présent surveiller plus efficacement le volume de matériel militaire entrant en Somalie en toute légitimité, il n'est pas en mesure d'évaluer avec précision s'il est distribué comme il convient ou quelle quantité supplémentaire il faudrait prévoir. En particulier, les normes suivies pour établir des rapports sur la composition, la force et la structure des forces de sécurité du Gouvernement fédéral somalien continuent d'être en deçà des exigences du Conseil. Avec la mise en place de nouvelles administrations régionales et la présence d'un nombre croissant de forces de sécurité nationales et étrangères en Somalie, il est de plus en plus important de repérer quelles forces de sécurité sont habilitées à importer du matériel militaire en vertu de l'embargo sur les armes imposé par le Conseil de sécurité et quelles sont par conséquent les obligations qui leur incombent de présenter des rapports à ce titre.

Le fait que toutes les forces de sécurité présentes en Somalie ont ciblé des civils – comme tactique délibérée de guerre, au service d'objectifs politiques ou économiques ou par un recours disproportionné à la force – accroît encore la nécessité d'introduire davantage de transparence en matière de présentation de rapports. Les communautés exclues sur les plans politique, économique et culturel continuent de subir des violations démesurées du droit international humanitaire, ce qui est symptomatique d'une stratification en profondeur de la société somalienne. Les Chabab ont perpétré les violations les plus flagrantes qui soient contre les populations civiles au cours du mandat, tout particulièrement en ce qui concerne le recrutement forcé d'enfants. Dans le même temps, les violences contre des communautés marginalisées commises par des forces opposées aux Chabab fournissent un instrument de recrutement efficace pour le groupe et attirent l'inimitié de ces populations à l'égard de l'État naissant. Les plus grands déplacements au cours du mandat ont été causés par l'expulsion forcée de nombres considérables de déplacés et d'habitants pauvres de zones urbaines en Somalie.

L'accès humanitaire reste très précaire, notamment aux principales villes assiégées et aux voies d'acheminement bloquées par les Chabab. L'action menée par les autorités concurrentes pour récupérer à leur avantage des articles humanitaires compromet non seulement la viabilité des opérations mais aussi la capacité des agents de l'aide humanitaire de travailler en toute sécurité dans les différentes zones de contrôle. Les menaces et les attaques contre les humanitaires ont augmenté, 10 d'entre eux ont été tués et 17 autres blessés de janvier à juillet 2015. La réduction des budgets, l'augmentation du coût des opérations à la suite des entraves à l'accès et la

nécessité d'atténuer les risques accrus en matière de sécurité et de détournement ne font qu'exacerber la pression exercée sur des ressources déjà rares.

Le volume du commerce international de charbon somalien se poursuit, même si l'économie politique sur terre a changé. Depuis la reprise en octobre 2014 de la ville portuaire de Barawe dans le Bas-Chébéélé, les Chabab ne contrôlent plus de lieux d'exportation majeurs. À la suite de l'arrestation de divers responsables qui exportaient du charbon au lendemain de la capture de Barawe, le Groupe de contrôle pense que le commerce a cessé dans cette ville. Bien qu'il se poursuive dans le sud, la part globale de revenus qu'en tiraient les Chabab a considérablement baissé. Au début de 2015, la diminution des recettes du charbon a poussé ces derniers à chercher activement à priver leurs adversaires de tout profit découlant de ce commerce. Bien que le soutien des États Membres et des partenariats navals plurinationaux ait augmenté la visibilité du commerce, les contre-mesures employées par les navires exportant du charbon pour éviter toute identification et surveillance, associées au recours constant à de faux documents, ont compliqué la tâche consistant à veiller à ce que des États Membres n'importent pas de charbon somalien.

L'action menée auprès du Gouvernement fédéral somalien s'est considérablement améliorée au cours du mandat. Le Groupe de contrôle a reçu un appui s'agissant de quelques enquêtes de la part de deux référents pour les volets sécurité et questions financières. Le Groupe attend avec intérêt de poursuivre et de renforcer ses relations avec le Gouvernement.

I. Introduction

A. Mandat

1. Le mandat du Groupe de contrôle pour la Somalie et l'Érythrée est défini au paragraphe 46 de la résolution 2182 (2014), que le Conseil de sécurité a adoptée le 24 octobre 2014, et au paragraphe 13 de la résolution 2060 (2012). Des tâches supplémentaires ont été confiées au Groupe de contrôle dans les résolutions 2093 (2013) et 2142 (2014).
2. Conformément au paragraphe 46 de la résolution 2182 (2014) et au paragraphe 13 (l) de la résolution 2060 (2012), le 8 avril 2015 le Groupe de contrôle a présenté un exposé de mi-mandat au Conseil de sécurité, par l'intermédiaire du Comité faisant suite aux résolutions 751 (1992) et 1907 (2009) sur la Somalie et l'Érythrée. Il a également présenté au Comité des rapports d'étape mensuels tout au long de son mandat.
3. Au cours de leurs enquêtes, les membres du Groupe de contrôle se sont rendus dans les pays suivants : Afrique du Sud, Bahreïn, Belgique, Canada, Djibouti, Émirats arabes unis, États-Unis d'Amérique, Éthiopie, France, Liban, Malaisie, Norvège, Oman, Qatar, Royaume-Uni de Grande-Bretagne et d'Irlande du Nord, Seychelles, Singapour, Somalie, Suède, Suisse et Turquie. En Somalie, ils ont pu effectuer régulièrement des déplacements à Mogadiscio, à Hargeisa et à Garowe, et ont pu se rendre une fois à Kismaayo.
4. Le Groupe de contrôle, basé à Nairobi, était composé des experts suivants : Christophe Trajber (Coordonnateur), Nicholas Argeros (finances), Zeina Awad (transport), Déirdre Clancy (affaires humanitaires), James Smith (affaires régionales), Bogdan Cheteanu (finances) et Jay Bahadur (groupes armés).

B. Méthodes de travail

5. Au cours du mandat considéré, le Groupe de contrôle a appliqué les règles de preuve et les procédures de vérification déjà indiquées dans ses précédents rapports. Il a réaffirmé le choix de ses méthodes, qui sont exposées dans ses rapports antérieurs. La méthodologie appliquée dans le cadre du présent rapport a consisté à :
 - a) Recueillir des informations sur les événements survenus et les questions qui se posent auprès de sources multiples, chaque fois que c'est possible;
 - b) Recueillir dans la mesure du possible des informations auprès de sources ayant une connaissance directe des événements;
 - c) Recenser les éléments qui reviennent régulièrement dans les informations recueillies et recouper les nouveaux éléments et les tendances émergentes avec les informations déjà connues;
 - d) Prendre systématiquement en compte les connaissances spécialisées et les jugements de l'expert du Groupe de contrôle compétent, ainsi que l'avis collectif du Groupe pour évaluer la crédibilité de l'information et la fiabilité des sources;
 - e) Se procurer des éléments de preuve matériels, photographiques, audiovisuels ou documentaires à l'appui des renseignements recueillis.

6. Le Groupe de contrôle a délibérément et systématiquement cherché à prendre contact avec les individus impliqués dans des violations, par l'entremise de personnes ayant une connaissance directe des détails de ces violations ou connaissant des gens directement au courant. À certaines occasions, le Groupe a pu constater par lui-même des violations au moment même où elles étaient commises.

7. Le Groupe de contrôle a interrogé diverses sources disposant d'informations dignes d'intérêt, notamment des fonctionnaires gouvernementaux et des représentants de missions diplomatiques, d'organisations de la société civile et d'organisations humanitaires. Ses membres se sont entretenus avec plusieurs responsables du Gouvernement, y compris le Président et des ministres, et avec des représentants des services de sécurité. Le Groupe s'est également entretenu ou a communiqué avec des responsables des administrations du Puntland et du Somaliland, des représentants de groupes politiques et de groupes armés, des transfuges de tel ou tel camp et des membres des milieux d'affaires et de la société civile somalienne.

8. Conformément aux directives fournies par le Comité, le Groupe de contrôle s'est efforcé de faire figurer dans son rapport final autant de témoignages et de preuves qu'il a pu. Cependant, les résolutions de l'Assemblée générale sur le contrôle et la limitation de la documentation, en particulier les résolutions 52/214, 53/208 et 59/265, l'ont obligé à ajouter de nombreuses annexes, ce qui a empêché la traduction de nombreuses parties importantes du rapport. De plus, les dispositions applicables interdisent de faire figurer des cartes, des photographies et des graphiques dans le corps du rapport. Le Groupe de contrôle a régulièrement communiqué au Comité des documents dignes d'intérêt tout au long de son mandat.

9. Conformément à la circulaire du Secrétaire général intitulée « Informations sensibles ou confidentielles : classement et maniement » (ST/SGB/2007/6), le Groupe de contrôle a soumis au Comité, en même temps que le présent rapport, plusieurs annexes strictement confidentielles qui contiennent des renseignements dont la divulgation pourrait porter atteinte au bon fonctionnement de l'Organisation des Nations Unies ou au bien-être et à la sûreté de son personnel ou de tiers, ou constituer une violation des obligations juridiques de l'Organisation. Ces annexes ne seront pas publiées comme document du Conseil de sécurité.

II. Actes qui menacent la paix, la sécurité et la stabilité de la Somalie

A. Fauteurs de troubles dans la vie politique et accaparement des ressources de l'État

10. Le Mouvement des Chabab continue de représenter une grave menace pour la paix et la sécurité en Somalie et dans l'ensemble de la Corne de l'Afrique. Cependant, la résurgence de la menace que constitue ce mouvement dans toute la région ainsi que celle des conflits intercommunautaires dans le sud et le centre de la Somalie sont de plus en plus liées à l'incapacité du Gouvernement fédéral et du Parlement fédéral somaliens et des administrations régionales provisoires de favoriser la réconciliation en instaurant l'ouverture et la transparence dans la vie politique et en luttant efficacement contre la corruption endémique.

11. Depuis la fin de la transition, la Mission de l'Union africaine en Somalie (AMISOM), l'Armée nationale somalienne et d'autres forces qui se sont alliées à elles de façon informelle ont repris aux Chabab une quantité non négligeable de territoires, or le Gouvernement fédéral et les administrations régionales provisoires sont dans l'incapacité d'assurer la sécurité ou de proposer une autre forme de gouvernance dans ces zones. Du fait de cette incapacité des autorités fédérales d'assurer la sécurité, des conflits intercommunautaires profondément ancrés resurgissent. Dans le même temps où les Chabab cèdent du terrain, ils continuent à tirer parti de la résurgence de conflits intercommunautaires pour recruter parmi les populations historiquement marginalisées.

12. Beaucoup de personnalités appartenant à l'élite des acteurs politiques et des milieux d'affaires somaliens sont plus soucieuses de s'accaparer les ressources de l'État et de les garder dans les centres urbains de pouvoir que de consolider un système efficace de gouvernance et d'étendre les services publics. La priorité actuellement accordée aux gains à court terme compromet le succès à long terme d'un processus politique fragile. Sans un engagement plus ferme des personnalités influentes de la Somalie en faveur du processus politique, les progrès accomplis depuis la fin de la transition pourraient être réduits à néant et la tendance pourrait s'inverser, ce qui entraînerait une recrudescence des conflits intercommunautaires et créerait un espace dans lequel des groupes fondamentalistes militants pourraient s'engouffrer pour continuer à proposer d'autres voies vers la stabilité.

Fédéralisation

13. L'entreprise de fédéralisation représente probablement le fait politique le plus important qu'aient connu le sud et le centre de la Somalie depuis l'effondrement de l'État en 1991. Après plus de deux décennies d'inexistence de l'État, la mise en place d'un système fédéral constituait, de façon logique, un formidable défi suscitant nécessairement, et comme on peut le comprendre, une contestation. Pour gérer efficacement cette contestation et réduire autant que possible les risques de conflits, il était impératif que les personnes chargées de conduire l'entreprise de fédéralisation aient les moyens d'agir et défendent les principes ayant fait l'objet d'un accord après la fin de la transition.

Administration provisoire de Djouba

14. En août 2013, le Gouvernement fédéral somalien n'a guère eu d'autre choix que d'accepter la création d'une Administration provisoire de Djouba, qui revendique le contrôle des régions de Gedo, du Moyen-Djouba et du Bas-Djouba, sous l'autorité de Mohamed Islan « Madobe » (qui appartient au sous-clan Mohamed Zoubair du clan Darod-Ogaden). Le Kenya et l'Éthiopie, voisins de la Somalie, ont joué un rôle plus important que le Gouvernement fédéral somalien dans la fédéralisation : l'Éthiopie a accueilli sur son territoire une conférence de l'Autorité intergouvernementale pour le développement, qui a débouché sur la conclusion en septembre 2013 de l'Accord d'Addis-Abeba, lequel a permis d'ouvrir des voies de communication entre l'Administration provisoire de Djouba et le Gouvernement fédéral somalien. Les populations appartenant au clan Darod-Marihan et habitant le nord de cette région qui aspire au statut d'État membre de l'État fédéral, en particulier celles vivant dans la région de Gedo, ont été largement exclues de la formation de l'Administration régionale provisoire, à laquelle elles se sont donc majoritairement opposées. Tandis que la lutte pour la domination

politique se poursuit entre les clans Ogaden et Marihan, d'autres groupes plus faibles d'un point de vue militaire présents dans la région – notamment les clans Digil et Mirifli, ainsi que des populations bantoues de Somalie – ont été purement et simplement écartés du processus.

15. En mai 2015, l'Administration provisoire de Djouba a établi une Assemblée régionale composée de 75 représentants. L'Administration d'Ahmed « Madobe », qui a dirigé le processus, a immédiatement été accusée de marginaliser les clans Digil et Mirifli en tentant d'apaiser les Marihan, tout en préservant la position dominante des Ogaden. Des membres du Parlement du Gouvernement fédéral somalien ont fait part de leur opposition en votant la défiance à l'encontre de l'Assemblée régionale, ce qui a causé d'autres tensions, cette fois entre les administrations de Kismaayo, de Mogadiscio, de Baidoa et de Garowe¹. En août 2015, deux ans après la signature de l'Accord d'Addis-Abeba et conformément aux dispositions de ce dernier, l'Assemblée régionale de Djouba a voté en faveur de la reconduction d'Ahmed « Madobe ». Ce dernier, assuré d'un nouveau mandat, a accepté début septembre 2015 d'examiner et de reconstituer l'Assemblée régionale.

16. En août-septembre 2015, une alliance composée de diverses forces s'efforçait de reprendre aux Chabab le contrôle de villes situées dans l'ensemble de la région, avec l'appui de l'AMISOM. Suite à l'éviction des Chabab de centres urbains stratégiques tels que Bartiri, des forces concurrentes se disputent l'autorité administrative. Plus au nord à Garbaharey, alors que la veille elle avait apparemment aplani les divergences qui l'opposaient à l'administration locale de la région de Gedo, dominée par les Marihan, le 8 août 2015 l'Administration provisoire de Djouba a remercié le Gouverneur et le chef local du groupe Ahl al-Sunna wal-Jama'a (ASWJ), Mohamed Abdi Khalil, ce qui a provoqué des manifestations et l'imposition d'un couvre-feu par des contingents locaux de la Force de défense nationale éthiopienne.

Administration provisoire du Sud-Ouest

17. La mise en place de l'Administration provisoire du Sud-Ouest, en 2014, s'est elle aussi déroulée sans véritable intervention du Gouvernement fédéral somalien. Elle était déjà bien entamée lorsque de hauts responsables ont commencé à soutenir publiquement tel ou tel parmi les acteurs et partis en présence, qui se divisaient en gros entre d'une part ceux qui voulaient que la nouvelle Administration regroupe les régions de Bakoul, Bay et du Bas-Chébéli, et d'autre part ceux qui souhaitaient en outre l'inclusion des régions de Gedo, du Moyen-Djouba et du Bas-Djouba. Avec le concours du Gouvernement fédéral somalien, les partisans de la première option l'ont finalement emporté en novembre 2014, sous la houlette de l'ancien Ministre des finances et Président du Parlement du Gouvernement fédéral de transition, Charif Hassan Cheik Adan. Ce dernier ayant pris comme conseiller principal son frère, Mohamed Abdinour « Madeer », et nommé son neveu, Mohamed Abdoullahi

¹ L'Administration provisoire du Sud-Ouest, dominée par les clans Digil et Mirifli, a elle aussi exprimé son opposition à la marginalisation desdits clans dans l'Assemblée régionale de l'Administration provisoire de Djouba, tandis que l'administration du Puntland, dominée par le clan Majertin (Daroud), a accusé le Gouvernement fédéral et le Parlement fédéral somaliens d'ingérence dans les affaires régionales.

Moursal, « Ministre d'État de la Présidence », son Administration a été accusée de népotisme dès sa mise en place².

Administration provisoire de Galmodoug

18. Alors qu'il avait échoué à prendre la direction des opérations à Kismaayo et à Baidoa, le Gouvernement fédéral somalien a joué un rôle beaucoup plus actif dans la création de l'Administration provisoire de Galmodoug, qui revendique l'intégration des régions de Galgadoud et de Modoug³. En août 2014, le Ministère des affaires intérieures et du fédéralisme a créé un comité technique chargé de sélectionner les représentants des clans qui participeraient à une conférence sur la réconciliation et à la constitution de l'État, et de nommer par la suite les membres d'une Assemblée régionale. Le Groupe de contrôle a recueilli de multiples informations faisant état d'ingérences dans la procédure de nomination du Président du comité technique de la part des deux principales associations à caractère politique, Damoul Jadid et Ala Cheikh, la première ayant imposé la sélection de son candidat favori, Halimo Ismail Ibrahim « Yarey ». De même, le choix des représentants de clans et par la suite des membres de l'Assemblée régionale a été entaché par des allégations faisant état d'ingérences de la part des principales parties prenantes⁴.

19. Une faction du contingent local d'Ahl al-Sunna wal Jama'a, puissante sur le plan militaire, s'est dès le départ opposée au processus de constitution d'un État, en faisant valoir que la personne qui avait signé l'accord initial relatif à la constitution d'un État regroupant les régions centrales au nom du groupe n'en était pas le représentant légitime. Fin 2014, un conflit a éclaté entre Ahl al-Sunna wal Jama'a et l'Armée nationale somalienne à l'intérieur et autour de la ville de Guriel, dans le nord de la région de Galgadoud. Le processus de constitution de l'État s'est par la suite poursuivi sans la participation d'Ahl al-Sunna wal Jama'a et a débouché en juillet 2014, à l'issue d'une procédure entachée d'allégations d'achat de voix et de promesses de nominations à des postes politiques faites à des adversaires, sur la nomination d'Abdukarim Gouled, un allié important du Président Hassan Sheikh Mohamud, au poste de Président de l'Administration régionale provisoire. Le débat concernant l'extension au nord de la région de Galmodoug, qui postule au statut de membre de l'État fédéral, a créé des tensions avec le Puntland et a failli rallumer le conflit dans l'une des régions les plus fragiles de Somalie. Qui plus est, en septembre 2015, une faction du groupe Ahl al-Sunna wal-Jama'a contrôlait toujours le nord de la région de Galgadoud, y compris Dousamarib, capitale proclamée de l'Administration régionale provisoire⁵.

² « Madeer » avait occupé les fonctions de « Président » du camp défendant l'option d'une administration du Sud-Ouest composée de trois régions, avant de se rallier à son frère lorsqu'un accord a été trouvé avec les partisans de l'option d'une administration à six régions et que l'Administration provisoire du Sud-Ouest a été établie.

³ On ne sait pas très bien si l'Administration provisoire de Galmodoug revendique le contrôle du nord de la région de Modoug.

⁴ Le Groupe de contrôle a examiné des documents qui prouvent que certains membres du Comité technique ont été écartés de la procédure de sélection des représentants de clans et des membres de l'assemblée régionale.

⁵ Le Gouvernement fédéral somalien s'est inspiré du modèle de Galmodoug pour la création d'une administration régionale provisoire intégrant les régions d'Hiran et du Moyen-Chébéli.

20. On trouvera à l'annexe 1.1 des précisions sur la création de l'Administration provisoire de Galmodoug.

Voix à vendre au Parlement fédéral

21. Les membres de la Chambre du peuple du Parlement fédéral ont pour mission de représenter leurs électeurs, d'examiner et de questionner l'action menée par le Gouvernement fédéral somalien et d'examiner et de voter les lois. Le rôle qui incombe au Parlement fédéral de veiller à la poursuite des progrès s'agissant de l'évolution politique de la Somalie est entièrement tributaire de l'intégrité et de l'indépendance des parlementaires. Le Groupe de contrôle a recueilli des données révélant l'ampleur des abus commis en ce qui concerne les privilèges attachés au droit de vote des membres du Parlement fédéral. Lorsque des requêtes importantes sont présentées au Parlement, en particulier des votes de défiance à l'encontre d'un Premier Ministre en exercice, un nombre important de parlementaires vendent leur vote au plus offrant. Cette pratique de « voix à vendre » est si bien ancrée qu'un réseau d'intermédiaires qui se chargent d'acheter l'allégeance de parlementaires accommodants et de menacer ceux qui le sont moins s'est mis en place depuis la fin de la période de transition. Ces intermédiaires servent tantôt les intérêts du Président Hassan Sheikh Mohamud tantôt ceux de ses opposants. De façon plus générale, le Parlement est le théâtre d'une lutte d'influence entre les deux principales associations politico-religieuses : Damoul Jadid, favorable au Président, et Ala Cheik, qui est dans l'opposition.

22. L'annexe 1.2, strictement confidentielle, donne des détails sur l'ampleur de la pratique des pots-de-vin parmi les parlementaires.

Commissions indépendantes

23. Les commissions indépendantes prévues par la Constitution provisoire de 2012 ont été conçues pour orienter le processus de fédéralisation et appuyer la consolidation des arrangements politiques mis en place après la période de transition. Si elles avaient été établies promptement et conformément aux principes inscrits dans la Constitution provisoire, ces commissions auraient renforcé la légitimité du processus politique après la transition et facilité le transfert de pouvoir à la prochaine administration fédérale, qui doit être mise en place en 2016.

24. En trois ans et six sessions parlementaires, les membres du Parlement n'ont réussi à constituer que quatre des neuf commissions indépendantes prévues par la Constitution provisoire de 2012. La Commission chargée de l'examen et de la mise en œuvre de la Constitution provisoire, qui se compose de cinq membres, a été établie en mai 2014, soit près de 20 mois après le début du mandat du Gouvernement fédéral somalien. Alors que la Commission avait été applaudie dans un premier temps pour sa composition largement représentative et la compétence de ses membres, il est vite apparu qu'elle peinait à atteindre ses objectifs. Le 5 mai 2015, la Présidente de la Commission, Asha Gelle Diriye, a démissionné, en citant comme motifs de sa décision le fait que, de façon générale, l'achèvement de la rédaction de la Constitution n'était pas considéré comme une priorité et le manque de financement en faveur de la Commission⁶.

⁶ Une traduction non officielle du texte de la lettre de démission d'Asha Gelle Diriye est consignée dans les archives du Groupe de contrôle.

25. La Commission des frontières et de la fédération a finalement été établie le 6 juillet 2015, deux jours après la mise en place de la troisième administration régionale provisoire de Galmodoug, dans un contexte marqué par la montée des tensions entre administrations à Adado et à Garowe concernant la frontière septentrionale de l'État aspirant au statut de membre de l'État fédéral. La Commission électorale nationale indépendante a été établie le même jour. Trois semaines plus tard, une commission parlementaire a annoncé que le Parlement fédéral et le Gouvernement fédéral somaliens avaient décidé que des élections générales au suffrage universel ne seraient pas organisées en 2016, citant la « recrudescence des actes de violence » et les « troubles politiques »⁷ pour justifier cette décision.

26. Le peu d'efforts déployés à la fois par le Gouvernement fédéral et le Parlement fédéral somaliens pour mettre en place ces organes indépendants importants semblent indiquer un manque de bonne volonté pour ce qui est de favoriser le dialogue et d'écouter les vues du peuple somalien; outre qu'elle sape la légitimité des institutions actuelles, cette situation suscite des inquiétudes quant au tour que prendra le processus de mise en place du prochain gouvernement fédéral en 2016.

Conclusions

27. Le Groupe de contrôle a déjà appelé l'attention sur la menace potentielle contre la paix, la sécurité et la stabilité que constituent les « réseaux de déstabilisation » actifs en Somalie (S/2013/413). Il a décrit comment, en tentant de profiter du processus de fédéralisation pour s'accaparer les ressources de l'État, les élites politiques et économiques ont retardé, voire activement entravé les efforts de réconciliation. Au lieu de s'employer à combler le vide laissé par les Chabab après les victoires territoriales obtenues contre ce groupe, les autorités continuent à se consacrer à établir leur autorité dans les centres urbains. L'incapacité tant du Gouvernement fédéral que du Parlement fédéral de mettre en place des institutions ô combien nécessaires en amont de la prochaine phase de transition en 2016 est aussi symptomatique d'un système dans lequel les intérêts particuliers d'un petit groupe l'emportent sur l'intérêt général. Au moment où leur Mouvement retrouve un certain élan, les Chabab saisiront toutes les occasions de recruter parmi les populations exclues du processus de fédéralisation et d'édification de l'État. L'action menée pour empêcher un plus grand nombre de parties prenantes de participer aux débats politiques qui déboucheront sur l'élection de 2016 sabote le processus politique et, ce faisant, menace tout à la fois les progrès fragiles accomplis au cours des dernières années et la paix, la sécurité et la stabilité à long terme de la Somalie.

B. Ressources naturelles

28. Les conflits dans l'ensemble de la région somalienne, et particulièrement dans le sud et le centre du pays, portent depuis longtemps sur l'accès aux terres fertiles et à l'eau. Depuis toujours, ils opposent le plus souvent les clans les plus puissants,

⁷ Voir Mohamed Cheik Nor, « La Somalie renonce à l'idée d'élire le prochain Président au suffrage populaire », Bloomberg Business, 30 juillet 2015. Texte disponible à l'adresse suivante : <http://www.bloomberg.com/news/articles/2015-07-29/somalia-scraps-plans-to-elect-next-president-in-popular-ballot>.

traditionnellement des communautés pastorales militairement dominantes, aux clans les plus faibles, souvent des communautés agropastorales et agricoles non armées. La présence d'une administration autoritaire, pour ne pas dire brutale, sous l'égide des Chabab dans le sud et le centre de la Somalie a permis d'apaiser dans une large mesure les tensions intercommunautaires liées à la terre et à l'accès à l'eau. Le renversement des Chabab dans de nombreuses régions a créé un vide politique que ni le Gouvernement fédéral somalien, ni les nouvelles administrations régionales provisoires ne sont capables de combler, ou encore d'aider à rétablir des administrations locales à même de maintenir la sécurité. Depuis la fin de la transition en 2012, on a constaté une forte résurgence des tensions intercommunautaires rappelant aux parties concernées, tant locales qu'internationales, que le renversement des Chabab à lui seul ne suffirait pas pour instaurer la paix et la sécurité en Somalie et dans l'ensemble de la Corne de l'Afrique.

29. Parallèlement, on a constaté un vif regain d'intérêt dans le monde pour les ressources naturelles en Somalie. Les sociétés privées se sont empressées d'annoncer la chute des Chabab, présageant l'avènement d'une nouvelle ère de calme relatif, afin de se lancer dans une nouvelle phase d'exploitation des ressources minérales et maritimes de la Somalie. L'accord de prospection sismique conclu avec la société Soma Oil & Gas Holdings Limited en août 2013 a mis un terme à deux décennies de situation de force majeure décrétée par les sociétés pétrolières dans le sud et le centre de la Somalie. De même, le contrat qu'a conclu la société Somalia-FishGuard marque la reprise de l'expansion de l'industrie de la pêche. L'intérêt croissant suscité par les ressources minérales et maritimes en Somalie n'a pas été accompagné d'une volonté d'établir une législation efficace en matière de gestion et de partage de ces richesses avec les actuels et futurs États membres de la fédération, soulevant de vives inquiétudes concernant la possibilité qu'une nouvelle vague de conflits liés aux ressources s'abatte sur la Corne de l'Afrique.

Conflits intercommunautaires pour les terres et l'accès à l'eau

30. Au Somaliland, même si les conflits fonciers ont été relativement peu influencés par le passage des Chabab et ont connu un certain degré de stabilité depuis la moitié des années 90, le contrôle des terres représente aujourd'hui la principale cause des conflits. En effet, entre septembre 2014 et août 2015, le Groupe de contrôle a enregistré au moins 45 incidents liés à des litiges fonciers sur le territoire revendiqué par le Somaliland. Étant donné que la portée des conflits fonciers s'étend bien au-delà des régions agitées de Sool et de Sanaag, les autorités du Somaliland n'ont eu d'autre choix que de mettre en place un train de mesures pour pallier ce problème. Par ailleurs, le nombre croissant d'espaces partagés illégalement clôturés, dû aux évaluations à la hausse de la valeur commerciale des terres, donne une idée des problèmes auxquels le sud et le centre de la Somalie devront probablement faire face une fois que les conflits actuels auront été réglés.

31. Dans le Puntland, les affrontements sporadiques entre membres du clan Majertin (Hari/Darod) pour des terres (pastorales et urbaines) se sont poursuivis. Fin 2014, puis à nouveau début 2015, des tensions ont éclaté entre les sous-clans des Marihan (Darod) et des Habar Ghidir (Hawiye) dans et aux alentours de la ville de Saaxo, (sud de Modoug), près de la frontière éthiopienne (une région qui relève désormais théoriquement de l'administration régionale de transition de Galmoudoug),

pour des questions de propriétés foncières. Les conflits fonciers dans la région du Moyen-Chebéli, opposant le clan dominant des Abgal (Hawiye) à la communauté minoritaire des Chidli (Bantou), semblent avoir été supplantés en 2015 par des affrontements entre les membres du clan des Abgal. Depuis le précédent rapport du Groupe de contrôle (S/2014/726), les conflits intercommunautaires dans la région du Bas-Chébéli, qui fait aujourd'hui théoriquement partie de l'administration provisoire du Sud-Ouest, se sont poursuivis sans que l'on puisse présager d'une amélioration en dépit des nombreuses tentatives de réconciliation menées. Dans la région de Hiran et avec le soutien de l'Armée somalienne, les miliciens du clan Hawdle ont perpétré des attaques brutales contre les villages de Kabxanbley et de Defow, à l'extérieur de Beledweyne, en vue de chasser de manière permanente la communauté agricole des Sourr de leurs terres, situées sur les rives fertiles du fleuve Chébéli.

32. Au Moyen-Djouba, une région toujours majoritairement contrôlée par les Chabab, des conflits opposant les clans Dhoulbanta (Harti/Darod), Awliahan (Ogaden/Darod) et Cheikhal (Hawiye) ont éclaté au début de 2015 pour le contrôle de terres pastorales. Les Chabab ont tenté de réconcilier les groupes rivaux à Bouale, mais ces tentatives se sont soldées par un échec, laissant supposer que leur influence sur les relations intercommunautaires dans cette région s'affaiblit depuis l'opération « Djouba Corridor » menée par la Mission d'observation militaire de l'Union africaine en Somalie et les forces alliées contre les Chabab. Avant l'effondrement de l'État somalien en 1991⁸, la Vallée de Djouba ainsi que le cours inférieur du fleuve Chébéli ont été le théâtre de violents conflits fonciers. Le Groupe de contrôle craint qu'après le renversement des Chabab dans la région, les communautés historiquement marginalisées ne soient maltraitées par les communautés militairement dominantes, dans la lutte pour le contrôle des terres agricoles fertiles commercialement exploitables, situées le long du cours inférieur du fleuve Djouba.

Résurgence de la pêche illégale, non déclarée et non réglementée

33. Le Groupe de contrôle rend hommage à Jorge Torrens, de l'Organisation des Nations Unies pour l'alimentation et l'agriculture (FAO) décédé dans l'exercice de ses fonctions le 29 avril 2015 près de la ville de Hargeisa, dans le Somaliland, pour avoir été le premier à attirer son attention sur la résurgence du problème de la pêche illégale, non déclarée et non réglementée en Somalie.

34. Mesurant 3 300 kilomètres de long, la côte somalienne est la plus longue du continent africain. Les 200 milles marins de la zone économique exclusive du pays hébergent des zones de pêche productives largement inexploitées abritant non seulement des espèces de poissons migrateurs comme le thon, mais également plusieurs espèces de poissons démersaux et de crustacés. Profitant des capacités de surveillance maritime limitées du Gouvernement, de nombreux navires étrangers, pêchent dans les eaux somaliennes, sans autorisation ou munis de documents falsifiés, et sans communiquer la moindre information aux autorités somaliennes, en violation du droit international et de la législation nationale sur la pêche⁹.

⁸ « The Struggle for Land in Southern Somalia: The War Behind the War », Catherine Besteman et Lee V. Cassanelli (Londres : Haan Publishing, 1996).

⁹ « Report on presumed illegal, unreported and unregulated (IUU) fishing activities in the exclusive economic zone (EEZ) of Somalia », Ministère fédéral de la pêche et des ressources marines et

35. La pêche illégale, non déclarée et non réglementée représente une menace considérable pour la paix et la sécurité en Somalie. Elle est souvent invoquée comme l'un des facteurs déclencheur de la piraterie en Somalie dès la moitié des années 90, quand des conflits ont éclaté entre des navires étrangers et des pêcheurs locaux, amenant ces derniers à détourner des navires¹⁰. En 2007, la résurgence marquée de la piraterie en Somalie s'est traduite par une diminution proportionnelle du nombre de navires de pêche étrangers navigant dans la zone économique exclusive du pays¹¹. Néanmoins, en raison de la forte baisse des activités de piraterie le long des côtes depuis 2012, les flottes étrangères ont repris leurs activités de pêche dans le bassin somalien¹². Dès lors, la dynamique des conflits entre les navires de pêche illégale, non déclarée et non réglementée, les pêcheurs et les miliciens locaux a resurgi, particulièrement dans le centre de la Somalie.

36. Le 1^{er} avril 2015, la garde côtière de Galmodoug a arrêté le boutre *Aresh* à 120 kilomètres au nord de Hobio¹³. Après leur arrestation, les membres de l'équipage et le capitaine ont admis avoir pêché illégalement. Les autorités de Galmodoug les ont condamnés à verser une amende de 100 000 dollars des États-Unis, qu'ils ont réglée avant d'être relâchés¹⁴. Le 23 avril 2015, le boutre *Al Momen* battant pavillon iranien a été capturé au large de Qandala, dans le Puntland, probablement par les gardes somaliens chargés d'assurer sa sécurité, et a ensuite été relâché sans incident. Le 13 mai 2015, le boutre iranien *Sudis s'est* échoué sur la côte, près de Mareg, dans le centre de la Somalie suite à une panne mécanique. Les 14 membres de l'équipage auraient été capturés par les Chabab et leur sort était toujours inconnu¹⁵ au moment de la rédaction du présent rapport.

37. Le Groupe craint que le retour de navires étrangers dans les eaux somaliennes et qui pêchent près des côtes accompagnés de gardes armés, fasse peser une menace sur la paix, la sécurité et la stabilité du pays. Ces pratiques de pêche risquent non seulement de provoquer des conflits avec les pêcheurs locaux et par conséquent des pertes en vies humaines, mais également d'amener les communautés locales à s'autodéfendre, comme elles l'avaient fait il y a plus de 10 ans ce qui avait contribué à intensifier les actes de piraterie en Somalie.

Poursuite de la privatisation de l'espace maritime somalien

38. Le Groupe de contrôle est préoccupé par le nombre toujours plus élevé de sociétés de sécurité maritimes privées en Somalie qui nouent des partenariats avec les autorités locales en vue de leur offrir des services de garde-côte ou de police. Plus d'une fois, les autorités locales ont chargé ces sociétés de sécurité privées de

autres, présenté lors de la dix-neuvième session de la Commission des thons de l'océan Indien organisée à Busan, (République de Corée), le 27 avril 2015, et rédigé par la FAO au nom du Gouvernement fédéral somalien.

¹⁰ Voir, par exemple, *The Pirates of Somalia: Inside Their Hidden World*, Jay Bahadur (New York: Pantheon Books, 2011).

¹¹ « Report on presumed illegal, unreported and unregulated fishing activities in the exclusive economic zone of Somalia » (voir note de bas de page 10)

¹² Ibid.

¹³ Ibid.

¹⁴ Entretien du Groupe de contrôle pour la Somalie et l'Érythrée avec un responsable de la FAO à Nairobi, le 21 mai 2015.

¹⁵ Information communiquée le 28 mai 2015 au Groupe de contrôle pour la Somalie et l'Érythrée par la force navale de l'Union européenne au large de la Somalie.

vendre des permis de pêche et de gérer les ressources marines somaliennes, ce qui représente, dans le meilleur des cas, un conflit d'intérêts. Dans son précédent rapport (voir S/2014/726, annexe 5.1), le Groupe de contrôle a mis en évidence l'une de ces sociétés, la Somalia FishGuard. Par ailleurs, il note avec inquiétude que, par le passé, lorsque des sociétés privées se sont vu confier la double responsabilité de vendre des permis de pêche et de gérer la sécurité de l'espace maritime, la stabilité et la paix de la Somalie avaient été mises en péril. Ces sociétés avaient privilégié les clients étrangers, allant jusqu'à leur fournir des navires de pêche avec des gardes armés à bord, faisant à nouveau peser un risque de conflits avec les pêcheurs locaux et les communautés côtières.

39. Durant le mandat du Groupe de contrôle, deux sociétés privées (Somali Security Services et Anglo Somaliland Resources) ont conclu un accord, respectivement dans le Puntland et le Somaliland, afin de fournir des services liés à l'industrie de la pêche. Ces deux contrats sont examinés à l'annexe 2.3.

Corruption présumée dans la vente de permis de pêche

40. Dans son rapport de 2014, le Groupe de contrôle a continué d'enquêter sur les actes de corruption qui sapent les institutions publiques « en détournant les flux financiers nationaux », et a constaté que « les schémas classiques de détournement par des titulaires de charges publiques et des fonctionnaires ayant accès aux ressources nationales ou par des intermédiaires obligés persistaient. » (S/2014/726, par. 62). Dans ce contexte, le Groupe de contrôle a reconnu que la vente illégale de permis de pêche à des clients étrangers était un moyen, pour le Gouvernement fédéral somalien et d'autres autorités somaliennes, de détourner les ressources publiques.

41. Le Groupe de contrôle a réuni des éléments de preuve concernant la vente de permis de pêche, que ce soit par le Gouvernement fédéral somalien ou par les autorités du Puntland, en marge du système de collecte des recettes de l'État. Par exemple, depuis mai 2015, le Ministère de la pêche et des ressources marines a attribué des permis à des palangriers chinois et transféré le profit réalisé sur un compte bancaire ministériel privé à Djibouti¹⁶, en violation de l'arrêté ministériel de février 2014 faisant obligation à toutes les agences fédérales somaliennes de verser les recettes sur le compte unique du Trésor de la Banque centrale somalienne (S/2014/726, par. 64). Le 18 juillet 2015, le Groupe de contrôle a fourni au Ministère somalien des finances des détails concernant ce compte bancaire¹⁷.

42. Le Groupe de contrôle a découvert un projet d'accord entre le Ministère fédéral de la pêche et des ressources marines et le groupe Doggang Daping Enterprises, une multinationale de l'industrie de la pêche dont le siège se situe à Liaoning (Chine). Aux termes de cet accord, la multinationale est autorisée à pêcher durant sept années dans la zone économique exclusive de la Somalie et à utiliser ses propres services de sécurité armés à bord de ses navires de pêche et dans ses futurs bureaux en Somalie, ce qui constituerait une violation de l'embargo sur les armes. Le projet d'accord conclu avec le Groupe Doggang Daping Enterprises est reproduit à l'annexe 2.1.e..

¹⁶ Des copies des permis somaliens délivrés par le Ministère et des bordereaux de paiement sont présentés à l'annexe 2.1.b et c.

¹⁷ Courriel daté du 18 juillet 2015, adressé au Ministre somalien des finances, Mohamed Aden Ibrahim, par le Groupe de contrôle.

Le navire de pêche *Al Amal* et l'agression du Vérificateur général du Gouvernement fédéral somalien

43. Le 15 janvier 2015, le navire de pêche *Al Amal*, enregistré au Yémen, a accosté au port de Mogadiscio en battant pavillon somalien, prétendument pour se ravitailler en carburant. Le Vérificateur général somalien, Nour Jimal Farah, a inspecté ce navire et conclu qu'il se livrait à des activités de pêche illégales. Il a ensuite tenté de faire saisir le navire, mais une main levée a été prononcée le 15 janvier 2015 dans des circonstances suspectes et le navire a quitté le port de Mogadiscio.

44. Le 18 janvier 2015, le Vérificateur général s'est vu interdire l'entrée de son bureau et aurait été agressé par les gardiens de l'enceinte, fait qui a été largement relaté dans les médias locaux. M. Farah a déclaré au Groupe de contrôle qu'il pensait qu'il s'agissait de représailles pour avoir inspecté le navire *Al Amal* et que, depuis lors, il avait cessé d'enquêter sur les activités de pêche illégale, non déclarée et non réglementée, car il craignait pour sa sécurité¹⁸.

45. Un compte rendu complet des activités du navire *Al Amal*, ainsi que de l'agression subie par le Vérificateur général, est présenté à l'annexe 2.2.

Secteur de l'extraction

46. Dans son rapport de 2013 (S/2013/413), le Groupe de contrôle a examiné la menace que représente le secteur de l'extraction pour la paix et la sécurité en Somalie. Il a mis en avant le risque de corruption qui existe dans ce secteur, insistant notamment sur les échecs rencontrés dans la création de la Somalia Petroleum Corporation et de la Somali Petroleum Authority, deux organes indépendants prévus par La loi sur le pétrole de 2008 promulguée par le Gouvernement somalien mais qui n'ont pas encore été reconnus comme des institutions viables. Dans son rapport de 2014, le Groupe de contrôle a de nouveau souligné le manque de transparence des secteurs gazier et pétrolier, mettant particulièrement l'accent sur un contrat d'exploration obtenu par la Soma Oil & Gas Holdings Limited (Soma), une société d'exploration minière ayant son siège à Londres, qui a été constituée le 26 avril 2013 et est présidée par l'ancien chef du parti conservateur britannique, Michael Howard (S/2014/726, annexe 5.1).

47. En mai 2013, Abdirizak Omar Mohamed, qui était alors Ministre des ressources naturelles¹⁹, a déclaré que le Gouvernement fédéral somalien « devrait attendre d'avoir mis en place une législation adéquate » avant de conclure des accords avec des sociétés pétrolières et gazières²⁰. Trois mois plus tard, le 6 août 2013, la société Soma signait un accord de prospection sismique avec le Ministère somalien du pétrole et des ressources minérales, concédant à celle-ci le droit d'effectuer des levées sismiques au large des côtes sud et centrale de la Somalie. Cet accord lui donnait également le droit d'explorer 12 blocs gaziers et pétroliers de son choix, pour un total de 60 000 kilomètres carrés. L'annonce soudaine de la

¹⁸ Audition de Nour Jimal Farah par le Groupe de contrôle à Nairobi, le 21 mars 2015.

¹⁹ En janvier 2014, le Ministère des ressources naturelles a été scindé en quatre ministères, dont le Ministère du pétrole et des ressources minérales.

²⁰ « Somalia: oil thrown on the fire », Katrina Manson, The Financial Times, 113 mai 2013.

conclusion de cet accord a stupéfié tant le secteur gazier et pétrolier que la communauté diplomatique somalienne²¹.

Soma Oil & Gas Holdings Ltd.

48. Le 28 juillet 2015, le Groupe de contrôle a présenté une communication confidentielle²² au Comité expliquant que les activités de Soma en Somalie constituaient des violations du paragraphe 2 de la résolution 2002 (2011) et du paragraphe 2 c) de la résolution 2060, car elles sapaient les institutions publiques somaliennes en ayant recours à la corruption. Cette communication décrivait comment, au début de juin 2014, Soma avait systématiquement versé des pots-de-vin aux responsables du Ministère somalien du pétrole et des ressources minérales (notamment au Directeur général, au Directeur général adjoint et à d'autres fonctionnaires) sous les auspices d'un prétendu « Accord de renforcement des capacités ».

49. Le Groupe de contrôle a estimé que ces fonds versés au titre du « renforcement des capacités », pour un montant total de 490 000 dollars le 28 mai 2015²³, faisaient probablement partie d'un arrangement de contrepartie destiné à faire en sorte que l'accord de prospection sismique ne soit pas soumis au contrôle de la Commission chargée de la gouvernance financière. En outre, des employés de la société Soma ont directement participé aux négociations qui ont eu lieu par la suite sur le projet de contrat de partage de production entre Soma et le Ministère, représentant un conflit d'intérêts.

50. Au titre de cet accord de renforcement des capacités, la société a également effectué des versements au profit du conseiller du Président somalien en matière de gaz et de pétrole, Abdoullahi Haider Mohamed qui, comme elle l'a reconnu, avait « représenté le Gouvernement fédéral [...] dans les négociations sur l'accord de prospection sismique signé en août 2013 »²⁴. Pourtant après que le Groupe de contrôle a envoyé la communication au Comité, Soma a publié un communiqué de presse affirmant qu'aucun individu rémunéré par la société « n'était ou n'est en

²¹ D'après les nombreux entretiens du Groupe de contrôle avec des experts dans le domaine de l'exploitation pétrolière et gazière, ainsi qu'avec des diplomates en poste à Londres et à Nairobi. Plusieurs éléments ont été portés à l'attention du Groupe de contrôle comme étant extrêmement inhabituels dans l'accord passé avec la société Soma : Soma n'a été constituée qu'il y a six mois, on lui a attribué douze blocs sans qu'il y ait eu de procédure d'attribution préalable et le Gouvernement somalien avait reçu au moins une offre plus intéressante d'un groupe pétrolier et s'était engagé à ne pas signer d'accords de ce type tant que des institutions viables n'auraient pas été mises en place.

²² S/AC.29/2015/SEMG/OC.31.

²³ Soma a également versé 100 000 dollars au Ministère le 18 décembre 2014 afin de financer la construction d'une salle pour stocker les données recueillies lors des levées sismiques. Dans sa communication du 28 juillet 2015 adressée au président du Comité, le Groupe de contrôle a noté qu'aucun progrès n'avait été accompli dans la construction de cette salle, mais qu'il devait encore déterminer ce qu'il était advenu des fonds versés. Depuis lors, le Groupe de contrôle a retrouvé des archives de la Banque centrale somalienne attestant que vers la mi-mars 2015, les fonds ne se trouvaient plus sur le compte bancaire du ministère.

²⁴ Lettre datée du 1^{er} juillet 2015, adressée au Groupe de contrôle par la société Soma (S/AC.29/2015/NOTE.25/Add.4).

mesure d'influer sur l'approbation d'accords commerciaux au bénéfice de Soma »²⁵. Dès lors, la société a cherché à tromper le Groupe de contrôle au cours de son enquête et a fait de fausses déclarations publiques au sujet de l'accord de renforcement des capacités lorsque les conclusions du Groupe de contrôle ont été rendues publiques.

51. L'étude de cas réalisée par le Groupe de contrôle sur Soma Oil & Gas Holdings Ltd., et qui est largement fondée sur les documents présentés dans la communication du 28 juillet 2015, adressée par le Groupe de contrôle au Comité, figure dans son intégralité à l'annexe 2.5.

Contournement du compte unique du Trésor du Gouvernement fédéral somalien

52. À l'instar d'autres ministères évoqués dans le présent rapport par le Groupe de contrôle, celui du pétrole et des ressources minérales a systématiquement tenté de saper la gestion des finances publiques somaliennes en détournant des recettes du compte unique du Trésor à la Banque centrale. C'est ainsi que le Directeur général Farah Abdi Hassan a donné à Soma pour instruction de virer les fonds alloués au « renforcement des capacités » sur un compte privé que le Ministère détient à l'International Bank of Somalia qu'il qualifiait de « plus efficace que la Banque centrale »²⁶ dans un courriel adressé à Soma. Soma a néanmoins préféré virer les fonds sur le compte du Ministère à la Banque centrale.

53. Toutefois, le Groupe de contrôle a été informé d'au moins un cas où le Ministère a réussi à détourner des recettes de l'État vers son compte à l'International Bank of Somalia. Le 16 mai 2015, l'entreprise CGG – qui devait reverser au Gouvernement fédéral somalien des royalties sur la vente de données sismiques sur la Somalie – a viré la somme de 633 866,69 dollars sur le compte du Ministère à l'International Bank of Somalia (on trouvera à l'annexe 2.5 q une attestation confirmant l'existence d'un compte au nom du Ministère à cette banque).

54. Le détournement de recettes du compte unique du Trésor – un compte centralisé et contrôlé par le Ministère des finances du Gouvernement fédéral somalien – a pour effet de transformer les ministères en institutions en quête de recettes susceptibles d'être manipulées par tel ou tel responsable gouvernemental, ce qui alimente la corruption et les conflits.

Absence de cadre régissant le partage des ressources

55. Dans son rapport de 2013 (S/2013/413, par. 79), le Groupe de contrôle a indiqué que l'absence d'« accords constitutionnels » sur le partage des ressources entre le Gouvernement fédéral et les autorités régionales constituait une menace pour la paix et la sécurité. Le Groupe a constaté une « hostilité croissante » entre le Gouvernement fédéral et les administrations régionales qui avaient conclu des marchés gaziers et pétroliers indépendamment du Gouvernement fédéral (ibid. par. 77). Malgré l'absence continue d'un cadre constitutionnel réglementant le

²⁵ « Response to the United Nations Somalia and Eritrea Monitoring Group comments on capacity building agreement », Soma Oil & Gas Holdings Ltd., 3 août 2015. Consultable (en anglais) sur le lien suivant : www.somaoilandgas.com/response-to-united-nation/.

²⁶ Courriel du 29 juin 2014 adressé par Farah Abdi Hassan au Directeur général de Soma, Robert Sheppard, et à son directeur financier, Philip Wolfe.

partage des ressources, le Gouvernement fédéral somalien et les administrations régionales continuent de négocier et de signer des contrats avec des compagnies pétrolières et gazières internationales²⁷.

56. Tout dernièrement, le 5 septembre 2015, le Gouvernement fédéral somalien a signé un accord avec la société norvégienne Spectrum ASA, l'autorisant à effectuer un relevé sismique sur une portion de territoire extracôtier de 28 000 kilomètres carrés situé dans le centre et le sud de la Somalie. Le 1^{er} septembre 2015, l'Agence des ressources minières et pétrolières du Puntland et la société ION Geophysical Corporation basée à Houston ont de même annoncé qu'elles avaient signé un accord autorisant cette dernière à acquérir des données sismiques sur une zone de 8 000 kilomètres carrés « couvrant la totalité de la marge continentale offshore du Puntland somalien »²⁸.

Octroi de licences d'exploitation pétrolière au Somaliland et au Puntland par le Gouvernement fédéral somalien

57. Le Groupe de contrôle est très inquiet du fait que, dans le contexte actuel de paix et de sécurité, le Ministère du pétrole et des ressources minérales du Gouvernement fédéral somalien tente de reprendre les négociations avec le groupe pétrolier ConocoPhillips Co. à propos des concessions qu'il a acquises avant la guerre civile et qui sont aujourd'hui situées dans le Somaliland et le Puntland²⁹. La concession octroyée à ConocoPhillips avant 1991 comprend des secteurs d'exploitation couvrant les deux régions administratives de Sool et Sanaag, que se disputent âprement le Somaliland et le Puntland, ainsi que l'État régional autoproclamé de Khatumo.

58. Le Groupe de contrôle a pu lire un courriel du 25 août 2014 adressé par le Directeur en charge de l'exploration au Ministère, Abdulkadir Abiikar Hussein³⁰, à Kay Larcom, cadre dirigeante à ConocoPhillips. Dans ce courriel, le Directeur fait référence à une réunion qui s'est tenue le 8 août 2014 à Washington entre des représentants du Ministère et M^{me} Larcom, et assure cette dernière que le Ministère est « résolu » à travailler sur « les contrats passés avant 1991 et portant sur la *Somalie du nord et du nord-est* [non souligné dans le texte] ». L'utilisation des expressions « Somalie du nord » pour désigner le Somaliland et « Somalie du nord-est » pour le Puntland est le signe d'une indifférence préoccupante pour les relations du Gouvernement fédéral avec les entités régionales. Les échanges entre le Ministère et ConocoPhillips montrent bien par ailleurs que le Groupe a raison de

²⁷ Les compagnies avec lesquelles le Gouvernement fédéral somalien a eu récemment des discussions sont les suivantes : 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. et Total S.A.

²⁸ Communiqué de presse de Spectrum ASA du 7 septembre 2015 : « Spectrum signe un accord de collecte de données sismiques pour relancer la prospection pétrolière au large des côtes somaliennes », disponible à l'adresse suivante : <http://www.spectrumgeo.com/wp-content/uploads/FINAL-NEW-2015-09-07-Somalia-Data-Deal-Announced.pdf>.

²⁹ Comme d'autres grands groupes pétroliers, Conoco Inc. a suspendu ses opérations en Somalie en 1991 pour force majeure. Conoco Inc. et Phillips Petroleum Co. ont fusionné en 2002 pour former ConocoPhillips Co.

³⁰ Abdulkadir Abiikar Hussein fait partie des fonctionnaires rémunérés au titre de l'« accord aux fins de renforcement des capacités » conclu avec Soma. Hussein a reçu 39 000 dollars de Soma entre mai 2014 et avril 2015.

craindre qu'en l'absence d'un accord sur le partage des ressources – définissant clairement les rôles respectifs du Gouvernement fédéral et des administrations régionales lorsqu'ils entrent en discussion avec des sociétés pétrolières internationales – les richesses inexploitées de la Somalie en hydrocarbures ne feront probablement qu'attiser les tensions et conflits politiques. Tant qu'un tel arrangement constitutionnel ne sera pas conclu, lesdites sociétés, à l'instar de Soma, continueront de profiter de l'absence d'institutions solides pour passer des marchés à des conditions favorables avec des négociateurs individuels du Gouvernement plutôt qu'avec des entités contractantes indépendantes.

59. C'est pourquoi, le Groupe de contrôle continuera de prier instamment le Conseil de sécurité d'imposer un moratoire sur les accords pétroliers et gaziers signés avec la Somalie, jusqu'à ce que le Gouvernement fédéral somalien ait mis en place des institutions viables à même de réglementer le secteur, comme le prévoit la loi nationale sur le pétrole de 2008.

C. Gestion et détournements des fonds publics

60. Le Groupe de contrôle a noté certains progrès modestes en matière de gestion des finances publiques. Des initiatives ambitieuses ont été engagées, mais leur application reste lente. Les réformes ont pris du retard du fait des perturbations causées par la destitution de deux premiers ministres et de leurs gouvernements en l'espace de deux ans. L'évidente impunité dont jouissent les personnes coupables de détournement de fonds publics entretient une culture de la corruption dans la vie politique somalienne³¹.

Budget

61. Par la loi de finances de 2015, le Gouvernement somalien s'est engagé à « compter sur [ses] propres ressources ». En dépit de cette ambitieuse déclaration, le budget de 2015 établi sous la houlette de l'ancien Ministre des finances, Hussein Abdi Halane, dépendait largement des contributions promises par divers pays membres de l'Organisation de coopération islamique (OCI)³². Le Groupe de contrôle a pu constater que les militaires de l'Armée nationale somalienne ont été privés de leur solde pendant plusieurs mois en raison de promesses d'aide extérieure non tenues.

62. Contraint de réviser son budget à la mi-2015 vu que les aides promises par les pays membres de l'OCI se faisaient attendre, le Gouvernement a établi un budget plus réaliste imposant davantage de discipline dans les dépenses publiques. La crise budgétaire de 2015 a également entraîné la création d'un comité interministériel de stratégie budgétaire chargé d'élaborer le budget fédéral pour 2016. Toutefois, alors que le Gouvernement fédéral somalien entame une année de transition et que les pressions sur les finances publiques s'accroissent, il va sans doute devenir de plus en plus difficile de coller à un plan préétabli en ce qui concerne le recouvrement de recettes et les dépenses publiques.

³¹ Le Groupe de contrôle n'a pas connaissance de poursuites engagées avec succès contre un agent de l'État pour détournement de fonds publics depuis la fin de la période de transition en 2012.

³² Le 1^{er} septembre 2015, le Groupe de contrôle a été informé par un proche conseiller du Président que la Ligue arabe, la Turquie et le Qatar s'étaient engagés à verser 124, 40 et 18 millions de dollars, respectivement, mais qu'aucun d'eux n'avait tenu sa promesse.

Institutions et instruments fédéraux

63. Le Groupe de contrôle constate que, si la Banque centrale de Somalie a fait de gros efforts en ce qui concerne l'application du principe de responsabilité et la transparence, elle demeure inefficace en tant que principal organe de supervision et de réglementation financières du pays. Une part importante des recettes de l'État continue de ne pas se retrouver sur le compte unique du Trésor. Les crédits alloués aux ministères, départements et agences sont toujours retirés de la Banque centrale en espèces, sans obligation, ou presque, de rendre des comptes par la suite. La multitude d'officines du réseau parabancaire *hawala* n'est toujours pas réglementée par la Banque centrale, ce qui laisse craindre que des transferts de fonds ne servent à blanchir de l'argent sale et à financer le terrorisme³³. La législation financière obsolète des années 60 est toujours en vigueur et mal appliquée. Un projet de loi qui aurait réglementé les investissements étrangers en Somalie a été retiré par le Gouvernement en décembre 2014 à l'issue d'une seconde lecture au Parlement. Le projet de législation visant à créer un bureau du médiateur a été rejeté par le Parlement en juillet 2013 et n'a pas été repris depuis³⁴. La loi sur la passation de marchés publics, les concessions et les cessions a été adoptée par le Cabinet des ministres en mai 2014, mais à l'heure de l'établissement du présent rapport, elle n'avait toujours pas été approuvée par le Parlement. La législation portant création de la Commission de lutte contre la corruption n'avait toujours pas non plus été présentée.

64. Le Comité de la gouvernance financière créé à la mi-2014 est censé assumer une fonction de supervision en matière de recouvrement d'avoirs de l'État et de concessions publiques. Dans sa résolution 2182 (2014), le Conseil de sécurité a engagé le Gouvernement fédéral somalien à faire un usage judicieux du Comité. S'il a fait la preuve de son utilité comme organe consultatif, son efficacité dans la supervision reste à démontrer. Au moment de l'établissement du présent rapport, aucune mesure concrète n'avait été prise concernant la plupart des contrats examinés en 2014³⁵. S'il est vrai que les ministères, départements et agences gouvernementaux tendent à respecter davantage le rôle du Comité, certains ministères continuent de le court-circuiter lorsqu'ils négocient d'importants contrats publics³⁶. Il est arrivé à plusieurs reprises que des agents publics invoquent le Comité comme preuve de leur prétendu attachement à la transparence alors qu'ils parlaient d'accords qui n'avaient en fait pas été examinés par le Comité³⁷.

³³ Après l'attaque des Chabab contre l'Université de Garissa en avril 2015, le Gouvernement kényan a interdit à toutes les sociétés *hawala* de transférer des fonds pendant près de trois mois.

³⁴ Le bureau du médiateur, dont la création était prévue dans la Constitution provisoire de 2012, devait instruire les plaintes pour abus de pouvoir à l'encontre d'agents de la fonction publique.

³⁵ En septembre 2015, le Ministre des finances du Gouvernement fédéral somalien a informé le Groupe de contrôle que des mesures seraient prises concernant ces contrats dans les deux mois.

³⁶ On peut citer notamment le contrat conclu entre Proje Gozetim Muhendislik et le Ministère du commerce et de l'industrie portant sur la vérification de la qualité des marchandises à l'import et à l'export; l'accord sur la collecte de la taxe sur le khat de 2011 à juin 2015; et l'accord entre l'Armée nationale somalienne et l'entreprise fournissant les rations alimentaires aux soldats (voir annexe 3.1 à caractère strictement confidentiel).

³⁷ Dans un communiqué de presse publié le 12 août 2015 par le Ministère du pétrole et des ressources minérales en réponse au rapport du Groupe de contrôle sur son « accord aux fins de renforcement des capacités », le Ministère invoque le Comité de la gouvernance financière comme preuve de sa volonté de transparence. Le Groupe de contrôle a eu confirmation par le Comité que celui-ci n'avait pas examiné ledit accord et qu'il ne lui avait pas été communiqué. Le Groupe de

65. En novembre 2014, le Ministère des finances a procédé au lancement officiel du Système national de gestion de l'information financière qui doit permettre d'enregistrer les recettes et les dépenses du Gouvernement en temps réel. La mise en place de ce système au sein des ministères, départements et agences publiques se poursuit. S'il est réellement utilisé, cela constituera un progrès important.

66. Le retour du Fonds monétaire international (FMI) après plus de 25 ans d'absence est un autre événement majeur pour la Somalie. Le Fonds d'affectation spéciale pour le renforcement des capacités est une initiative heureuse du FMI face au besoin pressant en programmes efficaces de renforcement des capacités, en particulier dans les institutions chargées de gérer les finances du Gouvernement fédéral et de développer les industries extractives.

Détournements de fonds dans le secteur de la sécurité³⁸

67. Peu d'exemples illustrent mieux le danger que représentent la mauvaise gestion financière et les détournements de fonds pour la paix, la sécurité et la stabilité de la Somalie que la corruption qui sévit au sein des institutions du Gouvernement fédéral chargées de la sécurité. L'Armée nationale somalienne est de loin la plus grosse institution de sécurité du pays. Il est vital que les forces et les finances de l'armée soient gérées efficacement si l'on veut conserver les territoires gagnés sur les Chabab et empêcher un éventuel effondrement de l'État après le départ des forces de l'AMISOM, qui interviendra tôt ou tard. En raison de sévères coupes budgétaires, tout au long de l'année 2015, le Gouvernement fédéral somalien a eu du mal à payer les soldats de l'Armée nationale³⁹.

68. Les éléments recueillis par le Groupe de contrôle témoignent d'un manque de compréhension et de coordination au sein des institutions du Gouvernement fédéral somalien s'agissant de ce qui représente son plus gros poste de dépense, à savoir les soldes des militaires. De même, les effectifs, la structure et la composition actuels de l'armée ne sont toujours pas clairs. Le Groupe a obtenu la preuve que la hiérarchie militaire gonflait systématiquement ses effectifs afin d'obtenir plus d'argent pour les soldes et les rations alimentaires. Les liens de famille et d'affaires unissant les responsables de l'approvisionnement de l'armée et l'entreprise fournissant les rations d'aliments secs – dont la facture s'élève à plus de 8 millions de dollars chaque année – font également soupçonner l'existence d'un grave conflit d'intérêts. Comme presque tout est réglé en espèces, qu'il n'y a pas de mesures garantissant l'application du principe de responsabilité et qu'aucun contrôle indépendant n'existe, les cadres dirigeants de l'armée ont les mains libres pour profiter des revenus du Gouvernement au détriment de la sécurité des soldats et des citoyens.

69. L'ampleur des détournements de fonds et de l'impunité qui sévissent au sein de l'Armée nationale somalienne a entamé la confiance des donateurs dans le Gouvernement fédéral somalien. Celui-ci a reconnu la gravité de la situation. Les investigations du Groupe dans ce domaine ont été soutenues par le Bureau du

contrôle pense également que le résultat possible de l'examen de l'accord de prospection sismique (pétrolière) initial par le Comité a été utilisé comme moyen de pression dans les négociations avec Soma Oil & Gas concernant l'« accord aux fins de renforcement des capacités ».

³⁸ Pour un résumé complet des détournements de fonds dans l'Armée nationale somalienne, on se reportera à l'annexe 3.1 à caractère strictement confidentiel.

³⁹ Au mois de juillet 2015, seules les soldes de janvier avaient été versées.

Conseiller à la sécurité nationale, ainsi que, en août et septembre 2015, par le Ministère des finances. Le limogeage du chef des forces armées, le général Dahir Adan Elmi, le 3 septembre 2015, est un geste positif en direction des réformes. L'annonce par le Président Hassan Sheikh Mohamud, le 9 septembre 2015, que le Gouvernement fédéral somalien entamait une réforme en profondeur du secteur de la sécurité est un signe encourageant et une évolution louable⁴⁰.

L'ambassade de Nairobi

70. Les détournements de fonds pratiqués dans les ambassades de Somalie à l'étranger ont été détaillés dans les rapports précédents (voir, par exemple, S/2012/544, par. 18 à 21, et S/2013/413, par. 72 et 73). Le Groupe de contrôle s'inquiète de l'existence d'éléments prouvant que de graves irrégularités se sont produites à l'ambassade de Somalie à Nairobi (Kenya), du temps de l'ancien Ambassadeur Mohamed Ali Nur, « Americo »⁴¹. De janvier 2014 à avril 2015, l'ambassade a recueilli 960 836 dollars en frais payés par plus de 7 500 demandeurs de passeports somaliens et de titres de voyage d'urgence⁴². Durant la même période, seuls 486 258 dollars ont été versés sur le compte du Ministère de l'intérieur à la Banque centrale de Mogadiscio, soit un montant manquant de 474 578 dollars dont on a perdu la trace⁴³. Le Groupe s'inquiète également de l'emploi d'un don de 1 million de dollars reçu du Gouvernement chinois en 2013, dont seuls 479 314 dollars ont été transférés à la Banque centrale, le reste, soit 517 686 dollars, ayant été soi-disant versé en honoraires au cabinet d'avocats de Nairobi, Ibrahim, Issack & Company.

71. Selon un ancien diplomate somalien, 10 jours avant le départ de l'Ambassadeur, une équipe d'informaticiens a été appelée pour faire disparaître les informations sensibles des ordinateurs de bureaux et les dossiers sur support papier ont été systématiquement détruits⁴⁴. Le Groupe de contrôle est réconforté par le fait que le nouvel Ambassadeur somalien au Kenya, Jamal Hassan, qui est entré en fonctions le 4 août 2015, ait pris la décision de faire procéder à un audit indépendant des comptes de l'ambassade et d'imposer une stricte discipline financière (voir l'annexe 3.2).

Fonds destinés à la remise en état du port de Mogadiscio

72. En 1993, les soldats de la paix des Nations Unies ont pris le contrôle du port de Mogadiscio pour permettre l'acheminement de l'aide humanitaire en Somalie. La Force d'intervention unifiée a géré la collecte des redevances portuaires pour le

⁴⁰ « Le Président : nous sommes résolu à engager une réforme substantielle du secteur de la sécurité, » Bureau du Président somalien, communiqué de presse du 9 septembre 2015.

⁴¹ « Americo » a été rappelé à Mogadiscio en avril 2015 après avoir servi comme Ambassadeur au Kenya depuis 2004.

⁴² Les frais payés par les demandeurs s'élèvent à 130 dollars et 2 000 shillings kenyans (environ 20 dollars) qu'ils versent sur des comptes détenus à la succursale de la Transnational Bank à Nairobi.

⁴³ Pour couvrir ses dépenses de fonctionnement, l'ambassade de Nairobi reçoit tous les trimestres 49 200 dollars prélevés sur le compte du Ministère des affaires étrangères à la Banque centrale. D'après le Ministre des finances, toutes les autres sommes recueillies par les ambassades devraient être versées à la Banque centrale, sur le compte unique du Trésor.

⁴⁴ Selon l'ancien diplomate somalien, l'équipe a été appelée pour mettre à jour les programmes des ordinateurs.

compte du Gouvernement somalien jusqu'en 1995, date à laquelle elle a remis ces recettes à un fonds d'affectation spéciale géré par le Bureau du Programme des Nations Unies pour le développement (PNUD) en Somalie et le Programme alimentaire mondial (PAM). En juillet 1997, ces recettes, d'un montant de 1 003 930 dollars au total, ont été transférées sur un fonds géré uniquement par le Bureau du PNUD en Somalie, que l'agence a affecté à un « projet de remise en état du port de Mogadiscio ».

73. Le 17 mars 2014, le Ministre des ports et du transport maritime alors en poste, Yusuf Moallim Amin « Baadiyow », a demandé au Bureau du PNUD en Somalie de remettre le produit des redevances portuaires au Ministère. Après consultations internes, le Bureau a accepté de transférer les fonds à condition qu'ils transitent par le compte unique du Trésor du Gouvernement fédéral somalien⁴⁵.

74. En septembre 2014, le Bureau du PNUD en Somalie a transféré les fonds affectés à la remise en état du port qui, à cette époque, s'élevaient à plus de 1,8 million de dollars avec les intérêts courus. Cependant, au lieu d'être virés sur le compte unique du Trésor, comme convenu, les fonds ont été envoyés sur un compte du port de Mogadiscio à la Banque centrale de Somalie, le compte n° 1035. Entre le 13 et le 20 septembre 2014, Amin a autorisé le retrait de près de 1,7 million de dollars en espèces du compte de la Banque centrale n° 1035, soit la quasi-totalité de la somme affectée à la remise en état du port.

75. Le Groupe de contrôle a depuis lors obtenu des éléments de preuve donnant à penser qu'Amin et le Directeur général du Ministère des ports et du transport maritime alors en poste, Abduhalli Ali Nur, auraient détourné les fonds à leur profit⁴⁶. Un compte rendu détaillé de ce détournement d'argent public est présenté à l'annexe 3.3.

Taxation du khat

76. Le Groupe de contrôle s'inquiète de l'existence, jusqu'en juin 2015, d'un accord illégal entre le Ministère des finances et la société somalienne ADCO régissant la taxation du khat, une substance stupéfiante. L'accord a eu pour effet de réduire considérablement le produit des taxes perçues par le Gouvernement fédéral somalien sur les importations de khat, ce qui peut être assimilé à un manquement aux obligations du paragraphe 38 de la résolution 2182 (2014), dans laquelle le Conseil de sécurité a exhorté le Gouvernement fédéral somalien à gérer ses finances publiques de manière transparente et responsable et à faire en sorte que ses recettes soient inscrites au budget national.

77. Le Groupe de contrôle est réconforté par le fait que le Procureur général de Somalie ait décidé d'enquêter sur les modifications illégales apportées au régime des droits de douane sur le khat, et leur abaissement (voir annexe 3.4).

⁴⁵ Cette procédure était conforme à une directive de février 2014 du Ministère des finances, imposant que toutes les recettes publiques soient déposées sur le compte unique du Trésor à la Banque centrale de Somalie.

⁴⁶ D'après les déclarations d'anciens hauts responsables du Ministère, du Gouverneur de la Banque centrale de Somalie et d'une organisation de lutte contre la corruption en Somalie.

D. Mouvement des Chabab

Situation actuelle

78. Comme l'indique le précédent rapport du Groupe de contrôle (S/2014/726, par. 10), le Mouvement des Chabab reste une grave menace contre la paix et la sécurité en Somalie et un des principaux facteurs de déstabilisation en Afrique de l'Est. Comme les années précédentes, ce mouvement continue à céder du terrain face aux forces conjointes de l'AMISOM et de l'Armée nationale somalienne et à celles de leurs partenaires stratégiques, préférant battre en retraite en milieu rural puis couper les voies d'approvisionnement des zones reconquises. Parallèlement, il poursuit sa transformation en organisation transnationale, concentrant particulièrement ses opérations terroristes sur le Kenya voisin.

79. Après la mort de l'Émir des Chabab, Mokhtar Ali el-Zoubeir (Ahmed Godane), tué par un drone américain le 1^{er} septembre 2014, les Chabab ont rapidement choisi Ahmed Omar Abou Obeida (alias Ahmed Diriye, alias Mahd Omar Abdikarim) pour lui succéder. Le 24 septembre 2014, le Comité l'a désigné pour faire l'objet de sanctions ciblées. De l'avis général, sa nomination constitue un compromis : il est moins autocratique qu'Ahmed Godane et plus acceptable pour les éléments relativement modérés des Chabab, ce qui lui a permis de l'emporter sur des prétendants plus naturels⁴⁷. Le nouvel Émir a continué à décentraliser le Mouvement en donnant aux chefs et aux commandants locaux le pouvoir d'agir de manière autonome, même dans le domaine du financement des opérations et de l'administration⁴⁸.

80. Les opérations meurtrières menées régulièrement par les États Membres ont causé la mort de plusieurs autres chefs importants du mouvement pendant la période considérée. En la matière, les événements les plus marquants sont l'exécution d'Abdichakour Tahlil, un agent des Amniyat, le 29 décembre 2014 et de Youssouf Dhiq Ismaïl, décrit dans le rapport 2014 du Groupe de contrôle comme « le Chef des Amniyat des Chabab, chargé des opérations extérieures » (S/2014/726, note de bas de page 15), le 31 janvier 2015. Le Groupe a reçu des informations selon lesquelles l'assassinat de Youssouf Dhiq aurait été commis grâce à un téléphone portable dont la détection a été signalée par les services de sécurité du Somaliland⁴⁹. Un troisième membre haut placé des Chabab, Adan Garar, a été tué par un drone le 13 mars 2015. Il était impliqué dans l'attaque du centre commercial Westgate à Nairobi (l'« opération Badru Nairobi ») le 21 septembre 2013 et, plus récemment, dans un complot terroriste manqué à Addis-Abeba en octobre 2014⁵⁰.

81. Néanmoins, comme l'a indiqué le Groupe de contrôle dans son rapport 2014 (S/2014/726), ces assassinats ciblés ont pu produire des résultats à court terme mais

⁴⁷ Mahd Mohamed Ali « Karaté », le Chef intraitable des Amniyat – le service de sécurité intérieure et de contre-espionnage des Chabab – faisait ainsi figure de favori pour succéder à Ahmed Godane. À plusieurs reprises, il a contesté l'autorité d'Ahmed Omar Abou Obeida, provoquant ouvertement des accrochages avec le nouvel Émir. Le 19 mai 2015, par exemple, les forces fidèles à ce dernier ont affronté les partisans de Mahd « Karaté » près de Jilib, entraînant la mort de huit combattants.

⁴⁸ Matt Bryden, « The decline and fall of Al-Shabaab? Think again », *Sahan*, avril 2015.

⁴⁹ Entretien avec un haut responsable des services de renseignement de la région (14 mars 2015).

⁵⁰ Informations communiquées au Groupe de contrôle par un service de renseignement de la région le 7 août 2015.

n'ont pas altéré ni annihilé la capacité opérationnelle des Chabab de mener des attaques asymétriques et, de plus en plus souvent, des offensives classiques contre des cibles militaires. Une source de renseignements de haut niveau dans la région a expliqué au Groupe que les « cadres moyens » du mouvement, très mal connus, étaient si nombreux et idéologiquement motivés que l'organisation n'avait aucun mal à remplacer ses chefs assassinés⁵¹.

82. Les Chabab continuent à lancer fréquemment des attaques complexes à Mogadiscio, généralement en faisant exploser un véhicule piégé puis en faisant intervenir des combattants-suicides. Durant la période considérée, le Mouvement a privilégié les attaques d'hôtels, surtout ceux fréquentés par des représentants du Gouvernement fédéral somalien et d'États étrangers. Parmi les attentats de ce type les plus marquants, on peut citer ceux qui ont touché l'hôtel Jazira (26 juillet 2015)⁵¹, l'hôtel Makka el-Moukarama (27 mars 2015), l'hôtel Central (20 février 2015) et l'hôtel SYL (22 janvier 2015). L'annexe 4.1 analyse les attaques des Chabab contre des hôtels de Mogadiscio.

83. À Mogadiscio comme ailleurs, les militants terroristes du Mouvement commettent fréquemment leurs attentats déguisés en soldats de l'Armée nationale somalienne ou d'une autre force militaire du pays. Le Groupe estime que le fait que les uniformes militaires soient largement disponibles et peu coûteux, en partie en raison de l'absence de surveillance des importations, constitue une menace contre la paix et la sécurité en Somalie qui est sous-estimée (voir l'annexe 7.1).

84. Le Gouvernement fédéral somalien continue d'appeler l'attention sur les défections de membres des Chabab comme attestant une diminution de l'attrait et des capacités de l'organisation, soulignant en particulier la désertion de Zakariya Ahmed Ismaïl Hersi, Chef présumé du renseignement militaire des Chabab. Les informations exploitables obtenues lors de l'interrogatoire de ce dernier sont néanmoins d'une valeur douteuse. Le Groupe estime qu'Hersi avait été relégué au second plan au sein du Mouvement un an avant sa défection et un haut responsable des services de renseignement du Gouvernement fédéral a indiqué au Groupe qu'il n'avait fourni que des informations « obsolètes » et « générales »⁵².

85. Le Groupe suit examiné de près le risque d'un alignement idéologique ou opérationnel des Chabab sur l'État islamique d'Iraq et du Levant (EIIL). De fait, en février 2015, un « émissaire » de l'EIL, Hamil el-Bouchra, a publiquement invité Abou Obeida à déclarer l'allégeance des Chabab à l'organisation⁵³. Certains signes montrent que les Chabab commencent à imiter les tactiques de l'EIL, peut-être pour concurrencer celui-ci dans les médias. Ainsi, une vidéo publiée par la section des Chabab en charge des médias en mars 2015, qui montre des personnes contraintes de se jeter dans la mer avant d'être abattues, présente des ressemblances

⁵¹ Lors de cette attaque, les Chabab ont employé le plus gros camion piégé utilisé en Somalie depuis l'attentat commis par le Mouvement le 4 octobre 2011 contre un complexe ministériel du Gouvernement fédéral de transition, qui avait tué plus de 150 étudiants somaliens.

⁵² Entretien réalisé à Mogadiscio le 19 mars 2015.

⁵³ Hamil el-Bouchra « Somalia the land of Khilafah: message to our brothers in Somalia », 24 février 2015. Accessible à l'adresse <https://somalianews.files.wordpress.com/2015/03/bushra.pdf>. Voir aussi Caroline Hellyer, « ISIL courts al-Shabab as al-Qaeda ties fade away », *Al-Jazira*, 23 mars 2015. Accessible à l'adresse <http://www.aljazeera.com/indepth/features/2015/03/isil-eyes-east-africa-foments-division-150322130940108.html>.

troublantes avec les vidéos d'exécutions de l'EIL⁵⁴. Le Groupe de contrôle n'a toutefois trouvé aucune preuve de l'existence de liens opérationnels ou financiers entre l'EIL et les Chabab.

Vue d'ensemble des manœuvres militaires

86. Le 19 juillet 2015, des contingents de l'AMISOM, ainsi que des troupes de la Force nationale de défense éthiopienne, des Forces de défense kényanes et de l'Armée nationale somalienne ont entamé la dernière phase de leur offensive militaire contre les Chabab dans le cadre de l'opération Couloir de Djouba. Les forces alliées ont immédiatement engrangé des succès, s'emparant de deux des derniers bastions importants du Mouvement, Bartiri et Dinsor. Les Chabab n'ont pas résisté directement à cette nouvelle offensive, préférant comme par le passé opérer une retraite tactique en milieu rural pour ensuite couper les voies d'approvisionnement des zones reconquises.

87. Le Groupe de contrôle note avec inquiétude que ces zones reconquises ont été réduites à des îlots isolés dont les embuscades des Chabab et les engins explosifs improvisés rendent le ravitaillement par voie terrestre extrêmement dangereux (voir l'annexe 5.1 pour une description de l'action menée par les Chabab pour faire obstacle à l'aide humanitaire). De plus, ces voies d'approvisionnement continuent d'être source de revenus pour le Mouvement, car ce dernier a mis en place des postes de contrôle et prélève un « péage » sur les véhicules.

Attaques contre des cibles militaires

88. Même s'ils n'ont pas résisté militairement à l'opération Couloir de Djouba, les Chabab ont singulièrement modifié leurs tactiques, techniques et procédures en reprenant les attaques de grande envergure contre des cibles militaires, ce qu'ils n'avaient pas fait depuis leur retrait de Mogadiscio en 2011.

89. Le précédent rapport du Groupe de contrôle (S/2014/726, annexe 1.3), dans lequel celui-ci soulignait que les Chabab s'étaient infiltrés dans l'aéroport international de Mogadiscio, laissait prévoir ce qui a fini par se produire: le 25 décembre 2014, les Chabab ont réussi à pénétrer dans le complexe puissamment fortifié de l'aéroport, tuant huit soldats de l'AMISOM, deux civils et un fournisseur. Les pertes auraient toutefois pu être beaucoup plus lourdes si les assaillants avaient atteint leur cible principale, le mess des officiers. Le Groupe de contrôle a obtenu des éléments qui montrent qu'un large éventail de faux badges d'identification facilitant l'accès à l'aéroport peut être acheté au marché de Bakara pour 20 à 40 dollars.

90. Le 11 juin 2015, un convoi de la Force nationale de défense éthiopienne qui escortait des prestataires civils chargés d'approvisionner l'AMISOM est tombé dans une embuscade tendue par plus d'une centaine de combattants du Mouvement des Chabab entre Mogadiscio et Baidoa, aux environs de Jameeco, à 90 kilomètres au nord-ouest de Mogadiscio. À la suite de cette embuscade, les Chabab ont annoncé l'existence d'une brigade spéciale chargée d'attaquer les forces de l'AMISOM, baptisée « cheik Abou Zoubair » en hommage à leur ancien Émir. Pour l'instant, le

⁵⁴ Vidéo intitulée « In remembrance 2 », accessible à l'adresse <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/>, consultée le 11 septembre 2015.

Groupe de contrôle considère que cette unité militaire n'est pas opérationnellement active et que cette annonce relève plutôt de la propagande.

91. Le 26 juin 2015, après avoir ouvert une brèche dans le périmètre de défense par des attentats-suicides à l'explosif, plus d'une centaine de Chabab ont enlevé une base de l'AMISOM à Lego, provoquant la mort de plus de 50 soldats burundais. Plus récemment, le 1^{er} septembre 2015, des militants du Mouvement ont mené une offensive similaire contre une base de l'AMISOM à Janale et, avant d'attaquer, ont mis un pont hors d'usage afin de couper une voie de retraite⁵⁵. Même si le nombre exact de soldats de l'AMISOM décédés reste encore à établir, certains médias ont parlé de plusieurs dizaines de morts.

Sources de revenus

92. Les taxes sur la production et le transport de charbon de bois rapportant moins aux Chabab, le Mouvement a de plus en plus recours à d'autres moyens pour se procurer des fonds. Il se finance notamment par un prélèvement (*zakât*) sur les fermes de la vallée du Djouba, une des dernières zones où il continue d'exercer un contrôle territorial⁵⁶. L'extorsion de fonds aux entrepreneurs, quelle que soit la taille de leur entreprise et qu'elle se trouve ou non dans une zone contrôlée physiquement par le Mouvement, représente également une part importante des revenus de l'organisation⁵⁷. Même à Mogadiscio, les entreprises continuent à verser des « taxes » aux Chabab et non au Gouvernement fédéral⁵⁸.

93. Le régime douanier qu'applique avec rigueur le Gouvernement kényan favorise un commerce illicite prospère de sucre et d'autres denrées alimentaires de base importés en franchise par le port de Kismayo. À partir de Kismayo, le sucre entre au Kenya par plusieurs points de la frontière, notamment le point de passage situé entre Dhobley et Liboi⁵⁹. Les Chabab ont installé des postes de contrôle sur toutes les routes qui partent de Kismayo et les camions doivent acquitter un péage d'environ 1 000 dollars⁶⁰. Après avoir franchi la frontière entre Dhobley et Liboi, la

⁵⁵ Feisal Omar et Abdi Sheikh, « Islamist militants attack African Union base in southern Somalia », *Reuters*, 1^{er} septembre 2015, accessible à l'adresse <http://www.reuters.com/article/2015/09/01/us-somalia-attack-idUSKCN0R12PT20150901>.

⁵⁶ Le 19 mars 2015, un haut responsable des services de renseignement du Gouvernement fédéral somalien a indiqué au Groupe de contrôle que les Chabab avaient collecté environ 9,5 millions de dollars des États-Unis grâce aux taxes prélevées sur les fermes de la vallée du Djouba en 2014.

⁵⁷ Les demandes d'argent en échange d'une protection prennent souvent la forme d'un SMS et le paiement s'effectue aussi au moyen d'un téléphone portable. En octobre 2014, un spécialiste de la Somalie, installé aux États-Unis et indépendant, a commenté cette situation en affirmant qu'à Kismayo, « même les femmes qui vendent des tomates » paient les Chabab pour être protégées.

⁵⁸ En Somalie, Hormuud Telecommunications est la seule grosse société qui paie des impôts au Gouvernement fédéral somalien.

⁵⁹ Parmi les autres points de passage, on peut citer ceux de Dif et de Kolbiyo.

⁶⁰ Drazen Jorgic, « Kenya wages war on smugglers who fund Somali militants », *Reuters*, 21 juin 2015, accessible à l'adresse <http://www.reuters.com/article/2015/06/21/us-kenya-security-somalia-insight-idUSKBN0P105320150621>. Le péage de 1 000 dollars environ a été confirmé lors d'entretiens qui ont été menés par le Groupe de contrôle les 18 et 19 juin 2015 avec des habitants de Dadaab qui étaient au courant de la contrebande de sucre. Comme pour le transport de charbon de bois, le camionneur se voit remettre un « reçu » lorsqu'il paie un péage aux Chabab. Ce reçu lui permet de franchir d'autres postes de contrôle sans avoir à payer une deuxième fois.

plupart des cargaisons de sucre passent par les camps de réfugiés de Dadaab avant d'être transportées jusqu'à la plaque tournante régionale de Garissa et, de là, jusqu'aux marchés de gros de Nairobi. Une fois entré au Kenya, le sucre est en grande partie acheté par des entreprises locales qui le reconditionnent sous leurs propres marques.

94. Dans son rapport 2011, le Groupe de contrôle estimait que les Chabab tiraient du commerce du sucre des recettes comprises entre 400 000 et 800 000 dollars (S/2011/433, annexe 3.1). D'après les recherches préliminaires effectuées en 2015, le Groupe estime que ce chiffre est aujourd'hui sensiblement plus élevé. Comme les recettes tirées du charbon de bois diminuent, les prélèvements effectués par les Chabab sur le commerce illicite du sucre gagnent en importance. Au Kenya, le lien entre les Chabab et la contrebande de sucre est devenu manifeste durant la période considérée. Après l'attaque des Chabab contre l'Université de Garissa, le Gouvernement kényan a établi une liste confidentielle de 30 individus dont il a affirmé qu'ils « se livraient à la contrebande de sucre » et dont les comptes ont par conséquent été gelés (cette liste figure dans l'annexe 4.2 e), strictement confidentielle). Les forces de sécurité kényanes ont alors lancé une opération de police pour réprimer la contrebande de sucre dans les camps de réfugiés de Dadaab, et le Groupe de contrôle a été informé de la création d'une « cellule du sucre » au sein du National Intelligence Service kényan à cette fin; à la mi-avril 2015, cette cellule a arrêté six contrebandiers de niveau intermédiaire dans les camps de Dadaab⁶¹. Le Groupe de contrôle poursuit ses recherches sur les recettes que les Chabab tirent du commerce du sucre.

95. Le déclenchement du conflit en République arabe syrienne en 2011 et le renforcement des dispositifs de police le long des voies d'acheminement habituelles de l'héroïne ont donné à l'Afrique de l'Est une importance nouvelle dans le trafic d'héroïne entre l'Afghanistan et l'Europe⁶². Le Groupe de contrôle a pris conscience du lien possible entre les Chabab et le trafic de drogues en Afrique de l'Est grâce à l'affaire de l'*Amin Darya*, un navire transportant plus de 800 kilogrammes d'héroïne qui a été intercepté le 15 juillet 2014 par les autorités kényanes et ultérieurement détruit pour l'exemple. À partir des informations obtenues auprès d'un service de sécurité de la région, le Groupe a pu établir que les trafiquants d'héroïne qui se trouvaient à bord de ce navire étaient en contact avec un homme d'affaires installé à Doubaï et qui pourrait avoir des liens avec les Chabab. L'affaire de l'*Amin Darya* est exposée dans l'annexe 4.4.

Les Chabab dans le Nord-Est

96. Le Groupe de contrôle continue à suivre avec inquiétude l'insurrection du mouvement des Chabab dans le Nord-Est, dans les montagnes de Galgala, à environ 30 kilomètres au sud-ouest de Bousasou (Puntland). Dans son rapport 2014, le

⁶¹ Ibid. L'arrestation des contrebandiers a été confirmée lors d'entretiens que le Groupe de contrôle a eus en juin 2015 avec une source de renseignement régionale et avec des personnes vivant à Dadaab. Par suite de la répression menée par le Gouvernement kényan, le prix du sac de 50 kilogrammes de sucre est passé à 44 dollars, soit une augmentation d'environ 10 dollars par rapport au prix habituel.

⁶² « The Smack Track: East African states are being undermined by heroin smuggling », *The Economist*, 17 janvier 2015, accessible à l'adresse <http://www.economist.com/news/middle-east-and-africa/21639560-east-african-states-are-being-undermined-heroin-smuggling-smack-track>.

Groupe a constaté « une plus forte présence et des déplacements plus nombreux » des militants de ce mouvement (S/2014/726, annexe 1.4). Comme les Chabab continuent à céder du terrain dans le sud et le centre de la Somalie, il prévoit une intensification des combats dans les montagnes de Galgala, car les militants en fuite se dirigent vers le nord et cherchent à maintenir une voie de communication ouverte vers le Yémen et Al-Qaida dans la péninsule arabique. Le Groupe de contrôle observe donc avec une extrême inquiétude la détérioration progressive des conditions de sécurité au Yémen et dans le Puntland, qui a dans ce dernier cas été en partie alimentée par les retards systématiques dans le paiement ou le non-paiement de leurs salaires aux membres des forces de sécurité. En particulier, la révocation en février 2015 par le Président du Puntland, Abdiweli Mohamed Ali, de deux hauts responsables des forces de sécurité, dont le Chef des services de renseignement du Puntland, a ouvert une brèche alarmante entre le Président et ses forces de sécurité.

97. Au début du mois d'octobre 2014, les forces du Puntland, bénéficiant de la reconnaissance aérienne effectuée par un État Membre occidental, ont lancé une nouvelle offensive dans les montagnes de Galgala. Après des gains initiaux, cette offensive semble avoir marqué le pas. Selon des informations fournies en octobre 2014 par un journaliste du Puntland présent sur le terrain, les forces gouvernementales ne contrôlaient alors que la ville de Galgala et non les villages situés sur les collines avoisinantes⁶³. Le Groupe de contrôle a reçu des informations non confirmées mais crédibles selon lesquelles un des hauts responsables des Chabab, Fouad Mohamed Kalaf « Shongole », était présent dans la région de Galgala à la mi-mars 2015 pour « établir une nouvelle base » afin de mener des attaques dans le Puntland⁶⁴.

Les Chabab, menace régionale

98. Durant la période considérée, les Chabab ont continué à se transformer en organisation terroriste à visées transnationales. L'expansion régionale du mouvement traduit son principal objectif dans la région, à savoir lancer des attaques dans les pays qui fournissent des contingents à l'AMISOM. En particulier, le Kenya s'est révélé spécialement vulnérable, en grande partie à cause de la frontière longue et poreuse qu'il partage avec la Somalie⁶⁵. Depuis le mois de juin 2014, les opérations terroristes des Chabab ont fait plus de 300 morts au Kenya, soit davantage qu'à Mogadiscio durant la même période.

99. Durant la période considérée, les Chabab ont lancé une série d'attaques meurtrières sur le sol kényan. En l'espace de 10 jours, le mouvement a mené deux attaques de ce type près de Mandera, massacrant 28 passagers d'un bus le 23 novembre 2013, puis 36 carriers le 2 décembre. L'attaque la plus marquante des Chabab au Kenya a eu lieu le 2 avril 2015, lorsque cinq terroristes ont fait irruption sur le campus de l'Université de Garissa, située à 150 kilomètres de la frontière

⁶³ Ces informations ont été confirmées par un deuxième journaliste du Puntland, également en octobre 2014.

⁶⁴ Informations communiquées par un responsable des services de renseignement de la région le 14 mars 2015.

⁶⁵ Trois groupes de Chabab à peu près indépendants opèrent le long de la frontière entre le Kenya et la Somalie, dans des zones qui correspondent approximativement aux comtés de Garissa, de Mandera et de Lamu. Le troisième de ces groupes, qui se fait appeler brigade Jeich Ayman, est installé dans la forêt de Boni et a fortement intensifié ses opérations durant la période considérée.

avec la Somalie. Après un face-à-face qui a duré la plus grande partie de la journée, les forces spéciales kényanes ont pris d'assaut le dortoir universitaire où les assaillants retenaient des étudiants en otage, mais 148 personnes, pour la plupart des étudiants, avaient déjà été tuées. À la suite de ce massacre, le Gouvernement kényan a annoncé que le cerveau de l'attentat était Mohamed Mohamoud Gamadhir (alias « Kuno »), originaire de Garissa et ancien maître coranique⁶⁶. Il semblerait que Mohamed Gamadhir ne soit pas seulement responsable d'attaques menées au Kenya depuis l'étranger, mais qu'il soit peut-être aussi l'un des principaux organisateurs d'autres attentats commis dans la région avec la participation de réseaux dans le Somaliland, à Djibouti et en Éthiopie. C'est ainsi que des informations non confirmées communiquées au Groupe de contrôle donnent à penser qu'il a coordonné en janvier 2015 un attentat manqué contre la place Menelik à Djibouti, le quartier où se trouve le restaurant La Chaumière, qui avait été la cible d'un attentat-suicide réussi en mai 2014 (voir S/2014/726, annexe 2.3, strictement confidentielle).

100. L'attaque terroriste contre l'Université de Garissa est présentée en détail dans l'annexe 4.2.

101. L'annexe 4.3, strictement confidentielle, décrit l'attentat manqué des Chabab en janvier 2015 à Djibouti.

102. Phénomène inquiétant, les Chabab commencent à occuper ouvertement pendant de longues périodes des villes frontalières kényanes. Le 19 mai 2015, des militants du mouvement sont entrés dans deux villages du comté de Garissa et se sont adressés aux habitants pendant plusieurs heures en leur conseillant de ne pas soutenir le Gouvernement ni les services de sécurité kényans⁶⁷. Une semaine plus tard, des militants se sont introduits dans le village de Yambis, proche des camps de réfugiés de Dadaab, et ont à nouveau averti les villageois qu'il ne fallait pas coopérer avec les forces kényanes⁶⁸.

103. Même si la « cellule Bole Rwanda » n'a pas réussi à lancer d'attaque lors des matchs de qualification pour la Coupe du monde qui ont eu lieu à Addis-Abeba en 2013 (voir S/2014/726, annexe 2.2, strictement confidentielle), les Chabab ont poursuivi leurs efforts pour frapper la capitale éthiopienne. Le 14 octobre 2014, l'ambassade des États-Unis à Addis-Abeba a averti de l'imminence d'un attentat des Chabab à Bole, un quartier central de la ville. D'après des informations communiquées au Groupe de contrôle, environ 20 militants des Chabab avaient été envoyés à Addis-Abeba en trois groupes distincts pour commettre cet attentat mais avaient quitté le pays après l'avertissement lancé par les États-Unis; les membres de l'un des groupes ont été tués en essayant de rentrer au Kenya⁶⁹.

⁶⁶ À la connaissance du Groupe de contrôle, un seul lien concret relie Gamadhir et l'attaque contre l'Université de Garissa : d'après deux sources des services de sécurité de la région interrogées par le Groupe, Gamadhir avait été en contact par téléphone portable avec un agent de sécurité du campus soupçonné de s'être livré à une surveillance pour le compte des assaillants.

⁶⁷ Rapport confidentiel établi par des services de renseignement le 15 juin 2015.

⁶⁸ Ibid. Des informations non confirmées qui s'appuient sur le témoignage de villageois qui étaient présents laissent supposer que c'est peut-être Mohamed Gamadhir en personne qui s'est adressé aux villageois.

⁶⁹ Entretien avec un responsable des services de renseignement dans la région (7 août 2015).

E. Piraterie et enlèvements contre rançon

Aperçu général

104. Depuis 2012, le nombre d'actes de piraterie en Somalie a rapidement diminué. Le dernier détournement d'un navire marchand de haute valeur, le *Smyrni*, un pétrolier battant pavillon grec, remonte à mai 2012. La forte baisse de la piraterie par rapport au pic atteint en 2010 est principalement due à la présence d'équipes de protection armées privées (EPE) à bord des navires commerciaux, à la mise en œuvre des meilleures pratiques de gestion par l'industrie maritime et à la présence de navires de guerre de divers pays dans la région.

105. Durant la période considérée, le nombre d'actes de piraterie est resté très faible. Les deux seuls navires à avoir été détournés depuis le précédent rapport du Groupe sont deux boutres de pêche iraniens, le *Siraj* et le *Jaber*, qui ont été capturés au large de la Somalie centrale le 22 mars 2015. Le Groupe de contrôle a déterminé que le responsable de l'opération était Mohamed Osman Mohamed « afanje », un chef pirate bien connu dont les activités ont été décrites en détail dans les deux rapports précédents du Groupe (S/2013/413 et S/2014/726). Une relation détaillée du détournement du *Siraj* et du *Jaber* figure à l'annexe 2.4 (strictement confidentielle).

106. Le Groupe note avec déception que le Gouvernement fédéral somalien n'a pas encore, comme le Groupe l'avait recommandé dans ses précédents rapports, arrêté ni traduit en justice les chefs des pirates. Il s'inquiète en particulier de ce que « Gafanje » continue de mener des opérations de piraterie en toute impunité, semblant même avoir accès à des responsables politiques de haut niveau au sein du Gouvernement fédéral somalien à Mogadiscio (voir l'annexe 2.4.b, strictement confidentielle).

107. La menace que fait peser la piraterie sur la marine marchande reste faible, mais le Groupe craint que la pêche illégale pratiquée par des navires étrangers, qui ont souvent des équipes de protection privées armées à leur bord, ne fasse renaître la dynamique de conflit avec les populations somaliennes locales qui avait contribué à l'essor de la piraterie il y a une dizaine d'années. Ce risque est examiné en détail dans les parties du présent rapport qui portent sur la pêche illégale, non déclarée et non réglementée et sur la sûreté maritime.

III. Obstruction à l'aide humanitaire

108. Au paragraphe 31 de sa résolution 2232 (2015), le Conseil de sécurité a exigé de nouveau que toutes les parties permettent à tous ceux qui en ont besoin dans toute la Somalie d'avoir accès en toute liberté, sécurité, indépendance et célérité à l'aide humanitaire en temps voulu et sans entrave aucune. Bien que la présence humanitaire ait été ressentie dans la plupart des 15 régions administratives de la Somalie, l'accès à l'aide est demeuré très précaire, notamment en raison du lancement d'une nouvelle offensive contre les Chabab en juillet 2015⁷⁰. Sur un plan

⁷⁰ Voir notamment Bureau de la coordination des affaires humanitaires, rapport semestriel de suivi du plan d'intervention humanitaire de 2015 (couvrant la période allant de janvier à juin 2015). Voir aussi le site de NGO Safety Program pour la dernière version de la carte d'accès, 10 février 2015.

plus général, les combats en Somalie ayant redoublé d'intensité et d'ampleur, que ce soit en termes de nombre de combattants, de moyens et méthodes utilisés ou de stratégies mises en œuvre, l'accès humanitaire s'est détérioré dans tous ses aspects, de la sûreté et de la sécurité des agents humanitaires à la capacité de préserver l'indépendance et la neutralité des interventions. Le 31 août 2015, dans le cadre de l'évaluation semestrielle de la sécurité alimentaire et de la nutrition conduite par l'Organisation des Nations Unies pour l'alimentation et l'agriculture il a été annoncé qu'en Somalie, le nombre de personnes confrontées à une crise alimentaire ou nécessitant une aide urgente était passé de 731 000 à 855 000 en six mois, soit une augmentation de 17 %, et que les deux tiers d'entre elles étaient des déplacés⁷¹.

A. Interdiction de l'accès humanitaire⁷²

109. Les principales entraves à l'accès humanitaire, recensées par le Groupe de contrôle (pour la Somalie et l'Érythrée) dans son précédent rapport (S/2014/726), continuent de faire obstacle à un nombre croissant d'interventions et exigent des partenaires humanitaires des négociations de plus en plus complexes. Elles ont notamment pris la forme de barrages édifiés par les Chabab sur les itinéraires principaux de ravitaillement ou dans les villes stratégiques pour empêcher la livraison des marchandises, de règlements et d'impôts mis en place par les fonctionnaires fédéraux et régionaux en vue de faire de l'obstruction, et d'une politisation incessante de l'aide.

110. L'accès aux denrées de base étant perçu par les parties au conflit comme un moyen d'affirmer leur autorité, les Chabab ont mis fin par la force aux livraisons de fournitures humanitaires et d'articles commerciaux, tuant ou arrêtant des civils et détruisant des marchandises. En dépit des efforts faits pour acheminer en urgence l'aide humanitaire par la voie aérienne quand cela a été possible, une grave insécurité alimentaire a gagné de nombreuses zones⁷³. Dans la zone placée sous leur contrôle, les Chabab ont autorisé un très petit nombre d'activités humanitaires et laissé à la population des possibilités très limitées d'aller chercher de l'aide à l'extérieur⁷⁴. Dans un climat de militarisation et de polarisation croissantes, les Chabab ont manifesté une méfiance accrue envers les organismes humanitaires qu'ils ont tenus à distance. Dans certaines zones, cela s'est notamment traduit par la mise à l'écart des dirigeants locaux et l'exercice d'un contrôle centralisé sur les rapports avec les acteurs humanitaires dans le cadre des Amniyat – l'appareil répressif de sécurité interne des Chabab – avec le double risque de nuire à la sécurité des humanitaires et de limiter leurs possibilités de négociation raisonnée.

⁷¹ Voir Bureau de la coordination des affaires humanitaires, « Somalia: Critical food and nutrition situation persists » communiqué de presse publié le 31 août 2015).

⁷² L'interdiction de l'accès humanitaire consiste à empêcher le libre passage de l'aide humanitaire ou sa fourniture en temps voulu aux personnes qui en ont besoin, ainsi qu'à mener des attaques délibérées contre les agents humanitaires.

⁷³ Plus d'une année après le début du blocus imposé par les Chabab en mars 2014 à Houdour, alors que leur offensive entrait dans une nouvelle phase, le taux global de malnutrition aiguë était très élevé, à 32,7 %, le taux de malnutrition aiguë sévère ayant quant à lui triplé de façon alarmante depuis juin 2015. Bureau des affaires humanitaires, Bulletin humanitaire de juillet 2015 (paru le 20 août 2015).

⁷⁴ Voir annexe 6.2.a et annexe 6.2.b (strictement confidentielle).

111. Dans son précédent rapport, le Groupe de contrôle a montré comment le développement de l'administration fédérale avait créé de nouvelles strates d'obstacles bureaucratiques, entraîné la recherche de nouveaux profits et débouché sur le détournement pur et simple. Ces obstacles avaient compliqué et parfois complètement bloqué l'accès humanitaire (S/2014/726, par. 93). Durant le mandat actuel, ces pratiques se sont multipliées et, qui plus est, le nombre de services administratifs avec lesquels les organismes humanitaires ont été tenus de traiter a augmenté : outre les deux nouvelles administrations régionales provisoires, des administrations rivales, extérieures au processus officiel de fédéralisation, ont tenté d'affirmer leur légitimité⁷⁵. En s'efforçant de reprendre à leur compte les interventions humanitaires et d'en tirer des bénéfices, ces autorités concurrentes n'ont pas seulement compromis le bon déroulement des opérations, forçant les organisations non gouvernementales à cesser temporairement leurs activités, mais aussi empêché ces organismes de travailler en toute sécurité dans les différentes zones de contrôle⁷⁶.

112. Le nombre croissant d'acteurs armés, somaliens et étrangers participant à la lutte contre les Chabab, a conduit à privilégier une stratégie d'élargissement de l'accès humanitaire axée sur la sécurité plutôt que sur la négociation et le consensus, rendant la politisation de l'aide plus difficile et le maintien du principe de distinction plus compliqué. Des cas d'obstruction à l'aide humanitaire par les forces militaires somaliennes et internationales et les groupes armés ont été signalés⁷⁷.

113. Voir l'annexe 5.1 qui donne un aperçu des principaux obstacles à l'accès humanitaire.

114. Voir l'annexe 5.2 qui traite du recours aux obstacles bureaucratiques et à l'abus de pouvoir pour entraver l'accès humanitaire.

B. Attaques contre les travailleurs humanitaires

115. Le climat général étant plus instable et moins sûr, les travailleurs humanitaires ont été exposés à un plus grand nombre de menaces et de violences au cours du mandat actuel. Quatorze d'entre eux ont été tués entre janvier et août 2015 seulement, 80 incidents touchant à la sécurité ayant été signalés au cours de la même période, en lien avec des opérations humanitaires⁷⁸.

⁷⁵ En ce qui concerne les retombées sur l'accès humanitaire, il s'agit entre autres de l'État autoproclamé de Khatumo dans la région de Sool, et de l'administration soutenue par Ahl al-Sunna wal-Jama'a qui a été déclarée le 1^{er} juillet 2015 à Dhousamarib.

⁷⁶ En 2014, les organismes humanitaires ont signalé 76 cas d'entraves administratives ou bureaucratiques ou d'ingérence dans la conduite de leurs opérations. En 2015, 51 cas étaient déjà recensés au bout de sept mois. D'après des entretiens menés auprès d'organismes des Nations Unies ou d'organisations non gouvernementales, Nairobi, août 2015.

⁷⁷ Publiées en novembre 2014, les directives pour la coordination civilo-militaire de l'action humanitaire aux fins de l'engagement des acteurs humanitaires avec l'AMISOM, ont toutefois tardé à être diffusées et appliquées. Il n'existe actuellement aucun mécanisme permettant aux organismes humanitaires de promouvoir l'application de ces directives si ce n'est auprès du Gouvernement fédéral somalien et de l'AMISOM.

⁷⁸ À titre de comparaison, en 2014, 11 personnes avaient trouvé la mort et 20 travailleurs humanitaires avaient été enlevés ou arrêtés au cours de 75 incidents violents. D'après des

116. Les Chabab ont mené une série d'attaques directes et indirectes contre des organismes des Nations Unies, dont un terrible attentat-suicide à Garowe, le 20 avril 2015, commis contre un autobus transportant du personnel du Fonds des Nations Unies pour l'enfance, au cours duquel 6 personnes ont été tuées, dont 4 membres du personnel des Nations Unies, et 20 autres blessées⁷⁹. Cette attaque s'est produite au moment où les diatribes lancées par les Chabab contre les Nations Unies et les organisations internationales atteignaient leur paroxysme⁸⁰. Quelques mois plus tard, dans son message prononcé à l'occasion de l'Aïd, Abou Oubeida affirmait que l'ouverture de couloirs de sécurité allait permettre à des organisations et organismes internationaux aux visées destructrices de propager leur dépravation et immoralité parmi les jeunes musulmans et les conspirateurs ennemis d'Allah⁸¹. Avant même l'attentat perpétré à Garowe, la montée des tensions internationales et la militarisation concomitante à l'œuvre dans le Puntland et le Somaliland, associées à une présence et une activité accrues des Chabab et à des informations faisant état d'une surveillance hostile des installations des Nations Unies, avaient laissé percevoir une détérioration des conditions de sécurité en ce qui concernait les interventions humanitaires dans le nord-est⁸².

117. En plus de l'intensification des opérations militaires directes au cours du second semestre de 2015, les organismes humanitaires ont dû négocier leur accès avec un nombre croissant d'autorités civiles et militaires concurrentes, ce qui a accru leur vulnérabilité. Les forces gouvernementales, les forces associées aux autorités régionales, les milices locales et les forces internationales ont toutes été impliquées dans des incidents qui ont compromis les opérations humanitaires ou dans des tentatives de détournement de l'aide par l'emploi de la force.

C. Détournement et soustraction de l'aide humanitaire

118. Le détournement, pratiqué à l'aide de toute une série de mécanismes tels que manipulation de données budgétaires, extorsion, faux reçus ou vol pur et simple, reste un élément intrinsèque du modèle d'action humanitaire en Somalie. Le Groupe de contrôle a constaté que les pratiques et les auteurs identifiés dans son précédent

informations fournies par des organismes des Nations Unies et des organisations non gouvernementales en août et septembre 2015.

⁷⁹ D'autres épisodes violents se sont produits, tels que l'attaque d'un convoi des Nations Unies, le 3 décembre 2014, à l'extérieur de l'aéroport international de Mogadiscio et l'attentat contre l'hôtel Jazeera Palace qui a fait 15 morts, dont 2 employés d'entreprises extérieures à l'ONU, et a causé des dégâts dans le complexe commun des Nations Unies et les locaux de trois organisations non gouvernementales.

⁸⁰ Comme indiqué dans le rapport publié sous la cote S/2014/726, en 2013 et 2014, une série de déclarations et d'attaques indiquaient déjà clairement que l'Organisation des Nations Unies (et plus largement les organismes humanitaires) étaient les cibles légitimes du Mouvement. Les activités éducatives sembleraient plus particulièrement visées.

⁸¹ « Eid greetings to the Muslim Ummah: From the Mujahid Sheikh Abu Ubeydah Ahmad Omar ». Un certain nombre d'événements tels que la déclaration faite par le Mouvement le 20 décembre 2014, qui fait référence à une « guerre idéologique », l'attentat contre l'Université de Garissa, le 2 avril 2015 (voir annexe 4.2) et celui contre le Ministère de l'enseignement supérieur et de la culture à Mogadiscio, le 14 avril 2015, laissent supposer que les Chabab ciblent notamment les activités d'éducation.

⁸² Les problèmes rencontrés avec l'administration et la gestion des unités spéciales de protection pourraient accroître la vulnérabilité des intervenants humanitaires s'ils ne sont pas pris en charge efficacement.

rapport étaient toujours les mêmes, à savoir notamment des membres du personnel du siège des entités donatrices, des fonctionnaires locaux, des entreprises extérieures et des organisations non gouvernementales locales. Suivant la tendance décrite dans ce rapport, le montant global de l'aide humanitaire disponible a continué de se contracter alors que, selon les estimations, trois millions de personnes en Somalie ont encore besoin de recevoir un soutien humanitaire de base⁸³. La pénurie des ressources s'est aggravée d'autant que le coût des interventions humanitaires a augmenté sous l'effet des restrictions d'accès et de la nécessité d'atténuer des risques de sécurité plus élevés.

119. Comme le Groupe de contrôle l'a noté dans son précédent rapport, l'apparition de nouvelles strates dans l'administration de l'État fédéral a multiplié d'autant les possibilités de détournement sous couvert de légitimité, (S/2014/726, annexe 7.1). Ces difficultés se sont aggravées en 2015, lorsque les nouvelles entités étatiques régionales et les administrations concurrentes, nées d'un processus de fédéralisation fortement contesté, se sont inspirées de pratiques dominées par la recherche du profit, qui avaient fait leur preuve par le passé, sans presque aucun contrôle centralisé ou affirmation d'autorité (voir annexe 5.2).

120. En outre, l'aide a été en butte non seulement au vol mais à une utilisation abusive, en tant qu'instrument politique mis au service du conflit. Des informations crédibles ont été fournies au Groupe, selon lesquelles des acteurs humanitaires auraient violé les principes présidant à leur mission et auraient utilisé de manière abusive les fournitures humanitaires pour gagner du pouvoir sur les clans, y compris par la violence. Dans quelques communautés, l'allégeance de plusieurs organisations non gouvernementales à des milices spécifiques ou à des unités de l'Alliance nationale somalie était un secret de polichinelle pour la communauté humanitaire, accepté comme prix à payer pour l'accès.

121. L'incapacité des organismes humanitaires de faire face à l'étendue des abus constatés dans l'utilisation de l'aide – phénomène qui a culminé durant la famine de 2011 – a permis au système de perdurer. Durant le mandat actuel, ces organismes ont toutefois pu préserver les progrès accomplis en 2014 en continuant de prendre conscience de l'ampleur du détournement et en renforçant les stratégies de gestion des risques et les mécanismes de lutte contre les actes de cette nature. Ainsi, en janvier 2015, un coordonnateur de l'action des organisations non gouvernementales a été nommé au Groupe de la gestion des risques de l'équipe de pays des Nations Unies, ce qui a permis d'améliorer la coopération entre les organisations non gouvernementales et les organismes humanitaires du système des Nations Unies. Il reste toutefois à s'attaquer aux fondements du système qui perpétue le détournement.

122. Voir l'annexe 5.3 qui présente de façon plus détaillée les cas de détournement et l'utilisation abusive de l'aide humanitaire, y compris des mesures pour lutter contre ces pratiques.

⁸³ Sur les 853 millions de dollars demandés au titre du fonds humanitaire commun en 2015, 33 % seulement avaient été versés à la fin de juillet 2015.

IV. Violations du droit international impliquant des actes visant des civils

123. Les forces nationales et étrangères, dont le nombre et la diversité se sont accrus, ont toutes continué de prendre pour cible les civils, que ce soit dans le cadre d'une tactique de guerre délibérée ou par l'emploi disproportionné de la force⁸⁴. Les groupes de population exclus politiquement, économiquement ou culturellement ont continué de subir l'essentiel de ces violations, reflétant en cela une stratification de longue date de la société somalienne qui s'est accentuée sous l'effet de la ruée sur le contrôle des ressources.

A. La prise pour cible de civils

124. Le nombre et la diversité des acteurs armés en Somalie, dont certains sont vaguement alliés contre les Chabab, ont engendré une profusion de commandements exerçant un pouvoir plus ou moins important et qui ne répondent que très rarement des conséquences de leurs opérations, situation qui nuit à la protection des civils⁸⁵. L'impunité presque totale dont ces forces jouissent, sauf dans les rares cas de négociation entre clans et de poursuites engagées contre des membres de l'Alliance nationale somalie ou de l'AMISOM, est un terrain propice à la perpétuation de leurs crimes.

125. Au fur et à mesure que la lutte contre les Chabab s'est intensifiée et que leur emprise sur la population s'est élargie, les violations contre les civils se sont multipliées avec, des deux côtés, l'utilisation d'armes et de tactiques faisant de nombreuses victimes tant dans la population civile que parmi les militaires⁸⁶. En parallèle, d'autres acteurs non étatiques ont eu recours à la violence armée pour affirmer leur présence au sein du dispositif fédéral en pleine expansion. Les Chabab ont utilisé ces acteurs qui les ont parfois mis à contribution en retour, les deux parties en tirant un bénéfice mutuel.

126. Comme indiqué dans le rapport S/2014/726, l'autorité politique et militaire du système fédéral a également été usurpée pour servir les intérêts des clans, avec le déploiement de forces de sécurité du Gouvernement fédéral somalien dans le cadre des luttes claniques. Il a également été attesté que les forces des administrations régionales telles que l'Administration provisoire de Djouba, et d'autres entités telles

⁸⁴ On trouve les responsables de ces actes au sein de toutes les parties aux conflits, à savoir les Chabab et leurs groupes affiliés, l'AMISOM et ses « partenaires stratégiques », l'Alliance nationale somalie, les forces de sécurité des administrations régionales et leurs alliés, et les milices des clans.

⁸⁵ Une analyse menée par Armed Conflict Location and Event Data Project pour le compte du Groupe de contrôle entre janvier et juillet 2015 a notamment révélé que la plupart des auteurs de violences visant les civils étaient des groupes armés non identifiés (l'évaluation ne tient pas compte des cas où les civils ont été blessés lors d'un conflit entre deux acteurs armés). Projet d'analyse des conflits en Somalie, ACLED, août 2015.

⁸⁶ En dépit de la baisse du niveau absolu de violence contre les civils au cours du premier semestre de 2015, à la suite du lancement d'une nouvelle offensive contre les Chabab, ce niveau a augmenté de 50 % en juillet. Les Chabab sont responsables de la mort de la plupart des victimes civiles. Ibid.

que Ahl al-Sunna wal-Jama'a dans sa tentative de prise de contrôle du territoire avaient commis des violences contre des civils⁸⁷.

127. Les forces internationales, faisant partie ou pas des effectifs militaires autorisés, ont également commis des violences contre les civils. L'AMISOM aurait ainsi procédé à des exécutions extrajudiciaires, et aurait tué et blessé des civils dans le cadre de la lutte menée contre les engins explosifs improvisés et d'attaques à la grenade⁸⁸. Le Groupe de contrôle a également été informé que des civils auraient été tués par la police éthiopienne Liyu, laquelle aurait par ailleurs commis des actes de violence sexuelle et sexiste et d'autres atteintes, notamment à Bay, Bakoul, Galgadoud et Hiran.

128. Voir l'annexe 6.1 qui présente un aperçu des violations du droit international impliquant des actes visant des civils.

129. Voir l'annexe 6.1.a (strictement confidentielle) qui fournit des informations sur les circonstances de l'arrestation de membres de la milice Salaax.

130. Voir l'annexe 6.2.a et l'annexe 6.2.b (strictement confidentielle) qui fournit des détails sur les violations du droit international et sur la situation des populations bantoue/wagosha dans les régions du Bas-Djoubaland et du Moyen-Djoubaland sous le contrôle des Chabab.

131. Voir l'annexe 6.3.a et l'annexe 6.3.b (strictement confidentielle) qui fournit des détails sur les attaques lancées contre les villages de Kabxanley et Defow dans la région de Hiran.

B. Violence sexuelle et sexiste, recrutement et utilisation d'enfants dans les conflits armés et déplacements forcés

132. On trouvera à l'annexe 6.4 des comptes rendus succincts des grandes tendances qui se dessinent en matière de violations dans les trois aspects susmentionnés du mandat, ainsi qu'une présentation de l'évolution de la pratique et du cadre légal, axés sur la prévention et le renforcement de l'application du régime de sanctions.

V. Embargo sur les armes

A. Respect par le Gouvernement fédéral somalien des dispositions régissant la levée partielle de l'embargo sur les armes

133. La levée partielle de l'embargo sur les armes imposé à la Somalie, introduite dans la résolution 2093 (2013) du Conseil de sécurité et prorogée jusqu'au

⁸⁷ En février 2015, des civils ont été tués et blessés lorsque Ahl al-Sunna wal-Jama'a a pris le contrôle de Guriel qui était aux mains du Gouvernement fédéral somalien. Voir notamment Human Rights Watch, *Dispatches: Overlooking the Cost to Somalia's Civilians*, 19 février 2015.

⁸⁸ D'après Armed Conflict Location and Event Data Project, en dépit du fait que l'AMISOM aurait été impliquée dans seulement 10 cas de violence visant des civils, c'est elle qui, de toutes les forces, a occasionné proportionnellement le plus grand nombre de morts. *Projet d'analyse des conflits en Somalie*, Armed Conflict Location and Event Data Project, août 2015.

30 octobre 2015 par la résolution 2182 (2014), exempt le Gouvernement fédéral somalien de demander au cas par cas au Comité des sanctions d'approuver les importations d'armes destinées à ses forces de sécurité. Conformément aux dispositions régissant cette levée partielle de l'embargo, le Gouvernement fédéral somalien est tenu de notifier à l'avance le Comité pour lui donner toutes précisions utiles concernant la livraison d'armes ou de matériel militaire ou l'offre de conseils, d'assistance ou de formation aux Forces de sécurité gouvernementales. En outre, il doit présenter au Conseil de sécurité, tous les six mois, un rapport détaillé sur la structure de ses Forces de sécurité et sur l'infrastructure et les procédures établies aux fins de la gestion et de la distribution des armes et du matériel militaire dans des conditions de sécurité adéquates. Le Conseil a souligné à plusieurs reprises que le maintien de la levée partielle de l'embargo dépendra de la manière dont le Gouvernement satisfait aux prescriptions susmentionnées (seizième alinéa du préambule de la résolution 2182 (2014)).

134. Le Groupe de contrôle a constaté que, grâce à l'action énergique du Bureau du Conseiller national pour les questions de sécurité, des progrès concrets avaient été accomplis en ce qui concernait les notifications au Comité et la gestion des armes et des munitions. La qualité et le nombre des notifications s'étaient régulièrement accrus et celles-ci étaient de plus en plus souvent adressées au Comité dans le respect des délais. L'obligation de confirmation des livraisons n'a toutefois pas été remplie comme attendu⁸⁹. Le fait le plus marquant en matière de gestion des stocks d'armes et de munitions a été le lancement du marquage et de l'enregistrement des articles importés par le Gouvernement fédéral somalien et des armes détenues par les sociétés de sécurité privées. L'activité de suivi de l'armement et du matériel reste toutefois très insuffisante, en particulier une fois la première distribution aux forces de sécurité effectuée. À cet égard, il est absolument nécessaire que la communauté internationale appuie l'élaboration du projet global de gestion des armes et des munitions par le Gouvernement fédéral somalien.

135. Les rapports que le Gouvernement fédéral somalien devait présenter conformément au paragraphe 9 de la résolution 2182 (2014) ont été transmis dans les délais prescrits. Le Groupe est toutefois préoccupé par le fait que la composition et l'effectif des forces de sécurité, y compris les milices alliées, restent imprécis bien que le Gouvernement se soit efforcé, dans son précédent rapport, de définir dans ses grandes lignes le dispositif fédéral de sécurité. L'Armée nationale somalienne, en particulier, a systématiquement cherché à gonfler ses effectifs⁹⁰.

136. La levée partielle de l'embargo a été accordée entre autres pour aider le Gouvernement fédéral somalien à accroître et à équiper ses forces de sécurité aux fins de la lutte contre les Chabab. Depuis la mise en place de cette disposition, il apparaît, au vu des informations collectées dans les notifications préalables de livraison adressées au Comité, que les forces de sécurité du Gouvernement ont reçu plus de 17 500 armes et près de neuf millions de cartouches⁹¹. Le Groupe de

⁸⁹ Le Gouvernement fédéral somalien a indiqué que les confirmations et informations requises concernant les livraisons, non présentées en temps voulu, seraient communiquées au Comité peu après l'établissement de la version finale du présent rapport.

⁹⁰ Voir annexe 3.1 (strictement confidentielle).

⁹¹ Ce chiffre ne tient pas compte du grand nombre d'armes que le Gouvernement fédéral somalien détenait déjà dans ses stocks, lesquelles circulaient dans le pays ou avaient été livrées sans passer par la procédure officielle de notification. À titre d'exemple, la possession d'une arme est souvent une condition requise pour être recruté par les services de sécurité.

contrôle n'en continue pas moins de recevoir des informations selon lesquelles les forces de sécurité du Gouvernement fédéral somalien ne seraient toujours pas suffisamment équipées pour lutter efficacement contre les Chabab. L'absence de renseignements sur la distribution des armes importées limite la capacité du Groupe d'évaluer si celles-ci sont utilisées de manière appropriée et efficace.

B. Obligations des États membres et des organisations régionales et internationales

137. À plusieurs reprises, les États membres et les organisations internationales qui appuient les institutions du secteur de la sécurité ne relevant pas du Gouvernement fédéral somalien n'ont pas respecté l'obligation qui leur incombe, conformément à l'alinéa a) du paragraphe 11 de la résolution 2113 (2013), d'informer le Comité des livraisons d'armes ou de matériel militaire et de l'offre d'assistance technique ou de formation. Dans certains cas, cette défaillance est imputable au fait que le cadre d'application de l'alinéa a) du paragraphe 11 n'est pas clairement défini, notamment en ce qui concerne les acteurs du secteur de la sécurité, le type de matériel et l'aide visés par ces dispositions. La question de la création parallèle de dispositifs de sécurité régionaux placés ne relevant pas de l'autorité du Gouvernement doit être examinée attentivement par le Comité qui doit contrôler de plus près ce processus; il conviendra de préciser ce que recouvre l'expression « institutions somaliennes du secteur de la sécurité »⁹².

C. Dérogations permanentes à l'embargo sur les armes

138. Le Conseil de sécurité a accordé plusieurs dérogations permanentes à l'embargo sur les armes pour la fourniture de matériel à certaines entités et à des fins précises⁹³. Si ces dérogations facilitent le bon déroulement des opérations de l'AMISOM, de la mission de formation de l'Union européenne en Somalie, de la Mission d'assistance des Nations Unies en Somalie (MANUSOM), des « partenaires stratégiques » de l'AMISOM et autres, elles créent aussi un angle mort dans la surveillance des mouvements d'armes par le Comité. Les informations indiquant que les forces armées impliquées dans la dernière offensive qui ait été menée contre les Chabab n'ont pas pleinement respecté le concept d'opérations de l'AMISOM viennent corroborer cette crainte.

D. Documentation relative aux armes et au matériel militaire confisqués

139. Conformément au paragraphe 6 de la résolution 2182 (2014) du Conseil de sécurité, les forces de sécurité du Gouvernement fédéral somalien et l'AMISOM doivent recueillir et enregistrer des informations sur l'ensemble du matériel militaire confisqué dans le cadre d'offensives et faciliter la tâche du Groupe qui doit procéder à l'inspection avant sa redistribution ou sa destruction. Le Gouvernement

⁹² Voir le paragraphe 10 h) des Directives régissant la conduite des travaux du Comité telles qu'elles ont été regroupées, revues et adoptées le 30 mars 2010, le 30 mai 2013, le 27 novembre 2013 et le 25 mars 2014.

⁹³ Pour plus de détails, voir l'annexe 7.2.

fédéral somalien a fourni au Groupe des informations sur quatre caches d'armes et d'autre matériel militaire confisqués et a suivi une formation portant sur l'identification et le traçage des armes confisquées. Malgré les directives données aux commandants de secteur, l'AMISOM n'a pas pu documenter les confiscations ni faciliter le transfert d'informations sur la question et il a demandé au Groupe de lui donner des conseils et une assistance supplémentaires. Pour que les dispositions du paragraphe 6 de la résolution 2182 (2014) soient appliquées de manière effective, il faut que le Gouvernement fédéral somalien et l'AMISOM se mettent d'accord sur plusieurs responsabilités⁹⁴. Les pays qui fournissent des contingents à l'AMISOM doivent leur donner des instructions pour qu'ils respectent les directives données par le quartier général des forces. Le Conseil pourrait envisager d'étendre ce modèle de communication de l'information aux nombreuses autres forces engagées dans le conflit avec les Chabab dans des territoires hors d'atteinte pour les forces de sécurité de l'AMISOM et du Gouvernement fédéral somalien.

E. Application des paragraphes 10 et 15 de la résolution 2182 (2014)

140. Au paragraphe 10 de sa résolution 2182 (2014), le Conseil a prié le Gouvernement et le Groupe de contrôle d'élaborer ensemble une proposition visant à accorder une dérogation à l'embargo pour les armes embarquées sur des navires menant des activités commerciales dans les eaux territoriales somaliennes et dans les ports somaliens. Au cours de la période considérée, le Gouvernement et le Groupe ont eu un premier échange de vues sur cette proposition et ont présenté des observations au Conseil.

141. Au paragraphe 15 de la résolution 2182 (2014), le Conseil a autorisé les États Membres, dans certaines circonstances, à intercepter les navires se trouvant dans les eaux territoriales somaliennes et en haute mer au large des côtes somaliennes s'ils ont des motifs raisonnables de penser que ces navires transportent des armes ou du matériel militaire. Pendant son mandat, le Groupe de contrôle n'a été informé d'aucune interception.

F. Violations de l'embargo sur les armes

142. Des violations de l'embargo sur les armes continuent d'être commises en Somalie, qu'il s'agisse de la vente illégale ou de la distribution non autorisée d'armes provenant des stocks du Gouvernement fédéral ou d'importations illégales. Le marché créé par le conflit au Yémen et la militarisation accrue de certaines zones de la Somalie au cours de la période considérée n'ont fait qu'exacerber les flux illégaux d'armes.

143. L'annexe 7.1 donne un aperçu des faits nouveaux intervenus en ce qui concerne la gestion des armes et des munitions en Somalie, notamment comme condition de la levée partielle de l'embargo sur les armes.

⁹⁴ Ces responsabilités sont notamment les suivantes : documentation, enregistrement, traçage et analyse des armes et du matériel confisqués selon qu'il convient, établissement d'une procédure de transfert à l'entité compétente, mise en place d'un cadre pour le stockage et la destruction du matériel retenu ou transféré et adoption d'un protocole pour informer le Groupe de contrôle des confiscations.

144. À l'annexe 7.2, on trouve une évaluation du respect des obligations de notification par le Gouvernement fédéral somalien, les États Membres et les organisations internationales au titre de l'embargo sur les armes et de sa levée partielle.

145. L'annexe 7.3 offre une analyse du respect, par le Gouvernement fédéral somalien, des obligations qui sont les siennes en ce qui concerne la communication d'informations au titre de la levée partielle de l'embargo sur les armes.

146. L'annexe 7.4 consiste en un examen détaillé de la mesure dans laquelle le Gouvernement fédéral somalien et l'AMISOM respectent leurs obligations en ce qui concerne les armes et le matériel militaire confisqués.

147. On trouvera présentée à l'annexe 7.5 une évaluation de l'application des paragraphes 10 et 15 de la résolution 2182 (2014).

148. L'annexe 7.6 donne des informations détaillées sur l'aide apportée au Gouvernement fédéral somalien par la communauté internationale afin qu'il respecte mieux ses obligations.

VI. Violations de l'interdiction visant le charbon de bois

149. Au cours de son mandat, le Groupe de contrôle a constaté que les exportations de charbon de bois en provenance du sud de la Somalie se poursuivaient, même si l'interdiction, la reprise aux Chabab des sites d'exportation situés le long de la côte sud de la Somalie, entre Barawe et Ras Kamboni à la frontière avec le Kenya et la conclusion de nouveaux arrangements politiques et commerciaux dans la région ont profondément modifié l'économie politique des échanges. Tous ces paramètres cumulés ont entraîné une réduction des exportations de charbon de bois depuis le sud de la Somalie et une baisse des revenus que les Chabab tirent de ce commerce.

A. Production et exportation de charbon de bois dans le sud de la Somalie

150. Au lendemain de la reprise de Barawe (Bas-Chébéli) aux Chabab au début du mois d'octobre 2014, les membres de l'administration provisoire, avec le soutien de l'Armée nationale somalienne et du contingent ougandais de l'AMISOM, ont autorisé les exportations du charbon de bois stocké dans la ville. Les images satellites prises durant cette période montrent une rapide réduction des stocks et la présence de nombreux boutres amarrés en attente de chargement jusqu'à l'arrêt des activités, à la fin du mois de novembre⁹⁵. Le 23 novembre, des dirigeants et responsables de la sécurité locaux ont été arrêtés et emmenés à Mogadiscio. À en croire les éléments de preuve recueillis par le Groupe, notamment des images satellites et des données régulièrement mises à jour de la surveillance aérienne du port et des stocks de la ville, le commerce de charbon de bois n'aurait toutefois plus cours à Barawe et dans les environs depuis la fin du mois de novembre.

151. La production de charbon de bois se poursuit dans les régions du Bas-Djouba, qui est largement sous l'autorité de l'administration provisoire de Djouba, et du

⁹⁵ Des images satellites de Barawe sont reproduites à l'annexe 8.1.

Moyen-Djouba, qui reste en grande partie aux mains des Chabab. Depuis le dernier rapport du Groupe (voir S/2014/726, annexe 9.1), les acteurs qui contrôlent le commerce et l'exportation à Kismaayo sont essentiellement les mêmes mais les modes d'exportation ont évolué. Le stock principal, situé sur la route allant de l'aéroport au centre-ville, à la vue de toutes les délégations qui se rendent dans la ville, n'est plus utilisé. D'après les images satellites qui ont été prises, on puise de plus en plus dans les stocks situés dans le sud de la ville, et de moins en moins dans ceux du nord⁹⁶. Désormais, les cargaisons de charbon de bois sont rarement embarquées sur des navires dans le port de Kismaayo mais plutôt chargées par des hommes sur de petits bateaux de pêche sur la plage d'Alanley puis transférées sur des boutres plus grands amarrés dans la baie⁹⁷. Ce mode de fonctionnement est considérablement moins efficace mais les activités peuvent être interrompues immédiatement et elles laissent moins de traces. Les images satellites montrent qu'au début de 2015, l'exportation de charbon de bois s'est considérablement développée au départ de Bour Gabo, à environ 125 kilomètres au sud-ouest de Kismaayo et, en septembre, on pouvait encore observer des stocks considérables et un grand nombre de boutres de chargement. Le Groupe de contrôle n'a pas encore pu confirmer qui contrôle le commerce et les exportations de charbon de bois à Bour Gabo.

152. De manière générale, le rôle que jouent les Chabab dans le commerce du charbon de bois et les revenus qu'ils en tirent ont considérablement diminué depuis qu'ils ont perdu le contrôle de la totalité des sites d'exportation⁹⁸. Des négociants déjà connus pour avoir joué un rôle majeur dans l'exportation de charbon de bois et entretenu des liens avec les Chabab, notamment Ali Naaji et Hassan Mohamed Youssef « Awlibaax » (voir S/2014/726, par. 141 à 143), auraient continué à dominer le marché pendant la période considérée. Toutefois, d'après les informations obtenues par le Groupe de contrôle, les relations entre ceux qui contrôlent le commerce à Kismaayo et les éléments du groupe des Chabab dans le Bas-Djouba et le Moyen-Djouba se sont détériorées au cours de l'année. En janvier 2015, les dirigeants des Chabab auraient demandé la fermeture des sites de production de charbon de bois dans le Bas et le Moyen-Djouba. Au cours des mois suivants, le groupe a arrêté des producteurs et nombre de ceux qui transportaient du charbon de bois sur les principaux itinéraires d'approvisionnement ont été exécutés et leurs véhicules incendiés avec tout leur chargement. Pendant cette période, les fournisseurs ont dû utiliser des véhicules plus petits, de type minibus, et emprunter des routes secondaires pour éviter d'être interceptés par les Chabab sur les principales voies d'approvisionnement. Selon des informations non confirmées, un accord concernant la répartition des taxes collectées sur le charbon de bois sur les sites d'exportation aurait échoué quand Ahmed « Madobe » a retenu la part du produit des exportations qui devait revenir aux Chabab au début de 2015, dans le cadre des préparatifs de la formation de l'Assemblée régionale de Djouba en avril et mai 2015. La saisie des fonds revenant aux Chabab a entraîné un blocus sur le

⁹⁶ Des images satellites de Kismaayo sont reproduites à l'annexe 8.1.

⁹⁷ La carte illustrant les procédures de chargement à Kismaayo figure à l'annexe 8.2.

⁹⁸ Le dernier bastion des Chabab sur la côte sud du pays, à Kouday, à environ 100 kilomètres au sud-ouest de Kismaayo, a été repris par les soldats de l'AMISOM en mars 2015, à la suite de quoi toutes les activités en rapport avec le charbon de bois devraient avoir cessé.

charbon de bois en direction de la ville, ce qui explique aussi peut-être en partie l'expansion significative des activités à Bour Gabo⁹⁹.

153. Si le Groupe de contrôle a reçu quelque soutien de la part du Gouvernement fédéral somalien dans le cadre de ses enquêtes sur le commerce du charbon de bois dans le sud de la Somalie, l'administration provisoire de Djouba et les contingents locaux de l'AMISOM n'ont en revanche apparemment fait aucun effort pour faire appliquer l'interdiction ou signaler des violations, ce qui tendrait à laisser penser que, comme le craignait le Groupe, ils continuent tous deux d'être impliqués activement dans ce commerce et d'en profiter.

B. Interception maritime et suivi des navires

154. Le 7 mai 2014, le Comité a promulgué la notice d'aide n° 1 à l'application des résolutions, qui comporte des recommandations relatives à la mise en œuvre de l'interdiction frappant le charbon de bois originaire de Somalie, en application des résolutions 2036 (2012), 2060 (2012) et 2111 (2013) du Conseil de sécurité. Au paragraphe 15 de sa résolution 2182 (2014), le Conseil a autorisé, pour une période de douze mois, les États Membres, agissant individuellement ou dans le cadre de partenariats navals plurinationaux volontaires, à faire inspecter des navires s'ils ont des motifs raisonnables de penser que ces navires transportent du charbon de bois de Somalie, en violation de l'embargo. L'adoption de mesures pour donner suite à la proposition concernant l'interception des navires suspectés de transporter du charbon de bois a pris du temps mais a eu un effet dissuasif sensible au cours de la période considérée, en l'absence de mesures efficaces pour faire appliquer sur terre l'interdiction frappant le charbon de bois. Grâce aux renseignements communiqués au Groupe de contrôle par les Forces maritimes combinées, le MSV *Raj Milan* (MMSI 419956307) a pu être intercepté avec succès à Port Rachid à Doubaï (Émirats arabes unis), avec l'aide des autorités émiriennes¹⁰⁰. Toutefois, comme la question du sort réservé au charbon de bois confisqué n'est pas réglé, qu'il n'y a pas de suites juridiques et que rares sont les États qui acceptent les navires ainsi interceptés, les efforts initiaux visant à rendre opérationnelle cette interdiction maritime n'ont pas abouti. Pour que l'interdiction visant le charbon de bois soit appliquée efficacement, il est crucial de limiter les contacts entre les forces navales et les navires transportant du charbon de bois.

155. La surveillance des navires dont on sait ou suspecte qu'ils transportent du charbon de bois est rendue plus difficile par les précautions que prennent ceux qui veulent éviter d'être repérés. Les boutres qui assurent le transport de marchandises en provenance et à destination du sud de la Somalie utilisent de moins en moins souvent les émetteurs du système d'identification automatique, ce qui empêche de

⁹⁹ Le Groupe a eu de plus en plus de mal, au fil de son mandat, à obtenir des preuves fiables de l'implication des Chabab dans le commerce du charbon de bois dans le sud de la Somalie. N'ayant qu'un accès limité à Kismaayo et pas d'accès du tout aux environs, le Groupe de contrôle a dû principalement travailler à partir de témoignages de sources locales. Il s'est avéré quasiment impossible de vérifier l'exactitude des informations obtenues, qui étaient souvent contrastées, voire contradictoires, et apparaissaient comme partiales ou motivées par des raisons politiques. Les renseignements concernant les liens fiscaux entre les Chabab et l'administration provisoire de Djouba et la poursuite des relations avec l'élite des négociants locaux reposent sur de nombreux témoignages qui ont été corroborés.

¹⁰⁰ Voir l'annexe 8.3 pour plus de précisions sur l'interception du navire MSV *Raj Milan*.

suivre les déplacements de la plupart des navires au moyen d'un logiciel de surveillance spécial¹⁰¹. Le fait que les équipes locales sur terre aussi bien que les agents du renseignement en mer s'avèrent incapables de déterminer les noms des navires est bien aussi la preuve que des précautions sont systématiquement prises pour masquer leurs marques d'identification. Sans ces informations, il est impossible d'intercepter les navires dont on sait qu'ils transportent du charbon de bois depuis la Somalie lorsqu'ils atteignent leur port de déchargement.

C. Faux documents

156. À son arrivée à Port Rachid, le MSV *Raj Milan* était en possession de documents indiquant que sa cargaison provenait des Comores. Le recours à des faux documents pour les chargements de charbon de bois a été décrit dans le précédent rapport du Groupe de contrôle (voir S/2014/726, annexe 9.4). Face à la difficulté croissante que représentent l'identification des navires aussi bien à terre qu'en mer et leur suivi grâce à la transmission d'informations au système d'identification automatique, pendant la période considérée, le Groupe de contrôle a essayé de se faire une idée de la fréquence de l'utilisation des faux documents en recoupant les données d'importation et d'exportation des États Membres¹⁰².

157. Selon les données communiquées par le Ministère des affaires étrangères des Émirats arabes unis, plus de 142 millions de kilogrammes de charbon de bois ont été importés de Somalie en 2011 (soit 96% de la totalité des importations) contre près de 122 millions de kilogrammes (79 % du total) en 2012, année de prise d'effet de l'interdiction¹⁰³. En 2013 et 2014, d'après les données disponibles, il n'y aurait eu aucune importation de charbon de bois en provenance de Somalie.

158. Selon les mêmes sources, les importations de charbon de bois en provenance du Kenya sont passées de 175 000 kilogrammes en 2012 à plus de 80 millions de kilogrammes en 2013 et 12 millions de kilogrammes en 2014.

159. Les importations en provenance des Comores sont passées de zéro en 2011, 2012 et 2013 à plus de 12 millions de kilogrammes en 2014. Le Groupe de contrôle a demandé que soit confirmé le volume des exportations en provenance des Comores vers les Émirats arabes unis sans toutefois obtenir de réponse.

160. Les importations en provenance de Djibouti sont passées de 0 en 2011 à près de 13 millions de kilogrammes en 2012, plus de 22 millions de kilogrammes en 2013 et près de 41 millions de kilogrammes en 2014. Le 21 mai 2014, le Groupe de contrôle a rencontré les autorités portuaires de Djibouti, qui lui ont affirmé de manière catégorique que Djibouti n'exportait de charbon de bois vers aucun pays.

161. Comme il est de plus en plus difficile d'identifier et de suivre les navires qui transportent le charbon de bois somalien, la coopération avec les États Membres

¹⁰¹ Le Groupe de contrôle a relevé la présence de nombreux boutres amarrés aux ports de Doubaï qui, malgré d'importantes activités commerciales, n'avaient pas émis de signaux sur le système d'identification automatique depuis 2014.

¹⁰² Depuis 2014, le Groupe de contrôle a confirmé l'existence de faux documents dans lesquels il était indiqué que le charbon de bois était importé des Comores, de Djibouti et du Kenya alors qu'il provenait de Somalie.

¹⁰³ L'interdiction est entrée en vigueur avec l'adoption, le 22 février 2012, de la résolution 2036 (2012) du Conseil de sécurité.

devient particulièrement urgente. Ce n'est qu'avec l'aide des États Membres que le Groupe de contrôle pourra régler le problème de l'utilisation apparemment généralisée de faux documents, en faisant des recoupements entre les données d'exportations et d'importations et en ouvrant des enquêtes, lorsque les écarts sont importants, sur les personnes et les entités responsables.

VII. Coopération des États et entités non étatiques avec le Groupe de contrôle

162. Pendant la durée de son mandat, le Groupe de contrôle a reçu un appui encourageant du Gouvernement fédéral somalien et des représentants de ses institutions. Il a eu des entretiens réguliers et ouverts sur plusieurs questions sensibles avec deux responsables, le Conseiller national pour les questions de sécurité du Président somalien, Abdirahman Sheik Issa, et le Ministre des finances, Mohamed Aden Ibrahim. Le Ministre de l'intérieur et des affaires fédérales, Abdirahman Mohamed Hussein « Odowaa », et le Gouverneur de la Banque centrale, Bashir Issa, ont également appuyé des enquêtes qui ont permis au Groupe d'obtenir des réponses substantielles et détaillées à ses demandes d'information.

163. Dans le cadre de son étude de la menace que représentent les Chabab, le Groupe n'a bénéficié que d'une coopération limitée du Gouvernement kenyan et de ses services de sécurité. Il espère renforcer ces relations lors de son prochain mandat.

164. Le Groupe n'a que peu d'échanges avec les autorités du Somaliland. Des contacts ont été établis avec le Directeur du Bureau du renseignement à la lumière d'enquêtes sur la menace des Chabab. Le Ministère des affaires étrangères du Somaliland a sollicité la collaboration du Groupe et a eu des échanges de courriers électroniques avec lui concernant la création d'une unité de protection du pétrole.

165. Les autorités des Émirats arabes unis ont régulièrement répondu à la correspondance officielle et ont facilité l'inspection du MSV *Raj Milan* à Port Rachid. Elles n'ont toutefois pas communiqué les documents d'importation demandés à plusieurs reprises dans le cadre de l'enquête sur la fréquence de l'utilisation de faux documents dans le commerce du charbon de bois. Elles n'ont toujours pas communiqué au Groupe les conclusions et constatations de l'enquête officielle qu'elles ont menée en ce qui concerne le MSV *Raj Milan* et ses consignataires.

166. Les autorités de l'Arabie saoudite, du Bahreïn, de l'Égypte, du Koweït, du Liban, d'Oman, du Qatar et de la République-Unie de Tanzanie n'ont pas transmis au Groupe, comme il le leur a pourtant demandé, des données sur l'importation de charbon de bois dans leurs territoires respectifs, d'où la difficulté pour le Groupe d'évaluer les volumes d'importation et d'exportation de charbon de bois en provenance de Somalie qui transitent par leur pays et d'identifier les moyens utilisés par les navires transportant illégalement du charbon de bois somalien pour éviter d'être identifiés et suivis.

167. À la suite de la visite du Groupe à Mascate, les autorités omanaises ont confirmé qu'elles maintenaient leur blocus sur les importations de charbon de bois somalien dans les ports sous leur juridiction. Toutefois, elles n'ont pas encore

répondu à sa correspondance officielle et ne lui ont pas fourni de documents douaniers, comme cela avait été convenu lors de sa visite.

168. Pendant son mandat, le Groupe de contrôle a bénéficié de la coopération des organismes humanitaires et des entités du système des Nations Unies, dans les limites de leurs obligations de confidentialité envers les victimes et dans la mesure où la sûreté et la sécurité de leurs interlocuteurs ne s'en trouvaient pas compromises.

VIII. Liste des sanctions imposées par la résolution 1844

169. Le 11 décembre 2014, le Représentant permanent de la République fédérale de Somalie auprès de l'Organisation des Nations Unies a présenté une demande de radiation concernant Mohamed Sa'id (également connu sous le nom d'Atom), qui avait été inscrit sur la liste le 12 avril 2010 au motif qu'il se livrait à des actes qui menaçaient la paix, la sécurité ou la stabilité de la Somalie. Il avait annoncé le 7 juin 2014 qu'il quittait les Chabab afin d'échapper au contrôle que Godane exerçait sur le groupe et s'était livré au Gouvernement fédéral de Mogadiscio. Le 19 décembre 2014, le Comité a accepté de radier Mohamed Sa'id, dit Atom, de la liste des sanctions imposées par la résolution 1844.

170. Conformément au paragraphe 27 de la résolution 2111 (2013) et au paragraphe 13 g) de la résolution 2060 (2012), le Groupe de contrôle continue à préciser et à actualiser l'information figurant dans le projet de liste de personnes et d'entités qui commettent des actes définis au paragraphe 1 de la résolution 2111 (2013).

IX. Recommandations

A. Menaces contre la paix et la sécurité

171. Le Groupe de contrôle recommande :

a) Au Conseil de sécurité d'envisager de prendre des mesures ciblées à l'encontre de tout individu qui tenterait d'user de moyens politiques, financiers ou militaires pour manipuler ou saper le processus de fédéralisation et/ou le processus électoral de 2016 afin d'en tirer un profit personnel ainsi qu'à l'encontre de ceux qui leur auront fourni une aide ou les auront soutenu activement;

b) Au Conseil de prier instamment le Gouvernement fédéral somalien, pour ce qui est des ressources publiques :

i) D'enquêter et de poursuivre, s'il y a lieu, tout individu ou organisme qui se serait rendu coupable de détournement de ressources financières en violation du régime des sanctions, lorsque le comportement en cause constitue également une violation de la législation nationale applicable;

ii) De communiquer les renseignements recueillis auprès des services d'enquêtes d'autres États membres, lorsqu'il existe des motifs suffisants de croire que des ressortissants de ces États (ou des personnes ou entités qui entretiennent suffisamment de liens avec ces juridictions) ont été impliqués dans des détournements de ressources financières en Somalie;

c) Au Conseil de reconnaître, dans sa prochaine résolution sur l'imposition du régime des sanctions contre la Somalie, que la pêche illicite, non déclarée et non réglementée par des navires étrangers dans la zone économique exclusive du pays, constitue une menace pour la paix et la sécurité en Somalie, et d'inscrire cette activité au nombre de celles exposant leurs auteurs à des sanctions;

d) Au Conseil d'encourager le Gouvernement fédéral somalien à renforcer ses institutions financières en :

i) Renforçant le rôle de réglementation de la Banque centrale de Somalie;

ii) Priant le Parlement fédéral d'accélérer le processus législatif pour ce qui du projet de loi sur les marchés publics et la liquidation des biens;

e) Au Conseil, dans sa prochaine résolution sur la Somalie, d'imposer un moratoire sur les accords pétroliers et gaziers en Somalie tant que le Gouvernement fédéral somalien n'aura pas créé un organisme indépendant et viable d'octroi de licences, comme prévu par la loi de 2008 sur le pétrole et qu'un cadre constitutionnel de partage des ressources entre les autorités fédérales et régionales n'aura pas été mis en place;

f) Au Conseil de demander aux États Membres de soutenir le programme global de réforme du secteur de la sécurité annoncé par le Cabinet du Président du Gouvernement fédéral somalien, le 9 septembre 2015, en faisant en sorte de fournir sans délai une aide financière et technique au secteur de la sécurité sur la base du strict respect des engagements pris à cette occasion.

B. Piraterie

172. Le Groupe de contrôle recommande au Conseil de sécurité de continuer d'encourager le Gouvernement fédéral somalien à identifier, arrêter et traduire en justice toutes les personnes qui, au cours des 10 dernières années, ont contribué à organiser et à faciliter la commission d'actes de piraterie.

C. Violations de l'embargo sur les armes

173. Le Groupe de contrôle recommande :

a) Au Conseil de sécurité, dans le cadre de son évaluation du respect par le Gouvernement fédéral somalien des dispositions de la levée partielle de l'embargo sur les armes :

i) D'engager vivement le Gouvernement fédéral somalien à mieux respecter ses obligations de faire rapport au Conseil, notamment en ce qui concerne la communication de renseignements complets et précis sur la structure, la composition, les effectifs et le déploiement de ses forces de sécurité, y compris le statut des forces régionales et des milices;

ii) De demander au Gouvernement fédéral somalien, dans le cadre du respect de ses obligations de notification au Comité pour ce qui est de l'importation d'armes et de munitions, d'améliorer la ponctualité et le contenu des confirmations de livraison et de distribution adressées au Comité,

rappelant que celles-ci peuvent être transmises conjointement si elles contiennent toutes les informations voulues;

iii) De prier le Gouvernement fédéral somalien, avec le soutien de partenaires internationaux et selon un calendrier précis, de procéder à un inventaire de référence de l'équipement militaire, des armes et des munitions en possession des forces de sécurité du Gouvernement fédéral somalien, en fonction de leurs effectifs, besoins et mandats respectifs afin d'aider les États membres à fournir une assistance plus ciblée dans le cadre de la levée partielle de l'embargo, en se fondant sur le plan Guulwade et le projet de plan Heegan, que le Conseil a accueillis avec satisfaction dans sa résolution 2232 (2015);

iv) De prier les États Membres de soutenir sans plus tarder les efforts faits par le Gouvernement fédéral somalien pour mettre en place une équipe de vérification conjointe, comme demandé précédemment par le Conseil de sécurité;

b) Au Conseil de demander aux États Membres d'aider le Gouvernement fédéral somalien à améliorer la gestion et le suivi des flux d'armes et de munitions pour le personnel autorisé, y compris en soutenant d'urgence l'élaboration d'une stratégie globale de gestion des armes et des munitions s'inspirant des pratiques et initiatives déjà en cours et définissant des priorités à court terme réalistes, y compris en s'appuyant sur l'enregistrement biométrique des forces auquel procède actuellement l'Organisation des Nations Unies et sur le système de cartes déjà en place;

c) Au Conseil, dans sa prochaine résolution sur le régime des sanctions contre la Somalie, de prier instamment les États Membres et les organisations internationales, régionales et sous-régionales de s'assurer qu'ils respectent pleinement les dispositions de l'alinéa a) du paragraphe 11 de la résolution 2111 (2013) lorsqu'ils envisagent de fournir des armes, du matériel militaire, une assistance ou une formation techniques dans le seul but de renforcer les institutions du secteur de la sécurité dans ce pays autres que les forces de sécurité du Gouvernement fédéral;

d) Au Conseil, dans sa prochaine résolution sur le régime des sanctions contre la Somalie, d'insister sur la nécessité pour l'AMISOM et l'armée afghane de s'acquitter pleinement de leurs obligations découlant du paragraphe 6 de la résolution 2182 (2014) et d'envisager d'étendre ces obligations à toutes les autorités en Somalie, afin de garantir la destruction et la gestion transparentes et globales de ce matériel et de faciliter le traçage et l'analyse, ce qui permet de mettre à jour les opérations des Chebab et les voies d'approvisionnement;

e) Au Conseil de renouveler l'autorisation visée au paragraphe 15 de la résolution 2182 (2014) et de prier le Comité d'établir une notice d'aide à l'application de la résolution fournissant des directives aux États Membres pour procéder aux interceptions maritimes d'armes et autre matériel interdits par l'embargo;

f) Au Conseil, dans le cadre du suivi effectif de l'application de l'alinéa c) du paragraphe 10 de la résolution 2111 (2013) par le Groupe de contrôle, de demander à l'AMISOM et à ses partenaires stratégiques de préciser les rôles, responsabilités et lignes hiérarchiques s'agissant des opérations menées dans le

cadre du concept stratégique de l'Union africaine en coopération et en coordination avec l'AMISOM.

D. Obstruction de l'aide humanitaire

174. Le Groupe de contrôle recommande :

a) Au Conseil de sécurité de demander à l'AMISOM et aux organisations humanitaires de continuer d'accorder la priorité à la mise en œuvre intégrale des directives pour la coordination civilo-militaire de l'action humanitaire, et notamment d'en diffuser les principes à d'autres groupes armés opérant en Somalie;

b) Au conseil de prier instamment le Gouvernement fédéral somalien, l'AMISOM et ses partenaires stratégiques, ainsi que tous les autres groupes armés opérant en Somalie, de prendre des mesures pour limiter les répercussions des opérations militaires sur les civils, en particulier en créant un environnement favorable pour que les agents humanitaires puissent agir et circuler librement le long des routes d'approvisionnement;

c) Au Conseil, dans sa prochaine résolution sur la Somalie, de rappeler aux parties aux conflits et à toutes les autorités gouvernementales en Somalie que la neutralité, l'impartialité et l'indépendance de l'action humanitaire doivent être respectées et garanties, y compris comme éléments essentiels pour préserver la sûreté et la sécurité du personnel et des opérations humanitaires et, à cet égard, que les donateurs doivent être encouragés à augmenter leurs contributions financières à l'assistance humanitaire dans le respect de ses principes, en la dissociant des programmes de stabilisation ou d'édification de l'État;

E. Violation du droit international humanitaire

175. Le Groupe de contrôle recommande :

a) Au Conseil de sécurité de demander au Gouvernement fédéral somalien de renforcer, tout en sollicitant un appui à cet égard, les capacités nécessaires à la mise en place d'une surveillance civile de ses forces de sécurité, outre accorder la priorité aux enquêtes et poursuites menées à l'encontre de hauts dirigeants politiques et militaires responsables de violations du droit international humanitaire;

b) Au Conseil de prier les États membres de contribuer à accroître les capacités de la section des droits de l'homme de la MANUSOM, notamment en renforçant sa présence régionale et sa capacité à s'acquitter de ses responsabilités découlant de la politique de diligence voulue en matière de droits de l'homme dans le contexte d'un appui de l'ONU à des forces de sécurité non onusiennes pour ce qui est, entre autre, des évaluations des risques et du respect du suivi, étant donné que le nombre de forces recevant un appui et une assistance des organismes des Nations Unies augmente;

c) Au Conseil de prier le Haut-Commissariat des Nations Unies aux droits de l'homme de coopérer avec le Gouvernement fédéral somalien et les organismes compétents des Nations Unies pour recenser les violations les plus graves du droit international applicable commises par toutes les parties aux conflits en Somalie,

étape préalable indispensable pour définir des options en vue de l'élaboration d'une stratégie globale de justice transitionnelle;

d) Au Conseil, dans sa prochaine résolution sur la Somalie, d'insister sur l'obligation incombant à tous les États Membres de garantir que leurs forces respectent rigoureusement le droit international dans toutes les opérations menées en Somalie, dans ou en dehors du cadre du concept d'opérations de l'AMISOM, y compris en enquêtant sur les membres du personnel coupables de violations graves du droit international humanitaire et en engageant des poursuites à leur encontre;

e) Au Conseil de prier instamment le Gouvernement fédéral somalien d'appliquer les lois et politiques nationales relatives aux expulsions, notamment en menant des enquêtes et en poursuivant ceux qui violent la loi dans le cadre de telles opérations;

f) Au Conseil de prier l'Union africaine, l'AMISOM et les pays qui fournissent des contingents à l'AMISOM :

i) D'encourager la coopération de toutes les parties, en particulier des membres des contingents et leur contribution à la cellule de suivi, d'analyse et d'intervention concernant les victimes civiles de l'AMISOM, afin de s'assurer que les données et les analyses générées sont rapidement intégrées dans les opérations et permettent de réduire le nombre de victimes et de blessés parmi les civils; il conviendrait également d'envisager la mise en place d'un fonds commun d'indemnisation pour les victimes civiles de l'AMISOM par le biais de la cellule;

ii) De veiller à assurer la communication régulière et transparente d'informations détaillées par les pays qui fournissent des contingents sur les mesures prises au niveau national pour enquêter sur les membres du personnel militaire et civil coupables de violations à l'encontre de civils au cours de leur déploiement, les poursuivre et les sanctionner;

iii) D'appliquer immédiatement les recommandations de l'équipe d'enquête indépendante de l'Union africaine mise en place pour enquêter sur les allégations d'exploitation et d'abus sexuels commis par des membres de l'AMISOM.

F. Violations de l'interdiction des exportations de charbon de bois

176. Le Groupe de contrôle recommande :

a) Au Conseil de sécurité de prier les États Membres d'agir, dans le respect de leurs lois nationales, contre les compagnies maritimes qu'il a identifiées comme utilisant de faux documents et de lui transmettre, tous les trimestres, la documentation relative aux importations et aux exportations de charbon;

b) Au Conseil, dans sa prochaine résolution sur la Somalie, et en application des paragraphes 18 et 20 de la résolution 2111 (2013), de demander à l'AMISOM et aux pays qui fournissent des contingents à cette dernière, de prendre des mesures pour soutenir les autorités somaliennes et les aider à empêcher les exportations de charbon de bois et à cet égard, de lui faire rapport sur ces mesures dans les six mois suivant l'adoption de la nouvelle résolution;

c) Au Conseil d'envisager d'encourager et d'autoriser explicitement les États-Membres à faire retourner au port de Mogadiscio les navires transportant du charbon de bois somalien.

G. Sanctions

177. Le Groupe de contrôle recommande au Comité de désigner sans délai pour des mesures ciblées :

- a) Les pirates connus et leurs associés identifiés par le Groupe de contrôle ou les États Membres entre 2009 et 2015;
- b) Les personnes et entités coupables de détournement de ressources publiques, y compris celles du secteur privé;
- c) Les personnes impliquées dans le détournement d'armes provenant des stocks gouvernementaux;
- d) Les personnes et entités, notamment les importateurs, les exportateurs et les transporteurs, impliquées dans le commerce de charbon de bois somalien.

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 Galgadud 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 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 Galgadud 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),

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.

and the African Union served as witnesses. Abdullahi 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 Abdirisaq 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,

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.

Ethiopian National Defence Force (ENDF) AMISOM troops arrived in the town to prop up the SNA and enforce a ceasefire.

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

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.

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.

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

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

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 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

rounds, as candidates dropped out and alliances shifted, promises of political appointees – within both the IGA and the FGS – were used to secure support.

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

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 Galgaduud 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 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 Galguduud 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

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.

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/>

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.

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.

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 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*.

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.

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 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

⁸ Email on file with the Monitoring Group.

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.

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.

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

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

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.

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

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

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
BANK 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) 2015.3.27 幣別(Currency): USD 匯款金額(Amount Remitted): 40,100.-

匯款方式(Remittance Method)
☒ 電匯(T/T) ☐ 票匯(D/D)
☐ 匯往陽信 OBU(D轉O) ☐ 匯往陽信 DBU(O轉D)
 申請人資料(Applicant's Information)50:
 1. 中文全名: Y. S. TIT PTI LTD
 2. 英文全名(English Name):
 3. 登記證號(Applicant's Registration No.):
☒ 1 公司行號 (Company or firm: Uniform No.): DBUC10037
☐ 2 團體(Association: Uniform No.):
☐ 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)
☐ 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)
☐ 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)
☐ 700 已進口 ☐ 701 未進口 ☐ 197 三角貿易匯出款
☐ 410 非居民薪資匯款 ☐ 510 贈款匯款 ☐ 511 工作者匯款
☐ 131 商務支出 ☐ 132 觀光支出 ☐ 134 留學支出
☐ 262 投資國外股權證券 ☐ 210 對外股本投資
☐ 693 由本行轉往國內他行之外匯(請詳述性質):
☒ 其他(請註明): FISHING LICENSE FEE
 受款地區國別(Remittance to (country)):
 繳款方式(Payment Method)
☐ 台幣結購(In NTD):
☐ 外幣現鈔/外幣貸款/出口押匯:
☒ 外幣存款扣款帳號(Debit FX A/C No.): 07005700005897
 扣款幣別及金額(Curr & Amt): USD 40100 (小寫金額)
☐ 其他(Others)請註明:

◎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 本行已依個人資料保護法第8條第1項規定履行告知義務,特此勾選。
☐ 告知事項已悉,貴行交付申請手續後,貴申請人已了解其內容。
☒ 告知事項已悉,貴行向申請人說明,申請人已了解。

◎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)	USD 40100	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	USD 10
存同代號		郵電費	USD 15
Value Date		應收新台幣金額	USD 40115
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

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

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

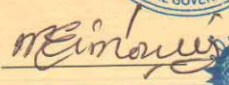
Species to be taken: TUNA- LIKE SPECIES


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.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 RESOURCES

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

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.

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

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

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.

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/>.

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 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.

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

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

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://somalagenda.com/auditor-general-breaks-silence-illegal-fishing/>.

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

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.

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 Mogadishu 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																																																																																																								
<table border="1"> <thead> <tr> <th colspan="2">VESSEL COMMUNICATION AND ELECTRONICS</th> <th colspan="2">SCHEDULE OF VESSEL DETAILS</th> </tr> </thead> <tbody> <tr> <td colspan="2">RADIO COMMUNICATION</td> <td>Vessel Name</td> <td>M.V. AL AMAL</td> </tr> <tr> <td>International Call sign</td> <td>6111</td> <td>Official No.</td> <td>2005</td> </tr> <tr> <td>Normal transmitting frequencies</td> <td></td> <td>Nationality</td> <td>Koveg</td> </tr> <tr> <td>SATELLITE COMMUNICATION</td> <td></td> <td>Port of origin</td> <td>ROSAH/1978</td> </tr> <tr> <td>Type of equipment</td> <td></td> <td>Maximum Depth</td> <td>49.00/8.60/4.0M</td> </tr> <tr> <td>Access code/led No.</td> <td></td> <td>Engine GRT/HP</td> <td>486/253.18 TONS</td> </tr> <tr> <td>TRANSPONDER</td> <td></td> <td>Cold Storage Capacity</td> <td>One Hundred TONS</td> </tr> <tr> <td>Type</td> <td></td> <td>Engine Type & Power</td> <td>AKASAKA/1350HP</td> </tr> <tr> <td>Identifying code</td> <td></td> <td>Other details/brand</td> <td></td> </tr> <tr> <td colspan="2">POSITION OF DETERMINING EQUIPMENT</td> <td colspan="2">FISHING DETAILS</td> </tr> <tr> <td>LORAN</td> <td>YES</td> <td>Species to be Fished</td> <td>All</td> </tr> <tr> <td>OMEGA</td> <td>YES</td> <td>Quota/limit permitted</td> <td>one Hundred Tons</td> </tr> <tr> <td></td> <td></td> <td>Reporting details</td> <td>Daily</td> </tr> <tr> <td colspan="2">OTHER EQUIPMENT</td> <td colspan="2">LEGAL PERSONALITIES</td> </tr> <tr> <td>DECCA</td> <td>YES</td> <td>Owner</td> <td>Buufarm SeaFood Co</td> </tr> <tr> <td>GPS</td> <td>YES</td> <td>Address</td> <td>Hadiwamout/Yemen</td> </tr> <tr> <td colspan="2">ADIO BUOYS</td> <td>Tel</td> <td>+9675332821</td> </tr> <tr> <td colspan="2">EPIRB'S</td> <td>Fax</td> <td></td> </tr> <tr> <td colspan="2">SIGNED: The Minister of Fisheries & Marine Resource</td> <td>Email</td> <td></td> </tr> <tr> <td colspan="2">Abdinur Elmi Mohamed</td> <td>AGENT</td> <td>Cabdi Nuur</td> </tr> <tr> <td colspan="2"></td> <td>Address</td> <td>BOSASO-SOMALI</td> </tr> <tr> <td colspan="2"></td> <td>Tel</td> <td>0907794332</td> </tr> <tr> <td colspan="2"></td> <td>Fax</td> <td></td> </tr> <tr> <td colspan="2"></td> <td>Email</td> <td></td> </tr> <tr> <td colspan="2">Serial No. ABC 260</td> <td>Receipt Voucher No</td> <td>425665</td> </tr> </tbody> </table>				VESSEL COMMUNICATION AND ELECTRONICS		SCHEDULE OF VESSEL DETAILS		RADIO COMMUNICATION		Vessel Name	M.V. AL AMAL	International Call sign	6111	Official No.	2005	Normal transmitting frequencies		Nationality	Koveg	SATELLITE COMMUNICATION		Port of origin	ROSAH/1978	Type of equipment		Maximum Depth	49.00/8.60/4.0M	Access code/led No.		Engine GRT/HP	486/253.18 TONS	TRANSPONDER		Cold Storage Capacity	One Hundred TONS	Type		Engine Type & Power	AKASAKA/1350HP	Identifying code		Other details/brand		POSITION OF DETERMINING EQUIPMENT		FISHING DETAILS		LORAN	YES	Species to be Fished	All	OMEGA	YES	Quota/limit permitted	one Hundred Tons			Reporting details	Daily	OTHER EQUIPMENT		LEGAL PERSONALITIES		DECCA	YES	Owner	Buufarm SeaFood Co	GPS	YES	Address	Hadiwamout/Yemen	ADIO BUOYS		Tel	+9675332821	EPIRB'S		Fax		SIGNED: The Minister of Fisheries & Marine Resource		Email		Abdinur Elmi Mohamed		AGENT	Cabdi Nuur			Address	BOSASO-SOMALI			Tel	0907794332			Fax				Email		Serial No. ABC 260		Receipt Voucher No	425665
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Annex 2.2.b: Letter from Puntland Government dated 15 January 2015, declaring the *Al Amal's* license to be forged

DOWLADDA PUNTLAND EE SOOMAALIYA		PUNTLAND STATE OF SOMALIA
WASAARADDA KALLUUMAYSIGA IYO KHEYRAADKA BADDA Ministry of Fisheries and Marine Resources		
Xafiiska Wasiirka		Office of the Minister
Ref: WK&KHB/XW/05/2014		Taariikh: 15 Janaayo, 2015

Ku: Wasaaradda Kalluumaysiga & Kheyraadka Badda DF Soomaaliya Muqdishu

Mudanayaal,

UJEEDDO: SHATI LA BEEN ABUURAY

Tixraac warqadda summaddeedu tahay WK&KHB/GB/014/15, kuna taariikhaysan 14/01/2015 taas oo ka soo baxday xafiiska Agaasimaha Guud ee Wasaaradda Kalluumaysiga iyo Kheyraadka Badda ee Dawladda Federaalka Soomaaliya.

Sida aad naga soo codsateen, waxaanu baaritaan ku samaynay lambarada shatiga kalluumaysi iyo xaashida lacag qabshada ee aad noo gudbiseen, si aan u hubino sharcinnimadooda iyo in ay ka baxeen xafiiska Wasaaradda Kalluumaysiga iyo Kheyraadka Badda ee Dowladda Puntland.

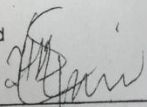
Markaan dib u eegnay, diiwaanka shatiyada kalluumaysiga iyo buugaagta lacag qabshada ee Wasaaraddeena, waxaan idin caddeynaynaa in shatiga lambarkiisu yahay ABC 260 iyo xaashida lacag qabshada (Receipt voucher) lambarkiisu yahay 425665 aan laga bixin xafiisyada Wasaaraddeena; sidaas dareteedna ay yihiin BEEN ABUUR, markabka magaciisa lagu sheegay M/V Al-Amal uusan naga haysan shati sharci ah oo uu uga kalluumaysan karo badda Puntland iyo guud ahaan tan Soomaaliya toona.


Waxaa kaloo xusid mudan in shatiyada aan bixinno muddadoodu tahay 45 cisho oo kaliya, mana jiro shati muddadiisu tahay hal sano oo xafiiskeenna ka baxa; sida ku cad shatiga la been abuuray.

Mar haddii uu ku andacoonayo inuu dokumentigaas been abuurka ah uu ka qaatay Wasaaradda Kalluumaysiga iyo Kheyraadka Badda ee Puntland, waxaan idin ka codsanaynaa inaad noo soo gacan gelisaan si aan uga qaadno tallaabo sharciga waafaqsan oo tusaale fiican u noqota maraakiibta kaloo shisheeye ee sida sharci darrada ah uga kalluumaysta baddeena.

Wada Shaqayn;


Md. Cabdinuur Cilmi Maxamuud
Wasiirka Wasaaradda





Xarunta Dhexe: Dekedda Bosaso, Tel: +252 90 1 11 11

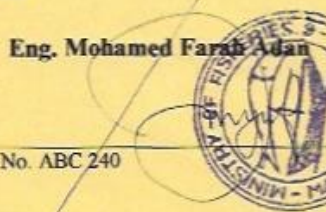
Annex 2.2.c: Forged Puntland fishing license for *Al Amal* produced after the vessel ran aground near Eyl, Puntland on 5 August 2015


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 OF 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 <div style="text-align: center;">  Eng. Mohamed Farah Adan </div>	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
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Serial No. ABC 240

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 الإبحار 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-الشحر 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
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Owner's Representative ممثل المالك Date Issue تاريخ إصدار الشهادة 12.11.2014	Issue At مكان الإصدار MAA MUKALLA	Port of Registry ميناء التسجيل MUKALLA PORT	Expiry Date تاريخ الانتهاء 11.11.2019
Signature of Registry Officer : F.R. MAEEM ALAMOUDI : توقيع ضابط التسجيل			

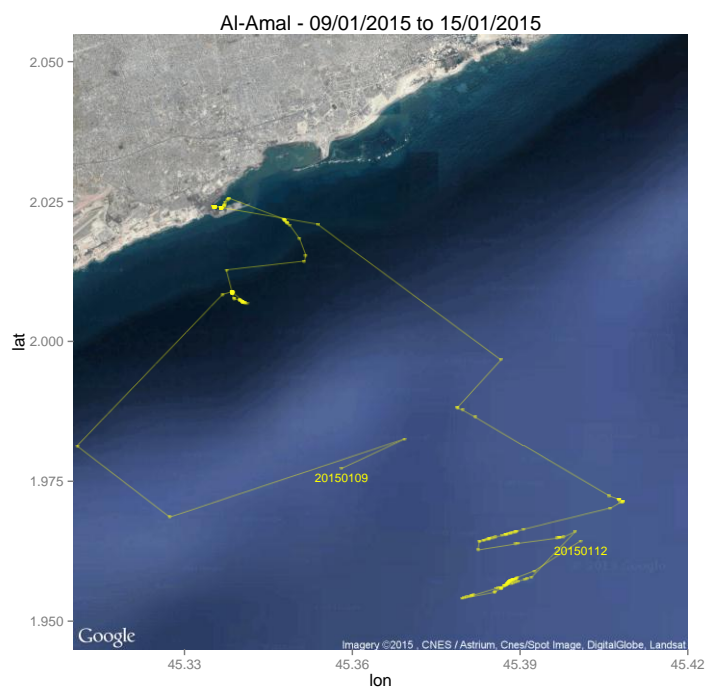
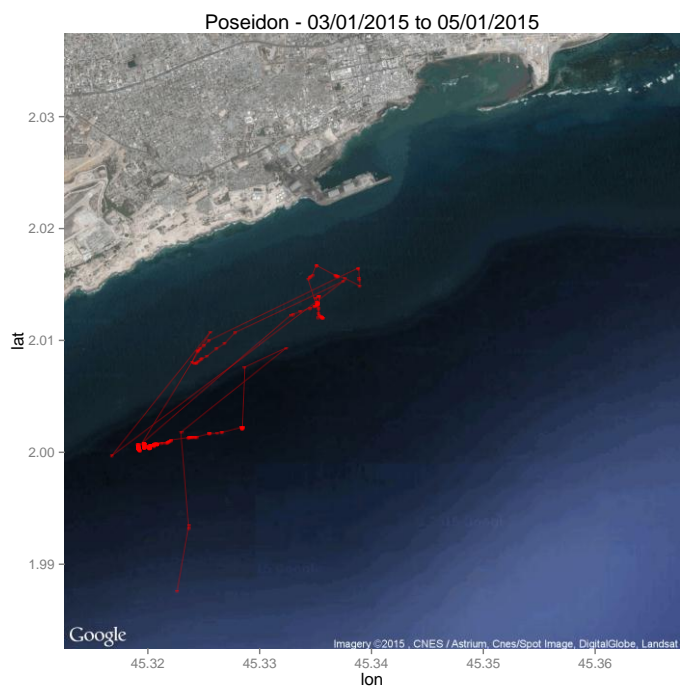
Notice :

A certificate of Yemen registry used only for lawful navigation of the ship and ship 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 المشروعة 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
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<p>VESSEL COMMUNICATION AND ELECTRONICS</p> <p style="text-align: center;">RADIO COMMUNICATION</p> <p>International Call sign</p> <p>Normal transmitting frequencies</p> <p>SATELITE COMMUNICATION</p> <p>Type of Equipment J.R.C</p> <p>Access code and No.</p> <p>TRANSPONDERS</p> <p>Type TRAWLER</p> <p>Identifying code</p> <p>POSITION OF DETERMINING EQUIPMENT</p> <p>LORAN Yes</p> <p>OMEGA Yes</p> <p>DECCA Yes</p> <p>GPS Yes</p> <p style="text-align: center;">OTHER EQUIPMENT</p> <p>ADIO BUOYS</p> <p>EPIRB'S</p> <p>SIGNED: The Minister of Fisheries & Marine Resource</p> <p style="text-align: center;">Abdinur Elmi Mohamud</p> <p>Serial No. ABC 244</p>	<p style="text-align: center;">SCHEDULE OF VESSEL DETAILS</p> <p>Vessel Name POSEIDON</p> <p>Official No. 0201010/6260006</p> <p>Nationality Korea</p> <p>Port of registry /Year Busan/1982</p> <p>Length/Breadth& Depth 32.67/7.40/4.50</p> <p>Tonnage GRT/NRT 258/77 Tons</p> <p>Cold Storage Capacity Seventy seven tons</p> <p>Engine Type & Power 245 x 900</p> <p>Other craft on board</p> <p style="text-align: center;">FISHING DETAILS</p> <p>Species to be Fished All</p> <p>Quantities permitted Seventy seven tons</p> <p>Reporting details Daily</p> <p style="text-align: center;">LEGAL PERSONALITIES</p> <p>Owner Puntfishseafood</p> <p>Address</p> <p>Tel</p> <p>Fax</p> <p>Email</p> <p>AGENT Kadir A.Mohamud</p> <p>Address</p> <p>Tel</p> <p>Fax</p> <p>Email</p> <p>Receipt Voucher No 423659</p>
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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>SLK</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 Kilograms</u>
Date of Registry	<u>08/11/2008</u>	Reporting	<u>Daily</u>
Port of Registry & State Flag	<u>Chirba Harir</u>	Legal Personalities	
Nationality	<u>Iranian</u>	Owner's Name	<u>Abdul R. H. H. Delvash Doran</u>
Place of Construction	<u>Kalbar</u>	Address	<u>Iran</u>
Length over all (LOA)	<u>28/00</u>	Tell	
Weight/Breadth	<u>7/00</u>	Phone	<u>General Police</u>
Engine Type & Power	<u>29/770w</u>	Agent Name	
Gross Tonnage	<u>29/770w</u>	Address	<u>Bu-so-Sanka</u>
Net Tonnage	<u>29/770w</u>	E-Mail	
Depth		Tell	<u>0907448484</u>
Handling & Process Facilities	<u>Ice room</u>	Communication Facilities	
Ministry Of Fisheries & Marine Resource		Inter Radio Call Sign	<u>W</u>
Director General. C/Wahid Moh'ed Hirsi		GPS	
Serial No: 343		Others	
		General Receipt A No.	



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



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

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.

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.

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

³⁸ Ibid.

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

management” in Somaliland.⁴⁰ Baldry further told the Group that he was the “only person persevering in trying to help [the Somali people]”.⁴¹

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 Hargiesa (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.

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

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

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.

Handwritten signature

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

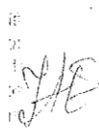
- Payments received from the licenses issued or fines imposed will be made to Puntland State Bank. Through the Ministry treasury office once the Service Provider share equivalent to 30% be immediately transferred to the Service Provider's account at Dahabshiil Bank.
- All fishing license fees earned 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.



 Service Provider

AE

 Ministry

- 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

**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.O | 186 | 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.

Company Registration No: 09461235
Registered Address: 39 Muster Green, Haywards Heath, West Sussex, RH16 4AL

Tel: 0044 203 763 4430
Email: admin@anglosomaliland.com

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;

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).

- 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;
- 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

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>.

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, 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

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.),

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 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

“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.

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

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

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.

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 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
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

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.

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 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

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.

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

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).

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.

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

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* 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

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.

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>.

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 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*

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

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

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 '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

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.

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.

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.

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.

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

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

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 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

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.

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.

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

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.

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 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

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

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

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

(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.

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

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.

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

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, 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.

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.

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>.

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 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

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

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

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 of March 2015. As there are no names corresponding to the

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.

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.

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

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

⁹⁵ Quoted from Allied Petroleum’s company profile.

138. Although Director General Hassan and CEO Justin Dobb 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 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, 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

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/>.

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.

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 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.

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>.

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.

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".

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".

¹⁰⁹ See S/2014/726, annex 5.1.

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 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

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

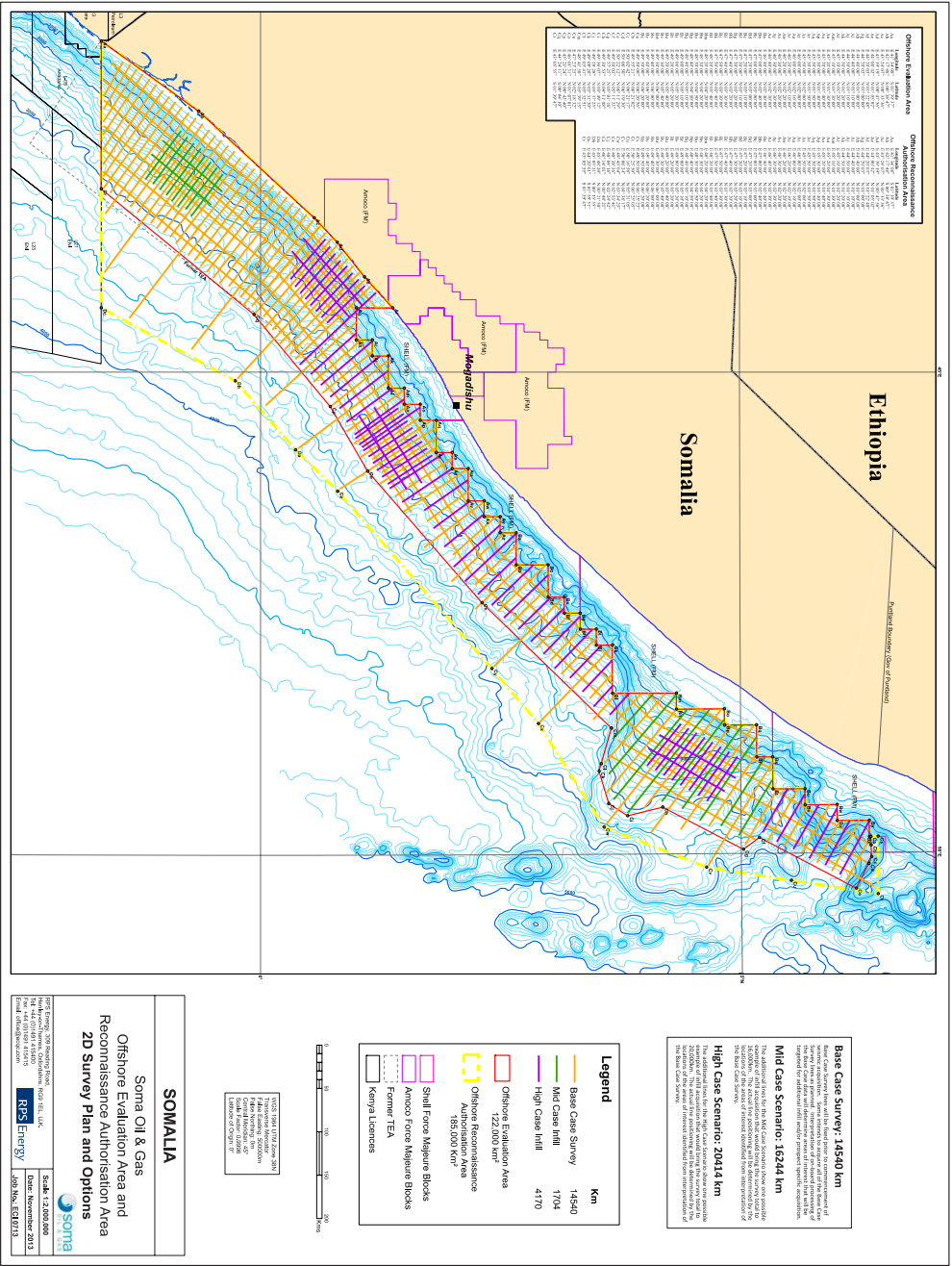
¹¹¹ “FGC Reviews of Public Sector Contracts and Concessions”, 8 January 2015.

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.

comprehensible manner”.¹¹³ To date, the details of payments made by Soma to the FGS have not been made public.

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.a: Soma Oil & Gas Offshore Evaluation Area



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 Wasiirka


 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: mhoward@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: daudbisile@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

Soma Oil & Gas Holdings Limited, 2nd Floor, 6 Duke Street St James's London SW1Y 6BR. Registered in England No. 08666666

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@somaoilandgas.com

Hassan Khairc
hkhairc@somaoilandgas.com

Invoice No: 002
Date: 08 July 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 sisli-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@moptmr.gov.so

Ministry of Petroleum & Mineral Resources,
faurweyne@moptmr.gov.so, www.moptmr.gov.so

Annex 2.5.g: Salary Chart

Contract/Name	Mar/14	Apr/14	May/14	Jun/14	Jul/14	Aug/14	Sep/14	Oct/14	Nov/14	Dec/14	Jan/15	Feb/15	Mar/15	Apr/15	May/15	Jun/15	Jul/15	Grand Total
Received Amount	(\$50,000)	(\$50,000)	(\$50,000)	(\$50,000)	(\$50,000)	(\$50,000)	(\$50,000)	(\$50,000)	(\$50,000)	(\$50,000)	(\$50,000)	(\$50,000)	\$ -	\$ -	\$ -	\$ -	\$ -	(\$500,000)
Mr. Jaber Mohammad Ghadli	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 36,000.00
Dr. Farah Abdel Hameed	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 36,000.00
Dr. Mohamed Al-nur Haggi	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 30,000.00
Dr. Abdulhadiy Ahiwar Hussein		\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 36,000.00
Mr. Hussein Ali Ahmed			\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 24,000.00
Mr. Husein Hassan Isack					\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 3,000.00	\$ 36,000.00
Mr. Asafawr Mohamed ahmed					\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 24,000.00
Mr. Abdulhadi Mohamed warfua					\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 2,000.00	\$ 24,000.00
Mr. Mohamed youssef Ali					\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 32,000.00
Dr. Anis Mohamed Said					\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 4,000.00	\$ 32,000.00
Mr. Lotfi Ali Ahmed							\$ 700.00	\$ 700.00	\$ 700.00	\$ 700.00	\$ 700.00	\$ 700.00	\$ 700.00	\$ 700.00	\$ 700.00	\$ 700.00	\$ 700.00	\$ 7,000.00
Dr. abdullahi Haidar Mohamed																		\$ 15,000.00
Mr. Asfawr Hassan Awad																		\$ 4,000.00
Farah Ahmed Fawzi																		\$ 1,600.00
Totals	\$6,000	\$9,000	\$12,000	\$12,000	\$29,000	\$29,000	\$29,700	\$32,700	\$34,100	\$34,100	\$34,100	\$34,100	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 296,800.00

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]

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.

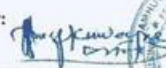
EMPLOYEE ACKNOWLEDGES BY EXECUTING THIS AGREEMENT THAT HE/SHE HAS READ AND UNDERSTANDS THIS AGREEMENT AND ALL OF ITS PROVISIONS. EMPLOYEE HAS HAD AN OPPORTUNITY TO ASK QUESTIONS ABOUT THIS AGREEMENT AND TO CONSULT WITH AN ATTORNEY OF EMPLOYEE'S CHOICE. EMPLOYEE FULLY UNDERSTANDS THE TERMS OF THIS AGREEMENT 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.

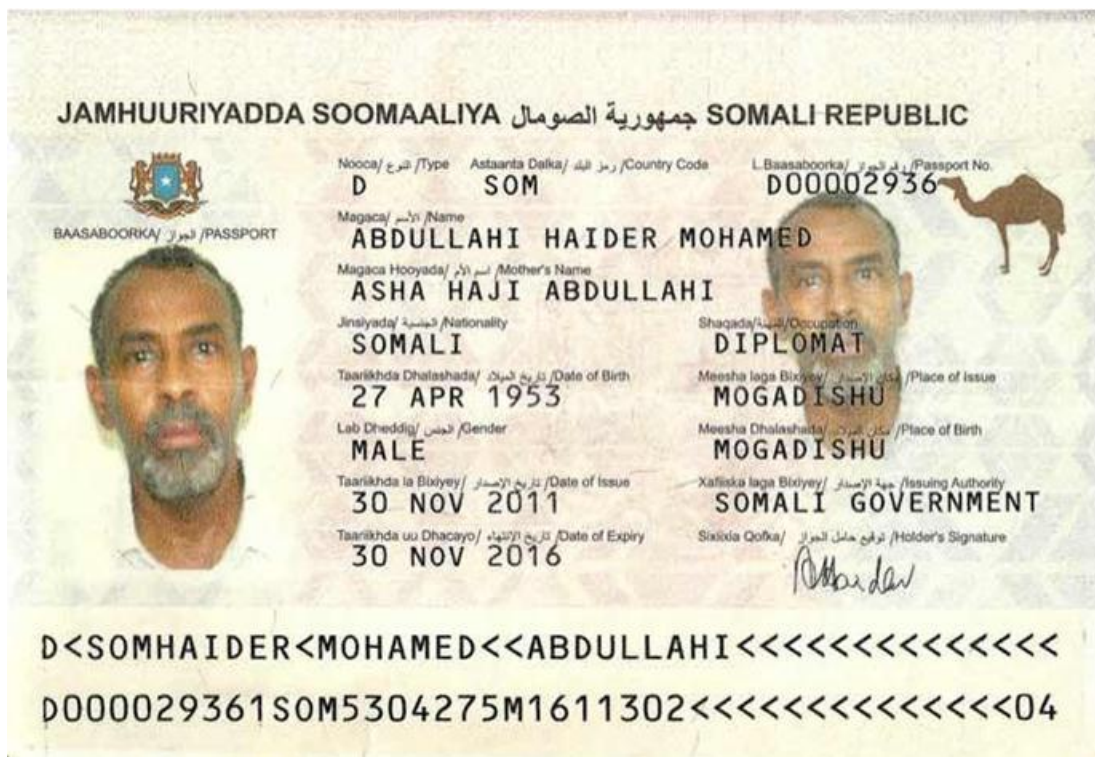
As we discussed, as an existing right holder of offshore blocks M-3, M-4, M-5, M-6 and M-7 in accordance with the Concession Agreement for the Exploration and Mining of Hydrocarbons dated 1 November 1988, we are pleased to have the opportunity to work with the Federal Republic in assisting to build the 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

15-16012



Annex 2.5.k: Central Bank Withdrawal Slips

BANKIGA DHEXE EE SOOMAALIYA
CENTRAL BANK OF SOMALIA

LAANTA Muqdisho BRANCH 18/08/2014

X/S No 1009 C/A So. Shs. \$ 3,000/-

Aragti ku bixiya jeeggan At sight pay against this cheque

So. Shs. \$ SADDEX KUN DOLLAR KELIYA

Amarka MOHAMED ALI-NUR HAGI To the order of

No 094609 *[Signature]*

BANKIGA DHEXE EE SOOMAALIYA
CENTRAL BANK OF SOMALIA

LAANTA Muqdisho BRANCH 18/08/2014

X/S No 1009 C/A So. Shs. \$ 3,000/-

Aragti ku bixiya jeeggan At sight pay against this cheque

So. Shs. \$ SADDEX KUN DOLLAR KELIYA

Amarka JABRI L MAHAMUD GEDDI To the order of

No 094613 *[Signature]*

BANKIGA DHEXE EE SOOMAALIYA
CENTRAL BANK OF SOMALIA

LAANTA Muqdisho BRANCH 18/08/2014

X/S No 1009 C/A So. Shs. \$ 3,000/-

Aragti ku bixiya jeeggan At sight pay against this cheque

So. Shs. \$ SADDEX KUN DOLLAR KELIYA

Amarka ABDULKADIR ABUKAR HUSSEIN To the order of

No 094612 *[Signature]*

BANKIGA DHEXE EE SOOMAALIYA
CENTRAL BANK OF SOMALIA

LAANTA Muqdisho BRANCH 18/08/2014

X/S No 1009 C/A So. Shs. \$ 3,000/-

Aragti ku bixiya jeeggan At sight pay against this cheque


So. Shs. \$ SADDEX KUN DOLLAR KELIYA

Amarka FARAH ABDI HASSAN To the order of

No 094610 *[Signature]*

Annex 2.5.1: 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>AMS</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:

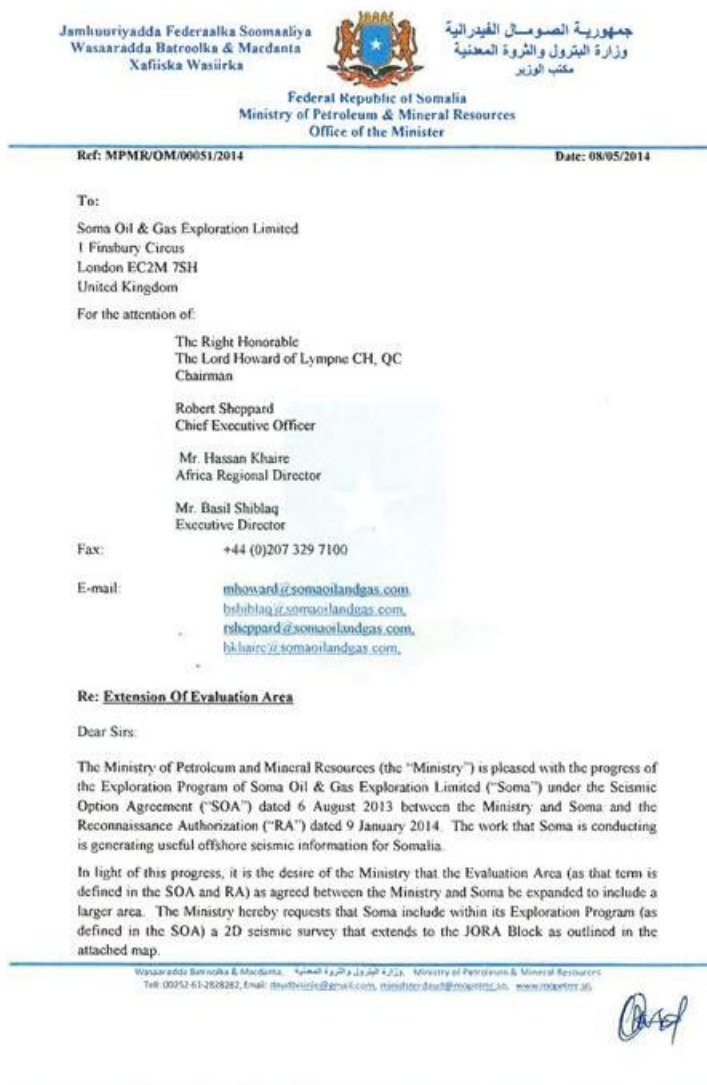
[Signature]

Authorized by:
 Director General:

[Signature]



Annex 2.5.m: Evaluation Area Extension



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.

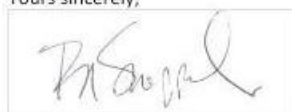
In addition to the proposed royalties and profit shares, we propose that the first term of the offshore PSA be extended from four years to five years for PSAs located in ultra deep water. This recognises the extra planning time required for drilling in ultra deep waters where wells are particularly costly (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.


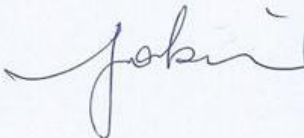

We stand ready to discuss these proposed fiscal terms with your team as soon as practical.

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>Ref: MPMR/ODG/000161/00010/2015</p>		<p>Date: 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>RE: UPDATE REPORT ON DATA ROOM IN MOGADISHU</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>		
<p>Bank Name: Account Name: Account Number Account Reference Number Bank Name: Country:</p>	<p>Central Bank of Somalia Ministry of Petroleum & Mineral Resources 1009 TR360001000864999022535001 TURKIYE CUMHURİYETİ ZIRAAT BANKASI A.S. Turkey</p>	
<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**

Mr. Justin Dobb.

duly authorized for and on behalf
of Allied Petroleum (SO) Corp.

Director

Allied Petroleum (SO)
Corp

Date signed

24 November 2014

For Government of Somalia**Signed by**

Dr. Farah Abdi Hassan

duly authorized for and on behalf
of The Federal Republic of Somalia
by its Minister of Petroleum &
Mineral Resources.


Director



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, 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

¹ SEMG interviews with former Somali diplomat and sources close to the Somali Embassy in Nairobi, 15 April and 10 July 2015.

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 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.

² For this kind of document, the embassy retains the entire fee.

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.

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 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 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

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.

⁸ Unofficial translation.

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

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.

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.

¹¹ Nur Hassan Hussein was Prime Minister of the Transitional Federal Government of Somalia from November 2007 to February 2009.

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.

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 13:04:13:83

[Customer Advice Acknowledgement]

Customer Branch : 1 / Nairobi
 Account No: 15555/500TCA01/17
 Name : TRANSITIONAL FEDERAL GOVERNMENT
 Org. Ref. No: Ref. No: TELER 22/01/2015
 Entry Date: 22/01/2015
 TXN Date: 22/01/2015 Description: Cur: USD Dr: PAID Amount: 104

PAID
 EMBASSY OF THE FEDERAL REPUBLIC OF SOMALIA
 NAIROBI - KENYA
 29 JAN 2015
 TELLER 03

ADVICE NOT VALID IN ABSENCE OF REFNUMBER. Transnational Bank is licensed and regulated by Central Bank Of Kenya

Stamp & signature

TRANSNATIONAL BANK ONLINE APV


BRANCH : Nairobi Teller User : SNTOKOTI 13:04:13:54

[Customer Advice Acknowledgement]

Customer Branch : 1 / Nairobi
 Account No: 15555/500TCA00/1
 Name : TRANSITIONAL FEDERAL GOVERNMENT
 Org. Ref. No: Ref. No: TELER 22/01/2015
 Entry Date: 22/01/2015
 TXN Date: 22/01/2015 Description: Cur: KES Dr: PAID Amount: 103

PAID
 EMBASSY OF THE FEDERAL REPUBLIC OF SOMALIA
 NAIROBI - KENYA
 29 JAN 2015
 TELLER 03

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.



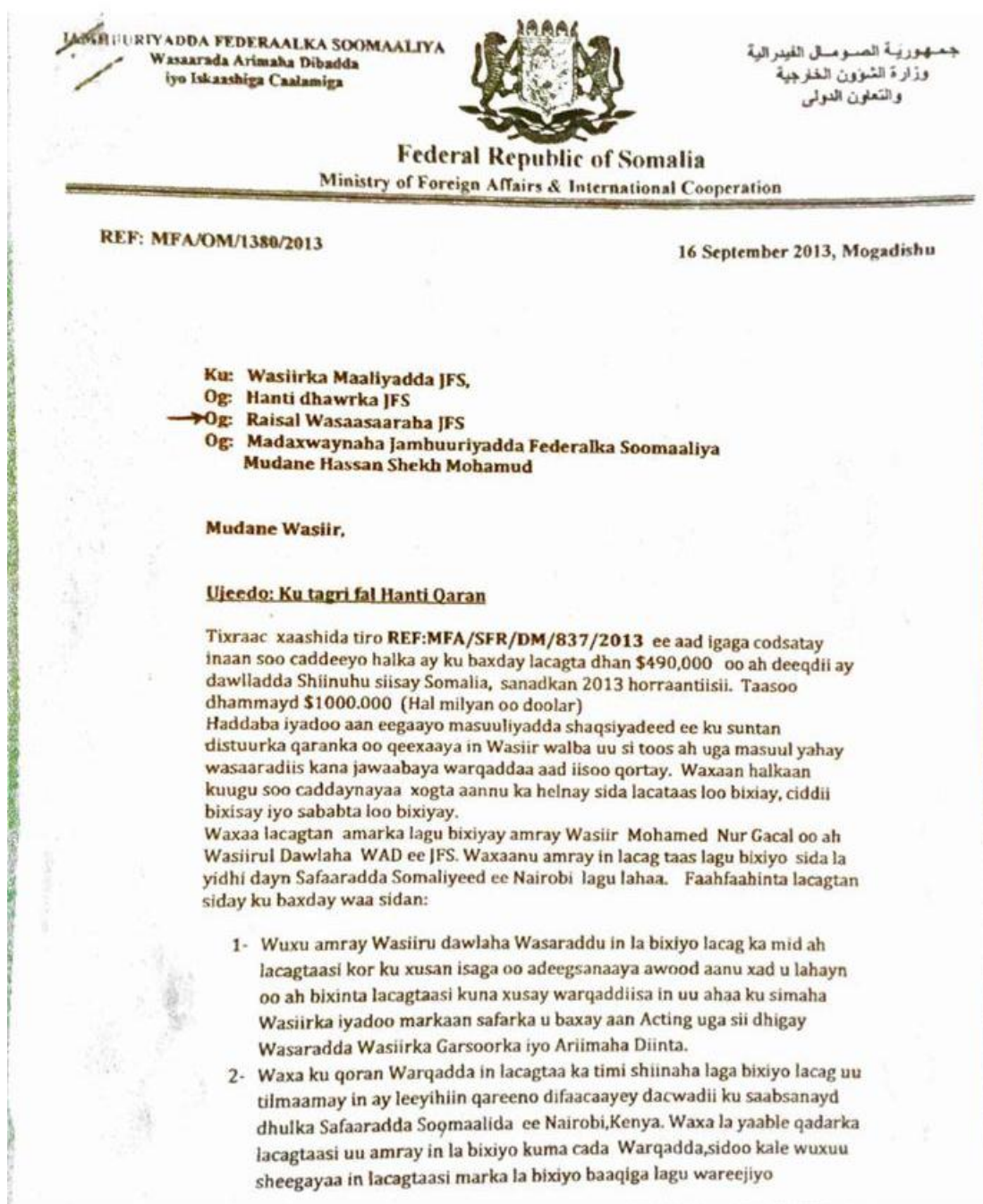
H.E. Mohamed Ali Nur
Ambassador
of the Federal Republic of Somalia



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



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
 Xukuumadda Federaalka KMG ee
 Soomaaliya
 The Transitional Federal Government of the Somali Republic
 Office of the Prime Minister

جمهورية الصومال
 الحكومة الانتقالية الفيدرالية
 مكتب رئيس الوزراء

Ref: XRW/00000.518/04/11
 Date 04.04.2011

PK 72/4/11

KU: Wasaaradda Maaliyadda
 Ujeeddo: Kharash bixin

=Mogadishu=
 =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 wareejiisaan Amb. Maxamed Cali Nuur (Americo)

Sidaa darteed Waxaa la idinka rajaynayaa in aad sida ugu dhaqshaha badan ku siisaan.

Mahadsanid,

Mudane: Maxamed Cabdulaahi Maxamed (Farmaajo)
 Ra'iisul Wasaaraha Xukuumadda FKMG

Amina
 Fadlan
 la bixiy
 06/04/11

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	

(BOQOLIYOAFARTANKUNDOLLAR)

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 detto importo non eccede lo stanziamento assegnatomi.

Date:- 06/04/2011

AAMINA SH. CUSMAAN MAXAMED
AGAASIMAH GUUD W.MAALIYADDA

Passed for payment firmato per il pagamento
Date – Data

MAXAMED RASHID M. SH. DAANIR
Xisaabiyaha Guud ee Dawladda
Il funzionario contabile

Paid – Pagato
Date – Data

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. **3971**

Ibrahim, Issack & Company

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: SSO/25/195 Your Ref: _____ Date: 23/4/13

Received from Sumit Endang

Shillings Five hundred Sixty Nine and Six hundred eighty six

In Payment of Cash paid to client


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".

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.

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 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”

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.

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.

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 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

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.


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.

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.

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.

Annex 3.3.a: UNDP Somalia web page displaying the funds being held in trust for Mogadishu



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UNDP Somalia Office

Website
<http://www.so.undp.org/>

Mogadishu Port Rehabilitation

MOGADISHU PORT REHABILITATION

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[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	-0.6%	\$0.00	-100.0%
2014	\$2.00	-100.0%	\$0.00	NaN%

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
Budget Sources	2012 \$1,730,056.00	\$10,794.00

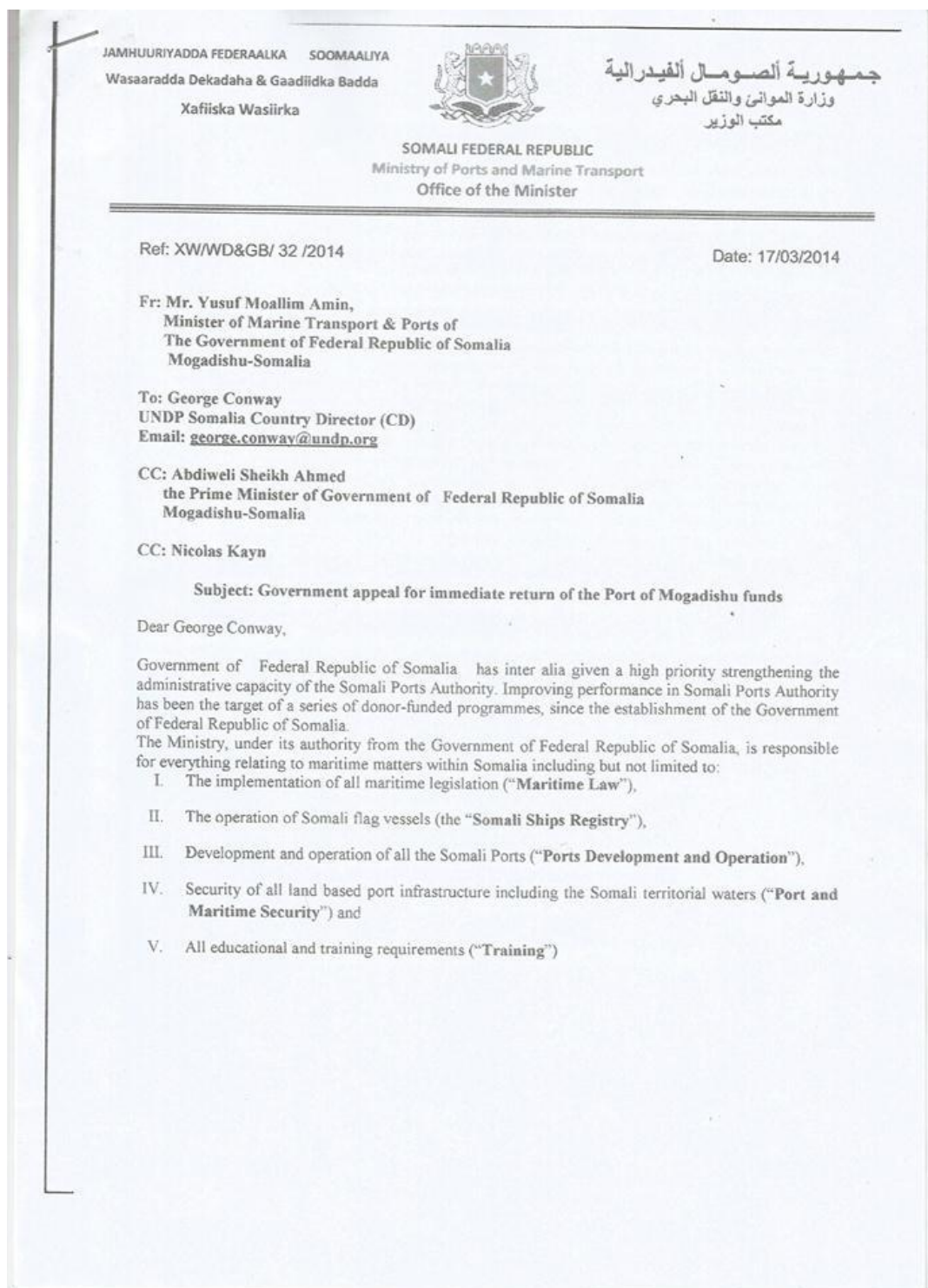
Budget Sources
WFP, SOM

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[Legal](#)
[Transparency](#)
[Anti-Fraud Hotline](#)
[Scam Alert](#)
[Contact Us](#)
[Get Involved](#)

Find us




port rehabilitation

Annex 3.3.b: 17 March 2014 letter from Yusuf Moallim Amin “Baadiyow” to UNDP Somalia Country Director George Conway



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

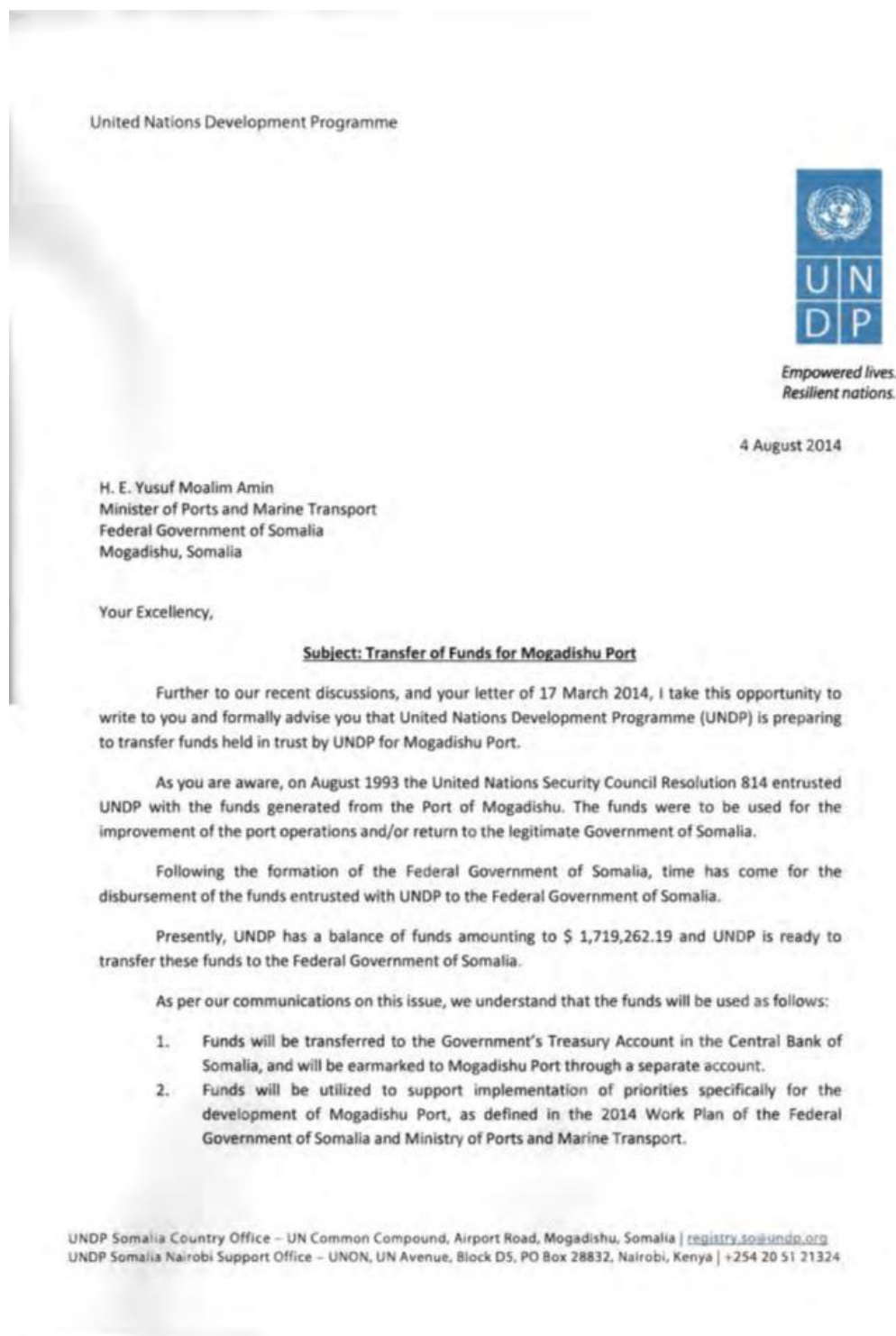
Government of Federal Republic of Somalia

Mobile: 0618200012

Email: yaamiin@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.

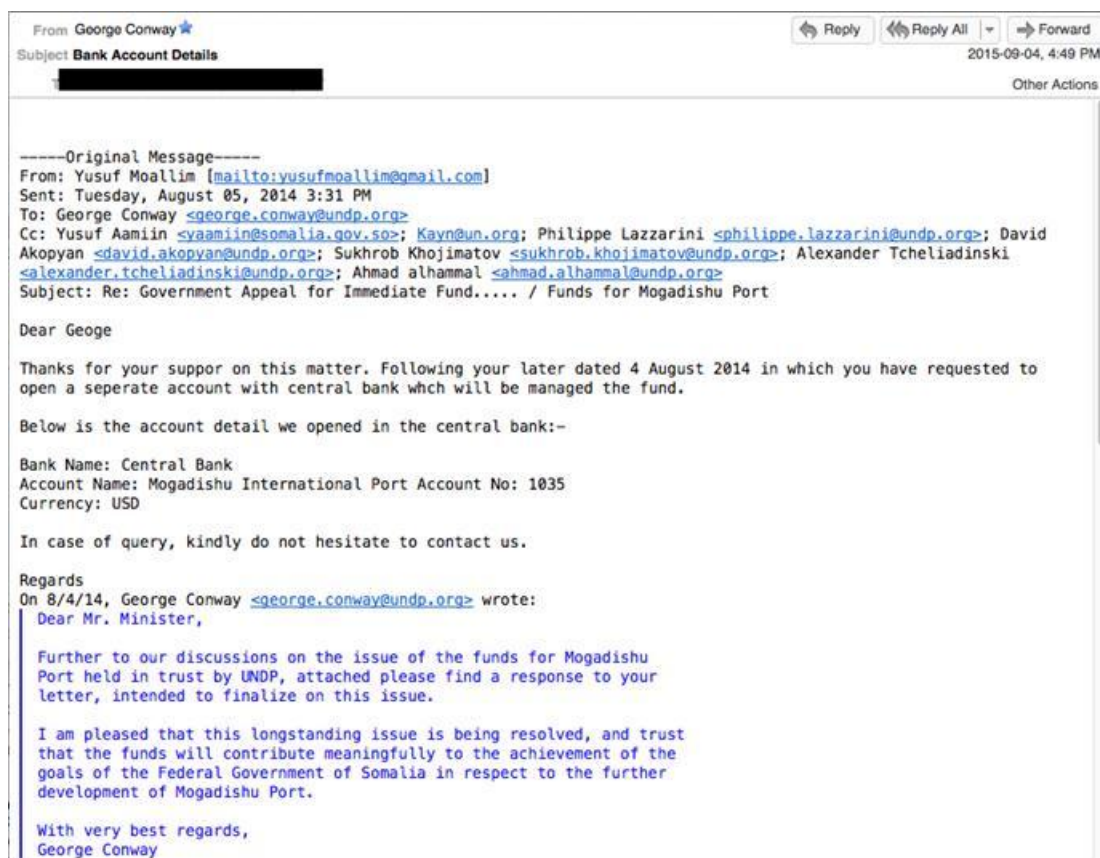
Please accept, Your Excellency, the assurances of my highest consideration.



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

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: X/W/D&GB/100/2014 TR:27/08/2014

1035

Ku: Xisaabiyaha Guud ee Qaranka
Og: Maareeyah Dekedda Muqdisho
Og: Bankiga Dhexe Soomaaliyaa
Og: Hanti Dhowrka Guud ee Qaranka
Og: Wasaaradda Maaliyadda

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@fmail.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**
Type: C/A USD.

To: Mogadishu International Port
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



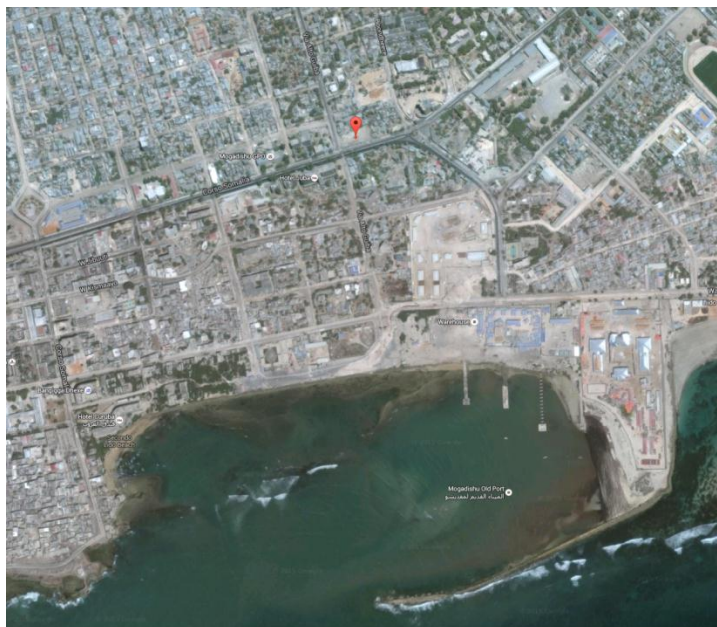


Annex 3.3.g: Photo of the empty building site intended for a Ministry of Ports and Marine Transport office building

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.

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.

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 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

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.

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 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.

³³ SEMG interview with senior FGS official in Mogadishu, 3 June 2015, and confirmed by sources inside MIA.

Annex 3.4.a: Final agreement between FGS and ADCO, September 2014

Jamhuuriyadda Federaalka Soomaaliya
 Wasaaradda Maaliyadda
 Xafiiska Wasiihka

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
 Ku: Agaasimaha Guud W/Maaliyadda
 Ku: Xisaabiyaha Guud ee Dawladda
 Og: Agaasimaha Waaxda Furdonyinka

«Mogadisho»
 «Mogadisho»
 «Mogadisho»
 «Mogadisho»

Ujeeddo: Wax ka badalid Heshiiskii ay wada galeen W/Maaliyadda iyo shirkadda ADCO ee taariikhdiisu ahayd 11/03/2013.

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 suuqyadeedu 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 heshiisyadii kala 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 heshiis toola galay isku waafaqeen qodobada hoos ku qoran:-

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@gmail.com
 Tel: +252 1 961664; +252 45 7989999
 Fax: +252 1941829

Annex 3.4.b: Letter from FGS terminating ADCO contract, May 2015

Imhuurlyadda Federaalka
Soomaaliya
Wasaaradda Maaliyadda
Kafalka Wasaarada



جمهورية الصومال الفيدرالية
وزارة المالية
مكتب الوزير

The Federal Republic of Somalia
Ministry of Finance
Office of the Minister

MOF/OM/63/14 May 14, 2015


KU: Shirkadda ADCO Group of Companies
KU: Agaasimaha Guud W/Maaliyadda
OG: Xisaabiyaha Guud ee Dowladda
OG: Agaasimaha Waxaada Fardooyinka


= Muqdisho =
= Muqdisho =
= Muqdisho =
= Muqdisho =

Ujeedo: Heshiiska Canshuurta Qaadka

- Iyadoo laga ambaqadayo qoreshaha xukuumadda ee kordhinta dakhliga dowladda;
- Iyadoo la tixgeliyay warqada tasiikhdoodu tahay 22/4/2015, kuna saabsaneysd cabasho ka timid Guddiga Dhoofka Qaadka iyagoo caddayey inay kaheeray kala noqdeen shirkadda ADCO;
- Ka dib markii baaq iyo is-qab-qabs badan ku soo siyaaday soo dejinta iyo maareynta qaadka ka soo dega garoonka Aden Cadda sababta in shixnada qaad ah garoonka laga celiyo, taasoo keentay in su'aalo fars badan layska weydiiyo heshiiska Wasaarada Maaliyadda iyo ADCO loona baaqay yahay in Wasaaraddu mugdiga ka saarto maareynta canshuurta qaadka;
- Iyadoo Xukuumaddu dardar gelintayso hufsaanka maamulka maaliyadda lagama maarmaan noqotay in Wasaaradda toos u qaad canshuurta dowladda, waxay Wasaaraddu go'aansatay in laga bilaabo 15ka Juun 2015 cashur bixiyaanka qaadka si toos ah canshuurta ugu shubaan khaamada dowladda ee Bangiga Dhexe Soomaaliya;
- Sidaa awgeed, Wasaaradda waxay ku wargelinaysaa shirkadda ADCO in heshiiskii u dhaxeeyey labada gargaar (REF: MOF/OM/63/14) uu ku eg yahay 15ka Juun 2015 sida waafiqsan heshiiska qodobkii 3aad;
- Sida ku cad heshiiska shirkadda ADCO waa inay:
 - dakhliga bisha May soo shubtaa 28ka May 2015
 - dakhliga labada toddobaad ee bisha Juun oo ah US\$400,000 soo shubtaa ugu dambeyn 15ka Juun 2015;
- Wasaaradda Maaliyadda waxay shirkadda 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: +252-61-2777739
Fax: +252-1961039

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 Somali
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

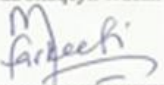
Tixraac warqada sumadeedu tahay MOF/OM/00405/15 taariikhdeeduna tahay 14/05/2015 iyo warqadda XGM/MQ-123-15 kuna saabsanayd codsi ka yimid xafiiska Guddiga Sare ee Dalladda Mulkiilayaasha.


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.

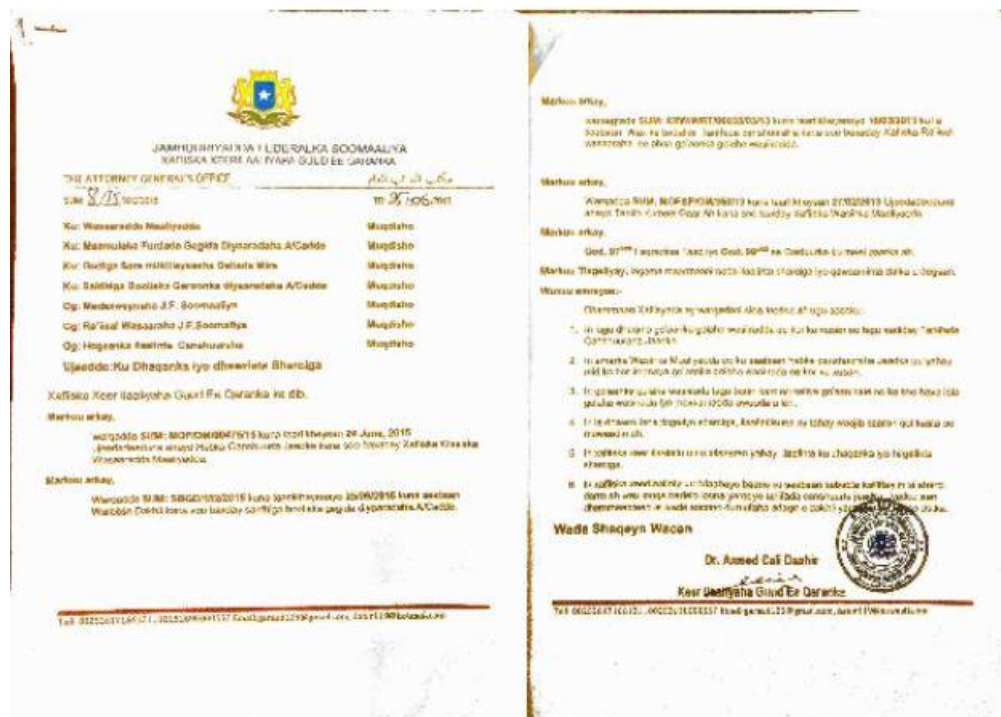
Wada Shaqeyn Wacan





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

¹ Estimate provided by an international agency and private security company on the ground in Mogadishu.

² Provided by an FGS security agency.

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.

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

³ Ibid.

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,

⁶ Abdi Sheikh and Feisal Omar, “Bomb explodes near Turkish delegation in Somalia day before president’s visit”, *Reuters*, 22 January 2015.

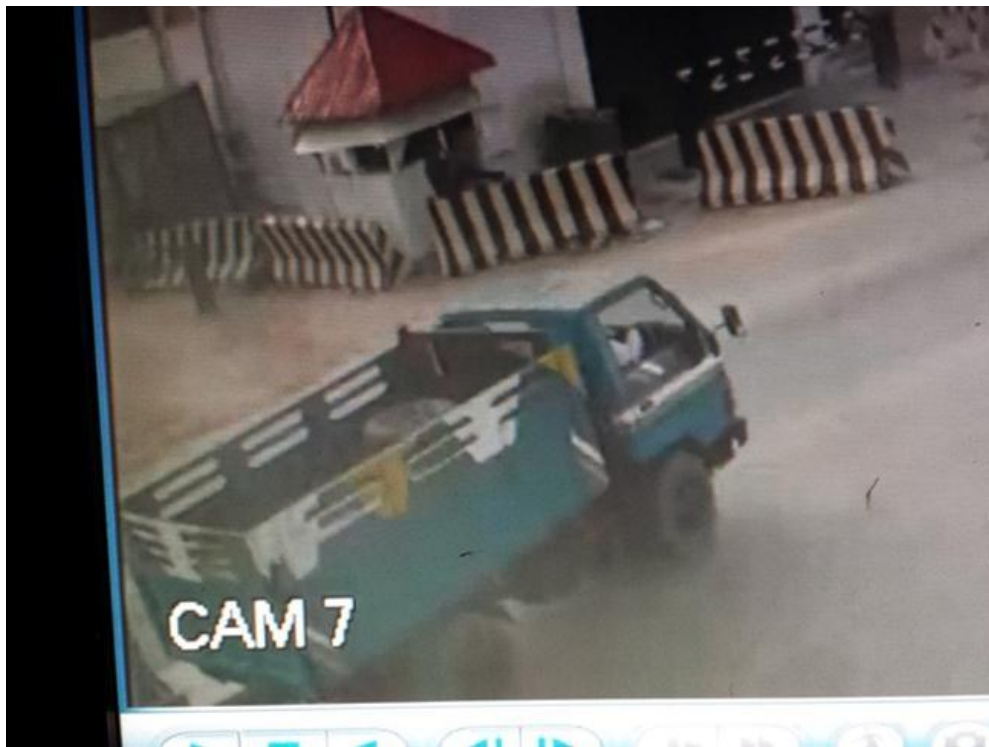
⁷ Information provided to the SEMG by a senior FGS intelligence official, 19 March 2015.

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

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

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.

- 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*).

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 of five letters sent by Warfa from December 2014 to March 2015 to various senior Kenyan officials, warning of a potential attack and

¹¹ SEMG interview with Ahmed Osman Warfa in Garissa, 17 June 2015.

¹² Ibid.

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 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

¹³ Letter on file with the Monitoring Group.

¹⁴ Letter on file with the Monitoring Group.

¹⁵ Letter on file with the Monitoring Group.

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 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

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.

²⁰ Interview with the SEMG in Nairobi, 4 July 2015.

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.

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.

²¹ SEMG interview with a regional security source in Nairobi, 11 April 2015.

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,

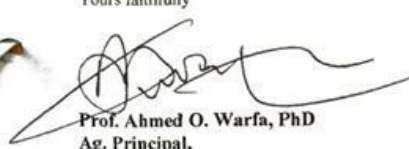
RE: CREATION OF A POLICE POST AT GARISSA UNIVERSITY COLLEGE

In reference to the above, I write to request for creation of a police post at Garissa University College.

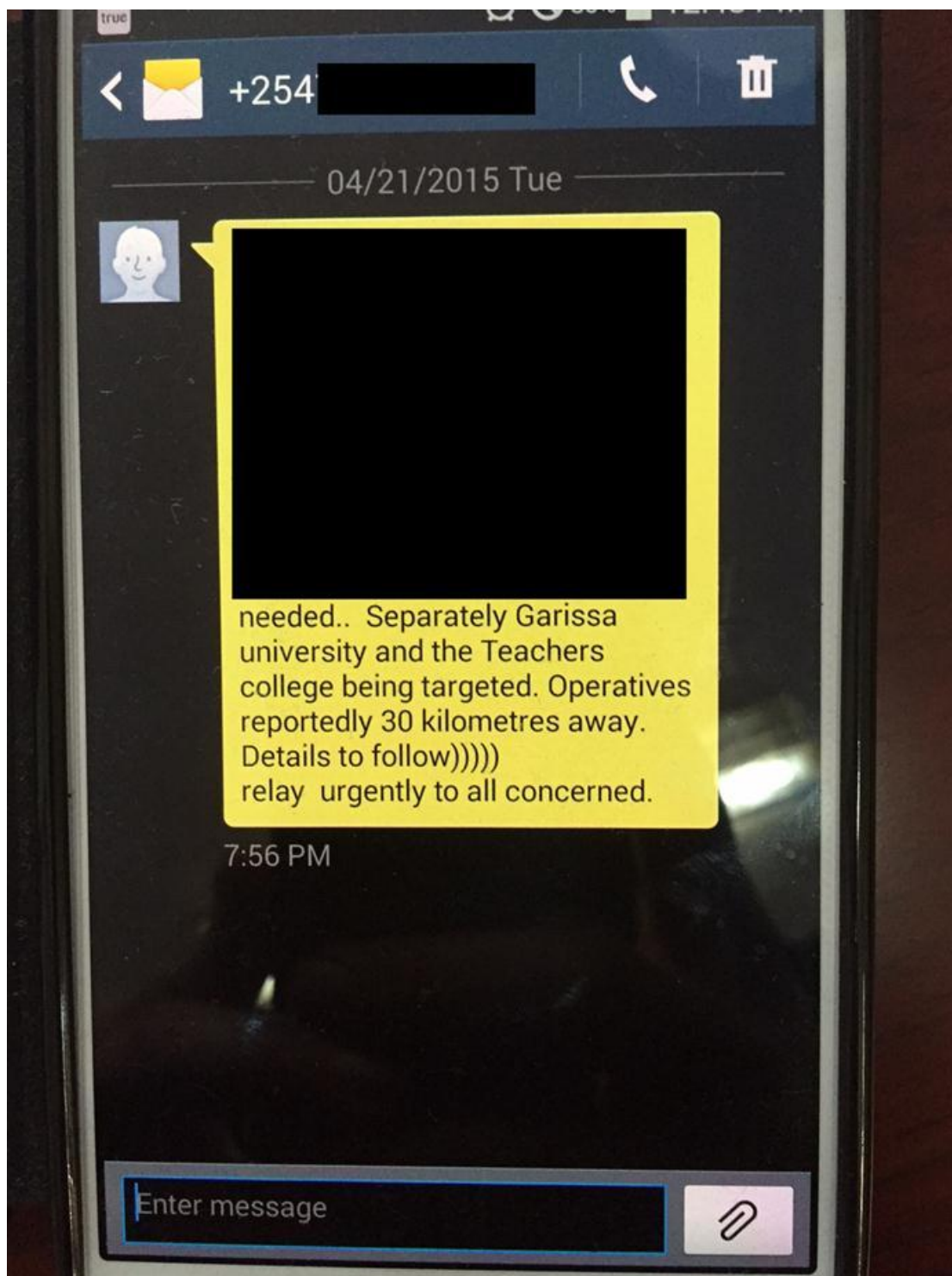
This will help enhance and beef up security on campus. There are four police officers currently deployed to the University College, as well as police patrols around the college at night.

I would appreciate if you take this as a matter of urgency and consider our request.

Yours faithfully


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



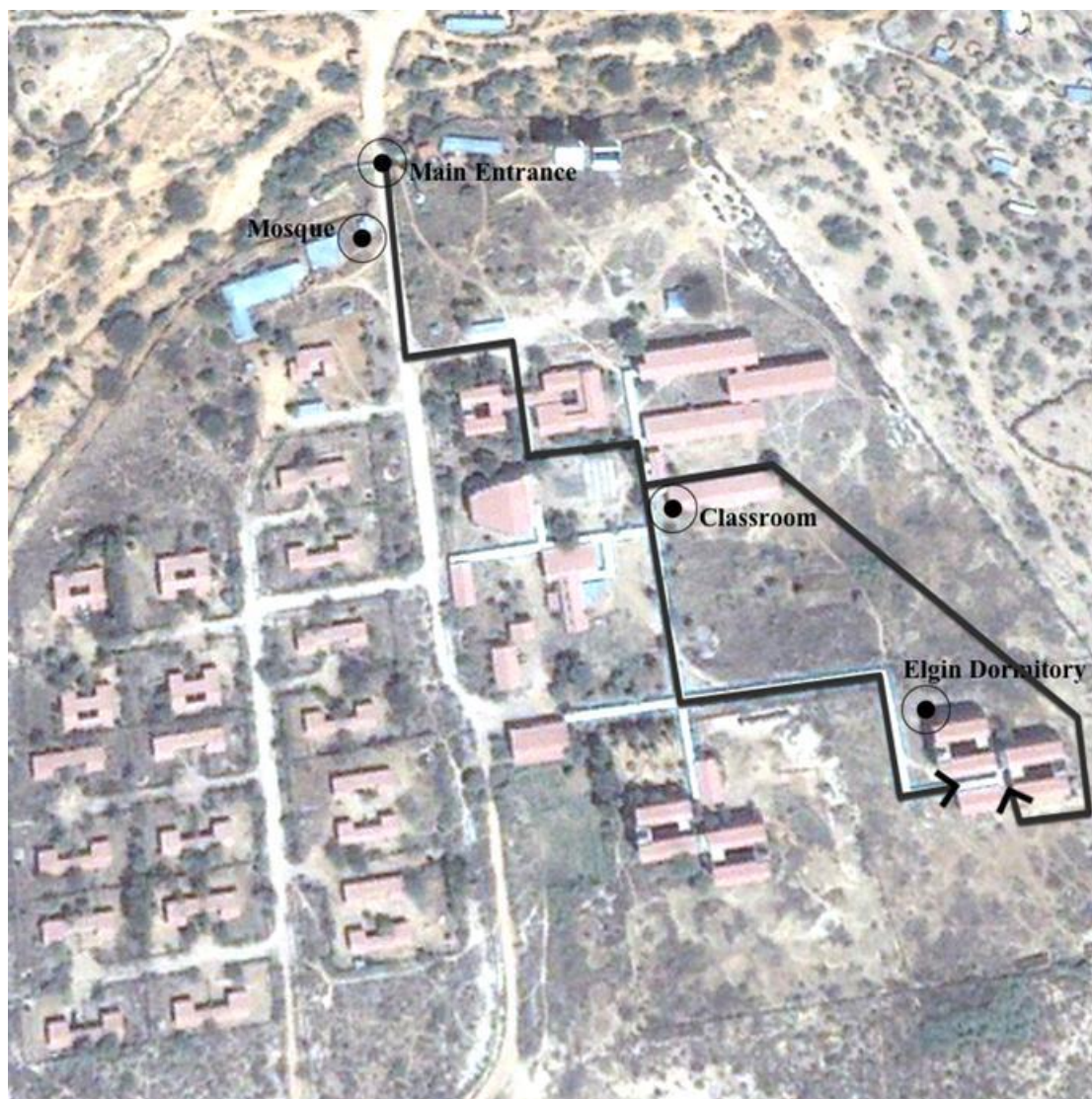
Figure 4 (below): Interior of Elgon B dormitory, where militants executed the majority of the students held hostage within



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

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.

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 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

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.

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) 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

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.

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, Buloburte, 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, Wajid, Bakool region, 31 May 2015, on file with the Monitoring Group.

²⁰ See UN monitoring mission report, Wajid, 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.

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

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,

²⁶ Interview with UN staff member, Nairobi, 2 September 2015.

²⁷ Phone interview with UN staff member, 30 August 2015.

²⁸ Phone interview with UN staff member, 30 August 2015.

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 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

²⁹ Federal Government of Somalia, The Somali Compact, text on file with Monitoring Group. The Somali Compact was validated in September 2013 in Mogadishu.

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.

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 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

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”.

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

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.

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 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

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.

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 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

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.

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.

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 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

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.

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.

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 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

⁶² Phone interview with UN staff member, Hargeisa, 10 September 2015.

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.

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 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.

⁶⁸ Email from reliable NGO source, 29 March 2015.

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.

Diversions 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.

Diversions 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

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.

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 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

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.

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.

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 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

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 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**

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 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

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*.

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.

- (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.

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

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.

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.**

welcome, there is a danger that they in turn may be co-opted by the pervasive elements of the system.⁹⁷

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

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.

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 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

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 Kulunjere 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.

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.

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

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,

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 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

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.

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.

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

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,

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.

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.

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 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

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.

²⁵ On 21 July 15 people were reported killed in separate incidents in the Aw Balle, Jujuuma, 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.

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 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 Liyuu police

19. The Liyuu 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 Liyuu police were operating in Bay and Bakol

³¹ For example, a former source of the Monitoring Group, AY, was killed in the course of indirect fire from an AMISOM operation in Merka on 14 November 2014.

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 Liyuu 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.

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 Liyu 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 Liyu 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 Liyu police in which as many as 30 officers reportedly died. It was the culmination of an escalated conflict 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

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 Liyu police. See interview, NGO staff member, 28 January 2015.

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.

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 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

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.

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.

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.

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

(STRICTLY CONFIDENTIAL)*

* 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), Sankadhudhi (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

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.

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 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/Wagasha* 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

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.

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 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.

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).

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

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.

political affairs”.⁶⁶ The *Hawadle* community, on the other hand, contend that the *Surre* had only 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.

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.

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

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.

been investigated and documented by the Monitoring Group in S/2014/726.⁷⁵ Despite the 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

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.

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),

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

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).

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.

Programme for the Treatment and Handling of Disengaging Combatants and Youth at Risk in Somalia”.

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

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.

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 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

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.

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 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

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).

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

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

¹⁰ For a discussion of numbers of weapons and ammunition imported further to notification to the Committee see annex 7.2.

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.

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.

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

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.

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 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

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.

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.

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 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

²³ Resolution 2182 (2014) at paragraph 8.

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.

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.

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

²⁷ Annex 6.2, S/2014/726 at paragraph 48.

²⁸ Annex 6.2 (e), S/2014/726

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.

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

²⁹ Resolution 2142 (2014) at paragraph 8.

³⁰ Resolution 2142 (2014) at paragraph 9(a).

³¹ See annex 7.3.

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.

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 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.

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.

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.

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 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,

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.

⁴¹ Resolution 2142 (2014) at paragraph 9(b).

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.

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

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).

by the delivery of the assistance, 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.

⁴⁶ Resolution 2142 (2014) at paragraph 4.

⁴⁷ See, *inter alia*, resolution 2182 (2014)”, 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.

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 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.

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.

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 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;

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.

- (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 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

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 much 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.

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 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).

⁵⁸ With the exception of certain restricted material pursuant to paragraph 7 of resolution 2111 (2013).

⁵⁹ Security Council Presidential statement, 22 May 2014, S/PRST/2014/9.

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.

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

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).

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.

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 ‘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

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.

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.

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 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

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).

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.

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 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-

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.

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 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

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)).

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 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

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.

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,

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.

there continue to be significant gaps in the information provided when assessed against Security Council 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 Bullo 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 forces⁹⁷

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

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.

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 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.

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.

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.

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

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”.

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).

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 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

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.

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 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.

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.

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 AMSIOM was not in fact given to NISA – that only detainees were transferred to NISA custody.

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.

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 SNPF Criminal Investigations Division. Email, UN from staff member, 17 August.

¹²¹ Phone interview, UN official with knowledge of the security sector, 25 August 2015.

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 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)

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.

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 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

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.

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.

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 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.

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.

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

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.

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 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

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

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.

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

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.

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.

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 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.

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).

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*, 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

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".

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 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”.

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.

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.

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

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.

¹⁵⁴ See, inter alia, paragraph 14 of resolution 2232 (2015).

¹⁵⁵ Resolution 2125 (2103) at paragraph 26.

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 benefit from the exemption. Detailed information on the weapons and equipment and on the vessel upon which they are carried would be required.¹⁶¹

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.

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.

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 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

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.

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.

¹⁶³ See annex 2.3.

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.





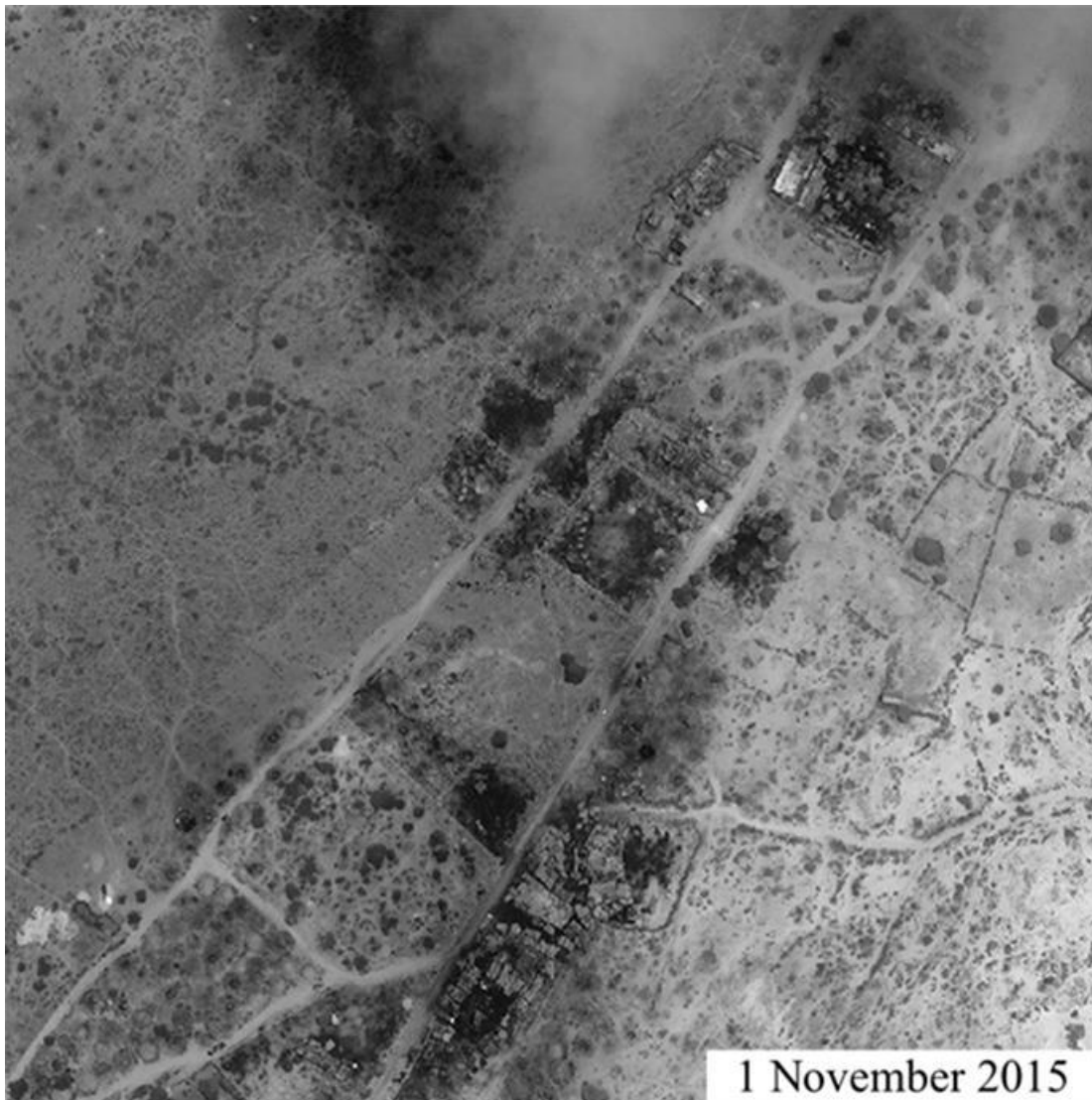
Barawe charcoal stockpiles in March 2015²



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.



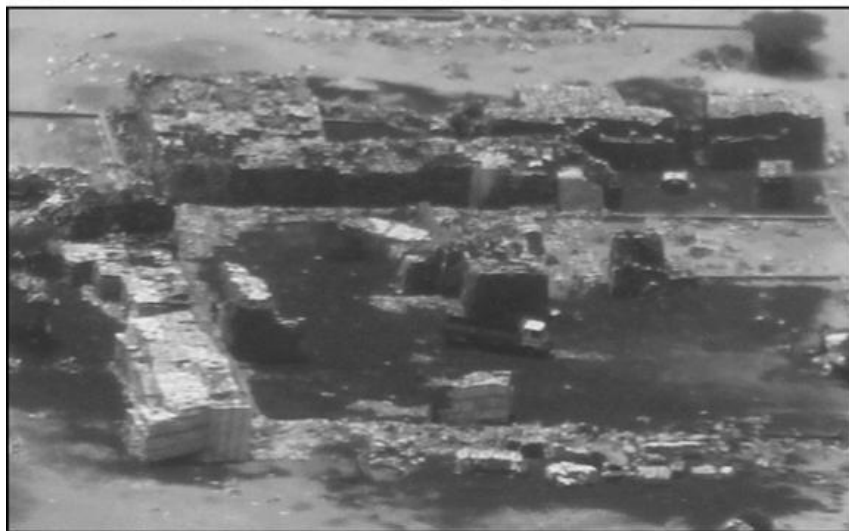
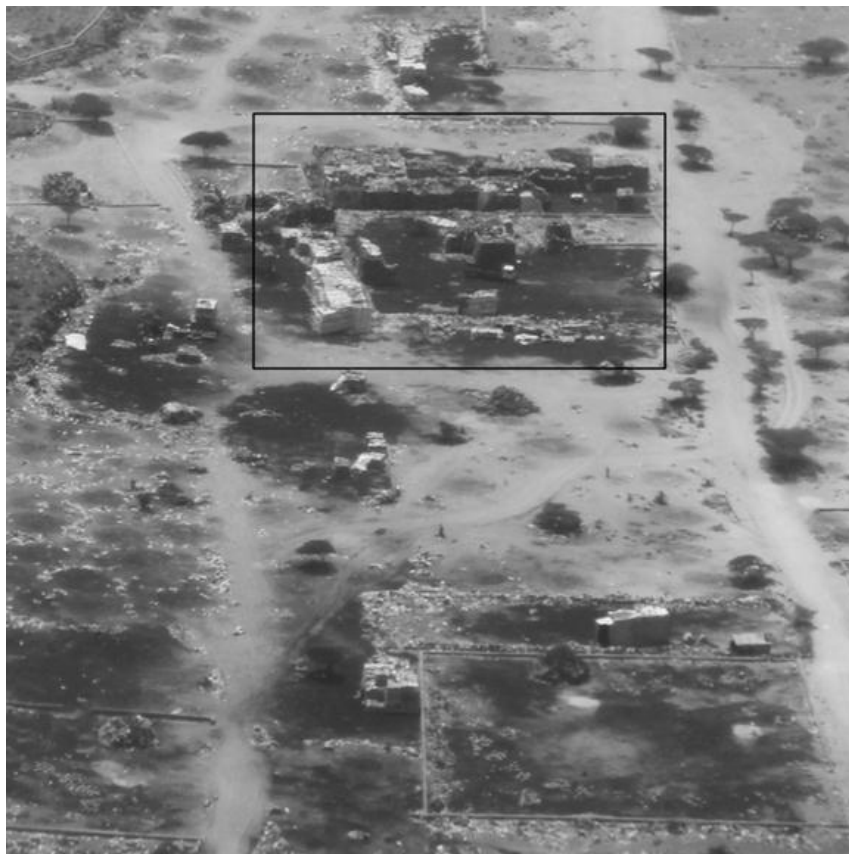








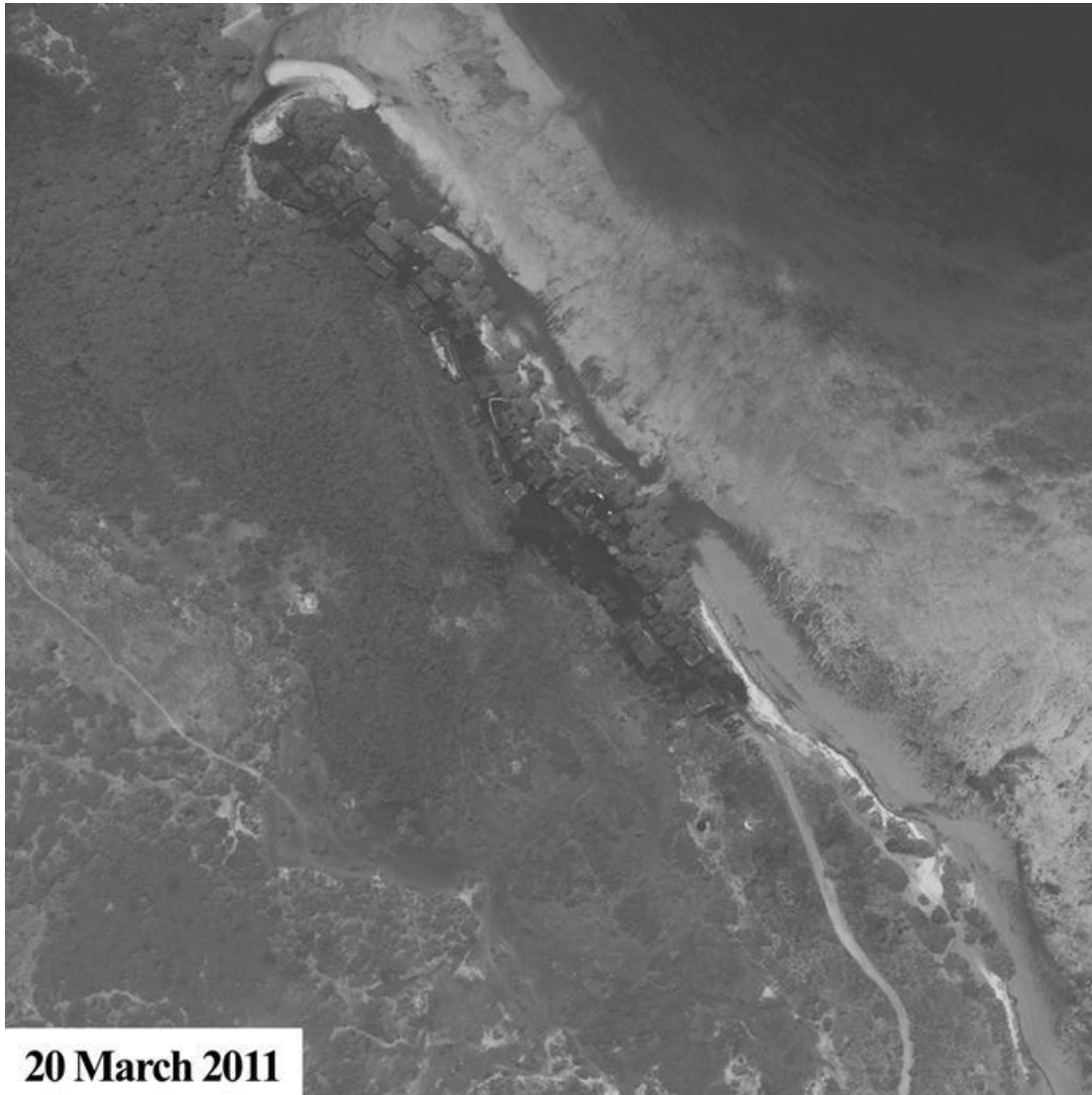
Kismayo southern stockpile, 27 April 2015³



³ Image taken by the Monitoring Group.

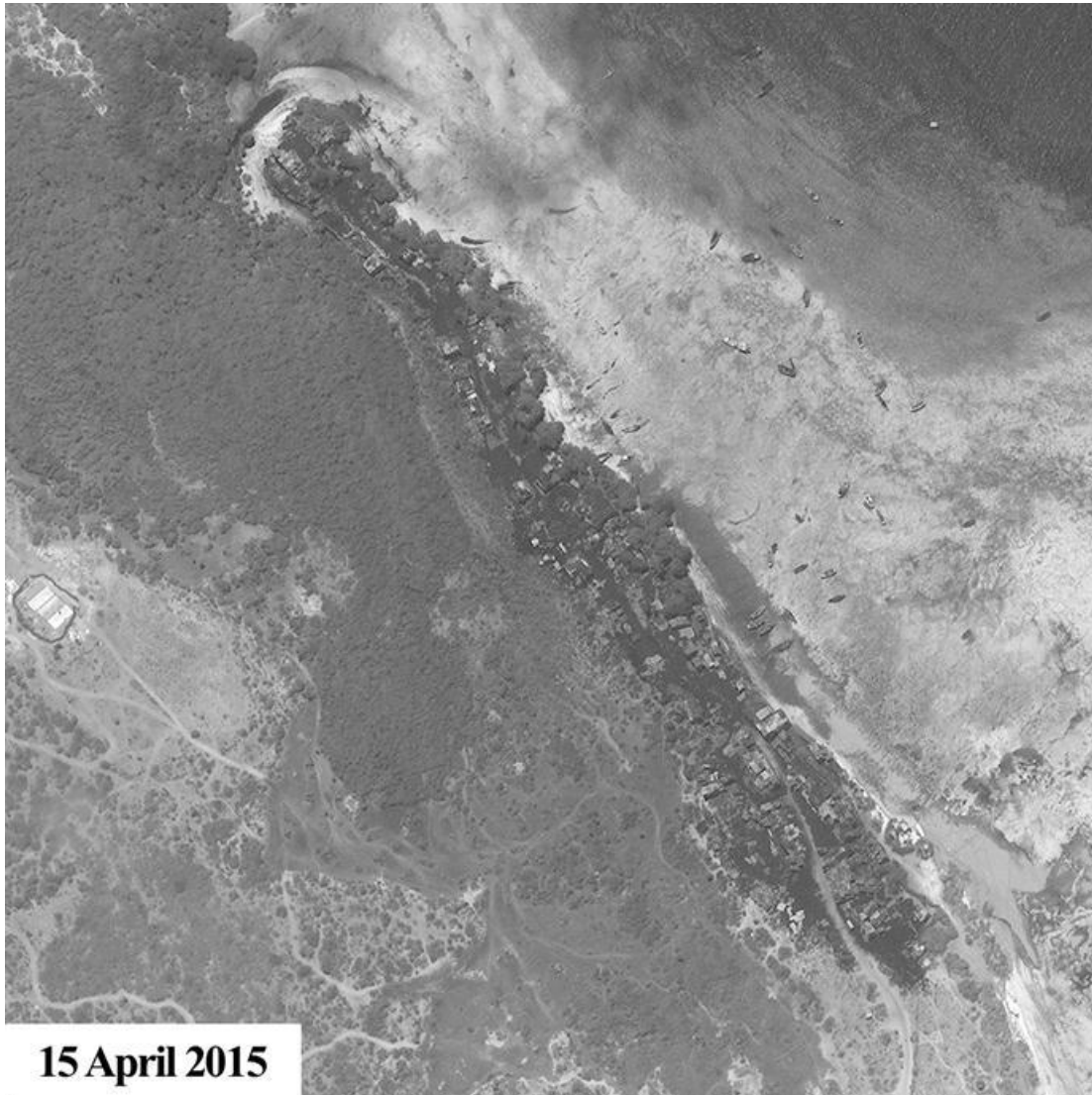
Buur Gaabo Stockpile

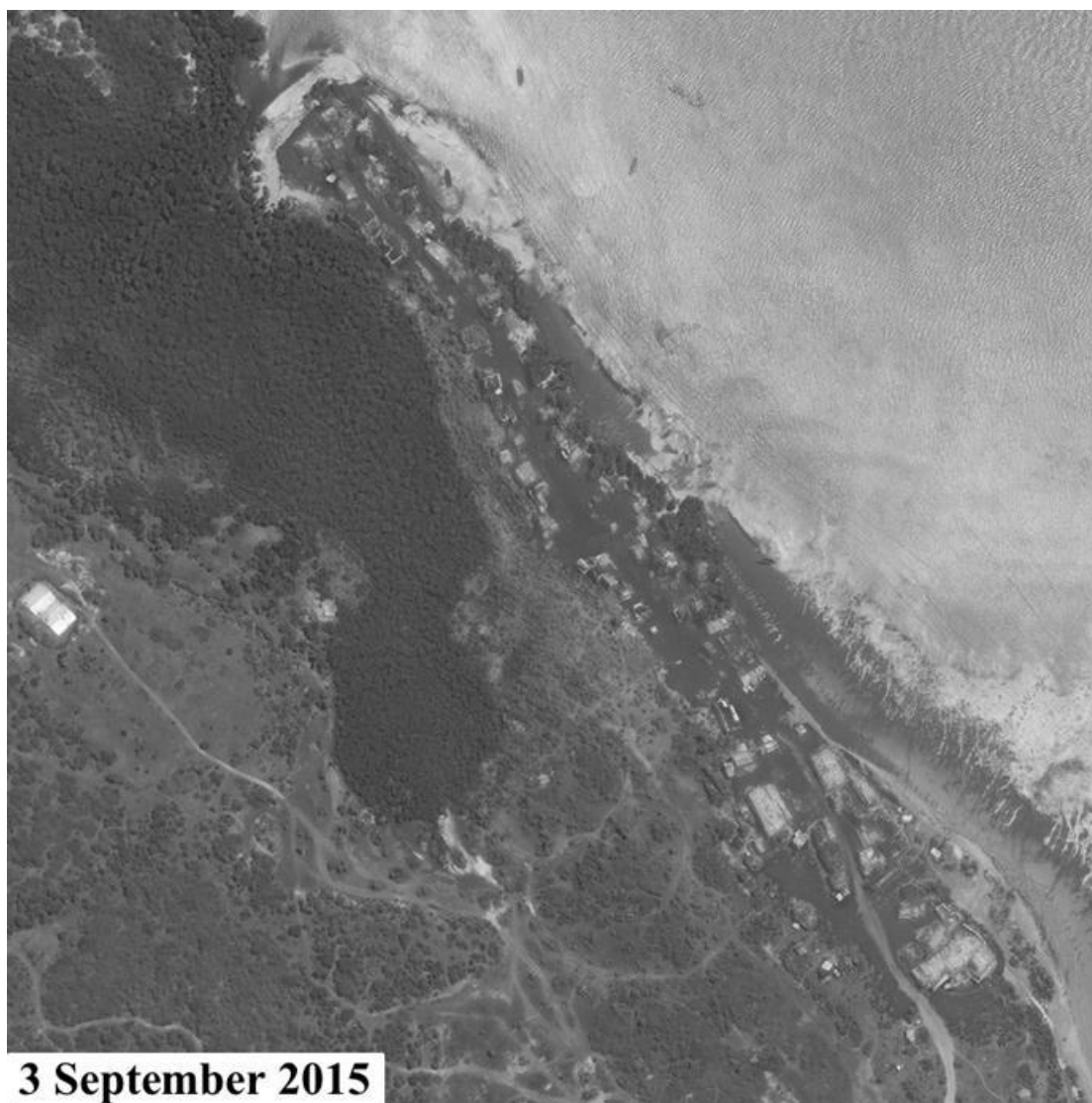
3. Satellite imagery shows the rapid expansion of the Buur Gaabo stockpile area and activities between mid 2014 and early 2015. As of September 2015, Buur Gaabo retained significant stockpiles, with a number of cargo vessels still present.





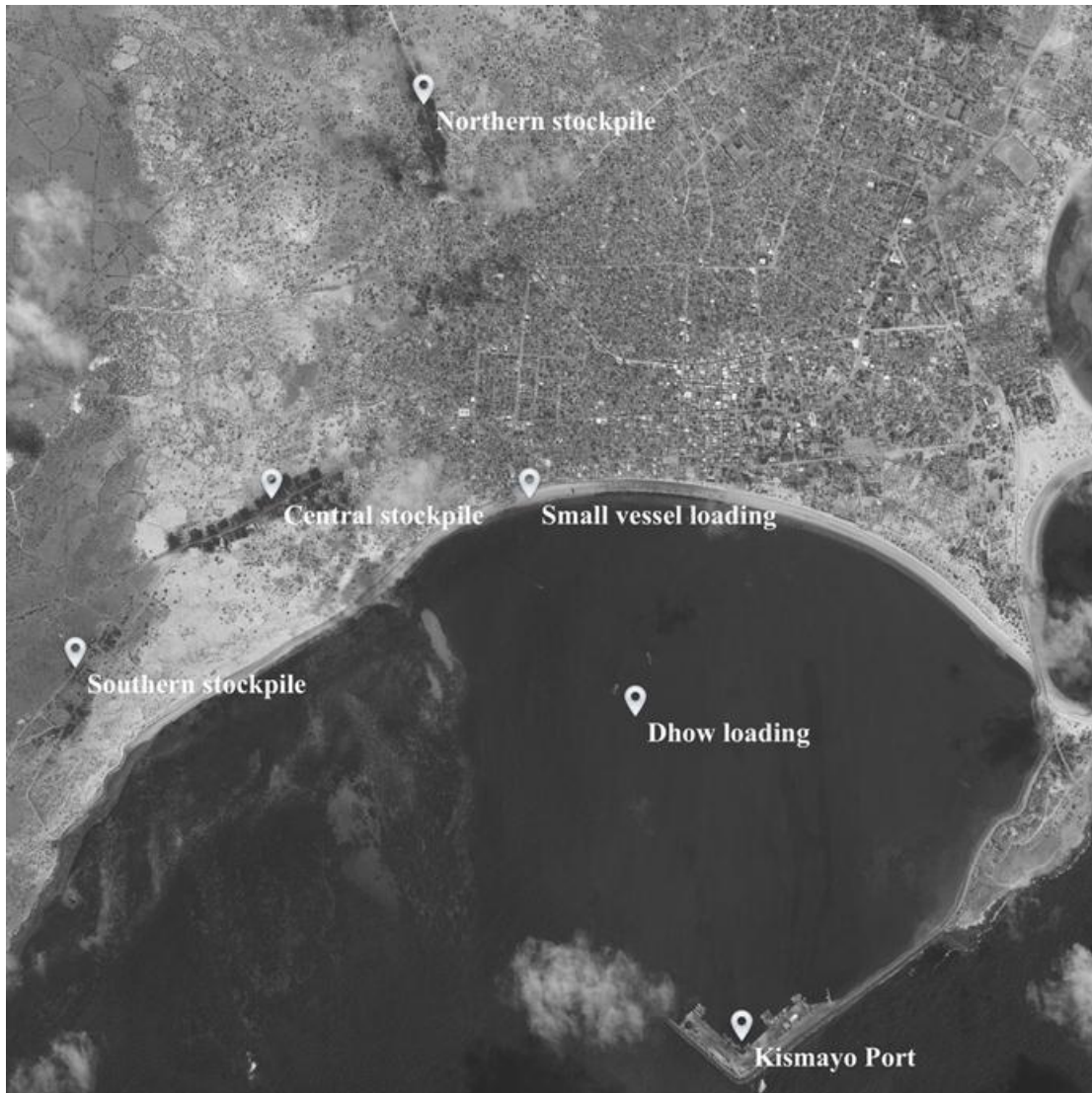
10 July 2014





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

JAMHURIYADA
FEDERALKA SOMALIYA

SOMALI FEDERAL
REPUBLIC

KISMAYO SHIPPING AGENCY L.T.D TO MUDHAWA

CARGO MANIFESTS


MV/MSV RAJMI LAN CALL SIGN _____ MASTER NAME Mohamed DATE 26/ 2/ 2015

PORT OF LOADING Kismayo PORT CHARGE Dubai UAE

SHIPPER	CONSIGNEE	MARKS	DISCRIPTION	WEIGHT
Yusu F Jann C Mohamed	CASDI SHAKOR SHEEKH IBRAHIM		IN BAGS Charcoal	24712 OF BAGS Charcoal

16 03.2015


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: RAT MILAN
 Name of Ship
 Flag of Ship
 Magaca Kabtanka: Mohamed Sadiq
 Name of Master
 Tirada Badmaaxa: 13 PERSONS
 Number of crew
 Badeecada La saaray: Charcoal
 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 Harbor Master Kismayo
 regulation.



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 Description of goods	No and Kind of packages	Weight in Kgs	Volume in CBM
139	MOON TRANSPORT & SERVICES MORONI (Grande Comore) TEL : +269-3435544 UNION OF COMOROS						
	Mohd Ali Shabane Gen Trd LLC			26000	MASHAWI CHARCOAL	650000	

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 Exporter Pieces Montees
Moroni Le 15/02/2015

MINISTRE DES FINANCES DE L'ECONOMIE DU TRAVAIL
DE L'INVESTISSEMENT ET DU COMMERCE EXTÉRIEUR
CHARGE DES PRIVATISATIONS
PRIGADE POLYVALENTE
MORONI - COMORES

Autorité Portuaire des Comores
Le Capitaine du Port
MORONI - COMORES

MOON TRANSPORT & SERVICES
MORONI - COMORES

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

MOON TRANSPORT & SERVICES
MORONI - GRANDE COMORE
UNION OF COMOROS

Ref.No.: KMMUP/ 0145/2015

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.

FREIGHT ADVANCE
Received on account of freight:

Time used for loading...4..... Day.....hrs

Freight payable at 15/02/2015
"PREPAID"
Place and date of Issue : Moroni Port
UNION OF COMOROS

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

Weight, measure, quality, quantity, condition, contents and value unknown.

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.

FOR CONDITIONS OF CARRIAGE SEE OVER

Address: BP 399, Moroni, Grande Comore, Comoros. Tel: (+269) 343554
moon.t@mail.com

MOON TRANSPORT & SERVICES
MORONI - COMOROS