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REPORT OF THE CHAIRPERSON OF THE COMMISSION
ON THE SITUATION IN SOMALIA

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I. INTRODUCTION

1. The present report provides an update of both the evolution of the reconciliation process at Mbagathi, Kenya, and the developments inside Somalia, since the 94th Ordinary Session at Ambassadorial level of the Central Organ of the Mechanism for Conflict Prevention, Management and Resolution, held on 29 August 2003.

II. EVOLUTION OF THE RECONCILIATION PROCESS

2. Phase II of the Somalia National Reconciliation Conference, which started at the end of February 2003, provided the framework for the finalization of all the tasks related to the drafting of the Transitional Federal Charter for Somalia and the preparatory work for the launching of Phase III. The formal adoption of the draft Federal Charter was scheduled by the IGAD Technical Committee, in consultation with the Somali leaders, to take place in mid-September 2003. While it had been assumed by the Committee and the international observers that there was consensus among the Somalis for the adoption of the Charter, disagreements emerged among the Transitional National Government (TNG) and several Somali leaders and factions, as well as between the Technical Committee and some of those Somali leaders. Those differences related to the following issues in the Transitional Charter:

- reference to federalism;
- autonomy of regions, such as Puntland and the self-declared Republic of Somaliland;
- the status of the three languages spoken in Somalia, namely, Somali, Arabic and English;
- the role of clan and sub-clan leaders in the election of the Transitional Parliament;
- the size of the Parliament;
- the duration of the transitional period; and
- the designation of the new Transitional Government.

3. The TNG and some of the Somali leaders opposed any reference to federalism in the Charter. They insisted that the issue be left to the future, when peace would have returned to Somalia. Yet other Somali leaders argued that the Reconciliation Conference had the mandate to address the issue of Somalia's future political system.

4. As the Somali leaders and the Technical Committee could not resolve these issues at the time, the TNG and its allied factions decided to withdraw from the Conference. As a result, the reconciliation process remained in a stalemate from September to December 2003.

5. Once back in Mogadishu, the TNG and the allied factions launched campaigns in the capital, the central and southern areas of Somalia, to mobilize the local populations to support the initiative to kick-start an internal national reconciliation process, as distinct from the Mbagathi process. That campaign culminated in the formation, in November 2003, of the Somalia National Salvation Council (SNSC), regrouping the TNG, the eight Mogadishu-based armed factions and the other factions and regional political organizations in central and south Somalia. Later on, the TNG and the allied factions insisted that the SNSC be allowed to participate fully in any consultation aimed at ending the stalemate, as well as on maintaining the spirit of the Eldoret Declaration of 27 October 2002, providing for the cessation of hostilities.

6. In view of the stalemate, the Technical Committee undertook several consultations and initiatives, with a view to putting the reconciliation process back on track. Those efforts were supported by the 10th IGAD Summit of Heads of State and Government that took place in Kampala on 24 and 25 October 2003, which I attended. The Summit addressed the concerns raised by the Somali leaders, especially regarding the ownership and management of the Conference. Most Somali leaders had complained that it was the Technical Committee, not themselves, that was dictating the terms and pace of the Reconciliation Conference. They also complained that there were conflicting interests and approaches among the three Frontline States of Djibouti, Ethiopia and Kenya, which constituted the Technical Committee, thereby creating misunderstandings among the Somali delegates.

7. Given the issues raised by the Somali leaders, the Summit decided to transform the Technical Committee into a Facilitation Committee (FC), in line with the aspirations for the ownership and control of the process expressed by the Somalis. The AU, which had an observer status since the beginning of the Conference, became a member of the FC, which was also expanded to other IGAD countries. The Summit also tasked the FC to take immediate steps towards the convening of a Retreat of the Somali leaders, with a view to resolving all the outstanding issues relating to the Transitional Charter.

8. On 4 and 5 December 2003, the FC dispatched a mission led by my Special Envoy to Mogadishu, for consultations regarding the envisaged Leaders' Dialogue. During its stay in the capital, the mission exchanged views with the President of the TNG, Abdikassim Salad Hassan, and the Chairman of the SNSC, Muse Sudi. Both parties expressed an interest to return to Nairobi to participate in the dialogue. However, they made some demands in this regard, i.e. the participation of the SNSC in the next round of negotiations; the re-negotiation of the controversial sections of the Transitional Charter; and the full control and ownership of the negotiations by the Somalis.

9. In preparation for the Leaders' Retreat, an IGAD Ministerial Facilitation Committee Meeting was convened in Nairobi on 8 December 2003, under the chairmanship of Stephan Kalonzo Musyoka, the Foreign Minister of Kenya. That meeting commended the AU-IGAD mission to Mogadishu and strongly appealed to all the Somali leaders to rejoin the dialogue.

10. The Leaders' Retreat started at the Nairobi Safari Park, on 9 January, lasting until 29 January 2004. President Yoweri Museveni of Uganda, in his capacity as the Current Chairman of IGAD, and President Mwai Kibaki of Kenya participated at the launching ceremony. The Retreat involved the leaders of the TNG; the Chairman of the SNSC; the Chairman of the Somalia Restoration and Reconciliation Council (SRRC), Hussein Aideed; the Chairman of the Group of Eight (allied faction leaders), Mohamed Qanyare Afrah; other Somali leaders; and the leaders of the Civil Society delegation.

11. The Somali leaders were able to reach a consensus on all the issues referred to above. On 29 January 2004, they signed the Declaration on the Harmonization of Various Issues Proposed by the Somali Delegates at the Somali Consultative Meetings from 9 – 29 January 2004, in Nairobi. President Mwai Kibaki witnessed the signing of the Declaration. The Somali leaders agreed that:

- the name of the Charter shall be "The Transitional Federal Charter of the Somali Republic";
- the Constitution shall be approved by an internationally supervised referendum;
- the name of the Government shall be "Transitional Federal Government of the Somali Republic";
- the size of the Transitional Parliament shall be 275 members, of which at least 12 % shall be women;

- the Parliament shall be selected by the sub-sub-clan political leaders of the parties/factions that signed the Declaration on 29 January, namely the TNG, the SNSC, the Regional Administrations, the SRRC, the Group of Eight and the Civil Society, with the endorsement of traditional leaders;
- the transitional period shall be for a duration of five years;
- there shall be a census to determine the size of the population, prior to national elections during the transition.

12. The signing of that Declaration was supposed to be the entry point into Phase III of the Conference that would deal with the issues of power sharing, the election of the Transitional Parliament, the election of the Transitional President and the formation of the Transitional Government; as well as the elaboration of the programmes for DDR and post-conflict reconstruction, rehabilitation and resettlement (PCRRR).

13. However, fresh misunderstandings surfaced as a result of attempts by some Somali leaders to visit, again, certain sections in the draft Charter. Col. Abdullahi Yusuf, leader of the Puntland delegation, later joined by some faction leaders from the SRRC, called for the revision of article 30 of the draft Federal Charter for the purpose of giving it more clarity with respect to who exactly would be qualified to participate in the selection of the members of Parliament. According to that article, only those leaders who participated in the Retreat are entitled to designate the Somali delegates, who would then participate in the selection process of the members of the Transitional Parliament. But the other delegations, including the TNG and the SNSC, opposed the revision of that article.

14. Due to those differences, the Conference could not graduate into Phase III, in early February, as had been anticipated. Some of the leaders of delegations left the Conference and returned to Somalia for consultations. As for the SRRC delegation, despite repeated threats to withdraw from the Conference, it has remained at Mbagathi.

15. Back to Somalia, Mohammed Deere, leader of the Jowhar Administration, and his allies, including Sheikh Madobe, leader of the Rahanweyne Resistance Army (RRA), convened a meeting, on 7 March 2004, at which they decided to establish a National Organizing Council for Somalia (NOCS), with the intention of launching a parallel reconciliation process inside Somalia. The concerned leaders expressed the view that the selection of members of the Transitional Parliament should only involve the leaders who signed the Eldoret Declaration, including the President of the TNG, and the leader of the civil society group. The new group also indicated that it would not rejoin the Conference until the FC meets its demands.

16. On 16 March 2004, the FC and the International Observers issued a statement in which they called on those leaders who were still in Somalia to return urgently to Nairobi. On 17 March 2004, the FC, jointly with the IGAD Partners' Forum, dispatched a delegation to Jowhar led by my Special Envoy. The aim of the FC visit, which was in line with the call made by the IGAD Ministerial FC Meeting of 12 March 2004, was to persuade Mohamed Deere and his allies to return to the reconciliation process.

17. On 21 March 2004, in Djibouti, an IGAD Ministerial Meeting, chaired by the Minister of State for Foreign Affairs of Uganda, Augustine S. Nshimye, reviewed the reconciliation process in light of the security situation in Somalia and the visit to Jowhar. The meeting underscored the need for a delegation of the FC to visit New York to brief the Security Council on the reconciliation process and developments in Somalia.

18. During the period under review, no progress has been made regarding the signing by the Somali parties of the Comprehensive Ceasefire Agreement drafted in December 2003, with the help of the AU. It should be recalled that, since the dispatch, in July/August 2003, of an AU reconnaissance mission to Somalia, the prevailing insecurity has remained a preoccupying factor vis-à-vis the envisaged deployment of AU Military Observers in that country.

III. SITUATION IN SOMALILAND

19. During the period under review, Somaliland has continued to experience relative peace and stability, compared to the other regions of Somalia. As a result, Somaliland has made a significant headway in the fields of health, education and economic development. The efforts thus made had benefited from the support of UN Agencies and other international organizations and NGOs.

20. Since they unilaterally declared the independence of their region, in 1991, the authorities of Somaliland have made sustained efforts to obtain international recognition. So far, these efforts have not yielded any result. On 13 March 2004, I received the President of Somaliland, who briefed me on the situation in that region and the achievements made over the past years. He stressed the need for the international community to accord international recognition to Somaliland. In the meantime, he requested an observer status within the AU, to enable Somaliland to follow the developments in the Union. On my part, I explained that the concerns of Somaliland could be addressed within the federal framework agreed upon in Mbagathi, in the context of the unity of Somalia. I stressed the need for Somaliland to contribute to the success of the Reconciliation Conference and to make concrete proposals to that effect.

IV. IMPLEMENTATION OF THE UN ARMS EMBARGO AGAINST SOMALIA

21. Members of the PSC would recall that the United Nations Security Council, through resolution 733 (1992) of January 1992, imposed an arms embargo against Somalia. Subsequently, the Security Council adopted resolution 751 (1992) of April 1992 establishing a Sanctions Committee to monitor the embargo. The importance of ensuring compliance cannot be over emphasized, especially in light of recent newspaper reports, purporting to fresh arms deliveries through the seaports of Bossaso in the north, Hobyso and Cadale in the Central area of the coast, and Kismayo in the south.

22. As part of the efforts towards the implementation of the Security Council resolution, the 94th Ordinary Session of the Central Organ called upon Member States, in particular the countries of the region, as well as other neighboring countries and members of the international community, to fully comply with the arms embargo, in order to enhance the prospect for peace, security and stability in Somalia and in the region as a whole. On my part, on 14 November 2003, I received members of the UN Security Council Committee established pursuant to resolution 751, to exchange views on the modalities for reinforcing the implementation of the arms embargo.

23. The implementation of the embargo received a new impetus on 16 December 2003, with the adoption by the Security Council of resolution 1519 (2003) on Somalia. In that resolution, the Security Council requested the Secretary-General to establish a Monitoring Group composed of experts that would follow-up on the violations of the arms embargo. The Security Council also called upon regional organizations, including the AU, to establish focal points to enhance cooperation with the UN Monitoring Group, which started its work in March 2004, and facilitate information exchange. The Commission has since designated a focal point for the arms embargo.

24. Furthermore, the Committee Monitoring the Cessation of Hostilities in Somalia, established in February 2003 and operating under the aegis of the IGAD FC, has been following the implementation of the arms embargo. However, the Committee has so far not been able to have a real impact on the ground, given, among others, the limited resources at its disposal.

V. MILITARY SITUATION

25. The military situation in Somalia has remained generally calm. The majority of the armed factions and groups, including those that did not sign the Eldoret Declaration, have upheld the spirit of the Declaration.

26. However, there have been, during the period under review, recurrent skirmishes around the towns of Marka and Kismayo, in southern Somalia. These skirmishes opposed local clans engaged in struggles to gain control of banana plantations and pasturelands, as well as the control of sea-ports. Inter-clan squabbles have also been reported in the Hiran region, in the south-west of Somalia, which is dominated by frequent tension and disputes between the Habir-Gedir and the Habir-Dir. The region of Juba Valley has also been caught up in inter-clan fighting in March, involving the Shikhhal and Tunj sub-clans, which have long been locked up in a land dispute.

27. Recently, there were reports on movements of militia forces around the town of Jowhar, 90 km to the east of Mogadishu. The town and the surrounding areas are under the control of Mohammed Deere, who also controls sections of Mogadishu North. Other movements of militia forces were also reported around the town of Baidoa, in south-central Somalia. The town and many surrounding localities are controlled by Sheikh Madobe, leader of the RRA.

28. Meanwhile, tension arose between Puntland and Somaliland during the month of January 2004. The two regions have long been locked up in a territorial dispute over the control of the provinces of Sanaag and Sool, which overlie the boundary areas of these two regions. The tension emerged at a time when the two provinces and the surrounding areas had experienced and continued to face the effects of a prolonged drought that has brought about tremendous suffering to the local populations. It had also the potential to disrupt the Somalia National Reconciliation Conference at Mbagathi, where Col. Abdullahi Yusuf was playing a key role. Given the gravity of the situation, I issued a statement calling upon the two parties to desist from any action that would aggravate the situation and to undertake negotiations to resolve the problem.

29. Furthermore, there have been incidents involving intimidation and attacks on aid workers in Somaliland. On 22 March 2004, aid workers belonging to GTZ were murdered by unknown elements near the village of Baki. The authorities have since launched an investigation into the killings, resulting in the arrest of five suspects, on 31 March 2004.

VI. HUMANITARIAN AND SOCIO-ECONOMIC SITUATION

30. The humanitarian situation remains very precarious in many parts of Somalia, stemming, among others, from the lingering effects of the civil war; the devastated transport and communication infrastructures, which impede movement of supplies; the insecurity arising from the operations of roadside gangs and rag-tag militia elements; and the erratic rainfall regime.

31. Though common throughout the country, the humanitarian problems tend to have a marked effect in some areas. For example, over the past three years, the provinces of Sanaag and Sool, less affected by previous fighting, have experienced a prolonged dry spell. That situation resulted in the drying out of water points and pasture areas, leading to the death of a large number of livestock, as well as large-scale movements of people looking for food and water.

32. Over the years, the educational sector has been severely affected by the prevailing insecurity in Somalia, registering as low as 7% school enrolment in some places. According to NGOs operating in Somalia, about 80% of the children are out of school. In Mogadishu alone, nearly 60% of the schools have either been destroyed or vandalised beyond operation. Some of the teachers have left the country, while those still in Somalia can hardly work due to insecurity and lack of facilities.

33. The health sector, too, is in a pathetic situation. In fact, the public health system has collapsed in most parts of the country, while the number of persons seeking treatment is overwhelming. Against this background, I am pleased to note that Somalia has now been removed from the list of "polio-endemic countries". That development has been qualified as "a miracle", in view of the prolonged conflict situation that has hampered many projects from being undertaken.

34. The food situation remains a serious cause for concern. While there are areas that have received better harvests, others are facing acute food shortages. This is mainly due to the limited possibility of moving food from food surplus areas to those areas affected by food shortage. Insecurity, lack of transport, the dilapidated nature of the roads and the control of food by clan militia forces in most areas are among the factors that aggravate the food crisis in Somalia.

35. Somalia's economy depends largely on the export of livestock to Middle East. As a result of the conflict and the return of epizootic diseases, livestock trade has been severely affected. This, in turn, has had further destabilizing consequences on the overall situation in Somalia. Over the past years, the AU, through the IBAR Office in Nairobi, has been providing support aimed at mitigating the crisis experienced by the livestock sector.

36. As part of its mandate to control trans-boundary livestock diseases, AU/IBAR has launched two special projects to assist livestock owners in Somalia. The first project was to provide disease surveillance and control through the involvement of Community Animal Health Providers. The second project involved the establishment of a Veterinary Technical School at Sheikh, in the north of the country. AU/IBAR played a central role in mobilizing funds

from the EU and the Italian Government, as well as in the recruitment of lecturers from all over Somalia. The teaching at the school is ongoing with 35 students. AU/IBAR is also involved in Pastoral Livelihood Programme (PLP) activities in Somalia, including the training of veterinary professionals and managers working in the meat export sector and the organisation of livestock traders in three regions of Somalia, as a nucleus of a national association in times of peace. Finally, and in order to fill the gap created by insecurity with respect to access to veterinary services in most pastoral areas, AU/IBAR has, in the past three years, contributed to the establishment of Community-based Animal Health Systems (CAHSs), mainly in southern Somalia and Sool and Sanaag regions. Through the CAHSs, services are delivered to poor livestock keepers. In addition, the CAHSs offer the opportunity to strengthen surveillance and eradication efforts against rinderpest in southern Somalia, which is suspected to be the last remaining focus of this disease in the world.

37. The work being undertaken by AU/IBAR mitigates, to some extent, the socio-economic impact of the conflict. It has also the potential, through the activities of the Red Sea Livestock Trade Commission (LTC), of contributing significantly to the peace process. The LTC, which was formed under the auspices of AU/IBAR, has mandates both in Africa and the Middle East and is working to regulate the trade in livestock and livestock products between these two regions, by introducing a quality assured private-based inspection service system. Due to the lack of an effective central Government in Somalia, the Middle East region has requested that the LTC begin its activities from the port of Djibouti. The Somali establishment is realising that they stand to lose significant amounts of revenue if they are unable to provide security. Clearly, pressure from private sector livestock producers and traders, who are very influential in Somalia due to their economic clout, can help push the factions to come to terms with the peace process.

VII. OBSERVATIONS

38. Based on the original timelines set by IGAD in April 2002, the Somalia National Reconciliation Conference was supposed to run for 6-8 months, in three consecutive Phases, starting from October 2002. However, six months from the opening, on 15 October 2002, the Conference had only achieved the signing of the Eldoret Declaration. Phase II, which started at the end of February 2003, continued to the end of the year and beyond, lasting until April 2004. At the time of finalizing this report, the Reconciliation Conference was focused on the preparation for Phase III. Among the steps already undertaken is the elaboration of Draft Rules of Procedure that will govern and guide this Phase.

39. A number of factors have hampered the progress of the reconciliation process. From the outset, the Conference received multifarious political entities. Some of them lacked clear leadership, culminating in fragmentation of factions and groups and the emergence of new ones, as individuals jostled for leadership positions. In some cases, new leaders back in Somalia have replaced the leadership of a faction at the Conference. In other cases, coalitions have emerged for the purpose of articulating demands upon the mediators, only to disintegrate before long or once the demands have been met. The existence of many self declared regional and local political and administrative entities, all claiming power and economic control in their areas, also compounded the situation. In addition, the Somali factions and groups tend to rely on their military postures to achieve their objectives. All through from the beginning of the Conference, different faction leaders have moved between the venue of the Conference and Somalia to keep their military forces in a state of alert.

40. The lack of cohesion among the IGAD Frontline States, who composed the Technical Committee that managed the Conference until the advent of the FC, in October 2003, has also undermined the progress of the Conference. In some cases, the absence of a Frontline State over-spilled to divide the Somali delegates. The element of incoherence has persisted within the Facilitation Committee at the level of the IGAD countries.

41. Furthermore, the reconciliation efforts are faced with serious financial constraints. The crisis of funding reached its climax in February-March 2003, when the Reconciliation Conference almost closed. The Somali leaders protested at the Committee's financial management. The situation has now deteriorated to an alarming stage, with the Conference currently running on a budget deficit of ten million dollars. Clearly, there is need to provide further support to the Kenyan Government, which has borne the burden of hosting the Conference.

42. I am concerned at the many delays that continue to prevent the reconciliation process from reaching an early positive conclusion. I urge the Somali leaders and parties to place the interests of their country above every other concern and to cooperate fully with the IGAD Facilitation Committee.

43. I wish to commend the efforts of Kenya and the other IGAD countries, as well as the IGAD Partners' Forum and the international observers, that have enabled the Somalia reconciliation process to remain on course amid the many obstacles encountered. At the same time, I, once again, appeal to the IGAD countries to show more cohesion, to facilitate the early conclusion of the reconciliation process.

44. I welcome the continued stability in Somaliland. I intend to continue to engage the authorities of this region, with the view of looking at ways through which they would, in due time, contribute to the restoration of peace and security in Somalia, as well as the unity of the country.

45. I am concerned at the violations of the arms embargo, which contribute to the prevailing insecurity and instability in Somalia. The Commission will continue to work closely with the United Nations Monitoring Group and will consider ways and means through which it could contribute effectively to the implementation of the arms embargo, including the establishment of a Panel of Experts.

46. I also wish to pay tribute to the UN Agencies and NGOs that continue to provide humanitarian assistance to the needy populations in Somalia amid continued insecurity.

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Report of the Chairperson of the Commission on the Situation in the Somalia

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