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**STATUS OF MISSION
AGREEMENT
(SOMA)**

BETWEEN

**THE TRANSITIONAL FEDERAL
GOVERNMENT OF THE
SOMALI REPUBLIC**


AND

THE AFRICAN UNION

ON

**THE AFRICAN UNION MISSION IN
SOMALIA (AMISOM)**

ADDIS ABABA ...6. MARCH 2007


**STATUS OF MISSION AGREEMENT BETWEEN THE TRANSITIONAL
FEDERAL GOVERNMENT OF THE SOMALI REPUBLIC AND THE
AFRICAN UNION ON THE AFRICAN UNION MISSION IN SOMALIA
(AMISOM)**

This Agreement has been concluded on this 6 day of February, in the year 2007, between the Transitional Federal Government of the Somali Republic, (hereinafter referred to as "the TFG") on the one hand, and the African Union Commission (hereinafter referred to as "the Commission") on the other hand.

WHEREAS,

The Government and the Commission:

Seeking to promote peace and stability in Somalia in accordance with International Law, the Charter of the United Nations and the Constitutive Act of the African Union;

Reaffirming the principles of strict respect for the sovereignty, territorial integrity and political independence of the Somali Republic;

Recalling the communiqué of the meeting of IGAD Heads of State and Government on Somalia held in Abuja, Nigeria, on 31 January 2005, endorsed by the Fourth Ordinary Session of the Assembly of the African Union and the subsequent Decision of the 24th Meeting of the Peace and Security Council (PSC) of African Union held on 7 February 2005, authorizing IGAD to deploy a Peace Support Mission in Somalia to provide security support to the Transitional Federal Government (TFG) in order to ensure its relocation to Somalia, guarantee the sustenance of the outcome of the IGAD Peace process, and assist with the re-establishment of peace and security, including training of the Police and the Army;

Further Recalling the UN Security Council Resolution 1725, adopted on 6th December 2006, which lifted the arms embargo on Somalia and authorizing the AU and IGAD member states to establish a training and protection mission in Somalia;

Noting the Decision of the Peace and Security Council of 8th January 2007, to deploy an AU instead of an IGAD mission to Somalia;

Further Noting the decision of the Peace and Security Council of 19th January 2007, authorizing the deployment of AMISOM for a period of 6 months, to provide support to the Transitional Federal Institutions of Somalia in their efforts towards the stabilization of the situation in the country and furtherance of dialogue and reconciliation; facilitate the provision of humanitarian assistance



and, to create conducive conditions for long-term stabilization, reconstruction and development in Somalia; reinforced by the UN Security Council Resolution 1744 (2007), further authorizing the AMISOM deployment and the partial lifting of the UN Arms Embargo (paragraph 5 of UN Resolution 733 [1992]) in favour of the deployment;

Determined to give effect to the AU Peace and Security Council decision on the deployment of AMISOM;

HEREBY AGREE as follows:

CHAPTER I

GENERAL PROVISIONS

Article 1 Definitions

1. For the purpose of this Agreement:
 - a. "AMISOM" shall mean the Africa Union Mission in Somalia, whose establishment was mandated by the Peace and Security Council at its 69th meeting on 19th January 2007.
 - b. "Member of AMISOM" shall mean members of the Military, Police and Civilian components of the Mission;
 - c. "Government" shall mean the Transitional Federal Government of the Somali Republic;
 - d. "Territory" shall mean the territory of the Government of the Somali Republic;
 - e. "Mission" shall mean the AMISOM;
 - f. "Headquarters" shall mean any plot of land or any building situated on the Somali territory, made available to the Mission for use within the framework of the activities of the Mission or as accommodation for the members of AMISOM on lease or on loan, as well as any plot of land or building situated on the territory of the Somali Republic and used temporarily by the Mission for its meetings.

g. Head of Mission (HoM) and Special Representative of the Chairperson of the African Union Commission (SRCC) shall mean the person appointed by the Chairman of the Commission to represent him in Somalia and to head the mission. The two titles shall be used interchangeably to refer to the same personality.

h. The 'Civilian Component' shall mean AU officials and other persons assigned by the Chairperson of the Commission to assist the SRCC or made available by participating states to serve as part of AMISOM.

i. The 'Military Component' shall mean AU military personnel made available to AMISOM by participating states at the request of the Chairperson.

j. 'Contractors' shall mean persons other than members of AMISOM, engaged by the AU, including juridical as well as natural persons and their employees and sub-contractors, to perform services for AMISOM and/or to supply equipment, provisions, supplies, materials and other goods, including spare parts and means of transport, in support of AMISOM activities. Such contractors shall not be considered third party beneficiaries to this Agreement.

k. 'Vehicles' mean civilian and military vehicles in use by the AU and operated by members of AMISOM, participating states or contractors in support of AMISOM activities.

l. "Vessels" mean civilian and military vessels in use by the AU and operated by members of AMISOM, participating states or contractors in support of AMISOM activities.

m. 'Aircraft' mean civilian and military aircrafts in use by the AU and operated by members of AMISOM, participating states or contractors in support of AMISOM activities.

Article II: Application of the Present Agreement

2. Unless specifically otherwise provided, the provisions of the present Agreement and any obligation undertaken by the Somali Government or any privilege, immunity, facility or concession granted to AMISOM or any member thereof apply in Somalia only.

Article III: Application of the AU Convention

3. AMISOM, its property, funds and assets and its members, including the HOM and SRCC, members of all components of the mission including African countries, the European Union, the United States, shall enjoy the privileges and immunities specified





in the present Agreement as well as those provided in ~~the~~ provisions of the AU Convention on Diplomatic Privileges and Immunities. However, these provisions are not applicable to Somali nationals.

4. The provision of Article II of the Convention that applies to AMISOM, also applies to the funds and for the participating States regarding the national contingents that are involved in the AMISOM as envisaged in paragraph 3 of this Agreement.

CHAPTER II

MANDATE OF AMISOM

Article IV: Mandate of AMISOM

5. The Peace and Security Council (PSC), at its 69th meeting on 19th January 2007, authorized the conduct of AMISOM, mandating it to provide support to the Transitional Federal Institutions (TFIs) in their efforts towards the stabilization of the situation in Somalia and the furtherance of dialogue and reconciliation; to facilitate the provision of humanitarian assistance; and create conducive conditions for long-term stabilization, reconstruction and development in Somalia.

6. In this respect, the deployment of AMISOM, consisting of 9 infantry battalions, police and Civilian components, supported by Maritime and air elements was authorized. The mission element shall be drawn from AU Member States and shall number between 8000 and 9000 personnel (civilians inclusive).

CHAPTER III

STATUS OF AMISOM

Article V: Legal Personality

7. The Government recognizes the legal personality and legal capacity of AMISOM in the Somali Republic.

Article VI: Conduct of AMISOM personnel

8. AMISOM and its members shall refrain from any action or activity incompatible with the impartial and international nature of their duties or inconsistent with the spirit of the present arrangements. AMISOM and its members shall respect all local laws and

regulations. The HoM shall take all appropriate measures to ensure the observance of these obligations.

9. Without prejudice to the Mandate of AMISOM and its international status:

a) The African Union shall ensure that the mission conducts its operation in Somalia with full respect for the principles and rules of the international Conventions applicable to the conduct of military and diplomatic personnel. These international Conventions include the four Geneva Conventions of 12 August 1949 and their Additional Protocols of 8 June 1977 and the UNESCO Convention of 14 May 1954 on the Protection of Cultural Property in the event of armed conflict and the Vienna Convention on Diplomatic Relations of 18 April 1961;

b) Somalia undertakes to treat, at all times, the military, police and civilian personnel of AMISOM with full respect for the principles and rules of the international conventions applicable to the treatment of military and civilian personnel, including the Vienna Convention on Diplomatic Relations of 18 April 1961.

10. AMISOM and the Somalia shall therefore ensure that members of their respective military and civilian personnel are fully acquainted with the principles and rules of the above mentioned international instruments.

11. The TFG undertakes to respect the international nature of AMISOM while AMISOM shall also respect the sovereignty and territorial integrity of the Somali Republic.

Article VII: AU Flags, Markings and Identification

12. Somalia recognizes the right of AMISOM to display within its territory, the AU flag on its headquarters, camps or other premises, vehicles and aircrafts as decided by the SRCC.

13. Vehicles and aircrafts of AMISOM shall carry a distinctive identification, which shall be notified to the TFG.

Article VIII: Communications

14. AMISOM shall enjoy the facilities in respect to communications and shall, in coordination with the TFG, use such facilities as may be required for the performance of its task.

15. In the light of paragraph 14, AMISOM shall:

a. Have the right to establish, install and operate AU radio stations under its exclusive control to disseminate to the public in Somalia, information relating to its mandate. Programmes broadcast on such stations shall be under the exclusive editorial control of AMISOM and shall not be subject to any form of censorship. AMISOM will make the broadcast signal of such stations available to the state broadcaster upon request, for further dissemination through the state broadcasting system. Such AU radio stations shall be operated in accordance with the International Telecommunication Convention and Regulations. The frequencies on which such stations may operate shall be decided upon in cooperation with the Government. If no decision has been reached fifteen (15) working days after the matter has been raised by AMISOM with the Government, the Government shall immediately allocate suitable frequencies for use by such stations. AMISOM shall be exempt from any taxes on and fees for the allocation of frequencies for use by such stations, as well as from any taxes on or fees for their use.

b. Have the right to disseminate to the public in Somalia, information relating to its mandate, through official printed materials and publications, which AMISOM may produce itself or through private publishing companies in Somalia. The content of such materials and publications shall be under the exclusive editorial control of AMISOM and shall not be subject to any form of censorship. AMISOM shall be exempt from any prohibitions or restrictions regarding the production or the publication or dissemination of such official materials and publications, including any requirement that permits be obtained or issued for such purposes. This exemption shall also apply to private publishing companies in Somalia which AMISOM may use for the production, publication or dissemination of such materials or publication.

c. Have the right to install and operate radio sending and receiving stations, as well as satellite systems, in order to connect appropriate points within the territory of Somalia with each other and with the AU offices in other countries, and to exchange telephone, voice, facsimile and other electronic data with the AU global telecommunications network. Such telecommunication services shall be operated in accordance with the International Telecommunication Convention and Regulations. The frequencies on which such services may operate shall be decided upon in cooperation with the Government. If no decision has been reached fifteen (15) working days after the matter has been raised by AMISOM with the Government, the Government shall immediately allocate suitable frequencies for use by such stations. AMISOM shall be exempt from any taxes on and fees for the allocation of frequencies for use by such stations, as well as from any taxes on or fees for their use. If no decision has been reached fifteen (15) working days after the matter has been raised by AMISOM with the Government, the Government shall immediately allocate suitable frequencies to AMISOM for this purpose. AMISOM shall be exempt from any taxes on and fees for the allocation of frequencies for use by such stations, as well as from any taxes on or fees for their use.

d. AMISOM shall enjoy the right to unrestricted communication by radio (including satellite, mobile, V/Sat and handheld radio), telephone, electronic mail, facsimile or any other means, and of establishing the necessary facilities for maintaining such communications within and between premises of AMISOM, including the laying of cables and land lines and the establishment of fixed and mobile radio sending, receiving and repeater stations. The frequencies on which the radio will operate shall be decided upon in cooperation with the Government. It is understood that connections with the local system of telephone, facsimile and other electronic data may be made only after consultation and in accordance with arrangements with the Government, it being understood that the use of the local system of telephone, facsimile and other electronic data will be charged at the most favourable rate.

e. AMISOM may make arrangements through its own facilities for the processing and transport of private mail addressed to or emanating from members of AMISOM. The Government shall be informed of the nature of such arrangements and shall not interfere with or apply censorship to the mail of AMISOM or its members.

Article IX. Travel and Transport

17. AMISOM, its members as well as contractors, together with their property, equipment, provisions, supplies, materials and other goods, including spare parts, as well as vehicles, vessels and aircrafts, including the vehicles, vessels and aircrafts of contractors used exclusively in the performance of their services for AMISOM, shall enjoy full and unrestricted freedom of movement without delay throughout Somalia by the most direct route possible, without the need for travel permits or prior authorization or notification, except in the case of movement by air, which will comply with the customary procedural requirements for flight planning and operations within the airspace of Somalia as promulgated and specifically notified to AMISOM by the Civil Aviation Authority of Somalia. This freedom shall, with respect to large movements of personnel, stores, vehicles, ships or aircrafts on roads, through seaports and airports used for general traffic within the territory, be coordinated with the Government. The Government undertakes to supply AMISOM, where necessary, with maps and other information, including locations of mine fields and other dangers and impediments, which may be useful in facilitating its movements and ensuring the safety and security of its members.

18. Vehicles shall not be subject to registration or licensing by the Government provided that all such vehicles shall carry the third party insurance required by relevant legislation. AMISOM shall provide to the Government, from time to time, updated lists of AMISOM vehicles.

19. AMISOM and its members as well as contractors, together with their vehicles, vessels and aircrafts, including vehicles, vessels and aircrafts of contractors used exclusively in the performance of their services for AMISOM, may use roads, bridges, canals and other waters, port facilities, airfields and airspace without the payment of dues, tolls or charges, including wharfage and compulsory pilotage charges. However, AMISOM will not claim exemption from charges, which are in fact charges for services rendered, it being understood that such charges for services rendered will be charged at the most favourable rates.

Article X: Privileges and Immunities of AMISOM

20. AMISOM, a subsidiary body of the AU, enjoys the status, privileges and immunities as provided for in paragraph 2 of the present Agreement. The Government recognizes the right of AMISOM as well as contractors, in particular:

a. to import, by the most convenient and direct route by sea, land or air, free of duty or other prohibitions and restrictions, equipment, provisions, supplies, fuel and other goods, including spare parts and means of transport, which are for the exclusive and official use of AMISOM for resale in the commissaries provided for hereinafter. For this purpose, the Government agrees expeditiously to establish, at the request of AMISOM, temporary customs clearance facilities for AMISOM, at locations in Somalia convenient for AMISOM not previously designated as official ports of entry for Somalia.

b. to establish, maintain and operate commissaries at its headquarters, camps and posts for the benefit of the members of AMISOM, but not of locally recruited personnel. Such commissaries may provide goods of a consumable nature and other articles to be specified in advance. The HoM shall take all necessary measures to prevent abuse of such commissaries and the sale or resale of such goods to persons other than members of AMISOM and he shall give sympathetic consideration to observations or requests of the Government concerning the operation of the commissaries;

c. to clear ex-customs and excise warehouse, free of duty or other restrictions and prohibitions, equipment, provisions, supplies, fuel and other goods, including spare parts and means of transport, which are for the exclusive and official use of AMISOM or for resale in the commissaries provided for above;

d. to re-export or otherwise dispose of such property and equipment, including spare parts and means of transport as far as they are still usable, and all unconsumed provisions, supplies, fuel and other goods so imported or cleared ex-customs and excise warehouse, which are not transferred, or otherwise disposed of on terms and conditions to be agreed upon, to the competent local authorities of Somalia or to an entity nominated by them.



e. the restrictions referred to in this paragraph and similar paragraphs in this Agreement are without prejudice to laws and regulations which apply in this respect.

To the end that such importation, clearances, transfer or exportation may be effected with the least possible delay, a mutually satisfactory procedure, including documentation, shall be agreed between AMISOM and the Government at the earliest possible date.

Article XI: Facilities for AMISOM and its Contractors

21. Premises required for conducting the operational and administrative activities of AMISOM and for accommodating its members.

a. The Government shall provide, where available, without cost to AMISOM and in agreement with the Head of Mission, such areas for headquarter, camps or other premises as may be necessary for the conduct of the operational and administrative activities of AMISOM, including the establishment of the necessary facilities for maintaining communications in accordance with paragraphs 14 and 15.

b. Without prejudice to the fact that all such premises remain the territory of Somalia, they shall be inviolable and such act to the exclusive control and authority of the Mandating Authority. The Government shall guarantee unimpeded access to such AMISOM premises. Where AMISOM troops are co-located with military personnel of Somalia, a permanent, direct and immediate access by AMISOM to those premises shall be guaranteed.

c. The TFG undertakes to assist AMISOM as far as possible in obtaining and making available, where applicable, water, electricity and other facilities free of charge, or, where this is not possible, at the most favourable rate, and in the case of interruption or threatened interruption of service, to give as far as is within its powers the same priority to the needs of AMISOM as to essential government services. Where such utilities or facilities are not provided free of charge, payment shall be made by AMISOM on terms to be agreed with the competent authority. AMISOM shall be responsible for the maintenance and upkeep of facilities so provided.

d. AMISOM shall have the right, where necessary, to generate electricity for its use and to transmit and distribute such electricity within its premises.

e. AMISOM alone may consent to the entry of any government officials or of any other person not member of AMISOM to such premises.

Article XII: Provisions, Supplies and Services, and Sanitary Arrangements

22. a. The Government agrees to grant expeditiously, upon presentation by AMISOM or by contractors of a bill of lading, airway bill, cargo manifest or packing list, all necessary authorizations, permits and licenses required for the importation and re-exportation of equipment, provisions, supplies, fuel, materials and other goods, including spare parts and means of transport exclusively used in support of AMISOM, including in respect of importation and re-exportation by contractors, free of any restrictions and without the payments of monetary contributions or duties, fees, charges or taxes including value-added tax. The Government likewise agrees to grant promptly all necessary authorization, permits and licences required for the purchase or export of such goods, including in respect of purchase or export by contractors, free of any restrictions and without the payment of monetary contributions, duties, fees, charges or taxes.
- b. The Government undertakes to assist AMISOM as far as possible in obtaining equipment, provisions, supplies, fuel, materials and other goods and services from local sources required for its subsistence and operations.
- c. In respect of equipment, provisions, supplies, materials and other goods and services purchased locally by AMISOM or by contractors for the official and exclusive use of the mission, the Government shall make appropriate administrative arrangements for the remission or return of any excise or tax payable as part of the price. The Government shall exempt the AMISOM from general sales taxes in respect of all local purchases for official use. In making purchases on the local market, AMISOM shall, on the basis of observations made and information provided by the Government in that respect, avoid any adverse effect on the local economy. In accordance with the Financial Regulations and Rules of the AU, AMISOM shall, when purchasing goods and services, endeavour to give due consideration to local contractors
- d. For the proper performances of the services provided by contractors, other than Somali nationals in support of AMISOM, the Government agrees to provide contractors with facilities concerning their entry into and departure from Somalia, without delay or hindrance, and for their residence in Somalia, as well as their repatriation in time of crisis. For this purpose, the Government shall promptly issue to contractors, free of charge and without any restrictions and within 48 hour of applications, all necessary visas, licenses, permits and registration. Contractors other than Somali nationals resident in Somalia, shall be accorded exemption from taxes and monetary contributions in Somalia on services, equipment, provisions, supplies, fuel, materials and other goods, including spare parts and means of transport, provided by AMISOM, including corporate, , income, social security and other similar taxes arising directly from or related directly to the provision of such devices or goods .

e. AMISOM and the Government shall cooperate with respect to sanitary services and shall extend to each other, the fullest cooperation in matters concerning health, particularly with respect to the control of communicable diseases, specially HIV/AIDS, in accordance with international conventions.

CHAPTER IV

RECRUITMENT OF LOCAL PERSONNEL

Article XIII: Recruitment of Local Personnel

23. AMISOM may recruit locally, such personnel, as it requires for the performance of its duties. Upon the request of AMISOM, the Government undertakes, in accordance with relevant laws and regulations, to facilitate the recruitment of qualified local staff by AMISOM and to accelerate the process of such recruitment.

CHAPTER V

CURRENCY

Article XIV: Currency

24. The Government undertakes to make available to AMISOM, against reimbursement in mutually acceptable currency, (local) currency required for the use of AMISOM, including the pay of its members, at the prevailing rate. The transaction shall be done through a mutually agreed bank.

CHAPTER VI

STATUS OF THE MEMBERS OF AMISOM

Article XV: Privileges and Immunities

25. The HoM and his deputy, the Force Commander, the Police Component Commander, the Head of Mission Support and such high-ranking members of AMISOM as may be agreed upon with the Government shall have the status specified in Sections 19 and 27 of the Convention, provided that the privileges and immunities therein referred to shall be those accorded to diplomatic envoys by international law.

26. Officials of the United Nations who may be assigned to the mission, as well as United Nations Volunteers who shall be assimilated thereto, remain officials of the



United Nations entitled to the privileges and immunities of Articles V and VII of the Convention.

27. Military personnel and civilians other than AMISOM officials whose names are for the purpose notified to the Government by the Head of Mission shall be considered as experts on short term mission within the meaning of Article VI of the Convention.

28. Military personnel of national contingents, other than Somalis, assigned to the military component of AMISOM shall have the privileges and immunities specifically provided for in the present Agreement.

29. Unless otherwise specified in the present Agreement, locally recruited personnel of AMISOM shall enjoy the immunities concerning official acts and exemption from taxation and national service obligations provided for in Sections 18 (a), (b) and (c) of the Convention.

30. Members of AMISOM shall be exempt from taxation on the salary and emoluments received from AMISOM or from a participating State and any income received from outside Somalia. They shall be exempt from all other direct taxes, except municipal rates for services enjoyed, and from all registration fees and charges.

31. Members of AMISOM shall have the right to import free of duty, their personal effects in connection with their arrival in Somalia. They shall, subject to the laws and regulations of Somalia governing customs and foreign exchange with respect to personal property not required by them by reason of their presence in Somalia with AMISOM. Special facilities will be granted by the Government for the speedy processing of entry and exit formalities for all members of AMISOM, including the military component, upon prior written notification.

32. On departure from Somalia, members of AMISOM may, notwithstanding the above-mentioned exchange regulations, take with them such funds as the Head of Mission certifies were received in pay and emoluments from AMISAOM or from a participating State and are a reasonable residue thereof. Special arrangements shall be made for the implementation of the present provisions in the interests of Somalia and the members of AMISOM.

33. The HoM shall cooperate with the Government and shall render all assistance within his power in ensuring the observance of the customs and fiscal laws and regulations of Somalia by the members of AMISOM, in accordance with the present Agreement.

Article XVI: Entry, Residence and Departure

34. The HoM and members of AMISOM, whenever so required by the Head of Mission, have the right to enter, reside in and depart from Somalia.

35. The Government undertakes to facilitate the entry and departure from Somalia of the HoM and members of AMISOM and shall be kept informed of such movement. For that purpose, the HoM and members of AMISOM be exempted from passport and visa regulations, immigration inspections and restrictions as well as payment of any fees or charges on entering into Somalia.

36. They shall also be exempted from any regulations governing the residence of aliens in The Somalia, including registration, but shall not be considered as acquiring any right to permanent residence to domicile in Somalia.

37. For the purpose of such entry or departure, members of AMISOM only are required to have:

- a) an individual or collective movement order issued by or under the authority of the HoM or any appropriate authority or a participating State; and
- b) a personal identity card issued in accordance with paragraph 37 of the present Agreement, except for the first entry, where the AU laissez passer, national passport or personal identity card issued by the AU or appropriate authorities of a participating state shall be accepted in lieu of the said identity card.

Article XVII: Identification

38. The HoM shall issue to each member of AMISOM, before or as soon as possible after such member's first entry into Somalia, as well as all locally recruited personnel and contractors, a numbered identity card, showing the bearer's name and photograph. Except as provided for in paragraph 22.d. of the present Agreement, such identity card shall be the only document required of a member of AMISOM. Contractors and locally recruited staff shall be issued with appropriate AMISOM identity cards.

39. Members of AMISOM, as well as locally recruited personnel and contractors shall be required to present, but not to surrender, their AMISOM identity cards upon demand of an appropriate official of the Government.

Article XVIII: Uniforms and Arms

40. Members of AMISOM, such as but not limited to, military and police members shall wear, while performing official duties, the national uniform of their respective States with standard AU/AMISOM accoutrements. AU Security Officers and Field Service officers mat wear the AU uniform.

41. The HoM may authorize the wearing of civilian clothes at other times.

42. Military and special categories of civilian members of AMISOM and AMISOM Security Officers and AU close protection officers designated by the HoM may possess and carry arms while on duty in accordance with their orders. Those carrying weapons while on duty other than those undertaking close protection duties must be in uniform at that time.

Article XIX: Permits and Licenses

43. The Government agrees to accept as valid, without tax or fee, a permit or license issued by the HoM for the operation by any member of AMISOM, including locally recruited personnel, of any AMISOM vehicles and for the practice of any profession or occupation in connection with the functioning of AMISOM, provided that no permit to drive a vehicle shall be issued to any person who is not already in possession of an appropriate and valid driving license.

44. The Government agrees to accept as valid, and where necessary to validate, free of charge and without any restrictions, licenses and certificates already issued by appropriate authorities in other States in respect of aircraft and vessels, including those operated by contractors exclusively for AMISOM.

45. Without prejudice to the foregoing, the Government further agrees to grant expeditiously, free of charge and without any restrictions, within the Mission area, necessary authorizations, licenses and certificates, where required, for the acquisition, use, operation and maintenance of aircraft and vessels.

Article XX: Military Police, Arrest and Transfer of Custody, and Mutual Assistance

46. Without prejudice to the provisions of paragraph 42, the Government further agrees to accept as valid, without tax or fee, a permit or license issued by the HoM to a member of AMISOM for the carrying or use of firearms or ammunition in connection with the functioning of AMISOM.

47. The HoM shall take all appropriate measures to ensure the maintenance of discipline and good order among members of AMISOM, as well as locally recruited personnel. To this end personnel designated by the HoM shall police the premises of AMISOM and such areas where its members are deployed. Elsewhere, such personnel shall be employed only subject to arrangements with the Government and in liaison with it, so far as such employment is necessary to maintain discipline and order among members of AMISOM.

48. The Military Police of AMISOM shall have the power of arrest over the military members of AMISOM. In such cases, the HoM shall refer Somali military members of AMISOM to their respective authorities. Military personnel placed under arrest outside their own contingent areas shall be transferred to their contingent Commanders for appropriate disciplinary action. The personnel mentioned in paragraph 46 above may take into custody any other person on the premises of AMISOM. Such other person shall be delivered immediately to the nearest appropriate official of Somalia for the purpose of dealing with any offence or disturbance on such premises.

49. Subject to the provisions of paragraphs 47 and 48, officials of the Government may take into custody any member of AMISOM:

- a. when so requested by the HoM; or
- b. when such a member of AMISOM is apprehended at the time he committed the infraction or was attempting to commit the infraction. Such a person shall be delivered immediately, together with any weapons or other items seized, to the nearest appropriate representative of AMISOM, where after the provisions of paragraph 48 shall apply *mutatis mutandis*.

50. When a person is taken into custody under paragraph 47 or paragraph 49 (b), AMISOM or the Government, as the case may be, may make a preliminary interrogation but may not delay the transfer in to custody. Following such transfer, the person concerned shall be made available upon request to the arresting authority for further interrogation.

51. AMISOM and the Government shall assist each other in carrying out all necessary investigations into offences in respect of which either or both have an interest, in the production of witnesses and in the collection and production of evidence, including the seizure of and, if appropriate, the handing over of items connected with an offence. The handing over of any such items may be made subject to their return within the terms specified by the authority delivering them. Each shall notify the other of the disposition of any case in the outcome of which the other may have an interest or in which there has been a transfer of custody under the provisions of paragraphs 48 to 50.

Article XXI. Safety and Security

52. a. The Government shall take all appropriate measures within its capabilities to ensure the safety and security and freedom of movement of AMISOM, its members and associated personnel and their property and assets. It shall take all appropriate steps, within its capabilities, to protect members of AMISOM and its associated personnel and their equipments and premises from attack or any action that prevents them from discharging their mandate. This is without prejudice to the fact that all premises of AMISOM are inviolable and subject to the exclusive control and authority of the AU.



b. If members of AMISOM or its associated personnel are captured, detained or taken hostage in the course of the performance of their duties and their identification has been established, they shall not be subject to interrogation and they shall be promptly released and returned to the AU or other appropriate authorities. Pending their release, such personnel shall be treated in accordance with universally recognised standards of human rights and the principles and spirit of the Geneva Convention of 1949.

c. The Government shall ensure that the following are established as crimes under its national law and make them punishable by appropriate penalties, taking into account their grave nature:

- (1) A murder, kidnapping, or other attack upon the person or liberty of any member of AMISOM or its associated personnel.
- (2) A violent attack upon the official premises, the private accommodation or the means of transportation of any member of AMISOM or its associated personnel likely to endanger his or her personal liberty.
- (3) A threat to commit any such attack with the objective of compelling a physical or juridical person to do or refrain from doing any act.
- (4) An attempt to commit any such attack.
- (5) An act constituting participation as an accomplice in any such attack, or in an attempt to commit such attack, or in organising or ordering others to commit such attack.

d. The Government shall establish its jurisdiction over the crimes set out in paragraph 52. c. above:

- (1) When the crime was committed on the territory of Somalia.
- (2) When the alleged offender is a Somali national.
- (3) When the alleged offender, other than a member of AMISOM, is present in the territory of Somalia, unless it has extradited such a person to the state on whose territory the crime was committed, or to the state of his or her nationality, or to the state of his or her habitual residence if he or she is a stateless person, or to the state of the nationality of the victim.

e. The Government shall ensure the prosecution, without exception and without delay, of persons accused of acts described in paragraph 52. c. above, who are present in the territory of Somalia (if the Government does not extradite them), as well as those persons that are subject to its criminal jurisdiction who

are accused of other acts in relation to AMISOM or its members or associated persons which, if committed in relation to the forces of the Government or against the local civilian population, would have rendered such acts liable to prosecution.

53. Upon the request of the HoM, the Government shall provide such security as necessary to protect AMISOM, its members and associated personnel and their equipment during the exercise of their functions.

Article XXII: Jurisdiction

54. All members of AMISOM, including locally recruited personnel, shall be immune from legal process in respect of words spoken or written and all acts performed by them in their official capacity. Such immunity shall continue even after they cease to be members of or employed by AMISOM and after the expiration of the other provisions of the Agreement.

55. Should the Government consider that any member of AMISOM has committed a criminal offence, it shall promptly inform the HoM and present to him any evidence available to it. Subject to the provisions of paragraph 54:

a. If the accused person is a member of the civilian component or a civilian member of the military component, the HoM shall conduct any necessary supplementary inquiry and then agree with the Government whether or not criminal proceedings should be instituted. Failing such agreement the question shall be resolved as provided in paragraph 59 of the present Agreement;

b. Military members of the military component of AMISOM shall be subject to the exclusive jurisdiction of their respective participating States in respect of any criminal offences which may be committed by them in Somalia.

56. If any civil proceeding is instituted against a member of AMISOM before any court of Somalia, the HoM shall be notified immediately, and he shall certify to the court whether or not the proceeding is related to the official duties of such member:

a. If the HoM certifies that the proceeding is related to official duties, such proceeding shall be discontinued and the provisions of paragraph 54 of the present Agreement shall apply;

b. If the HoM certifies that the proceeding is not related to official duties, the proceeding may continue. If the HoM certifies that a member of AMISOM is unable because of official duties or authorized absence to protect his interests in the proceeding, the court shall at the defendant's request suspend the proceeding until the elimination of the disability, but for no more than ninety days. Property of a member of AMISOM that is certified by the HoM to be

needed by the defendant for the fulfilment of his official duties shall be free from seizure for the satisfaction of a judgement, decision or order. The personal liberty of a member of AMISOM shall not be restricted in a civil proceeding, whether to enforce a judgement, decision or order, to compel an oath or for any other reason.

Article XXIII: Deceased Members

57. The HoM shall have the right to take charge of and dispose of the body of a member of AMISOM who dies in Somalia, as well as that member's personal property located within Somalia, in conformity with the practice of the AU relating to the matter.

CHAPTER V

LIMITATION OF LIABILITY OF AMISOM

Article XXIV: Limitations of Liability of AMISOM.

58. Third party claims for property loss or damage and for personal injury, illness or death arising from or directly attributed to it, except for those arising from operational necessity, and which cannot be settled through the internal procedures of AMISOM, shall be settled by the AU in the manner provided for in Article XIII of the present Agreement, provided that the claim is submitted within six months following the occurrence of the loss, damage or injury, or if the claimant did not know or could not have reasonably known of such loss or injury, within six months from the time he/she had discovered the loss or injury, but in any event not later than one year after the termination of the mandate of the operation.

CHAPTRE VI

SETTLEMENT OF DISPUTES

Article XXV: Settlement of Disputes

59. Except as provided in paragraph 56, any dispute or claim of a private law character, not resulting from the operational necessity of AMISOM to which AMISOM or any member thereof is a party and over which the courts of Somalia do not have jurisdiction because of any provision of the present Agreement, shall be settled by a Standing Claims Commission to be established for that purpose. One member of the

Commission shall be appointed by the AU, one member by the TFG and a Chairman jointly by the AU and the Government. If no agreement as to the Chairman is reached within thirty days of the appointment of the first member of the Commission, the two Parties will refer themselves to an agreed third party to appoint the Chairperson. Any vacancy on the Commission shall be filled by the same method prescribed for the original appointment, provided that any two members shall constitute a quorum for all purposes (except for a period of thirty days after the creation of a vacancy) and all decisions shall require the approval of any two members. The awards of the Commission shall be final. The awards of the Commission shall be notified to the parties and, if against a member of AMISOM, the HoM shall use his best endeavours to ensure compliance.

60. Disputes concerning the terms of employment and conditions of service of locally recruited personnel shall be settled by the administrative procedures to be established by the HoM.

61. All other disputes between AMISOM and the Government concerning the interpretation or application of the present Agreement shall, unless otherwise agreed by the parties, be submitted to a tribunal of three arbitrators. The provisions relating to the establishment and procedures of the claims commission shall apply, *mutatis mutandis*, to the establishment and procedures of the tribunal. The decisions of the tribunal shall be final and binding on both parties.

62. All differences between AMISOM and the Government arising out of the interpretation or application of the present arrangements which involve a question of principle concerning the Convention shall be dealt with in accordance with the procedure of Section 30 of the Convention.

CHAPTER VII

SUPPLEMENTAL ARRANGEMENTS

Article XXVI: Supplemental Arrangements

63. The HoM and the Government may conclude supplemental arrangements to the present Agreement.

CHAPTER VIII

LIAISON

Article XXVII: Liaison

64. The HoM and the Government shall take appropriate measures to ensure close and reciprocal liaison at every appropriate level.

CHAPTER IX

MISCELLANEOUS PROVISIONS

Article XXVIII: Miscellaneous Provisions

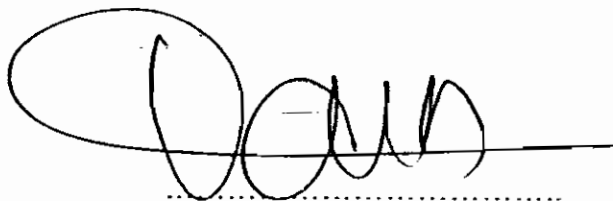
65. Wherever the present Agreement refers to privileges, immunities and rights of AMISOM and to the facilities Somalia undertakes to provide to AMISOM, the Government shall have the ultimate responsibility for the implementation and fulfilment of such privileges, immunities, rights and facilities by the appropriate local authorities.

66. The present Agreement shall enter into force upon signature by or for the AU and the Government.

67. The present Agreement shall remain in force until the repatriation of all the Units of AMISOM and their equipments.

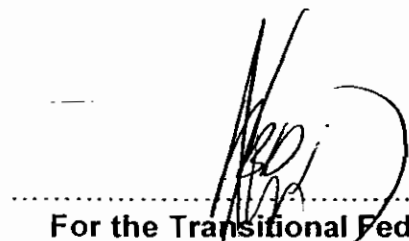
68. Notwithstanding the termination of this Mission, any obligation arising from the application and implementation of this Agreement shall remain valid.

Done in Addis Ababa on 6.. March, 2007



For the African Union

Commissioner for Peace
and Security



For the Transitional Federal
Government of Somalia

AMB ABDIKARIM
FIRAH

Somali AMBASSADOR to
ETHIOPIA AND AU