

Somali Roadmap Signatories, 2012

Protocol Establishing the Somali National Constituent Assembly

Adopted [insert date] June 2012

The Somali Roadmap Signatories, committed to facilitating the implementation of their previous agreements adopted at *Kampala, Mogadishu, Garowe, Galka'yo* and *Addis Ababa* carrying out the directions given by Decree of the President on [Insert Date], hereby adopt the following Protocol to establish the National Constituent Assembly referred to in that Decree.

ARTICLE 1

Interpretation and Application

1. In this Protocol—

- (a) The expression “Elders Arbitration Board” means the Board of that name set forth in the *Protocol Establishing the Technical Selection Committee*, adopted by the Somali Roadmap Signatories on [insert date] June 2012;
- (b) The expression “Signatories Technical Revision Committee” means the committee established by the *Protocol Establishing the Signatories Technical Revision Committee*, adopted by the Somali Roadmap Signatories on [insert date] June 2012;
- (c) The expression “Somali Roadmap Signatories” means the holders of the following offices, acting collectively:
 - i) The President of the Transitional Federal Government;
 - ii) The Speaker of the Transitional Federal Parliament;
 - iii) The Prime Minister of the Transitional Federal Government;
 - iv) President of Puntland;
 - v) President of Galmudug;
 - vi) Representative of Ahlu Sunna Wal Jamaa’a; and
 - vii) The Special Representative of the Secretary General of the United Nations.
- (d) The expression “Technical Selection Committee” means the committee established by the *Protocol Establishing the Technical Selection Committee*, adopted by the Somali Roadmap Signatories on [insert date] May 2012.

- 2. This Protocol is to be interpreted and applied in accordance with, and in a manner that gives full effect to, the agreements reached by the Somali Roadmap Signatories in the *Kampala Accord*, the *Somali Roadmap*, the *Garowe I and II Principles*, the *Galka’yo Agreement*, the *Addis Ababa Communiqué*, and the Decree of the President, dated [Insert Date].
- 3. Any dispute in the interpretation or application of this Protocol shall be referred to the Somali Roadmap Signatories for resolution and further direction.
- 4. The Transitional Federal Government and international community shall be requested to provide administrative, technical and financial resources as required to enable the National Constituent Assembly to carry out its mandate.

5. As an impartial organization committed to the Somali Roadmap, the United Nations shall be requested to observe and provide necessary assistance to all aspects of the work of the National Constituent Assembly with a view to a successful holding and completion of the National Constituent Assembly.

ARTICLE 2

Preparation of Draft Provisional Constitution for Provisional Adoption

The Signatories Technical Revision Committee shall—

- (a) Finalise the draft provisional constitution for provisional adoption in accordance with the *Protocol Establishing the Signatories Technical Revision Committee*, adopted by the Somali Roadmap Signatories on [insert date] June 2012.
- (b) Publish the draft provisional constitution for consideration and provisional adoption by the National Constituent Assembly as soon as practicable, in accordance with and adhering to the directions and agreements reached by the Somali Roadmap Signatories.

ARTICLE 3

Establishment and Tenure of the National Constituent Assembly

1. The Traditional Leaders shall select members of the National Constituent Assembly and the Somali Roadmap Signatories thereafter shall convene a National Constituent Assembly, which shall sit at the first practicable opportunity, in accordance with and adhering to the directions and agreements previously reached by the Somali Roadmap Signatories including the *Kampala Accord*, the *Somali Roadmap*, the *Garowe I and II Principles*, the *Galka'yo Agreement*, the *Addis Ababa Communiqué*, and the Decree of the President, dated [Insert Date], for the purpose of considering, and voting to provisionally adopt or provisionally adopt with exceptions , the draft provisional Constitution as published under Article 2.
2. The National Constituent Assembly shall be dissolved when it adjourns following its vote on the draft provisional constitution.

ARTICLE 4

National Constituent Assembly Members

1. The National Constituent Assembly shall comprise 825 delegates of whom at least 30% must be women.
2. Each member of the National Constituent Assembly shall be selected and appointed by the Traditional Leaders, based on the 4.5 formula, and each must—
 - (a) Be a Somali citizen;
 - (b) Be at least 21 years old;
 - (c) Be literate;
 - (d) Have relevant experience;
 - (e) Be of good standing in Somali society, as an honest, patriotic, and tolerant citizen who upholds the rights of all Somalis;
 - (f) Have no immediate declared personal political ambitions, or conflicting loyalty to a foreign state; but, for the purpose of this clause;
 - (g) Not currently be serving in an official capacity at the federal or regional levels nor have served in federal constitutional drafting bodies; and
 - (h) Have no record of serious crime or crimes against humanity.
3. Collectively, the National Constituent Assembly must generally reflect the composition of Somali society, including youth and students, religious and traditional leaders, business people, professionals, scholars, and the Diaspora.
4. The Technical Selection Committee must reject—
 - (a) Any submitted nomination list that does not include at least 30% women; and
 - (b) Any applicant or nominee who does not satisfy the criteria set out in clause 2, above.
5. If a nominee, or a whole list of nominees, is rejected by the Technical Selection Committee, those who propose that nominee or list may submit another nominee or list in its place, but any such replacement nominee or list must satisfy the criteria set out in this Article.
6. The Traditional Leaders, supported by the Technical Selection Committee and in consultation with their clans and with different sectors of Somali civil society, including religious leaders, intellectuals, youth, women, and business people, shall select the members of the National Constituent Assembly from among

persons whom the Technical Selection Committee have vetted against the required criteria set out in clause 2 above.

7. If a vacancy arises in the Constituent Assembly for any reason, that position shall be filled by appointment of a person chosen for that purpose by the Traditional Leaders.
8. Any dispute during the selection process for members of the Constituent Assembly shall be referred to the Elders Arbitration Board for resolution as set forth in the Somali Addis Ababa Communiqué of 23 May 2012.

ARTICLE 5

Structures of the National Constituent Assembly

5.1 Traditional Leaders

1. The Traditional Leaders, as recognised in accordance with Article 3 (1) of the *Protocol Establishing the Technical Selection Committee*, adopted by the Somali Roadmap Signatories on [insert date] June 2012, is a conclave of 135 Somali universally recognized Traditional Leaders comprising—
 - (a) 30 members from each of the four clans; and
 - (b) 15 members from the 5th clan.
2. Collectively, the Traditional Leaders select members of the National Constituent Assembly in the manner set out in Article 4.
3. For greater certainty, the members of the Traditional Leaders shall not be members of the National Constituent Assembly, but shall indirectly contribute to the mandate of the National Constituent Assembly by selecting the members of the National Constituent Assembly, and the chairs of the theme committees, as otherwise provided in this Protocol.

5.2. Coordinating Committee

- (1) There is established a Coordinating Committee within the National Constituent Assembly, which shall oversee the general management and functioning of the National Constituent Assembly.
- (2) The Coordinating Committee comprises—
 - (a) The Co-Chairs of the National Constituent Assembly;
 - (b) The Chairs of the Theme Committees; and
 - (c) The members of the Legal Committee, who are non-voting members of the Coordinating Committee.
- (3) Any 5 members of the Coordinating Committee may request the Co-Chairs to convene a meeting of the Coordinating Committee to discuss any matter of general concern regarding the mandate and functions of the National Constituent Assembly.
- (4) The Co-Chairs shall chair the meetings of the Coordinating Committee.
- (5) The National Constituent Assembly may address any matter to the Coordinating Committee for resolution, and the Coordinating Committee shall provide direction on that matter to the National Constituent Assembly within 24 hours.
- (6) The Coordinating Committee shall endeavour to reach consensus on matters before it.
- (7) The Coordinating Committee shall serve as the final conflict resolution mechanism for all conflicts which may arise within the National Constituent Assembly deliberations and that are not resolved pursuant to other mechanisms and procedures.

- (8) The decisions of the Coordinating Committee shall be binding on the National Constituent Assembly and the deliberative process of provisional adoption shall proceed accordingly.

5.2 Legal Committee

1. There is established a Legal Committee, which shall—
 - (a) Provide advice to the Coordinating Committee on issues that are raised by the Theme Committees and referred to the Signatories Technical Revision Committee for clarification , but which remain unresolved; and
 - (b) Shall perform its advisory duties in a technical, impartial, non-partisan manner, taking into account the need for resolution of all matters in ways that serve the common good; and
 - (c) In terms of this Article and Article 7.2, prepare an opinion on the reasons for the rejection of issues in the draft provisional constitution, if at least 30% of the votes cast in the National Constituent Assembly oppose various provisions of the draft provisional constitution.
2. The Coordinating Committee shall appoint 9 members of the National Constituent Assembly, on the basis of the 4.5 formula, to comprise the Legal Committee.
3. Each person appointed to the Legal Committee must have a background in law.
4. In addition to carrying out the functions set out in clause 1, the Legal Committee, in consultation with the Signatories Technical Revision Committee and under the direction of the Coordinating Committee, shall—
 - (a) Consider all referrals concerning the text of the draft provisional constitution;
 - (b) Seek to build consensus among the views and proposals for the draft provisional constitution to the extent possible;
 - (c) Propose revisions of the text of the draft provisional constitution in any manner required to address issues referred to the Legal Committee; and
 - (d) Generally review and propose revisions to the text of the draft provisional constitution as may be required to improve its comprehensibility, consistency and coherence.

5.3 Signatories Technical Revision Committee

1. The Signatories Technical Revision Committee shall serve as a reference and resource group during the National Constituent Assembly deliberations. Members of the Signatories Technical Revision Committee shall be present in each Theme Committee to answer questions on the text of the draft provisional constitution for provisional adoption and shall, in consultation with the Legal Committee and the Coordinating Committee –
 - a. Propose revisions of the text of the draft provisional constitution in any manner required to address issues referred to the Signatories Technical Revision Committee; and
 - b. Generally review and propose revisions to the text as may be required to improve its comprehensibility, consistency and coherence.
2. All issues or questions referred back to the Signatories Technical Revision Committee by the National Constituent Assembly shall be considered immediately and resubmitted within 24 hours.
3. The Signatories Technical Revision Committee may bring to the notice of the Chairs of the Coordinating Committee or the Legal Committee any issues that it considers requiring their attention and resolution.
4. Leadership of the National Constituent Assembly, particularly the Legal Committee, should be readily available to assist the Signatories Technical Revision Committee in addressing issues and questions submitted.
5. The Signatories Technical Revision Committee will consider and record the submissions from each committee and any anomalies requiring the notice of the Coordinating Committee or Legal Committee.
6. Any issues not resolved under the procedure set forth in clauses (1) – (4) shall be referred to the -Coordinating Committee for final resolution.
7. Any issues not resolved under the procedure set forth in clauses (1) – (4) shall be referred by the Coordinating Committee to the Principals for final resolution.
8. The issues raised but remaining unresolved by the Coordinating Committee shall be recorded by the Legal Committee and the Technical Revision Committee for further discussion during the post-provisional adoption Constitutional review phase led by the New Federal Parliament.

9. Issues raised but remaining unresolved by the Coordinating Committee, and which also result in a majority vote for provisional adoption with exceptions, shall be recorded by the Legal Committee and the Signatories Technical Revision Committee with accompanying instructions to the new Federal Parliament to ensure these exceptions are addressed through the post-provisional adoption review and revision process, in terms of Article 7.2 and other relevant Protocols.

5.4 Assembly Co-Chairs

1. As soon as practicable after being called to order, the National Constituent Assembly shall select from among themselves two Co-Chairs, one of whom shall be a woman, and the other a man.
2. The election of the Co-Chairs shall proceed in accordance with the Article 10 of the Rules of Procedure.
3. The Co-Chairs shall—
 - (a) Preside over plenary sessions of the National Constituent Assembly;
 - (b) Serve as the spokespersons for the National Constituent Assembly;
 - (c) Exercise overall authority for keeping order in the National Constituent Assembly;
 - (d) Open, adjourn and close the plenary sessions of the National Constituent Assembly;
 - (e) Take decisions whether voting shall be open or closed and decisions regarding declaration of the results of the votes;
 - (f) Call observers or experts to address either an open or closed session of the National Constituent Assembly or any of its committees;
 - (g) Ensure cooperation among all agencies and organizations assisting with the daily functioning and security of the National Constituent Assembly;
 - (h) Take reasonable decisions about all matters not covered by these rules that are related to the effective functioning of the National Constituent Assembly; and
 - (i) Perform any other function assigned to the Co-Chairs by these Rules, or by the Coordinating Committee.

5.5 Theme Committees

1. As soon as practicable after being called to order, the National Constituent Assembly shall organise itself into ten Theme Committees, each of which must comprise at least 50 members of the National Constituent Assembly.
2. The ten Theme Committees are:
 - (a) Sharia and Human Rights
 - (b) Federalism and Decentralisation
 - (c) System of Government and the Judiciary
 - (d) Peace and Security
 - (e) Process of Federating Somalia
 - (f) Electoral System and Political Parties
 - (g) Transitional Arrangments and Implementation Schedule
 - (h) Reconciliation and Transitional Justice
 - (i) Social and Economic Development
 - (j) Land, Property and Environment
3. Each Theme Committee shall select its own chair according to the 4.5 formula. In each Theme Committee, the Chair, in accordance with clause 3, shall—
 - (a) Convene each sitting of the Theme Committee;
 - (b) Maintain order in the Committee;
 - (c) Adhere to the work plan as within the time allowed by the Coordinating Committee;
 - (d) Ensure that all Theme Committee members have an opportunity to participate in the Theme Committee deliberations freely.
 - (e) Ensure that deliberations of the Theme Committee are confined to the subject matter referred to in the agenda; and
 - (f) Facilitate consensus building; and
 - (g) Appoint two rapporteurs for that committee from among its members.
4. The rapporteurs of each Theme Committee shall—
 - (a) Assist the Chair of the Committee;
 - (b) Prepare a report for each sitting that accurately summarizes the work and decisions of the Theme Committee, faithfully and accurately report to the plenary of the Theme Committee, and thereafter, as

approved by the Theme Committee, then to the Legal Committee, Signatories Technical Revision Committee and Coordinating Committee regarding the work and decisions of the Theme Committee, particularly as to any issues that should be referred to the new federal parliament for further review and consultation in terms of Article 7.2; and

- (c) Report to the whole National Constituent Assembly with a recommendation whether, in respect to their respective themes, the draft provisional constitution should be approved, or referred back to the Signatories Technical Revision Committee for further consideration in terms of Article 5.2 and 5.3.
5. The first item on the agenda of the Theme Committees shall be an in-depth orientation on the contents of the draft provisional constitution. Members of the Signatories Technical Revision Committee and trained staff assigned by the Administrator shall ensure the accuracy and consistency of the briefing provided to each Theme Committee.
 6. In the absence of the Chair of a Theme Committee, the Theme Committee members shall elect a temporary chair of the Theme Committee.
 7. The Administrator shall provide support staff to assist the Theme Committees in their work, as required.

5.6 Rapporteurs - General

1. The Coordinating Committee shall appoint two Rapporteur-Generals from amongst its members, who shall be responsible to produce the final reports of the National Constituent Assembly, including the final text of the draft provisional constitution as prepared by the Signatories Technical Revision Committee.
2. Each Theme Committee Rapporteur shall—
 - (a) Attend meetings of the Legal Committee, as required to clarify issues arising in that Theme Committee; and
 - (b) Be responsible to produce and deliver to the Rapporteurs-General the final report of that Theme Committee.

5.7 Administrator

1. The Coordinating Committee shall appoint an Administrator of the National Constituent Assembly, who will liaise with the Joint Implementation Unit and

who shall supervise such staff as are necessary to effectively serve the National Constituent Assembly and its committees

2. The functions within the responsibility of the Administrator during and after the National Constituent Assembly shall be to co-ordinate with the Joint Implementation Unit and relevant Ministries to manage the administrative aspects of the National Constituent Assembly process.
3. A separate Terms of Reference for the Administrator and the Joint Implementation Unit of the Office of the Prime Minister and the Ministry of Constitutional and Federal Affairs shall be developed by the Minister of Constitutional Affairs.

ARTICLE 6

Procedures of the National Constituent Assembly

1. The Constituent Assembly shall conduct its proceedings in accordance with the National Constituent Assembly Rules of Procedure set out in Annexure 1.
2. Except as provided in Article 7.2 (in terms of the final vote of the Constituent Assembly to adopt the provisional constitution) plenary meeting of the Constituent Assembly shall be—
 - (a) Properly convened if at least 450 members are present at the time and place specified in a notice of the meeting; and
 - (b) Presided over by the co-chairpersons or either of the co-chairpersons.
3. Decisions of the National Constituent Assembly at a plenary meeting shall be taken by 50% plus 1 of the required number of members present and voting on a matter. The presiding member may not vote.
4. The Administrator shall make audio and video records of all public sessions of the National Constituent Assembly.
5. Minutes of a session of the Plenary of the National Constituent Assembly or of a committee shall contain information on the attendance at the session and the main work conducted at the session. The original or copies of the proposals and matters discussed at a session shall be attached to the minutes of the respective sessions.
6. The Presiding Co-Chair and Rapporteurs-General of the National Constituent Assembly shall sign the approved minutes of meetings of the Plenary. The

Presiding Co-Chair and Rapporteur of each Committee shall sign the approved minutes of their respective working and Theme Committees.

7. The material formulated and discussed by the various Committees, including the Legal Committee, the Signatories Technical Revision Committee, the Coordinating Committee, and the Plenary of the National Constituent Assembly shall be kept in the archives of the Office of the Prime Minister, pending its transfer to the secretariat of the new Federal Parliament.
8. The recordings of sessions of the National Constituent Assembly and its committees, tape and audio-video recordings of sessions and other material shall also be stored in the archives of the Office of the Prime Minister, pending its transfer to the secretariat of the new Federal Parliament.
9. Members of the National Constituent Assembly shall have the right to review any records of the National Constituent Assembly until it has been dissolved.
10. The official reports of the National Constituent Assembly and all of its committees must be produced in official Somali language.

ARTICLE 7

Consideration of the Draft Provisional Constitution

7.1 Preliminary Consideration

1. At any time, the National Constituent Assembly or any of the Theme Committees or the Legal Committee may refer particular provisions back to the Signatories Technical Revision Committee for reconsideration or explanation.
2. The Signatories Technical Revision Committee shall consider any matter referred to it in accordance with Article 5.2 and 5.3.

7.2 Final Consideration and vote

1. At the conclusion of the National Constituent Assembly's deliberations, the delegates shall vote on the following question:

“Should this draft provisional constitution be provisionally adopted to provide for a better Somalia, help reconstruct our country and set us on the

right path to justice and lasting peace, pending final adoption at the referendum?”

2. The quorum for the adoption of the draft Constitution shall be 2/3 of the existing members of the National Constituent Assembly.
3. The draft provisional constitution will have been provisionally approved by the Constituent Assembly if the question set out in clause (1) above is answered ‘yes’ by at least 50% plus 1 of the votes cast by members of the National Constituent Assembly present.
4. Notwithstanding clause (3), the draft constitution will have been provisionally adopted with exceptions noted, and accompanying recommendations and directions to the New Federal Parliament in the event that the threshold established in clause (3) is not met.
 - a. Exceptions, recommendations and directions to the new Federal Parliament shall be presented in terms of Articles 5.2 and 5.3.

7.3 Result of the final vote on adoption

1. Once the draft provisional constitution has been approved or approved with exceptions in accordance with Article 7.2—
 - (a) The new constitution shall come into force as a provisional constitution; and
 - (b) The Transitional Federal Charter shall expire, subject only to any transitional arrangements provided for in the new Provisional Constitution;
 - (c) The National Constituent Assembly shall be dissolved; and
 - (d) Notwithstanding Article 7.2 4 (a), even if at least 30% of the votes cast opted for adoption with exception, the Legal Committee, in consultation with the Signatories Technical Revision Committee, shall prepare a report on the reasons for the vote of adoption with exceptions.
 - (e) The Administrator and the Joint Implementation Unit shall remain operational and shall receive support for a further XX months to finalise the administrative and financial reports relating to the National Constituent Assembly.
2. During the constitutional review and implementation period, which shall commence immediately upon provisional adoption, issues identified in the reports of the Legal Committee and the Signatories Technical Revision Committee shall be addressed as a matter of priority in the ongoing consultative, civic education and constitutional review process that shall

continue until the constitution is ultimately adopted by a national referendum.

3. If the provisional constitution is ratified in the referendum, the provisional constitution as reviewed and amended takes full effect as the new constitution; and
4. If it is rejected in the referendum, it will nevertheless continue as the provisional constitution until a further constitutional draft has been prepared, presented and ratified by referendum.

Rules of Procedure
FOR
Somali National Constituent Assembly, 2012

ANNEXURE 1

to

Somali Roadmap Signatories

Protocol Establishing

Somali National Constituent Assembly

Adopted . . . June 2012

Chapter 1 - General Provisions

1. Establishment and Purpose of the National Constituent Assembly

- (1) The Somali National Constituent Assembly has been established by Decree of the President, dated [Insert Date] and in accordance with the *Protocol Establishing the Somali National Constituent Assembly dated ... June 2012* (referred to in these Rules as “the *Protocol*”).
- (2) The members of the National Constituent Assembly have been selected and appointed by a conclave of 135 universally recognized Somali Traditional Leaders (Traditional Leaders), in accordance with Article 4 of the *Protocol*.
- (3) The purpose of the National Constituent Assembly is to review, consider, and vote whether to provisionally approve or reject the draft provisional constitution for Somalia as published by the Signatories Technical Revision Committee.

2. Authority, Interpretation and Amendment of the Rules of Procedure

- (1) In accordance with the *Protocol*, these Rules of Procedure define the manner of work of the National Constituent Assembly.
- (2) These Rules of Procedure are to be interpreted and applied in accordance with, and in a manner that gives full effect to, the agreements reached by the Somali Roadmap Signatories in the *Kampala Accord*, the *Somali Roadmap*, the *Garowe I and II Principles*, the *Galka’yo Agreement* and the *Addis Ababa Communiqué*.
- (3) Any dispute in the interpretation or application of these Rules of Procedures shall be referred to the Somali Roadmap Signatories for resolution and further direction.

Chapter 2 - Members of the National Constituent Assembly

3. Status, Attendance and Vacancies

- (1) Members of the National Constituent Assembly shall serve full-time on the National Constituent Assembly, and dedicate themselves fully to the business of the National Constituent Assembly.
- (2) Each member of the National Constituent Assembly shall—
 - (a) Endeavour to attend all sessions of the Plenary and any committee of which he or she is a member; and
 - (b) Shall inform the Secretariat of the National Constituent Assembly if the member is unable to attend a plenary or committee session.
- (3) If for any reason an member is not able to participate or fulfill his or her duties as a member to the National Constituent Assembly, the member shall be replaced by a person chosen for that purpose by the Traditional Leaders.

4. Participation by members

- (1) Every member of the National Constituent Assembly has an equal status and right to participate in discussions during the National Constituent Assembly, and in the consideration of the draft provisional constitution, and to vote whether to approve or approve with exceptions the draft provisional constitution.
- (2) The rights set out in clause (1) may be exercised only in accordance with the Rules of Procedure, and subject to the direction of the Coordinating Committee and the Co-Chairs.
- (3) In order to exercise the right to participate in the discussions of the National Constituent Assembly, and to promote cooperation among the members, each member shall act as follows:
 - (a) Respect and follow these Rules of Procedure;
 - (b) Behave in a good and dignified manner suitable for a member to the National Constituent Assembly;
 - (c) Make every effort to help the National Constituent Assembly come to consensus;
 - (d) Abide by the list of speakers and speak no longer than the time allowed;

- (e) Abstain from interrupting or disturbing other speakers;
 - (f) Abstain from discussing issues that have already been agreed upon; and
 - (g) Refrain from derogatory remarks, use of offensive or aggressive language, and from threatening or obstructive behavior.
- (4) The right of every member to participate does not mean that each and every member has the right to speak on every item being considered. The presiding Co-Chair must manage the participation by members within the available time allowed by the agenda, in a manner that is fair, and ensures reasonably balanced participation from all sectors of Somali society represented by the membership.
- (5) A member may not speak more than once on any matter being considered except—
- (a) In a committee;
 - (b) At the request of the presiding Co-Chair, to explain any matter considered relevant, provided that the member shall not introduce any new matter in explanation or clarification.
- (6) A member wishing to contribute to the discussion shall so indicate by raising one hand to get the attention of the presiding Co-Chair.
- (7) A member shall—
- (a) Stand to speak, unless physically unable to do so; and
 - (b) Address observations to the presiding Co-Chair.
- (8) With the leave of the presiding Co-chairs, a member whose has given the Co-Chairs advance written notice may make a statement on any matter of urgent public importance relating to the functions of the National Constituent Assembly.
- (9) Except as permitted by clause (8), every member shall restrict comments to the matter then under discussion in the meeting.
- (10) A member must not impute any improper motive to any other member.

5. Participation of observers and invitees

- (1) Individuals appointed in terms of Article 2 (2) of the Protocol Establishing the Technical Selection Committee shall have the status of observers at the National Constituent Assembly—
- (2) Observers shall be allowed to speak at the National Constituent Assembly sessions only at the invitation of the presiding Co-Chairs.
- (3) Observers and invitees shall not have the right to vote.
- (4) Invitees shall have the right to attend the plenary sessions of the National Constituent Assembly unless the presiding Co-Chairs declare a session closed to public, in which case the invitees and the media shall be requested to withdraw from the plenary.

Chapter 4 - Meetings and General Procedures of the National Constituent Assembly

6. Business of the National Constituent Assembly

- (1) On the first day of the National Constituent Assembly, the agenda of business will be as follows:
 - (a) Ceremonial Opening;
 - (b) Election of Co-Chairs;
 - (c) Orientation to Structures, Rules, Procedures, and Security.
- (2) On the subsequent days of the National Constituent Assembly, the general order of business will be as follows:
 - (a) Orientation to the draft
 - (b) Theme Committee assignments
 - (c) Theme Committee consideration of themes;
 - (d) Theme Committee reports and recommendations;
 - (e) Referrals by Plenary to Legal Committee and Technical Revision Committee;
 - (f) Consideration of the draft provisional constitution;
 - (g) Vote to adopt or adopt with exceptions the draft provisional constitution;

- (h) Adjournment and closing of the Assembly.
- (3) The specific agenda for each day of the Assembly will be as determined by the Coordinating Committee.
- (4) The Coordinating Committee may invite any person or group of persons to attend the proceedings of the National Constituent Assembly as observers or guests for all or part of the proceedings.
- (5) Entry into the plenary of the National Constituent Assembly, or to committee rooms, shall be for members and persons invited under clause (4).
- (6) The National Constituent Assembly may vote on a motion to decide that a particular sitting or session is not open to the public, in which case the presiding Co-chair shall direct that unauthorised persons should not enter the meeting place or, if present, should withdraw.
- (7) Proceedings of the National Constituent Assembly may be conducted in English or Somali, at the option of the person speaking.
- (8) The proceedings of the Conference shall be recorded in both English and Somali.

7. Meeting times, Seating, Quorum and Presiding Officers

- (1) The Coordinating Committee will give notice of the times and venues for meetings of the National Constituent Assembly, and its committees.
- (2) During a plenary session of the National Constituent Assembly quorum shall be satisfied by the presence of at least 450 members, as required by Article 5(7)(a) of the *Protocol*. At any time during a plenary session of the National Constituent Assembly, a member of the National Constituent Assembly may object that there is not a quorum present.
- (3) For the final vote on the draft provisional constitution, the quorum shall be satisfied by the presence of two-thirds of the full membership of the National Constituent Assembly, as required by Article 7.2 of the *Protocol*.
- (4) If the presiding Co-chairs determine that it is necessary to verify the quorum, they may call for a count of the members present. If, within five minutes, or within such further time as the presiding Co-Chairs

may allow, no quorum is present, the presiding Co-Chairs shall announce that there is not a quorum present and shall thereupon adjourn the session.

- (5) At any plenary session of the Constituent Assembly—
 - (a) Either or both of the Co-chairs may preside; or
 - (b) In the absence of both Co-chairs, a member of the Coordinating Committee, designated by the Coordinating Committee, may preside.
- (6) A person other than the Co-Chairs who is presiding over a plenary session of the National Constituent Assembly has and may exercise the powers and perform functions of the Co-Chairs under these Rules of Procedure.

8. Business to be conducted by motions

- (1) Any matter to be placed on the agenda of the National Constituent Assembly for debate and decision shall be introduced by a motion, in accordance with these Rules of Procedure.
- (2) Unless the presiding Co-Chairs allow otherwise, a member wishing to introduce a motion in a plenary session must submit a signed written Notice of Motion to the Co-Chairs.
- (3) A Notice of Motion may be handed to either Co-Chair, or to an officer designated by them, at any time when the National Constituent Assembly is sitting or may be sent to or left at the office of the Administrator.
- (4) A Notice of Motion must not deal with a matter that has previously been decided.
- (5) The Chairperson may disallow a Notice of Motion if it—
 - (a) Contains unbecoming expressions;
 - (b) Infringes the rules of debate; or
 - (c) Is otherwise irregular.
- (6) Every motion shall be placed on the agenda, unless the Co-Chairs disallow the motion.

- (7) The Co-ordinating Committee shall determine the order in which motions shall be listed on the agenda.
- (8) Subject to these Rules of Procedures, after a motion has been moved, it must be seconded by another member of the National Constituent Assembly, before it can be called for debate. If no other member is willing to second a motion, the motion fails.
- (9) After a motion has been moved and seconded, another member may move an amendment to the motion, but an amendment is out of order if it is—
 - (a) Substantially a direct negative of the original motion; or
 - (b) Substantially the same as an amendment that has previously been rejected.
- (10) A member who has made a motion may withdraw it before it is moved.
- (11) Each member called to speak on a motion may speak for a maximum of ten minutes, unless the presiding Co-Chair allows additional time.
- (12) When the presiding Co-Chair is satisfied that all points of view have been adequately represented in the debate, he or she may close debate and call for a vote on the motion.

9. Procedures for Decision Making

- (1) As required by Articles 6 and 7.2 of the *Protocol*, decisions of the plenary of the Assembly shall be taken by vote, and shall be carried if supported by 50% plus 1 of the delegates present and voting.
- (2) Except as specifically required by these Rules of Procedure, a vote on any matter in a plenary session may be taken by voice, or by a show of hands, at the option of the presiding Co-Chairs.

Chapter 4 – Special Procedures of the National Constituent Assembly

10. Procedure for Election of the National Constituent Assembly Co-chairs

- (1) Candidates for position of Co-Chair shall be nominated by at least 15 percent of the members of the National Constituent Assembly. A member may not nominate more than one person. If only one male, or only one female, candidate is nominated, that person shall be declared elected without a vote being held.
- (2) The Co-Chairs shall be elected by the majority of votes of more than 50 percent of the present and voting delegates. The elections shall be free, secret and direct. There shall be two ballots used, one for the women candidates, and the second for the men candidates.
- (3) If no candidate obtains more than 50 percent of the votes in the first round, a second round of voting shall be held. In the second round, for each Co-Chair to be elected, only the two candidates with the highest number of votes in the first round shall participate and the winner shall be the candidate who obtains a majority of the votes.

11. Vote on the draft provisional constitution

- (1) The Signatories Technical Revision Committee shall ensure—
 - (a) That all provisions of the draft provisional constitution are consistent with one another; and
 - (b) That the language used in the draft provisional constitution is uniform and consistent and conforms with the best drafting standards.
- (2) After revisions, if any, have been incorporated in the draft provisional constitution, the Co-ordinating Committee shall—
 - (a) Direct the Administrator to print the draft provisional constitution and provide a copy to each member of the National Constituent Assembly;
 - (b) Give notice to the members of the date and time at which the National Constituent Assembly will sit in plenary to vote to approve or reject the draft provisional constitution.

- (3) At the time appointed, the presiding Co-Chair shall call for a vote on the question—

“Should this draft provisional constitution be provisionally adopted to provide for a better Somalia, help reconstruct our country and set us on the right path to justice and lasting peace, pending final adoption at the referendum?”

- (4) The vote shall be taken by secret ballot, on which members may vote “yes” or “yes, with exceptions and reasons provided as per Article 7.2 of the Protocol” in answer to the question.
- (5) The Administrator shall administer the voting, under the direction of the Co-Chairs.
- (6) The presiding Co-Chairs shall call upon the Administrator to announce the result of the vote to the National Constituent Assembly.
- (7) If the question—
 - (a) Is answered ‘yes’ on at least 50% plus 1 of the ballots cast, the presiding Co-Chairs shall declare the draft constitution to have been provisionally approved, and to be in force as the Provisional Constitution of the Somali Republic; or
 - (b) Is answered ‘yes with exceptions and reasons provided as per Article 7.2 of the Protocol’ on at least 50% of the ballots cast, the presiding Co-Chairs shall declare the draft constitution to have been provisionally adopted with exceptions as the provisional constitution of the Somali Republic.
- (8) Following the declaration made as required by clause (7), the presiding Co-Chairs may make valedictory remarks, and shall declare the National Constituent Assembly dissolved.

Chapter 5 – Order, Security and Support

12. Maintaining Order

- (1) The presiding Co-Chairs shall ensure order at all sessions of the National Constituent Assembly.
- (2) The presiding Co-Chairs shall call a speaker to order when the speaker does not keep to the subject matter under discussion or prejudices the debate by using abusive, threatening or defamatory language or personal attacks against any person.
- (3) The presiding Co-Chairs may have offensive words struck from the record, if appropriate, but the call to order shall be recorded in the minutes.
- (4) The presiding Co-Chairs may take the following measures if order at a session is violated:
 - (a) Admonition;
 - (b) Withdrawal of permission to speak; and
 - (c) Removal from the session.
- (5) If a member repeatedly disrupts sessions, or his or her disruptions severely obstruct the work of the National Constituent Assembly, the presiding Co-Chair may order the removal of the member not only from the plenary, but from the building and the surrounding premises.
- (6) Any person whose removal from a session or part of a session has been ordered must leave the plenary immediately. If any such person refuses to leave, the presiding Co-Chairs may order security officials to escort the person from the building and the premises.

13. Security

- (1) The appointed Security Forces of the Transitional Federal Government shall be responsible to provide and maintain the security of the National Constituent Assembly premises and surrounding areas on the basis of a joint security plan. If required, the cooperation of AMISOM, TFG and other recognized regional

Somali security forces for maintaining security shall be sought. The Minister of [Name] has the responsibility for coordinating security affairs and the command and control of all concerned security forces.

- (2) Participants are not allowed to enter the National Constituent Assembly premises with any kind of weapon.