

Somali Roadmap Signatories, 2012

Protocol Establishing the Somali National Constituent Assembly

Adopted June 22, 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 June 22, 2012 hereby adopt the following Protocol to establish the National Constituent Assembly referred to in that Decree.

ARTICLE 1

This Protocol establishes the Somali National Constituent Assembly

ARTICLE 2

Preparation of Draft Provisional Constitution for Provisional Adoption

1. The Signatories Technical Facilitation Committee shall finalise the draft provisional constitution for provisional adoption in accordance with the *Protocol Establishing the Signatories Technical Facilitation Committee* and submit the draft to the Somali Roadmap Signatories.
2. The Somali Road map signatories shall approve by initialing and signing the final draft provisional constitution on 22 June 2012;
3. The Principals shall thereafter, and no later than 25 June 2012, transmit the final, approved and initialed draft to the IFCC to conduct civic education and in any event conclude the civic education process not later than 29 June 2012;
4. The Somali Roadmap signatories shall conclude the mandate of the IFCC through a ceremony recognizing the dedicated national service of the IFCC over the past six years and their contribution to peace and reconciliation in Somalia.
5. The Principals shall present the draft constitution to the Technical Facilitation Committee;
6. The Technical Facilitation Committee shall present the draft constitution to the National Constitutional Assembly

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 22 June, 2012, for the purpose of considering, and voting to provisionally adopt or provisionally adopt with exceptions , the draft provisional Constitution as published in accordance with this Protocol.
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 dual citizenship shall not be deemed to be a conflicting loyalty;
 - (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 women, religious scholars and traditional elders (except those involved in selecting the NCA), business people, professionals, scholars, and the Diaspora.
4. The Technical Selection Committee must reject—
 - (a) Any submitted nomination list (by each of the 4.5 clans) 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, in consultation with their clans and communities 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 Elders.
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 Signatories Technical Facilitation Committee

1. The Technical Facilitation Committee manages, facilitates, directs, chairs and supports the proceedings of the National Constituent Assembly up to the final stage of adoption.
2. The Minister of Constitutional Affairs chairs the Technical Facilitation Committee.
3. The Roadmap Signatories shall confirm the appointment of the members of the Technical Facilitation Committee.
4. The Technical Facilitation Committee shall develop their internal rules and the Rules of Procedure of the National Constituent Assembly.
5. The Technical Facilitation Committee will select the chairs of the NCA from within their members and shall appoint the Administrator of the National Constituent Assembly and the Rapporteurs General of the National Constituent Assembly.
6. The Signatories Facilitation Committee shall serve as a reference and resource group during the National Constituent Assembly deliberations. Members of the Signatories Technical Facilitation Committee shall be present in any Committee to answer questions on the text of the draft provisional constitution for provisional adoption.
7. The Technical Facilitation Committee may establish other committees to coordinate or manage any disputes that may occur during the proceedings and shall:
 - 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.

8. All issues or questions referred back to the Signatories Technical Facilitation Committee by the National Constituent Assembly shall be considered immediately and resubmitted within 24 hours.
9. 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.
10. Leadership of the National Constituent Assembly, should be readily available to assist the Signatories Technical Facilitation Committee in addressing issues and questions submitted.
11. The Signatories Technical Facilitation Committee will consider and record the submissions from each committee and any anomalies requiring the notice of the Principals or other committees
12. Any issues not resolved under the procedure set forth in clauses (1) – (6) shall be referred by the Technical Facilitation Committee to the Principals for final resolution.
13. The issues raised but remaining unresolved shall be recorded by the Technical Facilitation Committee for further discussion during the post-provisional adoption Constitutional review phase led by the New Federal Parliament.
14. Issues raised but remaining unresolved by the Technical Facilitation Committee , and which also result in a majority vote for provisional adoption with exceptions, shall be recorded by the Signatories Technical Facilitation 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 and other relevant Protocols.

5.2 Assembly Chairs

The Minister of Constitutional Affairs shall chair the Constituent Assembly proceedings

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 which shall be drafted by the Technical Facilitation Committee.
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.

ARTICLE 7

Consideration of the Draft Provisional Constitution

7.1 Preliminary Consideration

1. At any time, the National Constituent Assembly may refer particular provisions back to the Signatories Technical Facilitation Committee for reconsideration or explanation.

7.2 The Signatories Technical Facilitation Committee shall consider any matter referred to it in accordance with this Protocol and the Protocol establishing the Technical Facilitation Committee..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?”

5. In the event of a No vote, this draft provisional constitutional will nevertheless will take effect until a new constitution is adopted.

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 Signatories Technical Facilitation 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 Signatories Technical Facilitation 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.