

**THE  
TRANSITIONAL  
FEDERAL CHARTER  
OF THE  
SOMALI REPUBLIC**

**FEBRUARY 2004.  
NAIROBI.**

**PREAMBLE.**

In the Name of Allah, the most Merciful, the Beneficent. **WE, THE DELEGATES REPRESENTING THE PEOPLE OF THE SOMALI REPUBLIC** have solemnly resolved to enact a Transitional Federal Charter for the Somali Republic;

**DETERMINED** to live in peace and unity as one indivisible, free and sovereign nation;

**RECOGNIZING** the gross violations of human rights inflicted upon the Somali people and the need to re-establish peace, democracy, the rule of law, social justice, the dignity and integrity of all Somalis;

**COMMITTED** to establishing and nurturing a Transitional Federal Government for the Somali Republic;

**DETERMINED** to foster reconciliation, national unity, and good governance;

**DO HEREBY ADOPT, ENACT AND GIVE TO THE SOMALI PEOPLE THIS CHARTER.**

## **CHAPTER ONE**

### **SOVEREIGNTY AND TERRITORY**

#### **ARTICLE 1.**

#### **ESTABLISHMENT OF TRANSITIONAL FEDERAL GOVERNMENT**

1. There shall be a Transitional Federal Government of the Somali Republic based on the sovereign will of the Somali people.
2. The name of the National Government shall be “The Transitional Federal Government of the Somali Republic”
3. In this charter “ Somali Republic” has the same meaning as “Somalia” “The Somali Republic”, “The Somali Democratic Republic”.

#### **ARTICLE 1:1**

#### **THE SOVEREIGNTY OF THE SOMALI PEOPLE.**

1. All the sovereign authority belongs to the people of Somalia and may be exercised directly or indirectly through their representatives, in accordance with this Charter and the laws of the country.
2. The right to exercise sovereignty shall not be delegated to any individual, group or class, and no person shall arrogate to him or herself, or exercise any State authority, which does not emanate from this Charter or any laws of the Land not inconsistent with this charter.
3. The Government shall encourage the unity of the Somali people by promoting their cultures, customs and traditions.

**ARTICLE 2**  
**THE TERRITORY OF SOMALIA.**

1. The Territorial Integrity and Sovereignty of the Somali Republic shall be inviolable and indivisible.
2. The territorial sovereignty of the Somali Republic shall extend to the land, the islands, territorial sea, the subsoil, the air space and the continental shelf.
3. The Somali Republic shall have the following boundaries.
  - (a) North; Gulf of Aden.
  - (b) North West; Djibouti.
  - (c) West; Ethiopia.
  - (d) South south-west; Kenya.
  - (e) East; Indian Ocean.

**ARTICLE 3**  
**SUPREMACY OF LAW**

1. The Transitional Federal Government of the Somali Republic shall be founded on the supremacy of the law and shall be governed in accordance with this Charter.
2. This Charter for the Transitional Federal Government shall be the supreme law binding all authorities and persons and shall have the force of law throughout the Somali Republic. If any law is inconsistent with this Charter the Charter shall prevail.
3. The validity, legality or procedure of enactment or promulgation of this Charter shall not be subject to challenge by or before any court or other State organ.

**ARTICLE 4**  
**INTERPRETATION OF THE CHARTER.**

1. The Charter shall be interpreted in a manner: -
  - (a) That promotes national reconciliation, unity and democratic values;
  - (b) That promotes the values of good governance;
  - (c) That advances human dignity, integrity, rights and fundamental freedoms and the Rule of Law.
2. A person may bring an action in the Supreme Court for a declaration that any Law or action of the state is inconsistent with, or is in contravention of this Charter.
3. The Supreme Court shall determine all such applications on a priority basis.

**CHAPTER TWO**

**THE SOMALI REPUBLIC**

**ARTICLE 5**  
**THE CAPITAL CITY**

1. The Capital of the Somali Republic shall be Mogadishu (Xamar).
2. Parliament shall pass legislation governing the Administration of the Capital City.

**ARTICLE 6**  
**THE FLAG AND EMBLEM.**

1. The National flag for the Transitional Federal Government shall be of rectangular shape, azure in colour with a white star and five equal points emblazoned in the centre.
2. The emblem of Transitional Federal Government shall be composed of an azure escutcheon with a gold border, which shall bear a silver five-pointed star.

3. The escutcheon shall be surmounted by embattlement with five equal points in Moorish style, two lateral points halved, borne by two leopards rampant in natural form facing each other, resting on two lances crossing under the point of the escutcheon with two palm leaves in natural form interlaced with a white ribbon.

**ARTICLE 7**  
**LANGUAGES.**

1. The official languages of the Somali Republic shall be Somali (*Maay and Maxaatiri*) and Arabic.
2. The second languages of the Transitional Federal Government shall be English and Italian.

**ARTICLE 8**  
**RELIGION.**

1. Islam shall be the religion of the Somali Republic.
2. The Islamic *Sharia* shall be the basic source for national legislation.

**ARTICLE 9**  
**THE NATIONAL SYMBOLS.**

1. The national symbols of the Somali Republic shall consist of: -
  - (a) The National Flag;
  - (b) The National Anthem
  - (c) The National Emblem and
  - (d) The Public Seal.

## **CHAPTER THREE**

### **CITIZENSHIP**

#### **ARTICLE 10** **CITIZENSHIP**

1. Every person who at the time of the coming into force of this Charter was a citizen of the Somali Republic shall be deemed to be a citizen of the Somali Republic.
2. Every person of Somali origin shall be entitled to citizenship of the Somali Republic provided that: -
  - (a) He/she was born in the Somali Republic; or
  - (b) His/her father is a citizen of the Somali Republic;
3. A person who is a citizen of Somalia under this Article cannot be deprived of that citizenship.
4. Every Citizen of the Somali Republic shall be entitled to retain their citizenship notwithstanding the acquisition of the citizenship of any other country.
5. Parliament shall within twelve months pass legislation regulating matters relating to citizenship.

## **CHAPTER FOUR**

### **THE TRANSITIONAL FEDERAL GOVERNMENT**

#### **ARTICLE 11**

1. The Transitional Federal Government of the Somali Republic shall have a decentralised system of administration based on federalism.
2. The Somali Republic shall comprise of: -
  - (a) The Transitional Federal Government.
  - (b) State Governments (two or more regions federate, based on their free will)
  - (c) Regional Administrations

(d) District administrations

3. (a) While the new Constitution is being drafted, a National Census shall be undertaken simultaneously.  
(b) An internationally supervised National Referendum shall be undertaken to approve the new Constitution.  
(c) The Transitional Federal Government will request the International Community to provide both technical and financial support.
4. (a) The Transitional Federal Government shall promote and develop the State Governments, Regional and District Administrations subject to legislation and guidelines of the Federal Constitution Commission on the formation of Transitional Federal Government.  
(b) The State Governments, Regional and District Administrations shall comprise all regions of Somalia.
5. The Council of Ministers of the Transitional Federal Government shall within 90 days of assuming office propose to the President names of persons to be appointed to an independent Federal Constitution Commission to ensure that a Federation is achieved within the time set out under this charter;
6. Parliament shall make laws relating to the mandate of the Commission and the qualifications and terms of service of its members;
7. Notwithstanding any other provisions in this Charter relating to the formation of government ministries, there shall be established a Ministry of Federal and Constitutional affairs that shall be charged with the task of implementing Constitutional and Federal affairs;
8. The Transitional Federal Government shall ensure that the process of federating Somalia shall take place within a period of two and a half years from the date that the commission is established;
9. In the event that the Transitional Federal Government is unable to complete the process of federalism all over Somalia within the prescribed period of two and half years, the Government shall request Parliament for a vote of confidence, failing which the Transitional Federal Parliament shall withdraw its support and a new Transitional Federal Government shall be formed in the manner set out in this charter;
10. The new Transitional Federal Government formed under Clause (8) herein shall undertake to complete the process of federalism all over

Somalia within a period of one (1) year failing which the provisions of article 11(8) above shall apply.

**ARTICLE 12**  
**AUXILIARY ORGANS.**

1. There shall be the following support institutions of the Transitional Federal Government:-
  - (a) Auditor General;
  - (b) Attorney General;
  - (c) Accountant General;
  - (d) Governor of Central Bank.
2. Parliament shall make laws defining the functions of the auxiliary organs set out under (1).
3. The above organs shall execute their functions and responsibilities in the whole country in conformity to their respective mandates established by law.

**ARTICLE 13**  
**DISTRIBUTION OF RESOURCES AND POSITIONS**

1. The Transitional Federal Government, shall on the coming into force of this charter pass legislation ensuring equitable appropriation and allocation of resources in the country.
2. The Transitional Federal Government shall ensure that all appointments in the service of the Government shall be based on qualifications and fair distribution among the Citizens.

**CHAPTER FIVE**

**PROTECTION OF THE FUNDAMENTAL**  
**RIGHTS & FREEDOMS OF THE PEOPLE.**

**ARTICLE 14**  
**HUMAN RIGHTS & DIGNITY.**

1. The Somali Republic shall recognize and enforce all international human rights conventions and treaties to which the Republic is a party.

2. Every citizen shall have the right to:
  - (a) Reside, work and travel freely in any part of the country.
  - (b) Organize, form or take part in political, labour, professional or social entities in conformity to the law, without prior government authorization.
  - (c) Vote upon attainment of 18 years of age.
  - (d) Subject to this charter, contest for any vacant seat.
3. There shall be no interference of personal communication.

**ARTICLE 15**  
**EQUALITY OF THE CITIZENS BEFORE THE LAW.**

1. All citizens of the Somali Republic are equal before the law and provisions of this Transitional Federal Charter and have the right to equal protection and equal benefit of the law without distinction of race, birth, language, religion, sex or political affiliation.
2. Equality shall include the full and equal enjoyment of all rights and freedoms.

**ARTICLE 16**  
**RIGHT TO LIFE, PERSONAL LIBERTY AND SECURITY**

1. Everyone shall have the right to life and no person shall be deprived of his/her life.
2. No person shall be deprived of his/her personal liberty, personal freedom and personal security.
3. No person shall be subjected to inspection, personal search of his/her house or his/her property without the permission of competent judicial authority related to health and tax. In every case, the self-respect and moral dignity of the person concerned must be preserved.
4. Any physical or moral violence or action against a person subject to restriction of personal liberty shall be punishable as a crime and hence is prohibited.

5. No person shall be liable to any form of detention in prison or other restrictions of personal liberty except when apprehended *flagrante delicto* or pursuant to any act of the competent judicial authority.
6. As is explicitly defined by any law, any person arrested for suspicion or restricted from his/her personal liberty, shall have access within 48 hours to competent judicial authority and confirmed by it within the time prescribed by law.

**ARTICLE 17**  
**RIGHTS RELATING TO LEGAL PROCEEDINGS**

1. Every person shall have right to institute legal proceedings in a competent court.
2. Every person who is charged with a criminal offence:-
  - (a) Shall be presumed to be innocent until he/she is proven guilty in a competent court of law;
  - (b) Shall be informed as soon as reasonably practicable, in a language that he/she understands and in detail, of the nature of the offence with which he/she is charged;
  - (c) Shall be given adequate time and facilities for the preparation of his/her defence at any stage of the legal proceedings.
3. Every person detained, imprisoned or restricted shall be permitted the right to defend himself/herself in a court in person or communicate with his/her relatives, lawyer of his/her own choice whenever he/she requires.
4. The Government shall guarantee free legal services for individual citizens who cannot afford them.
5. The penal, civil and administrative liabilities of officials and employees of the Government, shall be governed by law.

**ARTICLE 18**  
**LABOUR.**

1. No worker shall be discriminated, as each shall have a right to a salary and equal pay commensurate to the work performed and other fringe benefits as shall be stipulated in the employment and labour laws of the country.
2. Workers shall have the right to weekly rest and annual leave with pay and shall not be compelled to forfeit.
3. The law shall establish working hours for workers.
4. The Government shall establish by law the minimum age employable and minimum salary for workers.
5. The government shall guarantee its employees, Civil and military, the right to pension. It shall also guarantee employees in accordance with the law, assistance in case of accident, illness or incapacity to work. A special law shall guarantee pension for private sector employees.

**ARTICLE 19**  
**RIGHT TO ASSEMBLE AND FREEDOM TO STRIKE.**

1. Every person shall have the right to : -
  - (a) Assemble freely with other persons and in particular to form or belong to trade unions or other associations for the protection of his/her interests;
  - (b) Mobilize and participate in any meeting or demonstration;
  - (c) Freely express his/her opinion orally, in written form, or in any other manner, without censorship.
2. The workers of the Transitional Federal Government of Somalia shall have the right to form Trade Unions for the protection of their interests as specified by law.

**ARTICLE 20**  
**FREEDOM OF INFORMATION AND MEDIA.**

1. The Transitional Federal Government shall guarantee the freedom of press and independent media in accordance with Law.

2. Every person shall have the rights to freely express his/her own opinion in any manner, subject to any limitation which, may be prescribed by law for the purpose of safeguarding morals and public security.

## **ARTICLE 21**

### **THE RIGHT TO ESTABLISH POLITICAL PARTIES.**

1. The Transitional Federal Government shall encourage the formation of political parties in the Republic save that it shall be in accordance with the law.
2. In accordance with the laws, all Citizens, shall have the right to associate with political parties, political programmes interpreting clearly their national political agenda.
3. The political parties shall be open for all Citizens and be guided by General Principles of Democracy.
4. Any political party of a military character or tribal nature shall be prohibited.
5. Political parties shall have the right to form alliances before, during and after the election periods.
6. All Citizens possessing the qualifications required by law have the right to vote and be elected to Public Office.

## **ARTICLE 22**

### **THE RIGHT TO ESTABLISH SOCIAL ORGANIZATIONS.**

1. Every person has the right to assemble freely and associate with other persons and in particular to establish any Social organization in accordance with the law.
2. No person may be compelled to join and/or continue to belong to an association of any kind.
3. Any Non- Governmental organization with an objective of either human rights, environmental protection shall be registered and allowed to operate in the Somali Republic in accordance with international treaties and laws of the country.

4. Nothing contained herein shall permit the establishment of any secret associations or any organization bearing any military, defense or para-military nature and/or character.

**ARTICLE 23**  
**POLITICAL ASYLUM.**

1. Extradition may be granted against a person accused of a crime committed in his or another country only if an extradition treaty exists between Somalia and the country requesting thereof.
2. The state may grant political asylum to a person and his close relatives who flee his or another country on grounds of political,

religious, and cultural persecution unless such asylum seeker(s) have committed crime(s) against humanity.

**ARTICLE 24**  
**EDUCATION.**

1. Education shall be recognized as a basic right for all Somali citizens
2. All citizens shall have a right to free primary and secondary education.
3. The Government shall give priority to the promotion, expansion and propagation of public education.
4. Education shall be for the interest of the people and shall be extended throughout the whole country.
5. Private schools, institutes and universities may be established according to law and in line with the educational program and academic curriculum of the country.
6. The Government shall encourage the promotion of scientific research, the arts and their advancement as well as the folklore and sports and shall promote positive customs and traditions of the Somali people.
7. The Government shall adopt standardized curriculum for schools of the country and shall oversee its implementation.
8. The Government shall promote higher education and the establishment of Technical Institutes as well as technology and research Institutions.

9. The Government shall develop Educational programmes and a united syllabus for all schools.
10. Teaching of Islam shall be compulsory for pupils in both Public and Private Schools. This does not apply to non-Muslim students.

**ARTICLE 25**

**PROTECTION OF FAMILY.**

1. The family shall be recognized as the basic unit of the society whereas religion, morals and love of the country shall be the central pillars of the family.
2. The Government shall protect and encourage marriage.
3. Parents shall support their children, education and welfare, as required by law.
4. Children, who are of full age, are obliged to support their parents when the latter are unable to support themselves.
5. It shall be an obligation on parents/guardian to register children upon birth.

**ARTICLE 26**

**SOCIAL WELFARE.**

The Government shall guarantee public social welfare as follows:

- a) It shall be the responsibility of the Government to protect and provide public health, safe motherhood, childcare and control communicable diseases;
- b) Welfare of persons with disabilities, orphans, widows, heroes who contributed and fought in defence of the country and aged persons;
- c) The Government shall encourage the establishment of the Civil Society and social development institutions for the public, that is to say, NGOs, women, youth, students, human rights and professional organizations;
- d) Forced labour or military service for children under 18 years shall not be permitted.

- e) In accordance with the law, no child under 18 years of age shall be imprisoned in the same prison and/or custody as those for adults;
- f) The law shall regulate the establishment of private health centres and clinics;
- g) The Government shall safeguard public morality of the society;
- h) The Government shall endeavour to promote the social welfare and development of the rural population;
- i) The Government shall create a positive environment for women to participate effectively in economic, social and political life of the society;
- j) The law shall establish the relationship between the Transitional Federal Government and former Government employees.

**ARTICLE 27**  
**ECONOMY.**

1. The system of economy for the country shall be based on free enterprise.
2. The Government shall encourage, support and provide full guarantee to foreign investment in the country as specified by law.
3. The right to own private property shall be guaranteed by law, which shall define its contents and the limits of its exercise.
4. Copyrights pertaining to the arts, science and technology shall be protected and the law shall regulate its contents and the limits of its exercise.
5. Personal property may be expropriated for public interest in exchange for equitable and timely compensation. However, the property shall be returned to the owner or his/her heirs in accordance with the law.

**CHAPTER SIX**

**THE STRUCTURE AND ORGANISATION OF THE STATE**

**PART I**  
**PARLIAMENT**

**ARTICLE 28**  
**PARLIAMENT**

1. The legislative powers of the Transitional Federal Government of Somalia shall be vested in Parliament.
2. The Transitional Federal Parliament of the Somali Republic shall have a single Chamber.
3. The members of the Parliament shall represent the unity of the nation.

**ARTICLE 29**  
**THE COMPOSITION OF PARLIAMENT.**

The Transitional Federal Parliament of the Somali Republic shall consist of Two Hundred and Seventy Five (275) Members of which at least Twelve Percent (12%) shall be women.

**ARTICLE 30**  
**APPOINTMENT OF MEMBERS OF PARLIAMENT**

1. The Parliament envisaged under article 28 above shall be selected by the sub sub sub-clan Somali political Leaders invited to the consultation meetings in Nairobi as from 9<sup>th</sup> January 2004, comprising: Transitional National Government (TNG); National Salvation Council (NSC); Regional Administrations; Somali Restoration and Reconciliation Council (SRRC); Group-8 (G8) Political Alliance and Civil Society and must be endorsed by genuine traditional leaders.
2. Any Vacancy that arises after the coming into force of this Charter shall be filled through the same procedure as stated in Article 30 (I) above.

**ARTICLE 31**  
**ELIGIBILITY CRITERIA FOR MEMBERSHIP OF PARLIAMENT.**

1. A person shall be eligible to be a Member of Parliament if that person: -
  - (a) Is a citizen of the Somali Republic;
  - (b) Has attained at least twenty five years (25) years of age;
  - (c) Is of good character.

(d) Is of sound mind

2. A person shall be disqualified from being a Member of Parliament if that person: -
- (a) Holds any other public appointment other than as member of the Cabinet;
  - (b) Has been pronounced as being of unsound mind;
  - (c) Has been convicted of an interdictable offence;
  - (d) Has been removed from any public office on grounds of gross misconduct or corruption.

**ARTICLE 32**

**THE TERM OF THE TRANSITIONAL FEDERAL PARLIAMENT**

- 1. The term of the Transitional Federal Parliament shall be Five (5) years.
- 2. The tenure of parliament shall commence from the date of taking the oath of office and shall continue until the date of commencement of the next parliament.
- 3. Parliament shall meet in its first session within 30 days from the date two-thirds of the members of the Parliament shall have taken the oath of office.
- 4. The term of the Transitional Federal Parliament shall not be extended.
- 5. The first meeting of the Parliament shall be chaired by the most senior member in age until a Speaker is elected.

**ARTICLE 33**

**FUNCTIONS OF PARLIAMENT.**

Parliament shall discharge the following functions: -

- (a) Election of the President of the Transitional Federal Government ;
- (b) Election of Speaker and Deputy Speaker
- (c) Making legislation ;

- (d) Approval and adoption of the annual budget.
- (e) Consideration of motions of confidence in the
- (f) Government;
- (g) Making of internal parliamentary regulations;
- (h) Investigate any matter of public interest
- (i) Hold public hearings
- (j) Ratification of international agreements and treaties;

**ARTICLE 34**  
**PROCEDURES IN PARLIAMENT**

1. The Parliament shall hold two (2) ordinary sessions annually.
2. The Parliament may be convened in extraordinary sessions by the Speaker at the request of the President or upon requisition by one third of its members.
3. Meetings of Parliament or its committees shall be valid with the presence of half plus one of its members.

**ARTICLE 35**  
**PRIVILEGES AND IMMUNITIES OF PARLIAMENT**

1. No Member of Parliament may be prosecuted for any opinion or views expressed in Parliament.
2. No criminal proceedings shall be instituted against a Member of Parliament unless in a case of *flagrante delicto* .
3. No Member of Parliament shall be interrogated in connection with criminal investigation, nor shall his person or domicile be subjected to search while executing duties of a Parliamentarian.
4. Parliament shall make law on the emoluments of its members, which shall be limited to sittings *per diem* of the parliamentary session and its committees.

**ARTICLE 36**  
**LEGISLATION**

1. When a Law has been passed by Parliament, it shall be presented to the President for Assent.
2. The President shall, within twenty-one (21) days after the Law has been presented to him/her for assent under sub-section (1), notify the Speaker that he/she assents to the Law or refuses to assent to it.
3. Where the President refuses to assent to a Law he/she shall, within fourteen (14) days of the refusal, submit a memorandum to the Speaker indicating the specific provisions of the Law which in his/her opinion should be reconsidered for amendments.
4. The Parliament shall reconsider a Law referred to it by the President taking into account the comments of the President and shall either:-
  - a) Approve the recommendations proposed by the President with or without amendment and resubmit the Law to the President for assent; or
  - b) Refuse to accept the recommendations and approve the Law in its original form by a resolution supported by votes of not less than sixty – five (65) percent of all the Members of the Parliament in which case the President shall assent to the Law within fourteen (14) days of the passing of the resolution.
5. A law made by Parliament and assented to by the President shall not come into operation until it has been published in the official bulletin.

**ARTICLE 37**  
**OFFICERS OF PARLIAMENT**

Parliament shall have the following officers:

- a) The Speaker
- b) Two Deputy Speakers
- c) Other officers appointed by parliament

Parliament shall elect the Speaker and the two Deputy Speakers from among its members in its first sitting.

**ARTICLE 38**  
**PROCEEDINGS OF PARLIAMENT.**

Every Parliamentary sitting shall be presided over by: -

- (a) The Speaker or
- (b) In the absence of the Speaker any of the Deputy Speakers;
- (c) In the absence of the Speaker or any of the Deputy Speakers, such other Member of Parliament as the members shall elect.

**CHAPTER SEVEN**

**PART II**  
**THE PRESIDENT**

**ARTICLE 39**

1. There shall be a President of the Somali Republic, who shall be
  - (a) The Head of State
  - (b) Commander - in - Chief of the Armed Forces
  - (c) Symbol of National Unity
2. The powers of the President shall be exercised in accordance with the Charter and the laws of the land;
3. The President shall not hold any other office for gain.

**ARTICLE 40**  
**QUALIFICATIONS.**

1. Any person shall be qualified and eligible to be elected the President of the Somali Republic , if the person :-
  - (a) Is a citizen of the Somali Republic;
  - (b) Has attained at least 40 years of age.
  - (c) Is a practising Muslim whose parents are Somali citizens

- (d) Is not married to a foreigner nor marry a foreigner during his term of office.
- (e) Is of sound mind and no criminal conviction for any serious offence.
- (f) Is of good character.
- (g) Possess the capacity, competence and experience to discharge the duties of the Presidency.

**ARTICLE 41**  
**ELECTION OF THE PRESIDENT.**

1. The President shall be elected by Parliament through a secret ballot, with a two-thirds (2/3) majority of its members in the first round whereas in the subsequent ballots shall be by simple majority.
2. In the second round of the elections, only the first six candidates shall be eligible whereas in the third round only the first two candidates shall be eligible for the final Presidential election.

**ARTICLE 42**  
**OATH OF THE PRESIDENT.**

Before assuming the office and duties of the President, the President elect shall take and subscribe to the oath of allegiance. Such an oath shall be for the due execution of his/her office in a manner prescribed herein: -

**“In the name of Allah I swear that I will discharge faithfully all my duties as President in the interest of the people and that I will abide by the Charter and laws of the Somali Republic”.**

**ARTICLE 43**  
**TENURE OF OFFICE.**

- (a) The President shall hold office for a term of **four (4)** years beginning from the date on which he/she is sworn in as President in accordance with the Oath of Office provided for in this Charter.

The President shall, unless his/her office becomes vacant by reason of his/her death, resignation or ceasing to hold office by virtue of the provisions of this Charter, continue to hold office until the person elected as President at a subsequent election assumes office.

(b) The President shall be impeached for the violation of the Charter only if a charge against him or her has been preferred to Parliament.

(c) Where a motion for impeachment of the President is laid before Parliament -

(i). The charge shall be preferred in a resolution moved after at least **fourteen (14) days** notice in writing and signed by not less than one-third of the total number of members of Parliament of their intention to move such a resolution;

(ii). An investigation shall be conducted of the charge preferred or the cause of the charge and the President shall have the right to appear and to be represented at such investigation;

(iii). As a result of the outcome of the investigation, such resolution shall be passed and voted by at least two-third majority of the members of Parliament;

(iv) Such resolution shall have the effect of removing the President from his/her office as from the date on which the resolution is so passed.

**ARTICLE 44**  
**RESPONSIBILITIES OF THE PRESIDENT.**

1. The President shall undertake the following State duties: -

(a) Address the opening of the Parliament;

(b) Address a special sitting of Parliament once a year;

(c) May address Parliament any other time;

- (d) The President shall appoint the President of the Supreme Court and other Judicial Officers on the proposal of the Judicial Service Council;
  - (e) The President shall appoint persons to offices in the public service and Heads of government organs on the proposal of the Council of Ministers;
  - (f) The President shall appoint persons to be Ambassadors, Diplomatic or Consular representatives to foreign countries on the proposal of the Council of Ministers;
  - (g) The President shall receive foreign Diplomatic or Consular representatives in the country;
  - (h) The President shall confer state honours on the proposal of the Council of Ministers.
2. The President shall appoint and dismiss the Prime Minister and/or dismiss the government if it fails to obtain the required vote of confidence from Parliament.
  3. The President shall dismiss Ministers and Assistant Ministers on the proposal of the Prime minister.
  4. The President shall have authority to: -
    - (a) Sign international treaties on the proposal of the Council of Ministers and upon ratification by Parliament;
    - (b) Assent and Sign into law, legislation passed by the parliament and regulations and decrees approved by the Council of Ministers;

**ARTICLE 45**  
**VACANCY IN THE OFFICE OF THE PRESIDENT**

If the office of the President becomes vacant by reason of the resignation, death or permanent disability of the President of the Republic, the Speaker of Parliament shall with immediate effect exercise the functions of the President and Parliament shall meet to elect a new President within **thirty-** (30) days.

Comment:

## **CHAPTER EIGHT**

### **PART III** **THE EXECUTIVE**

#### **ARTICLE 46** **THE PRIME MINISTER**

1. The Executive power shall vest in the Council of Ministers.
2. The President shall appoint the Prime Minister who shall be the leader and chair of the Council of Ministers.

#### **DEPUTY PRIME MINISTERS AND MINISTERS.**

3. The Prime Minister shall propose to the President names of persons to be appointed Deputy Prime Ministers;
4. The Prime Minister shall propose to the President names of persons to be appointed Ministers and Assistant Ministers;
5. Each Deputy Prime Ministers shall have a ministerial portfolio and shall supervise a group of related ministries in the political, social and economic sectors. Their specific duties shall be specified by legislation.

**Comment:** To consult on who appoints between the Prime Minister and the president

**Comment:**

**Comment:**

#### **ARTICLE 47** **QUALIFICATION OF THE PRIME MINISTER AND DEPUTY PRIME MINISTERS.**

1. The Prime Minister, the Deputy Prime Ministers, Ministers and Assistant Ministers shall have the following qualifications:

- (a) Be a citizen of the Somali Republic;
- (b) Be a member of Parliament;
- (c) Have attained the age of forty (40) years in the case of the Prime Minister and the thirty-five (35) years in the case of the Deputy Prime Ministers, Ministers and Assistant Ministers;
- (d) Have proven leadership qualities and political experience.

**ARTICLE 48**  
**RESPONSIBILITIES OF THE PRIME MINISTER.**

1. The Prime Minister shall have the following responsibilities -
  - (a) Preside over the meetings of the Council of Ministers.
  - (b) Be responsible for the promotion, co-ordination and supervision of government policy and general administration.

**ARTICLE 49**  
**TENURE OF OFFICE OF THE PRIME MINISTER.**

1. A person whose appointment as Prime Minister has been confirmed by the Parliament shall assume office upon taking the oath hereunder.

**“In the name of Allah I swear that I will discharge faithfully all my duties as Prime Minister in the interest of the people and that I will abide by the Charter and laws of the Somali Republic”.**

2. The term of office of the Prime Minister shall continue until:
  - (a) He/She dies, resigns or is dismissed from office; or
  - (b) Until another person is appointed to that office.

**ARTICLE 50**  
**RESIGNATION OF THE PRIME/DEPUTY MINISTER**

1. The Prime Minister and/or the Deputy Prime Ministers may resign from office by delivering a written statement of resignation to the President.
2. The resignation stated under Clause (1) shall take effect on the date and the time specified in the resignation and upon acceptance by the President.

**ARTICLE 51**

**DISMISSAL OF THE PRIME/DEPUTY PRIME MINISTER (s).**

1. If Parliament, by a vote supported by more than fifty per cent of its members, passes a motion of no confidence in the Prime Minister, the President shall dismiss the Prime Minister, and other Members of the Council of Ministers.

**ARTICLE 52**

**COUNCIL OF MINISTERS.**

1. There shall be a Council of Ministers, which shall consist of:
  - (a) The Prime Minister
  - (b) The Deputy Prime Ministers
  - (c) The Ministers
2. The Council of Ministers shall: -
  - (a) Develop government policy and implement national budgets;
  - (b) Prepare and initiate Government legislation for introduction to Parliament;
  - (c) Implement and administer Acts of Parliament;
  - (d) Co-ordinate the functions of government Ministries

- (e) Perform any other functions provided for by the Charter or an Act of Parliament, except those reserved for the President.
3. Each person appointed as Deputy Prime Minister, Minister or Assistant Minister:
- (a) Assumes office by swearing in the name of Allah and allegiance to the Somali Republic and obedience to the Charter.
  - (b) May resign by delivering a written statement of resignation to the Prime Minister and the President;
  - (c) Shall continue in office until he/she dies, resigns or is dismissed or until another person is appointed to that office.

**ARTICLE 53**  
**ROLE OF THE COUNCIL OF MINISTERS.**

1. Unless otherwise stated, the decision of the Council of Ministers shall be in writing.
2. The Deputy Prime Ministers and Ministers shall assist and advise the Prime Minister.
3. The Council of Minister shall be accountable collectively based on the principles of collective responsibility, to Parliament for all things done including:
  - (a) The exercise of their powers and the performance of their functions;
  - (b) The administration and implementation of legislation assigned to them.
4. The Three (3) Deputy Prime Ministers and Ministers shall be individually accountable to the Prime Minister for the exercise of the powers and the performance of the functions assigned to each of them.
5. A Minister shall attend before Parliament, or a Committee of Parliament, when required to do so, and answer any question concerning a matter assigned to that Minister and his/her Ministry.

6. The Council of Ministers shall set the General policy of the Government in accordance with the Charter and laws of the land.

## **CHAPTER NINE**

### **PART IV** **THE JUDICIARY.**

#### **ARTICLE 54** **JUDICIAL AUTHORITY**

1. The judicial power of the Somali Republic shall vest in the courts.
2. The judicial power shall encompass jurisdiction over Civil, Criminal, Administrative and Commercial matters and any matter specified by this Charter or any other laws of the land.

#### **ARTICLE 55** **INDEPEDENCE OF THE JUDICIARY**

1. The Judiciary shall be independent of the legislative and executive branches of Government and in the exercise of their judicial functions; the members of the judiciary shall be subject only to the law.
2. A Judge shall be removed from office only for inability to perform the functions of his/her office (whether arising from infirmity of body or mind or from any other cause) or for misbehaviour, and shall not be removed except in accordance to this Clause.
3. A Judge shall be removed from office by the President if the question of his/her removal has been referred to a Tribunal appointed by the Parliament and the Tribunal has recommended to the Parliament that the Judge ought to be removed from office for inability as aforesaid or misbehaviour.

4. Members of the judiciary shall not hold offices, perform services, or engage in activities incompatible with their functions.
5. Administrative and disciplinary measures relating to members of the judiciary shall be adopted, as provided by law, by decree of the President of the Republic on the proposal of the minister of Justice and Religious Affairs and in conformity to the decision of the Judicial Service Council.
6. The Judiciary shall not be subject to the direction of any other organ or body.
7. The judiciary shall interpret and implement the law in accordance with the Charter and laws.
8. Parliament shall make law setting the terms of the appointment, dismissal, discipline and terms of service of Judges.

**ARTICLE 56**  
**THE JUDICIAL PROCESS.**

1. Judicial proceedings shall be open to the public, but the court may decide, for reasons of morals, hygiene or public order, that the proceedings be held in camera.
2. No judicial decision shall be taken unless all the parties have had the opportunity of presenting their case.
3. All judicial decisions and measures concerning personal liberty shall state the grounds thereof.

**ARTICLE 57**  
**JUDICIAL PRINCIPLES**

1. No extraordinary or special courts shall be established, except for military tribunals, which shall have jurisdiction only over military offences committed by members of the armed forces both during war and peacetime.
2. The public, both civilian and military shall directly participate in Judiciary proceedings in conformity with those laws defining such participation.

**ARTICLE 58**  
**JUDICIAL IMMUNITY.**

No criminal proceedings shall be instituted against a sitting judge, nor be interrogated as object of criminal investigation, or his person or domicile be searched nor shall be arrested unless caught in the commission of a crime, or without the authorization of the Judicial Service Council.

**ARTICLE 59**  
**APPOINTMENT OF JUDGES.**

1. All the Judges shall be appointed by the President acting in accordance with the advice of the Judicial Service Council.
2. The appointment of Judges shall be based on legal qualifications and competence.
3. A person shall not qualify to be appointed a Judge of the Supreme Court unless:
  - i. He/she is, or has been, a Judge of the Appeal Court having unlimited jurisdiction in Civil, Commercial and Criminal matters; or
  - ii. He/she is an advocate of the High Court of Somalia of not less than five (5) years standing; or
4. If the office of a Judge is vacant, or if a Judge for any reason is unable to discharge the functions of his/her office, or a judge retires at the attainment of sixty-five (65) years of age; a new judge shall be appointed on the proposal of the Judicial Service Council by the President.

**ARTICLE 60**  
**THE COURT SYSTEM**

1. The court system shall consist of:
  - (a) The Transitional Supreme Court
  - (b) The Transitional Appeal Court
  - (c) Other Courts established by Law

**ARTICLE 61**  
**THE SUPREME COURT.**

1. There shall be a Supreme Court, which shall be the highest court in the Somali Republic and shall have unlimited original jurisdiction in the whole territory in Civil, Criminal, Commercial and such other powers as may be conferred on it by this Charter or any other law.
2. In addition to any other jurisdiction under this Charter or any other law, the Supreme Court shall have the power to hear and determine judgement on any dispute about the Transitional Federal Charter and other laws.
3. One of the Judges of the Supreme Court shall be the President of the Court and such other Judges as may be prescribed by Law.
4. The Judges of the Supreme Court shall have the security of Tenure while in office.
5. Parliament shall make law regarding the structure and composition of the Supreme Court.

**ARTICLE 62**  
**SEAT OF THE SUPREME COURT.**

The seat of the Supreme Court shall be in the capital of the Somali Republic.

**ARTICLE 63**  
**THE JUDICIAL SERVICE COUNCIL.**

1. There shall be a Judicial Service Council which shall undertake and direct the General Policy and the Administration of the Judiciary as prescribed by law.
2. The Judicial Service Council shall comprise:-
  - (a) President of the Supreme Court.
  - (b) The Attorney General of the Republic.
  - (c) Three (3) Judges elected from the Supreme Court.

- (d) Four (4) Lawyers selected from the private law practitioners by the Law Society of Somalia.
- 3. Members of the Council shall enjoy similar privileges and immunity as that of the Judges.
- 4. The Council shall be responsible for the appointment, transfers, conduct, discipline and remuneration of Judges.
- 5. The term of each council member shall be four years.

**ARTICLE 64**  
**THE OFFICE OF THE ATTORNEY GENERAL.**

- 1. The office of the Attorney General shall be a division of the judicial institution and shall comprise of:-
  - (a) The Attorney General whose duty shall be to safeguard the implementation of the laws in the whole Republic. His duties, responsibilities and scope of duties shall be specified by law ;
  - (b) The Attorney General shall be appointed by the President on the recommendation of the Council of Ministers ;
  - (c) The Attorney General shall be the principal legal adviser to the Transitional Federal Government;
  - (d) The State and Districts Attorney Generals whose powers are limited to specific regions and districts will be appointed as specified in sub section (b).
- 2. It shall be the responsibility of the Attorney General to promote and uphold the Rule of Law.

**CHAPTER TEN**

**ARTICLE 65**  
**SECURITY AND DEFENSE FORCES.**

- 1. The Somali Republic shall have a national armed force consisting of the army and police.

2. The Armed forces shall faithfully abide and preserve the Charter, the laws of the land and unity of the country.
3. The law shall regulate the structure and functions of the armed forces and the system of cooperation and coordination amongst them in the fulfilment of their institutional duties.

## **CHAPTER ELEVEN**

### **LAND AND PROPERTY.**

#### **ARTICLE 66**

##### **THE POLICY FOR LAND.**

1. Land being Somalia's primary resource and the basis of livelihood for the people shall be held, used and managed in a manner which is equitable, efficient, productive and sustainable.
2. The Government shall define and keep constant the national land policy and framework of the land in the Somali Republic which shall ensure the registration, use, ownership, access, occupation, management rights, security, interests and title of the land.

#### **ARTICLE 67**

##### **NATURAL RESOURCES AND ENVIRONMENT PROTECTION.**

1. The natural resources of the country such as the minerals, water, flora and fauna shall be public property and a law shall be enacted which defines the manner of exploitation for the common good.
2. The Transitional Federal Government shall give priority to the protection, conservation, and preservation of the environment against anything that may cause harm to the natural biodiversity and ecosystem.
3. Every person in the Somali Republic shall have a duty to safeguard and enhance the environment and participate in the

development, execution, management, conservation and protection of the natural resources and environment.

4. The Transitional Federal Government shall adopt urgent measures to clean up the hazardous waste dumped on and off shores of the Somali Republic. Compensation shall be demanded of those found liable for such crimes.
5. The Transitional Federal Government shall take urgent steps to reverse the trend in desertification, deforestation, environmental degradation, illegal charcoal burning and export of endangered wildlife species.

## **CHAPTER TWELVE**

### **NATIONAL COMMISSIONS.**

#### **ARTICLE 68**

#### **INDEPENDENT COMMISSIONS AND ADMINISTRATIVE COMMITTEES.**

1. There shall be established such independent Commissions and Committees as may be necessary.
2. The establishment of independent commissions, their structures and functions shall be proposed by the Council of Ministers and approved by Parliament .
3. The respective ministers shall propose the components of these commissions to the Council as stated below:-
  - (a) Federal constitutional Commission
  - (b) National Commission for Reconciliation.
  - (c) National Population and Demographic Census Commission.
  - (d) Civil Service Commission.
  - (e) National Commission for the recovery and registration of public and private property.
  - (f) National Resettlement Commission.
  - (g) Somalia Olympic Commission.
  - (h) State Boundary Demarcation Commission.
  - (i) Disarmament and demobilization Commission.

- (j) Economic recovery Commission;
- (k) Land and Property Disputes Commission.
- (l) Electoral Commission

## **CHAPTER THIRTEEN**

### **INTERNATIONAL RELATIONS.**

#### **ARTICLE 69**

#### **INTERNATIONAL AND BILATERAL RELATIONS**

1. The Transitional Federal Government of the Somali Republic shall uphold the rules of international law and all international treaties applicable to the Somali Republic and subject to the legislative Acts of Parliament, international laws accepted and adopted shall be enforced.
2. The Transitional Federal Government of the Somali Republic shall uphold all bilateral agreements concluded by the Somali Republic

## **CHAPTER FOURTEEN**

### **AMENDMENT OF THE CHARTER.**

#### **ARTICLE 70**

#### **AMENDMENT OF THE CHARTER.**

1. Subject to this Article, Parliament shall have the power to add, amend, alter, vary or otherwise revise this Charter.
2. An Amendment of this Charter may be initiated only by the introduction of a Motion for that purpose supported by not less than one third (1/3) and passed by not less than two-thirds (2/3) of the total members of parliament.

## **CHAPTER FOURTEEN**

### **TRANSITORY CLAUSE AND ENTRY INTO FORCE OF THE CHARTER.**

#### **ARTICLE 71** **TRANSITIONAL PERIOD.**

1. The Charter shall have legal effect pending the eventual enforcement of the National Federal Constitution.
2. The 1960 Somalia Constitution and other national laws shall apply in respect of all matters not covered and not inconsistent with this Charter.
3. The Transitional Federal Government shall endeavour to repossess and restore to the state all public properties, either movable or immovable, within or outside the country.
4. In respect of private property currently held illegally, Government shall endeavour to restore it to the rightful owners.
5. The Transitional Federal Government shall devote the necessary efforts to restore peace and security, free movement of people, goods and services, disarmament and collection of illegal weapons in the hands of the public for safekeeping rehabilitation and reintegration of all militia in co-operation with regional administrations, traditional elders and members of the international community.
6. The Transitional Federal Government shall make necessary efforts to resettle refugees and displaced persons.

7. The ongoing development projects in the country may continue, provided they do not infringe on the sovereignty of the state and do not harm the environment. All new projects are subject to Transitional Federal Government guidelines and approval.
8. Effective from the conclusion of the Somali National Reconciliation Conference held in Kenya, all militia organizations, armed groups and factions in the territory of the Somali Republic shall cease to exist and shall turn in their weapons to the Transitional Federal Government.
9. The present Charter shall be the basis for the federal constitution whose draft shall be completed within two and half (2 1/2) years and be adopted by popular referendum during the final year of the transitional period.
10. The Transitional Federal Government shall take all necessary measures to combat tribalism, nepotism, looting of public properties, corruption and all fraudulent activities, which may undermine the functioning of state organs and decent traditions of the society.
11. The Transitional Federal Government shall audit and assess all ongoing foreign funded development projects with a view to establishing whether they infringe on Sovereignty or state security or impair the culture, environment or health of the people.
12. For the avoidance of doubt, this Charter shall come into force on the date the delegates at the Somali National Reconciliation Conference in Kenya approve it and continue to be operational until the approval and enforcement of the federal constitution.

## **SCHEDULE I**

### **THE POWER OF THE TRANSITIONAL FEDERAL GOVERNMENT.**

The Transitional Federal Government shall have authority throughout the Somali Republic over the following matters –

1. Foreign Affairs.
2. Defence and Security.
3. Finance and Central Bank.
4. Establishment of State structures.
5. Posts and Telecommunications.
6. Immigration and Naturalization.
7. Ports Administration.
8. Planning and Economic Development.
9. Natural Resources.
10. Acceptance and licensing of private companies specifically at national level.
11. Collecting import/export and indirect taxes.

## **SCHEDULE II**

### **POWERS OF THE STATE GOVERNMENTS.**

The State Governments shall control the following functions within their territories -

1. Education.
2. Health.
3. Regional Roads.
4. Environment protection.
5. Regional police.
6. Housing.
7. Water and Electricity Development.
8. Agricultural Development and Water Management.
9. Livestock and rangeland development.
10. Development of small businesses and states business co-operations
11. Settlement of population.

12. Develop state constitutions their state flags and state emblem.
13. Appoint their state election committees and implement the state elections.
14. Collect all direct taxes
15. Promote sports, arts, literature and folklore.
16. Business licenses.
17. Town planning and construction permits.
18. Public sanitation.
19. Recreation centres and child gardens.
20. General Public Health.

### **SCHEDULE III**

The reports of the five Reconciliation Committees of the Somali National Reconciliation Conference in Kenya 2002-2003.

### **SCHEDULE IV**

List of the delegates, political leaders and political groups.