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Technical assistance and capacity-building

Written statement* submitted by International Educational Development, Inc., a non-governmental organization on the roster

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[16 May 2011]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

The situation in Somalia**

International Educational Development and the Association of Humanitarian Lawyers¹ remains deeply concerned about the situation in Somalia. Even though there are many United Nations mandate-holders involved in monitoring all aspects of the situation, and with the involvement of AMISOM, there appears to be little real progress towards improving the situation in the country except for some relatively stable areas of Somaliland. While better off than the Mogadishu area, even Puntland is unstable. For example, on 11 May 2011, the Islamic militia associated with Sheik Aton carried out a two-pronged operation against the Puntland forces near the commercial hub Bosaso in which at least 26 persons were killed and more wounded. The militia announced it was avenging the death of Osama bin Laden. The Puntland authorities had announced in October 2010 that this militia had been crushed. The newly merged al-Shahaab/Hizbul Islam groups have also announced they too will avenge the death of the al-Qaeda leader.

One our view, a major problem hampering efforts to achieve peace, stability and resources for the civilian population is that the militias extract “protection” monies and supplies from humanitarian aid groups, AMISOM, and the forces of the Transitional Federal Government of Somalia (TFG). The militias, for example, have weaponry intended for AMISOM and TFG forces. There are some reports that as much as 50% of foodstuffs meant for the civilian population is skimmed off, along with supplies and funds meant for civilian clinics, and end up in the hands of militias. This not only deprives the desperate civilian population of subsistence goods and materials but actually plays a major role in the ability of the militias to continue functioning. The toll on realization of human rights is staggering. We welcome the initiative by the UN office to address this by establishing a database so as better to monitor all contracts, but this, by itself, will not solve the problem.

Piracy continues to wreck havoc in the area. In our written statement A/HRC/16/NGO/41 we noted the suggestions made by UN piracy advisor Jack Lang and contained in his report (S/2011/30) submitted to the Security Council. A key one is for the UN to establish special piracy courts. The Security Council, in its resolution 1976 of 11 April 2011, agreed with the Advisor, and requested the Secretary-General to establish modalities regarding laws, courts and detention of pirates. Operative paragraph 20 indicates that these modalities must be consistent with international human rights.

We point out that Kenya created a piracy court in June of 2010. We encourage the Secretary-General, in concert with the Special Rapporteur on the independence of judges and lawyers, to review this court: its successes and failures may provide useful information in regards to any international tribunal. We also would also like to draw attention to the fact that Spain sentenced two Somali pirates in May of 2011 and strongly believe that review of that proceeding will also prove useful.

We note that the TFG’s term is coming to an end this summer and urge that there be a solid plan in advance of that date. We support the recommendation made by some delegations at the 3 May 2011 UPR review that the mandate of the TFG be extended for one year, and during that time the TFG pay considerable attention to drafting a Constitution, without which there is little chance the many factions might come together or that Somalia can move forward as a State under international law. To the degree possible or feasible, we urge

** The Association of Humanitarian Lawyers, an NGO without consultative status, also shares the views expressed in this statement.

¹ AHL researcher Lieselotte Siegenthaler assisted in the preparation of this document.

the TPG to seek input from militia groups so as better to provide them with some stake in a unified, peaceful Somalia.

In conclusion, and taking into consideration all the grave problems facing Somalia, we think that the whole situation requires a comprehensive, concerted review by all actors. We see no discernable road map that has any chance of success for the country as a whole, and have only a little optimism for Somaliland, over which the TFG has no control. A comprehensive review should include progress, if any, with existing UN, AU, and all other actions, and the almost certain need for new initiatives and approaches. As was apparent at the Council' Special Sitting and throughout the UPR process, the overall situation is so dire that more of the same is grossly inadequate in all areas, especially in regards to human rights. It also illustrates our view that when a situation involves a State as shattered as this one, the UPR process is a largely ineffective mechanism: the TRG controls very little territory and, even with the best of intentions, has little chance to deliver any meaningful improvement in human rights.
