

Country/entity	Somalia
Region	Africa (excl MENA)
Agreement name	Protocol Establishing the Somali National Constituent Assembly
Date	22 Jun 2012
Agreement status	Multiparty signed/agreed
Interim arrangement	Yes

Agreement/conflict level Intrastate/intrastate conflict

Somali Civil War (1991 -)

Originally spurred by centre-peripheral tensions, fighting broke out in 1981 between the regime of President Said Barre and the Somali National Movement, a militia primarily consisting of members from the northern Ishaq clan. Fighting intensified in the late 1980s as more clan-based militias arose. President Barre's regime collapsed in late 1991 and as a result the UN intervened. However persistent attacks on the UN's forces forced a withdrawal in 1994. From the mid- to late 1990s, the character of the conflict shifted as warlords fought for access to rents. Also during this period, two different peace agreements arose; the Soderre Declaration, which was mediated by Ethiopia and supported by IGAD, and the Cairo Accord, which was brokered by Egypt. Fighting, already noticeably lessened compared to the early 1990s, decreased and the more amicable environment paved the way for the Transitional Government to be formed in 2000 (replaced in 2004 by the Transitional Federal Government).

Nonetheless, opposition to the TFG arose in the form of the Islamic Courts Union (ICU), which by early 2006 had taken control of most of southern Somalia until they were ousted by an armed intervention by Ethiopia in December 2006. As a result, the ICU splintered. Hard-line ICU members formed the Takfiri organization, Harakat al-Shabaab al-Mujahideen, and launched a guerrilla campaign against the TFG. Another faction of the ICU fled to Djibouti and formed the Alliance for the Re-liberation of Somalia, which was absorbed into the ruling TFG after successful negotiations in 2007.

To deal with the new round of fighting, the UN-mandated AMISOM force was deployed in 2007. Since then, insecurity has fluctuated between the urban and rural areas as the al-Shabaab's territorial gains waver. Local militia leaders maintain de facto governance over communities. From 2009 to 2012, insecurity spilled over into the Gulf of Aden and the Indian Ocean when Somali pirates seized, looted and ransomed ships. In 2014, 'Operation Indian Ocean' was launched and in parallel with infighting among al-Shabaab, the organisation's position in Somalia has diminished slightly. However, as evidenced by large-scale attacks by al-Shabaab in northern Kenya throughout 2013-2015, the lack of security continues to destabilize the region. Al-Shabaab continues to launch surprise attacks with the aim of forcing out foreign military presence in Somalia. Targets include both military forces and civilians. The devastating attack in October 2017 in Mogadishu saw 587 fatalities and resulted in a renewed military offensive by the Somali government and African Union allies. Since 2017, the U.S. has increased its air strikes targeting al-Shabaab militants, and in December 2018 they announced to re-establish a permanent diplomatic mission in the country. Al-Shabaab has been characterized as a spoiler in the Somali peace process and have therefore been placed outside of any negotiations.

Close

Somali Civil War (1991 -)

Stage Implementation/renegotiation

Conflict nature Government/territory

Peace process	Somalia Peace Process
Parties	President Sheikh Sharif Sheikh Ahmed of the Transitional Federal Government of Somalia; Honourable Sharif Hassan Sheikh Aden, Speaker of the Transitional Federal Parliament; Prime Minister Abdiweli Mohamed Ali; President Abdirahman Mohamed Mohamoud 'Farole' of Puntland; President Mohamed Ahmed Alin of Galmudug; and, representatives of Ahlu Sunna Wal Jama'a.
Third parties	The meeting was facilitated by the United Nations under the auspices of the Special Representative of the Secretary-General for Somalia, Ambassador Augustine P. Mahiga.
Description	Agreement to establish the Somali National Constituent Assembly, defining the terms of its composition, mandate and operation, in accordance with previous agreements.

Agreement document	SO_120622_ProtocolConstituentAssembly.pdf (opens in new tab) Download PDF
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Groups

Children/youth	Groups→Children/youth→Rhetorical Page 3, ARTICLE 4, National Constituent Assembly Members, 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.
Disabled persons	No specific mention.
Elderly/age	Groups→Elderly/age→Substantive Page 3, ARTICLE 4 National Constituent Assembly Members 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– ... (b) Be at least 21 years old;
Migrant workers	No specific mention.
Racial/ethnic/ national group	No specific mention.
Religious groups	No specific mention.
Indigenous people	No specific mention.
Other groups	No specific mention.

Refugees/displaced persons No specific mention.

Social class No specific mention.

Gender

Women, girls and gender Page 3, ARTICLE 4, National Constituent Assembly Members, 1. The National Constituent Assembly shall comprise 825 delegates of whom at least 30% must be women.

...

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.

Men and boys No specific mention.

LGBTI No specific mention.

Family No specific mention.

State definition

Nature of state (general) No specific mention.

State configuration No specific mention.

Self determination No specific mention.

Referendum No specific mention.

State symbols No specific mention.

Independence/secession No specific mention.

Accession/unification No specific mention.

Border delimitation No specific mention.

Cross-border provision No specific mention.

**Political
institutions (new or
reformed)**

Governance→Political institutions (new or reformed)→General references
Summary: the agreement lays out detailed provisions for establishing the National
Constituent Assembly, including the method of its formulation, criteria for membership,
compositions, the structure and procedures.

Governance→Political institutions (new or reformed)→Temporary new institutions

ARTICLE 2

Preparation of Draft Provisional Constitution for Provisional Adoption

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.

The Somali Road map signatories shall approve by initialing and signing the final draft
provisional constitution on 22 June 2012;

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;

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.

The Principals shall present the draft constitution to the Technical Facilitation
Committee;

The Technical Facilitation Committee shall present the draft constitution to the National
Constitutional Assembly

ARTICLE 3

Establishment and Tenure of the National Constituent Assembly

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.

The National Constituent Assembly shall be dissolved when it adjourns following its vote
on the draft provisional constitution.

ARTICLE 4

National Constituent Assembly Members

The National Constituent Assembly shall comprise 825 delegates of whom at least 30%
must be women.

Each member of the National Constituent Assembly shall be selected and appointed by

Elections	Page 2, 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.
Electoral commission	No specific mention.
Political parties reform	No specific mention.
Civil society	Page 3, ARTICLE 4, National Constituent Assembly Members, 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.

**Traditional/
religious leaders**

Page 2, 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.

Page 3, ARTICLE 4, National Constituent Assembly Members, 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–

...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.

... 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.

**Public
administration**

No specific mention.

Constitution

Governance→Constitution→Constitutional reform/making

Summary: Technical Facilitation Committee to draft constitution. The TFC is in charge of helping the National Constituent Assembly through its drafting process. See Article 5.

Page 2, 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;
- ... 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

Page 2, 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.

Page 3, ARTICLE 4, National Constituent Assembly Members, 2(g) Not currently be serving in an official capacity at the federal or regional levels nor have served in federal constitutional drafting bodies; and

[summary] Page 6-7, Article 7, Consideration of the Draft Provisional Constitution, Article looks at the checks and balances and inevitable referrals of the Draft Provisional Constitution as well as the mechanics of the final vote.

Power sharing

Political power sharing

Power sharing→Political power sharing→Other proportionality
State level

Page 3, 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.

Territorial power sharing

No specific mention.

Economic power sharing No specific mention.

Military power sharing No specific mention.

Human rights and equality

Human rights/RoL general No specific mention.

Bill of rights/similar No specific mention.

Treaty incorporation No specific mention.

Civil and political rights No specific mention.

Socio-economic rights No specific mention.

Rights related issues

Citizenship Rights related issues→Citizenship→Citizen, general
Page 3, ARTICLE 4, National Constituent Assembly Members,
...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;
... (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;

Democracy No specific mention.

Detention procedures No specific mention.

Media and communication No specific mention.

Mobility/access No specific mention.

Protection measures No specific mention.

Other No specific mention.

Rights institutions

NHRI No specific mention.

Regional or international human rights institutions No specific mention.

Justice sector reform

Criminal justice and emergency law No specific mention.

State of emergency provisions No specific mention.

Judiciary and courts No specific mention.

Prisons and detention No specific mention.

Traditional Laws No specific mention.

Socio-economic reconstruction

Development or socio-economic reconstruction No specific mention.

National economic plan No specific mention.

Natural resources No specific mention.

International funds No specific mention.

Business No specific mention.

Taxation No specific mention.

Banks No specific mention.

Land, property and environment

Land reform/rights No specific mention.

**Pastoralist/
nomadism rights** No specific mention.

Cultural heritage No specific mention.

Environment No specific mention.

**Water or riparian
rights or access** No specific mention.

Security sector

**Security
Guarantees** No specific mention.

Ceasefire No specific mention.

Police No specific mention.

Armed forces No specific mention.

DDR No specific mention.

**Intelligence
services** No specific mention.

**Parastatal/rebel
and opposition
group forces** No specific mention.

**Withdrawal of
foreign forces** No specific mention.

Corruption No specific mention.

**Crime/organised
crime** No specific mention.

Drugs No specific mention.

Terrorism No specific mention.

Transitional justice

Transitional justice general No specific mention.

Amnesty/pardon No specific mention.

Courts No specific mention.

Mechanism No specific mention.

Prisoner release No specific mention.

Vetting No specific mention.

Victims No specific mention.

Missing persons No specific mention.

Reparations No specific mention.

Reconciliation No specific mention.

Implementation

UN signatory The meeting was facilitated by the United Nations under the auspices of the Special Representative of the Secretary-General for Somalia, Ambassador Augustine P. Mahiga

Other international signatory No specific mention.

Referendum for agreement ARTICLE 7, Consideration of the Draft Provisional Constitution, 7.3 Result of the final vote on adoption, 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.

International mission/force/similar No specific mention.

Enforcement mechanism	Page 3, ARTICLE 4, National Constituent Assembly Members, 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.
Related cases	No specific mention.
Source	UN Peacemaker - http://peacemaker.un.org/ ; http://peacemaker.un.org/sites/peacemaker.un.org/files/SO_120622_ProtocolConstituentAssembly.pdf
