



**United Nations Development Programme**

**The Somalia Constitution-Making Support Project**

**Project Document**

**September 2008**

**United Nations Development Programme**

**Country: Somalia**

**Project Document**

**Project Title: The Somalia Constitution-Making Support Project**

**UNDP Strategic Plan**

**UNDAF Outcome(s):** (1) RDP - Deepening Peace and Strengthening Governance: Federal Constitutional Institutions functional and the Constitution adopted by popular referendum. (2) UNTP - Outcome 1: Key federal, Somaliland and Puntland institutions administer and manage core government functions more effectively; Sub-outcome 1.4: Significant progress towards achieving the remaining transitional tasks under the Charter.

**Expected CP Outcome(s):** Constitution, electoral system, reconciliation and national governance processes founded on democratic principles

**Expected Output(s):** (1) A context appropriate, realistic, draft constitutional text is prepared and framework for implementation developed. (2) Constitution drafted through targeted consultative constitution-making process in which the public is informed and public views are heard and incorporated to the extent possible.

**Executing Entity:** UNDP

**Implementing Agencies:** Independent Federal Constitution Commission (IFCC), Ministry of Regional Development, Federal Affairs and Reconciliation (MoRDFAR), Parliamentary Committee on Constitution (PCC), Max Planck Institute for International Law (MPIIL), National Democratic Institute (NDI), Interpeace, media organisations and other national and international NGOs.

**Brief Description**

A constitution-making process in Somalia provides considerable opportunities for advancing political dialogue and towards achieving consensus and agreement on the nature of the state best suited to Somalia. An inclusive and participatory constitution-making process will symbolise a break with the past and, it is hoped, will also create an atmosphere of hope and renewal, as well as found a legitimate and stable, even if minimalist, Somali state. It is acknowledged that such a process faces significant risks of failure or of increasing conflict if it is not undertaken in a peace inducing and inclusive manner.

The Somalia Constitution Making Support Project (SCMSP) aims at promoting reconciliation, peace and stability through such a constitution-making process at the federal level in line with the stipulations of the Transitional Federal Charter. The project will follow the lead of the political developments as advised by UN Political Office for Somalia and the SRSG for Somalia, including the Djibouti peace process and the developments towards a government of national unity. The SCMSP will support institutional machinery and representative mechanisms, encourage societal dialogue on constitutional issues and participation in the constitution-making process, such that opportunities are created for representing the concerns of women, marginalised communities, and canvass the commitment of the state to address human rights concerns of citizens in the political, social and economic spheres. It will even provide a forum for negotiation on divisive or contested issues. Simultaneously, the SCMSP will support the necessary steps for producing a legitimate constitution with broad popular support, which articulates a common vision of the future state of Somalia and incorporates human rights norms and standards, and developing a road map on how to get there. To ensure continued support to the constitution, a framework for implementing and monitoring the new Federal Constitution will be developed in accordance with the Charter stipulations.

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|----------------------------------|---------------|
| Programme Period:                | 2008 - 2010   |
| Key Result Area (Strategic Plan) | 2:1           |
| Atlas Award ID:                  | 000000 33816  |
| Start date:                      | March 2008    |
| End Date:                        | December 2010 |

|   |                      |
|---|----------------------|
| Total resources required:<br>(Over two years) | <b>\$18,128, 277</b> |
| Total allocated resources:                    | <b>\$3,808,543</b>   |
| • USAID:                                      | \$562,333            |
| • NORWAY:                                     | \$509,861            |
| • DFID:                                       | \$1,321,349          |
| • DENMARK:                                    | \$450,000            |
| • SWEDEN:                                     | \$315,000            |
| • UNDP:                                       | \$650,000            |
| Unfunded budget:                              | <b>\$14,319,734</b>  |
| In-kind Contributions:                        | _____                |

Agreed By:



Bruno Lemarquis  
Country Director  
UNDP Somalia

Date: 05/09/2008.

## ACRONYMS

|                  |  |
|------------------|--|
| <b>EAD</b>       | UNITED NATIONS ELECTORAL ASSISTANCE DEPARTMENT                       |
| <b>IDEA</b>      | INTERNATIONAL INSTITUTE FOR DEMOCRACY AND ELECTORAL ASSISTANCE       |
| <b>IFCC</b>      | INDEPENDENT FEDERAL CONSTITUTION COMMISSION                          |
| <b>IGAD</b>      | INTERGOVERNMENTAL AUTHORITY ON DEVELOPMENT                           |
| <b>ILO</b>       | INTERNATIONAL LABOUR ORGANISATION                                    |
| <b>MoRDFAR</b>   | MINISTRY OF REGIONAL DEVELOPMENT, FEDERAL AFFAIRS AND RECONCILIATION |
| <b>MPIL</b>      | MAX PLANCK INSTITUTE FOR INTERNATIONAL LAW                           |
| <b>NDI</b>       | NATIONAL DEMOCRATIC INSTITUTE  |
| <b>NRC</b>       | NATIONAL RECONCILIATION CONGRESS                                     |
| <b>PCC</b>       | PARLIAMENTARY COMMITTEE ON CONSTITUTION                              |
| <b>RDP</b>       | SOMALI RECONSTRUCTION AND DEVELOPMENT PROGRAMME                      |
| <b>SCMSP</b>     | SOMALI CONSTITUTION MAKING SUPPORT PROJECT                           |
| <b>TFG</b>       | TRANSITIONAL FEDERAL GOVERNMENT                                      |
| <b>UNCDF</b>     | UNITED NATIONS CAPITAL DEVELOPMENT FUND                              |
| <b>UNCT</b>      | UNITED NATIONS COUNTRY TEAM (FOR SOMALIA)                            |
| <b>UNDP</b>      | UNITED NATIONS DEVELOPMENT PROGRAMME                                 |
| <b>UNHABITAT</b> | UNITED NATIONS HUMAN SETTLEMENTS PROGRAMME                           |
| <b>UNICEF</b>    | UNITED NATIONS CHILDREN'S FUND                                       |
| <b>UNOPS</b>     | UNITED NATIONS OFFICE FOR PROJECT SERVICES                           |
| <b>UNPOS</b>     | UNITED NATIONS POLITICAL OFFICE FOR SOMALIA                          |
| <b>UNTP</b>      | UNITED NATIONS TRANSITION PLAN                                       |

## 1. SITUATION ANALYSIS

### 1.1 PROJECT RATIONALE

Constitution making plays an important role in state building and the consolidation of peace in the aftermath of violent conflict. The design of a constitution and its constitution-making process can play an important role in the political and governance transition. Constitution making after conflict is an opportunity to create a common vision of the future of a state and a road map on how to get there. The constitution sets up the rules by which a new democracy will operate.

The constitution-making process in Somalia is a requirement of The Transitional Federal Charter of the Somalia Republic 2004<sup>1</sup> (Charter), which resulted from the 2002-2004 IGAD sponsored round of negotiations facilitated by Kenya. The Charter provides that a new Federal Constitution is to be drafted within two and half years of the formation of an Independent Federal Constitutional Commission and to be adopted by popular referendum during the final year of the transitional period. This Federal Constitution (the Constitution) is to be based on the Charter and ensure that a Federation is achieved within the same time frame.

The constitution-making project will continually adapt to the fast paced developments of the Djibouti Agreement and peace process, following the political leadership of the UN Political Office for Somalia and the guidance of the SRSG for Somalia. On 9 June 2008, the Transitional Federal Government (TFG) and the Alliance for the Reliberation of Somalia (ARS) initialled the Djibouti Agreement. The constitution-making support project will run in parallel to this peace process without moving ahead of new developments. Where ever possible the constitution-making process will be leveraged as a reconciliation and transitional justice platform. The constitution should be an enabler for the TFG and ARS to collaborate jointly on their social contract through a joint vision for the state of Somalia.

There have already been more than 14 failed attempts by the international community to assist Somalia to achieve peace and rebuild itself as a state. If the difficulties faced in drafting the Interim Federal Charter are any indication, the constitution-making process can be expected to be a difficult process. Reaching agreement on the Charter was the main stumbling block to the conclusion of the 2002-2004 reconciliation talks.

On 24 May 2006, the Transitional Federal Parliament endorsed the appointment of a 15-member Independent Federal Constitutional Commission (IFCC), including two women Commissioners. The Act setting up the IFCC was signed by the President on 15 June 2006, after it was officially nominated in April the previous year. As the appointment of the IFCC offered fresh hope in kick-starting the delayed constitution undertaking, UNDP, in close collaboration with the then Ministry of Constitution and Federal Affairs of the Transitional Federal Government (TFG), the IFCC and other international partners developed a constitution making support project for Somalia in July 2006. The project was launched through a workshop in Nairobi, Kenya, to examine and compare different constitution-making processes and to develop internal and regulations and work plans.

Despite this degree of progress, the political environment in southern Somalia throughout 2006 and most of 2007 was unstable and volatile, and several hurdles including division within the Transitional Federal Government, security and access problems and lack of political dialogue prevented any meaningful progress with development of the Federal Constitution. The UN Political Office (UNPOS), UNDP and the international donor community concurred that proceeding with the constitution development support project as originally envisaged could stimulate further conflict and would not contribute to building consensus; a key expected gain from the constitutional development process. Instead, during this period, UNDP and its partners limited the extent of their activities to strengthening capacities of federal counterparts through trainings and knowledge transfer.

In the last quarter of 2007, two substantial events offering new windows of opportunity for the constitution-making process occurred: (i) the National Reconciliation Congress in Mogadishu in July/August 2007 and (ii) the appointment of a new cabinet including the creation of the Ministry of Regional Development, Federal

Affairs and Reconciliation (MoRDFAR). The former reaffirmed the Charter's deadlines and the international community demonstrated goodwill and confirmed their commitment to support the constitution-making process. In response, UNDP, in close consultation with UNPOS, has reinvigorated its support to the process, deployed new staff to support the TFG and IFCC as well as the Parliamentary Committee on Constitution (PCC), and is discussing partnership options for delivering support to constitution making with a consortium of international partners. As a result of that opportunity which created a climate for constitutional development, UNDP revised its support to constitution making project and is tailoring it to the current priorities and available timeframe with respect to the Charter. This has included preparing three Letters of Agreement to support the Ministry of Regional Development, Federal Affairs and Reconciliation, The Parliamentary Constitution Committee and the Independent Federal Constitutional Commission respectively and reinvigorating the consortium of partners to take a more proactive role in providing trainings and support for the constitutional process.

## 1.2 PROGRAMMING FRAMEWORK FOR SOMALIA

Three overarching programming frameworks apply to the Somalia Constitution Making Support Project (SCMSP): (i) The Transitional Federal Charter of the Somali Republic, (ii) the Somali Reconstruction and Development Programme (RDP) for the period 2008-2012, and (iii) the United Nations Transition Plan for Somalia (UNTP) of the UN Country Team for the period 2008-2009. These three documents contain sets of results to be achieved over their respective timeframes, and the SCMSP will contribute towards those that are relevant to the constitutional process over the period 2008-2009. The Djibouti Agreement and the peace developments towards a potential government of national unity as directed by UNPOS and the SRSG will continually inform programming.

According to the Charter the Transitional Federal Government the original projected timeframe is to federate Somalia and IFCC to produce a draft Constitution 2.5 years from taking its oath of office. Also according to the Charter a Referendum is to be conducted during final year of transition period and as the term of parliament expires. Following the developments of the Djibouti peace process, the project will reflect any new deadlines that will be adjusted accordingly in consultation and under the guidance of UNPOS and the SRSG for Somalia.

Concerning the RDP, the SCMSP falls within the pillar of 'deepening peace, improving security, and establishing good governance' and is aligned to the outcome area of 'deepening peace and strengthening governance – reconciliation, conflict resolution and peace-building'. A target outcome for 2012 has been elaborated for the constitutional process and ongoing support, and is supplemented by a set of key actions to be achieved each year. (These are detailed in section 3 – Results and Resources Framework.)

The UNTP comprises five strategic outcome areas, one of which is 'key federal, Somaliland and Puntland institutions administer and management core government functions more effectively' (UNTP Outcome 1). Within Outcome 1, four sub-outcomes have been determined, the relevant one for the SCMSP being 'significant progress towards achieving the remaining transitional tasks under the Transitional Federal Charter'. These remaining tasks include the constitutional process and electoral planning process. The constitutional process is the core of the SCMSP; for the electoral process, which is critical for the conclusion of the TFG period and launching the successor federal government, UNDP will follow the lead of UNPOS and will ensure collaboration and co-ordination with these efforts so that they run in harmony with constitutional development.

Important for guiding the SCMSP are recommendations arising from the National Reconciliation Congress (NRC). The NRC was a Somali driven process and emphasised the importance of the constitution process so that the term of the Transitional Federal Government is concluded, a constitution is in place by public referendum and elections can be conducted to elect a new federal government. To achieve this, the NRC

urged for constitutional drafting and dialogue to be speeded up in order to respect the Charter's deadlines for constitutional undertakings, reaffirmed the need for a referendum to be conducted and for timely preparations for new elections.

### 1.3. LESSONS FROM CONSTITUTIONAL DEVELOPMENT

Constitutional development is a key task of the Transitional Federal Government. It is seen as creating a framework for reconciliation and stability but paradoxically requires a relatively stable environment in which to carry out stakeholder dialogues and bi-partisan negotiations to ensure that the constitution reflects and is representative of the views and aspirations of all social forces.

There is a correlation between the process by which a constitution is made and the sustainability of the resultant constitution. Constitution development benefits when it builds on comparative experiences that are related to the national context, strengthens the linkages between peace-building and constitutional development and is conducted through a process that is inclusive of marginalised and disenfranchised communities and the political opposition. The more this is pursued, the more it is likely to be rooted in society and lasts.

Constitution making can potentially affect transition and the level of any ongoing (violent) conflict, both negatively and positively. It can provide a forum for the negotiation of solutions to the divisive or contested issues that led to violence. Equally, where issues are not addressed and the environment is not conducive to negotiation, constitution making can encourage solidification of group identity and demands and consequently ignite further conflict. The process should be recognised as a process, which needs to be sensitive to the existent political and social environments but at the same time confronts divisive tendencies and promotes a longer term perspective on the future of the state and the need for peaceful cohabitation.

However, constitution development goes beyond the writing of a document and it must be supported through a process of legal and institutional development. Resources and political commitment to implement the constitution are also essential if the constitution is to endure. This requires primarily national commitment and endeavours to implement the constitution and can be supported through strategic and targeted assistance given by the international community on the advice and request of Somali national actors.

There is a danger that the constitution is perceived as a panacea for all social and political challenges, and it must be borne in mind that it is but a part of a necessary framework of support. Security and stability, a strong social agenda and economic development are also important in these processes.

UNDP has worked in several countries on constitutional process, including Kenya, Sudan, Yemen, Nepal, Iraq, Afghanistan and East Timor among others. Some specific lessons arising and documented from UN constitution making experiences in Iraq, Afghanistan and East Timor<sup>1</sup>, as well as other countries are:

- Separate the peace agreement from the constitution-making process;
- Delineate basic rules for the constitution-making process and substantive principles in a framework agreement or interim constitution;
- Design an inclusive constitution-making process;
- Anchor the process of consensus-building on constitutional principles through consultations and negotiations among concerned stakeholders;
- Ensure extensive public participation in the process;
- Separate the public education phase from the public consultation phase;
- Establish a smaller technical body to handle the drafting and to serve as a repository for public input;
- Avoid any one party drafting (i.e. utilise consensus drafting);

<sup>1</sup> "Constitution Making and Peace building, Lessons Learned from UN Constitution Making Experience: East Timor, Afghanistan & Iraq", Roundtable Report, December 2005, UNDP. Lessons are derived largely from case studies experiences examined by UNDP, United States Institute for Peace and International IDEA.



- Ensure that the constitutional commission is a broadly representative body;
- Structure the constitution-making process to facilitate exposure of groups to other groups views and concerns;
- Link the drafting to public consultations;
- Ensure an adequate timeframe to conduct the constitution-making process;
- Involve constitutional advisers and expert committees;
- Incorporate human rights safeguards;
- Develop international legal guidance with respect to the constitution-making process;
- The impact of constitution-building processes depends on effective participation mechanisms, empowerment for national actors to make “free, informed” choices, inclusion of key stakeholders and degree of implementation;
- There is a need for a “minimum common denominator” prior to constitution making;
- International assistance is a necessity in these processes, yet there are risks that the assistance may distort the social environment, be perceived as supporting certain actors and impose externally determined timeframes; and
- In supporting constitution processes, the UN should partner with different relevant organisations that already exist in order to tap into the expertise, rationalise the assistance and lend the moral authority of the UN to those efforts.

## 2. STRATEGY

### 2.1 PROJECT STRATEGY

In addition to the programming framework described in section 1.2 above, the SCMSP is also aligned to UNDP’s corporate goal of fostering democratic governance and the goal of the UNDP Somalia Office to ensure ‘constitution building, reconciliation and national governance processes and electoral systems founded on democratic principles’.

Democratic principles will be core to UNDP’s support to constitution making and as such the SCMSP will apply the following guiding principles:

- The process should promote reconciliation, peace and stability through inclusive and participatory constitution-making process.
- Constitution making is recognised as a sovereign national process; the process must therefore be nationally owned and led.
- The process should encourage societal dialogue, with equal opportunities for men and women to be involved, and provide a forum for negotiation of divisive or contested issues.
- The process should be inclusive and participatory to best achieve a legitimate constitution and sustainable peace.
- Strategic opinion makers (men and women) and stakeholders including civil society should be strongly encouraged and given space to contribute to the constitution making process.
- Human rights – political, civil, economic and social rights of citizens – must be enshrined in the constitutional text.
- Constitutional text should be written in gender neutral form and address the many inequalities and discrimination that Somali women face in the political, social, cultural and economic spheres.
- All options, advice and assistance provided to those involved in the process must well coordinated and calibrated to be appropriate to the Somali local context.

- The constitution should be agreed through a peacefully negotiated constitution-making process and popular referendum to increase its legitimacy.
- Constitution building and text should be anchored in the social and political fabric of society, and must be supported through a variety of strategies that include public dialogue, implementation and strengthening of constitutional institutions and bodies over time.

The SCMSMP will work with the existing Consortium Partners, comprised of UN, and international NGOs and institutions experienced in constitution making, dialogue facilitation, peace building and media outreach to provide technical expertise and support the project's implementation. It will be the forum for sharing information and experiences on the process. The Consortium at this stage will include: UNDP, Max Planck Institute for International Law (MPIL), the National Democratic Institute (NDI), Interpeace (observer status) and UNPOS (political leadership and advisory role to the consortium). Other partners may join the Consortium in the future as necessary and as the process evolves to more advanced stages within the constitution-making stages.

#### SOMALI OWNERSHIP

The Somali constitution will be drafted and the process will be driven by Somali authorities (IFCC, PCC, MoRDFAR and others)

- Somali authorities (IFCC and PCC) with the support of SCMSMP and Consortium Partners, will draft the constitution, design and develop the capacity building, conduct civic education and engage in national dialogue.
- Somali authorities and members of the civil society will identify the appropriate tools and mechanisms to consult the population at large.
- Somali authorities will address regional concerns including Puntland and Somaliland.
- IFCC and PCC with the support of the SCMSMP will establish the constitutional secretariat and will coordinate the workings of the Working Groups.
- The Chair of IFCC and its members as well as other members of the government will hold regular media sessions with Somali media outlets.
- IFCC and PCC with the support of the Consortium will hold town hall meetings and other national discussions.

UNDP's strategy is to collaborate and work closely with the three key federal institutions in the Executive, Legislature and the independent commission. Respectively, these are the Ministry of Regional Development, Federal Affairs and Reconciliation (MoRDFAR), the Parliamentary Committee on Constitution, (PCC) and the Independent Federal Constitution Commission, (IFCC). Under the auspices of the IFCC, these institutions have agreed to establish three working groups, (i) Civic Education Working Group, (ii) Content Development Working Group, and (iii) Legal Drafting Working Group.

The goal is to ensure that the content of the draft constitution fulfils the federalism and other mandates required by the Transitional Federal Charter, that it takes into account the concerns and opinions of the Somali people, while at the same time respecting international human rights norms and standards. SCMSMP shall, within the permissible time frame, facilitate the IFCC in conducting targeted consultations through national and sub-national dialogue with traditional leaders, women's groups, youth groups, marginalised communities and members of district and regional counsels. Further, SCMSMP will facilitate the IFCC's Civic Education Working Group develop and implement a civic education programme that will raise awareness of the purpose of constitutions, the constitution-making process in Somalia, and the civic responsibilities of the people of Somalia i.e. voting and participating in representative government. Finally SCMSMP will work with the appropriate Transitional Federal Institutions to develop a framework for implementation of the constitution once ratified.

The SCMSP will provide technical support to the constitutional process in four main ways: (i) assist in the drafting of the constitution, ensuring realistic and appropriate content and the pursuit of a structured and well managed and administered process, (ii) assist in arranging targeted consultative constitution-making process through national and sub-national dialogue in which views of the public are adequately heard and incorporated into the draft constitution as far as is realistic, (iii) support civic education and awareness raising on constitution making, and (iv) developing a framework for continued support to implement the constitution once ratified.

The international community feels that the time frame for the constitution-making process is short and sub-optimal. Nevertheless, the SCMSP will be guided by the timeline stipulated in the Transitional Federal Charter and will endeavour to encourage political commitment and momentum to abide by that timeline.

Capacity building will be provided to the constitution-making bodies by the Consortium members to deliver training on various substantive constitutional topics and legal drafting skills. Other INGOs, engaged by UNDP, will train the constitutional-making bodies on developing and disseminating civic education materials (including written materials and radio broadcasts/announcements). In addition, an INGO will train on presentation and facilitation skills to ensure that the IFCC will be capacitated to conduct civic education workshops for government officials and others. UNDP's Technical Advisors will also be made available to the IFCC throughout the constitution making process and during referendum, on an as-needed basis, to address targeted issues and to enhance the support provided by the INGO's.

Also, the SCMSP will provide material support to the constitution making bodies. That support includes financial support for operating expenses, computers furnishings and other equipment.

### **2.1.1 CONSTITUTIONAL DRAFTING AND IMPLEMENTATION FRAMEWORK**

The SCMSP will provide institutional support to the IFCC, its Secretariat, PCC and the MoRDFAR, through support to their operations, staffing and technical training in fundamental constitutional legal concepts, presentation/facilitation and drafting skills. Once the Civic Education, Content Development and Legal Drafting Working Groups have been established, and the Secretariat has been operationalised, SCMSP will also build the capacity of the Secretariat staff to ensure that it is able to support the Working Groups in the drafting, consultative and revision as well as to conduct media campaigns.

For the drafting process, the SCMSP will engage INGOs to conduct workshops or trainings for the working groups, develop the structure of the constitution and draft constitutional principles and legal text. In addition, UNDP will engage technical experts to provide targeted supplemental advice on human rights, gender and inclusivity issues. Working with MPIL, UNDP Project Advisors will provide daily support and oversight to the Working Group. To ensure quality assurance, UNDP and the INGOs providing capacity building and technical trainings will share the resumes of their consultants and trainers and the Terms of Reference which they were contracted to undertake these trainings and updates and reports of the trainings themselves. Furthermore they will provide updates of their respective programming schedules to ensure that there will be no scheduling clashes with national partners.

The thematic areas that will be covered in workshops and trainings include: 1) Structure of a constitution; 2) Federalism: Options for Somalia; structures for the distribution of power; 3) Decentralization and Local government; 4) Structures of Executive, Legislative and Judicial Authority and their interrelations in a federal/decentralized system; 5) Bi-cameral systems and their variations; 6) Resource/wealth allocation including land rights; 7) Human Rights; 8) Mainstreaming Gender in the constitution; 9) The role of Somali social structure, traditional order and customary law system in the constitutional system; 10) Electoral system design; 11) formation and role of political parties; and 12) The Role of civil society.

MPIIL will lead the capacity development workshops and the training modules on institutional design and NDI will lead trainings on Human Rights, Gender, electoral system design, political parties and the role of civil society.

### **The Roles of the Consortium Partners**

1. UNPOS will provide overall political guidance to the constitutional process. UNDP will work in close coordination and under the political leadership of UNPOS. Regular political coordination meetings will be held under the chairmanship of the SRSG.
2. UNDP will:-
  - a. Provide overall project management, resource mobilisation, liaison and reporting with Somali stakeholders and technical advice through UNDP staff and external experts.
  - b. Provide coordination and a forum for the Consortium members, observers and political advisors.
  - c. Provide regular briefings to donors in collaboration with UNPOS.
  - d. Provide technical assistance to the IFCC and the Constitutional Secretariat
  - e. Provide technical support to the Parliament, PCC, Ministry of Regional Development and Federal Affairs, Ministry of Justice, Ministry of Women's Development and Family Affairs, the offices of the President and Prime Minister, and key civil service institutions to strengthen their capacity to support the constitutional process.
  - f. Promote democracy building, national dialogue and reconciliation through the constitutional process fostering community based dialogues, civic education and media campaigns and Diaspora outreach
  - g. Strengthen Human Rights Organisations to make inputs to the constitutional process.
  - h. Support the initiatives of UNPOS in convening national and Diaspora dialogues.
  - i. Support the capacity development, civic education and media campaign initiatives of other consortium members.
  - j. Develop the media campaign programme, both for IFCC, PCC. UNDP will also work with other Consortium Partners and local NGOs for implementation.
  - k. As part of its legal mandate, UNDP will ensure that human rights, gender and inclusivity components are upheld in the constitution and throughout the process.
  - l. Establish a website and digital library of international best practices, comparative constitutions located at the IFCC Secretariat to be used by PCC, TFG and other stakeholders. Links to this website will be advertised on existing, popular Somali websites.
  - m. Develop constitutional implementation framework on priority matters, including preparation for the constitutional review process (should it be required) and institutional development and capacity building.
  - n. Compile financial and programme reports from other consortium members to be submitted to the international community and to Somalia authorities on a quarterly basis.
  - o. Civic Education: UNDP will seek to partner with UN and/or non-UN partners to build the capacity of the IFCC to conduct civic education campaigns on democracy, the draft constitution and voter education.
  - p. Conduct civic education with the general public through the use of networks of civil society organisations through South Central Somalia.
  - q. The development of civic education materials for various media outlets, including radio, newspapers and brochures.

3. Max Planck Institute for International Law will: -
  - a) Conduct capacity development activities/training on constitutional substantive topics for the IFCC, PCC and other entities that the Somali authorities deem appropriate
  - b) Work with other Consortium Partners on the national dialogue and civic education component of the programme.
  - c) Support the IFCC in the drafting of the constitutional text including the Bill of Rights.
  - d) Provide direct support to the Content development and legal drafting Working Groups.
  
4. National Democratic Institute will:-
  - a) Provide training on mainstreaming human rights and gender;
  - b) Provide training Role of political parties;
  - c) Train the IFCC on conducting public consultations; engage with the media and key groups in the dialogue and advocacy.
  
5. Interpeace will provide advisory services to the consortium members.

Consortium members will present documentation by way of proposals and work plans detailing their respective responsibilities/roles and these will subsequently be annexed to this document as sub- documents or annexes.

Consortium members will be mindful of the volatile political environment and ensure that their approach and methodologies are flexible enough to accommodate the Somali fluid environment.

Once the new constitution has been drafted, UNDP and other partners will provide support to develop a framework for implementation and monitoring of the new constitution. Constitution implementation priorities will be identified by IFCC and PCC in the new draft constitution and the consortium members will be guided by Somali authorities.

### 2.1.2 CONSULTATIVE CONSTITUTION-MAKING PROCESS

Public information and public participation are crucial to legitimising the constitutional process and the final constitution itself. The SCMSP will support the Civic Education working group to deliver relevant public awareness campaigns and information on the following topics: 1) Democracy; 2) federalism; 3) contents of draft constitution; 4) the need for public participation throughout all aspects of the process; among other areas. The Civic Education Working Group with the support of UNDP and the INGOs, will elaborate a national civic education strategy, develop written and radio materials and generally implement civic education initiatives aimed at citizens in Somalia and also the Somali Diaspora using different media and delivery channels.

The Consortium Partners will support the Somali authorities, IFCC and the Working Groups to conduct regional-level meetings and focus group meetings that involve men and women in equal numbers as far as possible. To bring dialogue to the national level, the SCMSP will provide support to enable the IFCC organise national forums in order to discuss options for federation and government structures. National discussions will include leaders and representatives of government institutions, universities or institutes, civil society networks,

women's networks and business associations. TFG consultations with Somali Diaspora and Opposition will be encouraged and supported, under the leadership of UNPOS.

## **Security Concerns**

The Consortium Partners and Somali authorities are aware of the serious security concerns that may create challenges to the consultation process. IFCC, PCC, other Somali actors, Consortium Partners and Somali NGOs will face challenges to access regional and local communities and community-based organisations for wider public consultation. The SCMSP will take this into account and adopt creative modalities to develop public outreach and consultations. It is hoped that the Djibouti Agreement and its security sector reform will lead to progress on the ground will enable larger public consultations within Somalia. Various potential risks related to the constitution-making elements of this project are analysed and elaborated in Annex 1. Risk Log.

### **2.1.3 GENDER AND HUMAN RIGHTS**

The SCMSP will focus on supporting the drafting a constitution that will be developed through a process as inclusive and participatory as possible that will ultimately contribute towards reconciliation, peace and stability in Somalia. Recognising that women are among the most marginalised of Somali citizens, the SCMSP will endeavour to build up women's abilities and create opportunities for them to contribute to the constitution-making process, take part in trainings, workshops and group discussions and be represented in civil and political dialogues. Measures will also be put in place to enhance the participation of other marginalised groups, such as people living with disability, children, youth and minorities. In terms of constitutional content, the SCMSP will advocate that standards, principles, institutions and processes within the constitution enhance democratic participation of all citizens, including women.

Efforts will also be made to build the capacity of the constitution's drafters and decision-makers to ensure that the constitution itself should be written in a gender neutral form, and should address the many inequalities and discrimination faced by Somali women in the political, social, cultural and economic spheres. The constitution drafting process and civic education concerning the constitution will be designed to target, include and speak to the concerns of women.

Human rights include the political, civil, economic and social rights of citizens and the constitution will address these through a Bill of Rights and a social policy. Although human rights refer to the rights of all citizens, the SCMSP will ensure that the rights of marginalised citizens are addressed in the draft constitution, as well as means for addressing a legacy of human rights violations.

### **2.1.4 POLITICAL RISKS, SECURITY CONCERNS AND THE NEED FOR FLEXIBILITY**

The SCMSP is undertaken in an environment of risks and uncertainties and security concerns. For these reasons there is need for flexibility in achieving targets and in the adoption of implementing strategies. These risks and uncertainties may affect the delivery of project targets in whole or in part. They may also affect the scope and methodologies adopted to implement the project.

## **2.2 IMPLEMENTATION AND SUPPORT STRATEGY**

The Consortium Partners will be guided by IFCC, PCC and other Somali authorities for the timely support of the constitutional drafting process. Implementation of the SCMSP will be achieved through a set of inter-linked strategies and activities that are validated by IFCC, as follows:

**Step 1: Agreement on a process, roles and timelines:** Given the tight deadlines outlined in the Charter it is important that the key national institutions - IFCC, PCC and MoRDFAR - agree on the process, timelines and *modus operandi* relating to the drafting of the constitution and preparation of a detailed operational plan with required sequencing.

**Step 2: Stakeholder co-ordination, liaison, reporting on progress to Somali stakeholders, international community, UN agencies, & others:** Establish mechanisms to undertake streamlined and regular co-ordination mechanisms.

**Step 3: Material, operational and technical assistance:** Immediate provision of assistance to the IFCC and the Secretariat, MoRDFAR and the PCC and recruitment of staff for the IFCC Secretariat.

**Step 4: Working groups within the IFCC:** Establishment of working groups that include (male and female) Somali academics and intellectuals and civil society resource persons to work with / through the Secretariat, and continue recruitment of Secretariat staff and the induction of working groups on constitutional principles and models of federalism through trainings/workshops.

**Step 5: Technical advice to the drafting process:** Provision of technical advice for developing a structure of the constitution, followed by narratives elaborating principles and orientation, translated into legal text. Provision of further technical advice and training for the IFCC, the Secretariat, PCC and MoRDFAR by building knowledge on key issues relating to institutional design and governance processes, and assisting in translating this knowledge into a narrative and technical legal document through plain language drafting.

**Step 6: Capacity building on constitution making to the referendum:** Capacity building and trainings for the IFCC, the Secretariat, parliamentary committee on conceptualising constitutional issues and to make informed choices on institutional design and processes relating to the constitution.

**Step 7: Civic education and media outreach:** Development of a strategic civic education programme and media outreach to run parallel with the drafting process.

**Step 8: Targeted consultations:** Conduct target consultations involving key stakeholders and networks in civil society once a first draft constitution is ready so as to enable them to engage in discussions and subsequently make submissions in respect of the draft constitution.

**Step 9: Analysis and revision:** Analyse the outcomes of consultations and submissions, and incorporate suggestions or recommendations to the extent possible but with realism into a revised draft constitution.

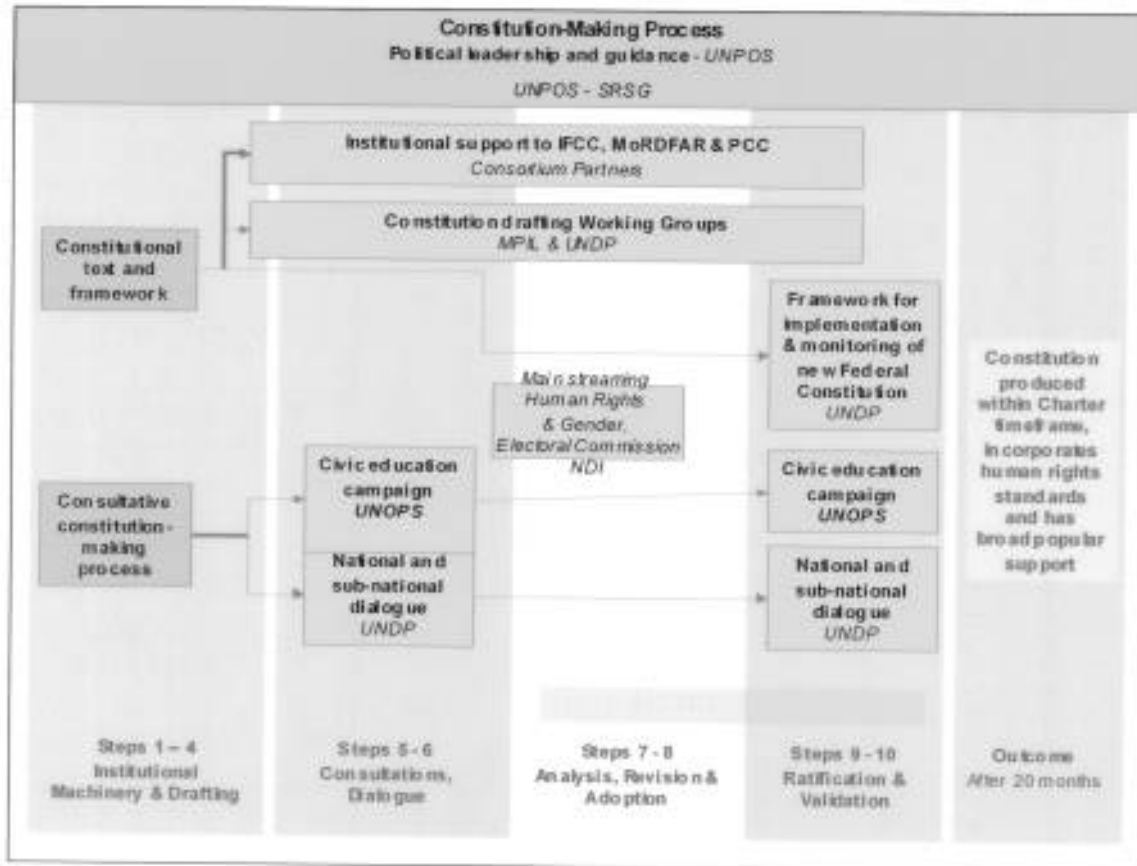
**Step 10: Submission of revised draft for adoption process:** Submission of the revised draft constitution to the Cabinet of Ministers for executive approval and to the Parliament for adoption process (validation).

**Step 11: Submission of the adopted draft for ratification:** Ratification will be done through a popular (referendum) process.

**Step 12: National and sub-national dialogue for validation:** Conduct dialogue at national and sub-national levels to validate the constitution and identify areas and modalities for on-going support for constitutional development.

To assist with implementing the above, and with the expectation of considerable media attention to the constitution-making process, the SCMSPP will develop a communications and media strategy for use by all implementing agents so as to develop common messages and approaches for the benefit of both the project and the public. Concerning use of communications and media in the project, the SCMSPP will take into account

the security challenges in Somalia and difficulties that may arise in convening numerous public discussions in different locations. Aware of the low literacy levels prevalent in Somalia, the SCMSP will diversify the media channels it uses so as to reach as broad an audience as possible. The SCMSP will also develop the knowledge of journalists on key constitutional concepts through trainings and workshops and will develop materials for an interactive and devoted constitution website hosted by the IFCC Secretariat to connect those members of the Somali public who use internet extensively, especially the Diaspora.



### 2.3 PARTNERSHIPS AND CO-ORDINATION

The constitution drafting programme has been developed with the Consortium Partners. The Programme is being presented to the Somali authorities including, the Prime Minister, MoRDFAR, IFCC and PCC.

An illustration of the SCMSP implementation and support strategy, with the lead partners of the consortium and their respective area of focus, follows:

#### 2.3.1 INSTITUTIONAL SUPPORT AND FRAMEWORK FOR IMPLEMENTATION OF CONSTITUTION

UNDP will take a leading role in:

- (i) Providing strategic and process advice to assist in the implementation of constitutional priorities.



- (ii) Developing a framework for implementation of the constitution and designing a framework for continued support by establishing the machinery for public institutions envisaged under the constitution.
- (iii) Supporting the body of knowledge (library, website) from IFCC Secretariat to a permanent Somali institution.
- (iv) Facilitating ongoing public outreach through national and sub- national dialogues and media outreach in co-ordination with other partners.
- (v) Providing ongoing implementation and institutional support to the PCC and the MoRDFAR. (as well as to IFCC should the constitutional review be required).
- (vi) Providing support to the office of the President and Prime Minister, Ministries of Gender, Justice and Planning to ensure that they will be empowered to provide strategic support to the constitution at critical stages of its passage.
- (vii) Communicating with Donors and the international community and coordination of consortium of partners.

### 2.3.2 DRAFTING PROCESS

UNDP will ensure that Somali experts are made available who will support the conversion of the narrative texts into plain Somali language legal drafts. UNDP will also make sure Somali-English translators are made available to translate the draft document.

It is envisaged that the Max Planck Institute for Law (MPIL) will be responsible for conducting trainings and workshops on a series of topics that include among others:

- (i) Federal options for Somalia.
- (ii) Decentralisation and local government.
- (iii) Structures of executive, legislative and judicial authority and their interrelations in a federal/decentralised system.
- (iv) Bi-cameral systems and their variations.
- (v) Resource and wealth allocation including land rights, and
- (vi) The role of the Somali social structure and customary law in the constitutional system among others.

It is envisaged that the NDI will be responsible for:

- (i) Providing training programs, technical advice, capacity building for the IFCC on mainstreaming of gender, and human rights in the constitution and the formation and role of political parties.
- (ii) Providing training for the IFCC and key leaders and national actors in skills required to conduct public consultations and to engage with the media and key groups in the dialogue and advocacy process.

### 2.3.3 CIVIC EDUCATION CAMPAIGN

Working with UNDP, other UN agencies as appropriate, international and national NGOs, CSOs will be responsible for:

- (i) Supporting the development and implementation of a public education and information campaign. Given the importance of developing a consistent message, it is suggested that a planning workshop be set up with all partners and the IFCC and Secretariat to develop a

consistent and coherent civic education campaign. The meeting should also include civic education campaign experts and Somalia experts. This programme will include the development of a civic education manual and a Training of Trainers project.

- (ii) Identifying and contracting local NGO focal points in key regions to roll out the civic education programme using the resources developed (the manual and trainers) to conduct town hall meetings and focus group discussions.
- (iii) Giving special support to enable disadvantaged groups (e.g. women and minorities) to participate in the constitution-making process.

All Consortium partners will coordinate and share their training materials on content development with each other to ensure coherence of support to this process.

#### **2.3.4 NATIONAL DIALOGUE**

IFCC, PCC and other Somali authorities are ultimately responsible for the national dialogue. As stipulated above, Somali efforts will be supported by the Consortium members UNDP, in collaboration with the IFCC will invite INGOs, NGOs /UN Agencies and others to help develop the media and information campaigns.

Interpeace will be responsible for:

- (i) Identifying and providing strategic advice as needed on key contentious issues. It will facilitate sub-national dialogues and coordinate contacts between the Puntland Constitution Review Committee and IFCC.
- (ii) Advising on key strategic groups to be consulted to prepare for public consultation and input and facilitate dialogue with the IFCC.
- (iii) Advising on consultations with the Diaspora and business community. UNDP will assist by providing resources through the QUEST project.

Consultations will be held between the IFCC/Secretariat, PCC, and UNDP to ensure the appropriate design and reach of the national dialogues.

#### **2.3.5 POLITICAL ADVICE AND LEADERSHIP**

The United Nations Political Office for Somalia (UNPOS) will provide political advice and guidance to the constitution-making process. UNPOS will coordinate ongoing political dialogue with the key players to ensure that the process is successful, inclusive, participatory, and results in a realistic constitution. UNPOS will also provide strategic advice on how to bring into the process important interests from the business community, elders and religious leaders, opposition groups and on the minimum conditions needed for the process to succeed (i.e. freedom of expression and respect of human rights). UNDP will provide necessary support that is required by UNPOS. UNPOS will also ensure coordination of international actors at the political level.

#### **2.3.6 ELECTORAL PROCESS AND PLANNING**

The SCMSP will not provide support *per se* to the electoral process. This support will be co-ordinated with efforts of other organisations, such as the UN's Electoral Assistance Department (EAD) which is expected, once a formal request will have been made by the Somali authorities.

The major electoral event linked to the constitutional process is the referendum on the constitution. Advice on the referendum law, framing the referendum question will be provided by EAD.

The Charter envisages the establishment of several commissions, two of which – i.e. the Election Commission and the State Boundary Demarcation Commission are particularly important to the constitutional process. The creation of these commissions remains the responsibility of the TFG. UNPOS will work with TFG and will provide political advice. UNDP will provide institutional and capacity building support for them under this project when they are established.

## 2.4 LINKS WITH UNTP OUTCOMES AND OTHER UNDP PROJECTS

As noted in section 1.2 above, the constitution process is an intrinsic element of Outcome 1 of the UN Transition Plan (UNTP) for the next two years. Since the constitution-making process and the envisaged product of a legitimate federal constitution are deemed critical for consensus-building, reconciliation and stability in Somalia, they therefore create the platform for building a new Somali state, consolidating a central government and an environment for longer-term interventions and investment. This means that the SCMSPP effectively provides a foundation for the entire UNTP and the results expected will impact upon the work of the whole UN Country Team (UNCT) for Somalia with respect to institutional strengthening, local governance and service delivery, social services, rule of law, security, economic development, human rights, gender and AIDS.

The Djibouti Agreement peace process and the state building vision that evolves from this process under the political guidance of UNPOS will be reflected in the SCMSPP through flexible programming with the government, and partners to adapt the constitution-making process to support on-going peace developments.

UNDP is the lead UN agency for UNTP Outcome 1 and in that role will co-ordinate strategies, monitoring, reporting and analysis for all the UN agencies working towards that outcome. UNDP is also heading a 3-year project on institutional development under UNTP Outcome 1 which will establish and/or strengthen key central government and integrity institutions, establish generic institutional systems, improve policy and law-making processes, and support the development of a vision and action plans for government over the next 2-3 years. The technical assistance envisaged, for example training in strategic leadership, good governance and accountability, legal drafting and advisory services to key federal institutions/offices, including Office of the Prime Minister and Cabinet Secretariat, will complement the SCMSPP's work on constitution making, principles and the legal process. The pace of the federal constitution-making process and the final content of the constitution itself will have an impact on the shape and progress of UNDP's and other UN agencies' support to institution-building.

Core elements of Outcome 2 of the UNTP are the establishment and strengthening of (new) district councils and civic education at the sub-national level, including the role and functions of regional and district councils in public communication. Support from the UNCT for Somalia will be through a joint UN programme on local governance and decentralised service delivery involving UNDP<sup>2</sup>, UNOPS, EAD, UNICEF, UNCDF, UN-HABITAT and ILO. The SCMSPP will strive to link and co-ordinate civic education on the constitution-making process and dialogue on the constitution with the broader civic education efforts of this joint UN programme, which will embrace good governance, participation and responsibilities of duty bearers and rights holders among other governance-related topics, and will mobilise communities and marginalised groups in the process. Likewise, the joint UN programme will need to factor in constitutional issues into its civic education efforts.

The UNCT for Somalia recognises gender equality and human rights as core to human development. It is therefore committed to gender mainstreaming and adoption of a right-based approach throughout the whole

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<sup>2</sup> In South-Central Somalia, UNDP's support within the joint UN programme on local governance will build on the "District-based Reconciliation and Peace-building Project" and "Community-based Peace Support Project".

UN Transition Plan and ensuing projects and advocacy efforts. The SCMSP, as mentioned in section 2.1.3 above, will ensure that representative participation in the constitution-making process is pursued and gender and human rights standards are incorporated into the constitution according to international norms and standards. Special trainings on gender and human rights will be incorporated in the schedules of trainings, and women's networks specially targeted both in the trainings and civic education programmes to ensure the incorporation of gender concerns.

During the constitution-making process and once the constitution has been adopted, the SCMSP will coordinate with UNDP's Rule of Law and Security Programme, which is supporting the Judiciary and law enforcement across southern Somalia. The synergies between the Rule of Law and Security Programme and the SCMSP lie in the realm of training for the Judiciary and law professionals to understand and interpret the Constitution.

### 3. RESULTS AND RESOURCES FRAMEWORK

#### 3.1 SUMMARY OF EXPECTED RESULTS

##### Intended Outcomes:

**RDP Outcome** - Deepening peace and strengthening governance: Federal constitutional institutions functional and the Constitution adopted by popular referendum

**UNTP Outcome 1** - Key federal, Somaliland and Puntland institutions administer and manage core government functions more effectively

**UNTP Sub-outcome 1.4** - Significant progress towards achieving the remaining transitional tasks under the Charter

**UNTP Output 1.4.1** - UNTP has Constitutional process on schedule according to the Charter

**CP Outcome** - Reconciliation advances with significant progress on remaining transitional tasks under the charter.

##### Outputs and Activity Results:

**Output 1** - A context appropriate, realistic, draft constitutional text is prepared and framework for implementation developed

1.1 Institutional facilities and capacity building arrangements supported for constitution drafting process

1.2 Implementation of constitutional process supported and advice on framework for implementation of the constitution provided

**Output 2** - Constitution drafted through targeted consultative constitution-making process in which the public is informed and public views are heard and incorporated to the extent possible

2.1 Policy dialogue on the constitution pursued at national and sub-national levels and involved women and marginalised groups

2.2 Civic education programme implemented for informing and engaging the public on the constitutional process

**Output 3** - Effective and efficient project management including financial management processes in place

3.1 Project team in place and performing duties according to work plans

3.2 Letters of Agreement in place with the MoRDFAR, IFCC, and PCC

3.3 Monitoring, evaluation, coordination, liaison and reporting systems in place and being applied

### 3.2 PROJECT RESULTS AND RESOURCES FRAMEWORK

| <p><b>Intended Outcome as stated in the Country Programme Results and Resource Framework:</b><br/>Reconciliation advances with significant progress on remaining transitional tasks under the charter.</p> <p><b>Outcome indicators as stated in the Country Programme Results and Resources Framework, including baseline and targets:</b><br/>Baseline: Independent Federal Constitutional Commission (IFCC) appointed</p> <p>Indicators: (i) Somali institutions mandated to draft the constitution have a good understanding of democratic constitutional issues and processes and deliver a draft that reflects this, (ii) Evidence of preparation of the referendum on the draft constitution, (iii) Parliamentary review of draft constitution, (iv) Level of media coverage on constitution process, (v) Somali public has a good understanding of constitution-making process and key issues to be decided, (vi) Effectiveness of the civic education programme is measured by comparative evaluation</p> <p>Targets: (i) IFCC is operational and its committees make progress on the draft/discussion of the Constitution, (ii) Parliament has reviewed draft constitution, (iii) Public campaign implemented around the constitutional process, targeting women and minorities in particular</p> <p><b>Applicable MYFF Service Line:</b> Enhancing democracy</p> <p><b>Partnership Strategy:</b> Implementation through contractual arrangements with the IFCC and the Ministry of Regional Development, Federal Affairs and Reconciliation (MoRDFAR), and with a consortium of international NGO partners based on their comparative advantages and expertise: Max Planck Institute for Comparative Law (MPIL), National Democratic Institute (NDI), Interpeace, UNOPS and media organisations. Co-operation will be pursued with UNPOS for political guidance and leadership on the part of the UN.</p> <p><b>Project title and ATLAS Award ID: Somalia Constitution Making Support Project (Award ID 33816)</b></p> |  |  |   |        |
|---|--|--|---|--------|
| INTENDED OUTPUTS  | OUTPUT TARGETS FOR (YEARS)   | INDICATIVE ACTIVITIES  | RESPONSIBLE PARTIES   | INPUTS |
| <p><b>Output 1:</b> A context appropriate, realistic, draft constitutional text is prepared and framework for implementation developed</p>  | <p><u>2008</u></p> <p>IFCC is operational</p> <p>Constitution drafting process supported with public dialogue and civic education</p> <p>Preparations for constitution ratification initiated</p> <p><u>2009</u></p> <p>IFCC committees make progress on the draft and</p> | <p><b>Activity result 1.1:</b> Institutional facilities and arrangements supported for constitution drafting process</p> <ul style="list-style-type: none"> <li>○ Action: Develop terms of reference and support establishment of the IFCC Secretariat and constitution drafting Working Groups</li> <li>○ Action: Identify and assign technical experts to respective institutions</li> </ul> | <p>UNDP, Consortium Partners, IFCC, IFCC Secretariat, MoRDFAR</p> |        |

| INTENDED OUTPUTS   | OUTPUT TARGETS FOR (YEARS)   | INDICATIVE ACTIVITIES   | RESPONSIBLE PARTIES | INPUTS                                    |
|--|--|---|---------------------|---|
| <p>Baseline: Draft constitution not ready</p> <p>Indicators: (i) No. of constitution Working Group (WGs) meetings &amp; trainings held; (ii) No. of Training manuals and background resource materials developed</p> | <p>discussions of the constitution Parliament has reviewed the constitution</p> <p>Popular referendum on the constitution held</p> <p>Framework for implementation of the constitution developed</p> | <p><b>Activity result 1.2:</b> Implementation of constitutional process supported and advice on framework for implementation of the constitution provided</p> <ul style="list-style-type: none"> <li>○ Action: Deliver training programmes for the IFCC, MoRDFAR and PCC in fundamental legal concepts</li> <li>○ Action: Identify and train resource group of Somali academics, intellectuals and civil society in constitutional concepts to provide on-going support to the process and beyond</li> <li>○ Action: Technical support to drafting of constitution and implementation and monitoring framework</li> </ul> |                     | <p>Total for output:<br/>\$ 4,000,000</p> |

| INTENDED OUTPUTS  | OUTPUT TARGETS FOR (YEARS)  | INDICATIVE ACTIVITIES   | RESPONSIBLE PARTIES                                  | INPUTS   |
|---|---|---|--|--|
| <p><b>Output 2:</b><br/>Constitution drafted through targeted consultative constitution-making process in which the public is informed and public views are heard and incorporated to the extent possible</p> <p><u>Baseline:</u><br/>Consultations on the constitution not held</p> <p><u>Indicators:</u><br/>(i) No. of networks mobilised;<br/>(ii) No. of consultations held;<br/>(iii) No. of media programmes developed</p> | <p><u>2008</u><br/>Constitution drafting process supported with public dialogue and civic education<br/>Key ministries and civil service institutions that support constitutional process strengthened</p> <p>Public campaign designed on the constitutional process and materials developed</p> <p>At least 6 strategic focus group discussions taken place</p> <p><u>2009</u><br/>Public campaign implemented around the constitutional process, targeting women and minorities in particular</p> | <p><b>Activity result 2.1:</b> Policy dialogue on the constitution pursued at national and sub-national levels and involved women and marginalised groups</p> <ul style="list-style-type: none"> <li>○ Action: Organisation of regional and focus groups meeting under the leadership of IFCC to input the draft constitution</li> <li>○ Action: Institutional support &amp; trainings for key government ministries and civil service institutions on the constitution</li> <li>○ Action: Conduct Strategic Focus Group (FG) discussions ensuring representation of women and marginalised groups</li> <li>○ Action: Conduct consultations with the Diaspora</li> <li>○ Action: Support revision of the draft constitution based on the inputs received</li> </ul> | <p>UNDP, IFCC, MoRDFAR, PCC, Consortium partners</p> | <p><b>Total for output:</b><br/><b>\$3,000,000</b></p> |



| INTENDED OUTPUTS | OUTPUT TARGETS FOR (YEARS) | INDICATIVE ACTIVITIES   | RESPONSIBLE PARTIES  | INPUTS   |
|------------------|----------------------------|---|--|--|
|                  |                            | <p><b>Activity result 2.2:</b> Civic education programme implemented for informing and engaging the public on the constitutional process</p> <ul style="list-style-type: none"> <li>○ Action: Engage partners to develop national civic education strategy, materials and resources</li> <li>○ Action: Roll out civic education programme, ensuring involvement of women and marginalised groups</li> <li>○ Action: Support/conduct media talk shows</li> <li>○ Action: Conduct Diaspora outreach activities</li> </ul> | <p>UNDP, IFCC, Secretariat, MoRDFAR, Consortium Partners</p> | <p><b>Total for output:</b><br/>\$ 2,200,000</p> |

| INTENDED OUTPUTS   | OUTPUT TARGETS FOR (YEARS)   | INDICATIVE ACTIVITIES   | RESPONSIBLE PARTIES  | INPUTS  |
|--|--|---|--|---|
| <p><b>Output 3:</b><br/>Effective and efficient project management</p> | <p>2008<br/>Project management, implementation and support teams set up<br/>Project delivery and expenditure on track<br/>Monitoring framework and system established and being applied<br/>2009<br/>Project delivery and expenditure on track<br/>Monitoring and review activities being conducted for documenting progress and change<br/>Project closure achieved</p> | <p><b>Activity result 3.1:</b> Project team in place and performing duties according to work plans</p> <ul style="list-style-type: none"> <li>o Action: Recruitment of project staff</li> <li>o Action: Office facilities and running costs</li> <li>o Action: Budget preparation, maintenance and revision</li> <li>o Action: Administer grants and contractual arrangements</li> <li>o Action: Duties for Project Board</li> <li>o Action: Project documentation, archive, contract development, audit, risk log, issues log and lessons learned log and other UNDP project management processes</li> <li>o Action: Project-level communications and media</li> </ul> <p><b>Activity result 3.2:</b> Monitoring and reporting system in place and being applied</p> <ul style="list-style-type: none"> <li>o Action: Develop monitoring framework, system and tools appropriate to the Project</li> <li>o Action: Conduct monitoring visits and participatory review exercises</li> <li>o Action: Produce periodic reports and annual work plans based on annual reviews</li> <li>o Action: Prepare and support mission visits</li> </ul> | <p>UNDP<br/><br/><br/><br/><br/><br/>UNDP &amp; Others</p> | <p><b>Total for output:</b><br/><b>\$ 2,000,000</b></p> |

4. ANNUAL WORK PLAN BUDGET SHEET

4.1 ANNUAL WORK PLAN YEAR 2008<sup>3</sup>

| Expected output  | Key activities  | Time - Frame  |   |   |   | Responsible partner | Budget |         |
|--|---|---|---|---|---|---------------------|--------|---------|
|  |   | 1   | 2 | 3 | 4 |                     |        |         |
| <b>Constitution Making Support Project</b>   |   |   |   |   |   |                     |        |         |
| UNTP Outcome 1: Key federal, Somaliland and Puntland institutions administer and manage core government functions more effectively | Indicators:   | <ul style="list-style-type: none"> <li>Constitution reflecting the needs of all communities and in line with international standards</li> </ul> |   |   |   |                     |        |         |
| UNDP CPD Outcome 2: Reconciliation advances with significant progress on remaining transitional tasks under the Charter            |   |   |   |   |   |                     |        |         |
| <b>Project management assured</b>  | Project team recruited and functional   |   |   |   |   |                     | UNDP   | 850,000 |
|  | Office facilities secured   |   |   |   |   |                     |        |         |
|  | Budget preparation, maintenance & revision finalized  |   |   |   |   |                     |        |         |
|  | Administration of Grants & contractual arrangements finalized   |   |   |   |   |                     |        |         |
|  | Duties of Project Board agreed  |   |   |   |   |                     |        |         |
|  | Project documentation, archive, contract development, audit, risk log, Issues log, lessons learned log and other UNDP project management processes in place |   |   |   |   |                     |        |         |

<sup>3</sup> The annual work plan is indicative. It will be revised according to the further development of the ongoing peace talks and development of the situation within the project board jointly with all partners. The 2009 work plan will also be developed in the course of the next months depending on the development of the situation.

|  |   |  |  |  |  |                              |  |           |
|--|---|--|--|--|--|------------------------------|--|-----------|
|  | Monitoring framework and systems appropriate to the project in place  |  |  |  |  |                              |  |           |
|  | Monitoring visits and participatory review exercises  |  |  |  |  |                              |  |           |
|  | Periodic project reports, reviews of annual work plans  |  |  |  |  |                              |  |           |
|  | Prepare for and support mission visits  |  |  |  |  |                              |  |           |
| A context appropriate, realistic, draft constitutional text is prepared                                      | Finalizing and awarding Sub-grants to international and national counterparts   |  |  |  |  | UNDP and Consortium Partners |  | 1,500,000 |
|  | Establishment and setting up of IFCC secretariat and WGs  |  |  |  |  | UNDP                         |  | 250,000   |
|  | Training programs for IFCC, PCC and MoRDFAR   |  |  |  |  |                              |  |           |
|  | Reconciliation, women's groups on constitutional concepts legal concepts  |  |  |  |  | UNDP                         |  | 100,000   |
| Key institutions involved in the constitution process have required capacity to carry out their mandate      | International Technical drafting support by experts   |  |  |  |  | UNDP                         |  | 100,000   |
|  | Provision of infrastructure, consultants, constitution experts and comparative legal resources to IFCC, IFCC secretariat, PCC and MoRDFAR |  |  |  |  | UNDP                         |  | 1,000,000 |
| The views of the public are heard and incorporated into the draft constitution through targeted consultative | Organizing focus groups meeting with the help of IFCC secretariat to input the draft constitution   |  |  |  |  | IFCC                         |  | 250,000   |
|  | Organizing regional forums to discuss constitution  |  |  |  |  | IFCC                         |  | 600,000   |

| constitution making process   |  |  |  |  |                                    |  |           |
|---|--|--|--|--|------------------------------------|--|-----------|
| Somali public is informed of constitution making process through targeted civic education programme | Convening Strategic FGDs & Trade unions, students associations, women's groups)  |  |  |  | IFCC, secretariat                  |  | 250,000   |
|   | Diaspora consultation  |  |  |  | IFCC secretariat                   |  | 500,000   |
|   | Parliamentary and citizenship public debates organized by IFCC   |  |  |  | IFCC Secretariat                   |  | 150,000   |
|   | International Conference on Somalia  |  |  |  | UNDP, UNPOS                        |  | 50,000    |
|   | Small Grants to local NGOs to make public submissions  |  |  |  | UNDP, Partners                     |  | 350,000   |
|   | Democracy building through interpersonal, cross community dialogues  |  |  |  | UNDP, Partners                     |  | 250,000   |
|   | Support to Somali CSO to conduct constitutional education and dialogue   |  |  |  |                                    |  | 700,000   |
|   | Strengthening capacity of women, marginalized groups (Youth, disabled, displaced) to promote their rights through the constitution |  |  |  | UNDP, Partners                     |  | 400,000   |
|   | Engage partners to develop national civic education strategy, material resources for civic education                               |  |  |  | IFCC, UNDP and Consortium Partners |  | 1,000,000 |
|   | Roll out civic education   |  |  |  | IFCC, UNDP and Consortium Partners |  | 300,000   |

|                           |   |  |  |  |  |                                    |                   |
|---------------------------|---|--|--|--|--|------------------------------------|-------------------|
|                           | Media talk shows & programmes on the constitution and reconciliation          |  |  |  |  | IFCC, UNDP and Consortium Partners | 250,000           |
|                           | Recruit NGOs for civic education  |  |  |  |  | IFCC, UNDP and Consortium Partners | 150,000           |
|                           | Diaspora outreach activities  |  |  |  |  | partners from QUEST project        | 300,000           |
|                           | Capacity building of Somali media   |  |  |  |  | UNDP and Consortium Partners       | 800,000           |
|                           | Capacity building of Somali NGOs and CBO                                      |  |  |  |  | UNDP and Consortium Partners       | 750,000           |
|                           | Strengthening regional and local community based organizations and leadership |  |  |  |  | UNDP, UN Agencies (UNOPS)          | 300,000           |
| <b>Total Constitution</b> |   |  |  |  |  |                                    | <b>11,150,000</b> |

## 5. MANAGEMENT ARRANGEMENTS

### 5.1 ROLES AND RESPONSIBILITIES

**Executing Entity and Responsible Parties:** UNDP will be the Executing Entity of the Somalia Constitution Making Support Project. Responsible parties will include both government institutions and international NGOs or institutions. UNDP has entered into Letters of Agreement with the Speaker of the Transitional Federal Parliament, Independent Federal Constitution Commission and Ministry of Regional Development, Federal Affairs and Reconciliation (MoRDFAR). The implementing agents mentioned in section 3 of this project document will be contracted to deliver results within their ascribed portfolios. The capacities of implementing agents have been assessed and they will be contracted through standard UNDP procedures. Capacity strengthening measures of national partners will be integrated into the training activities of the Project.

SCMSP engagement process will remain flexible. Partners that are ready to deliver the capacity building programmes are to sign a Letter of Agreement with UNDP, to start the training and workshops. Other Consortium members will commence programme delivery – such as civic education, media and public information campaign – at a later date.

**Advisory Committee:** There will be an Advisory Committee (AC) established under the guidance of UNPOS to provide political guidance to the project. Membership of the AC will be determined by the Special Representative of the Secretary General (SRSG) in consultation with the TFG and will also include the following members: UNDP Senior Management as Executive Entity of the SCMSP and representatives of the donor community, key international actors and Somali partners.

**Project Board:** There will be a Project Board for the SCMSP composed of the following members in three roles: (i) UNDP Senior Management as Executive Entity of the SCMSP to chair the Project Board, (ii) UNPOS as Senior Supplier to provide political guidance to the project and (iii) the Senior Beneficiaries will be the MoRDFAR, IFCC and PCC to ensure the realisation of benefits from the perspective of the Project's beneficiaries, (iv) Representative of the donor community, (v) the representatives of the other consortium members and (vi) the project manager.

The Project Board will provide overall guidance and support to the Consortium Members.

The Project Board is responsible for:

- I. Making management decisions for the SCMSP on a consensus basis when guidance is required by the Project Management Team of UNDP and/or the Consortium Members.
- II. UNDP as Senior Executive entity will call the Board meetings
- III. Regularly reviewing the evolution of the process taking into consideration the project risk management strategy and making accordingly recommendations for revisions of the Project.
- IV. Reviewing and recommending action/s when Project tolerances have been exceeded at project management level.
- V. Reviewing progress towards outputs at the end of each stage defined in the Project.
- VI. Approving work plans for subsequent stages.
- VII. Reviewing the funding situation of the Project and making recommendations to UNDP Senior Management.
- VIII. Monitoring, evaluating and reporting.

The Project Board will convene at designated points that are strategic to the Project's implementation, which will be determined during a Board's meeting and recorded. Additional meetings may also be

requested by the Project Manager to address pertinent issues or when higher management decisions are required.

**Project Assurance:** The SCMSP will create the role of Project Assurance for carrying out objective and independent oversight and monitoring functions, and ensuring that SCMSP management milestones are managed and completed. Each Project Board member has responsibility for this role, and it is expected that the responsibilities will be delegated to the Programme Specialist of UNDP's Governance Unit. The Project Assurance role reports to the Project Board and is independent of the SCMSP. A tracking sheet will be established to ensure on-going and effective monitoring that targets are being met in a timely way.

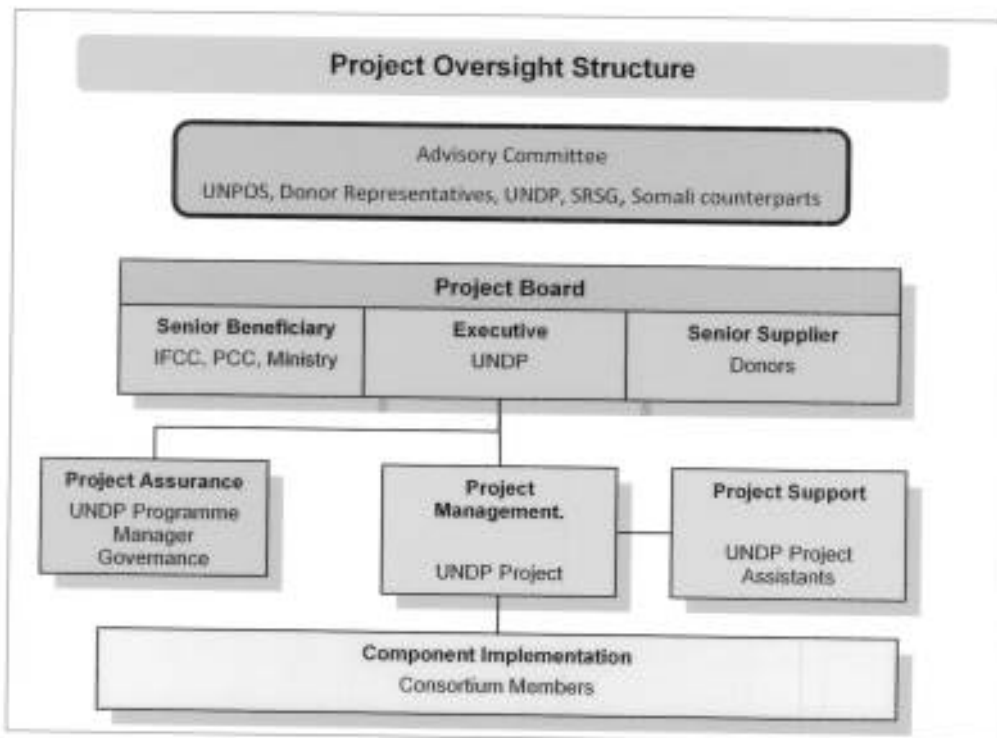
**Project co-ordination and consultation:** **Project coordination and consultation** with the stakeholders – i.e. Somalis, international donor community, consortium members, and members of the UN family will be the responsibility of the Programme Manager of the Governance team and his / her deputy. This responsibility includes co-ordination, liaison, communication and regular progress reporting. It is expected that political coordination will be led by UNPOS and this will inform and guide the SCMSP.

**Project Manager:** The day-to-day management and decision-making of the SCMSP will be the responsibility of a Project Manager, who will be based in Nairobi but will travel extensively to Somalia security permitting. The Project Manager effectively acts on behalf of the Project Board for steering implementation of the Project, ensuring that it produces the results specified in the Project Document to the required standard of quality and within the tolerances of time and costs specified by the Project Board. The Project Manager post is international and is appointed by the Executing Entity (UNDP). The Project Manager will report to the Project Board for management issues and guidance and to UNDP's Governance Programme Manager for feedback and performance related matters. The Programme Manager supervises the Project Implementation Team and Project Support.

Regarding the Project's partners and implementing agents, the Project Manager with the support of the Programme Manager is responsible for advising, guiding and co-ordinating all to ensure that they collaborate and work well together, guiding the TFG and IFCC on strategic options and liaising with key political players involved in the constitutional process. The Project Manager will monitor and log issues and risks, and will guide necessary responses of the Project to changes in the political and security situation. The Programme Manager and Project Manager will also meet regularly with all the members of the consortium to consult and discuss options and review the progress of the project.

The project management and oversight structure for the SCMSP is illustrated in the following diagram:





**Project Support:** A project associate, based in Nairobi, will be responsible for general project-related administration, record-keeping, and supporting and tracking contracts with implementing agents. A project assistant, under supervision of the associate, may be recruited depending on the project's progress and requirements.

**Project Implementation Team:** The SCMSMP implementation team will consist of staff based in Nairobi, Kenya, and in Somalia as security permits and also as the location of the federal government offices dictate. All staff based in Nairobi will travel regularly to Somalia security permitting.

The team will comprise:

*Regional outreach:* A senior advisor, supported by a two project support officers, based either in Nairobi or Baidoa will undertake outreach with Somali experts, officials from the IFCC and PCC, and NGOs engaged in the constitution process.

*Communications:* A communication and reporting officer will be responsible for overseeing implementation of the SCMSMP's communications strategy, liaising with donors, UN agencies and NGO partners, and all Project-related internal and external communications. This position will document the constitution-making process, lessons learned, and will produce substantive summary reports of the capacity development topics.

*Technical assistance:* Advisors on process management, content development, legal drafting and workshop co-ordination and evaluation will work closely with institutional counterparts according to their areas of specialization. They will be based either in Nairobi or Baidoa/Mogadishu depending on security conditions.

*Civic education and media:* A CSO expert will lead the civic education, national dialogue and media outreach strategy and implementation with partners. This role will be supported by a national media liaison officer.

## 6. MONITORING FRAMEWORK AND EVALUATION

The SCMSP will be monitored throughout its duration, reviewed substantively on an annual basis and evaluated in accordance with UNDP Somalia requirements and UNDP's programming policies and procedures. To ascribe the relevant importance to these processes and to facilitate synthesis and interpretation of progress and performance, the SCMSP will pursue the following:

- (i) A monitoring, review and reporting framework which defines the impact, outcomes and outputs envisaged with associated indicators and means of verification based on the Project's Results and Resources Framework. It will also describe which, how and when activities and outputs will be monitored, reviewed and assessed.
- (ii) A project monitoring and reporting system consisting of common tools and templates, as guided by UNDP's Programme Management Support Team, and the monitoring systems of UNDP's Governance Programme and respective UNDP Sub-Office. The system will also clarify the different roles and responsibilities at different levels of the Project, relationships between the Project, Governance Programme and UNDP's Sub-Offices, and promote the principle of conducting joint monitoring with counterparts and other partners or stakeholders.
- (iii) Allocation of appropriate resources to ensure that monitoring and reviews are carried out, risks are analysed appropriately and lessons are captured throughout the Project.

Within the annual cycle, the SCMSP will undertake the following:

- (i) On a quarterly basis, a quality assessment shall record progress towards the completion of key results, based on Quality Management criteria and methods to be developed.
- (ii) An Issue Log shall be activated in Atlas and updated by the Project Manager to facilitate tracking and resolution of potential problems or requests for change.
- (iii) Based on the initial risk analysis submitted (see annex 1), a risk log shall be activated in Atlas and regularly updated by reviewing the external environment that may affect the project implementation.
- (iv) Based on the above information recorded in Atlas, a Quarterly Progress Reports (QPR) shall be submitted by the Project Manager to the Project Board through Project Assurance, using the standard report format available in the Executive Snapshot.
- (v) A project Lesson-learned log shall be activated and regularly updated to ensure on-going learning and adaptation within the organization, and to facilitate the preparation of the Lessons-learned Report at the end of the project.
- (vi) A Monitoring Schedule Plan shall be activated in Atlas and updated to track key management actions/events.

On an annual basis, the review will be more structured and consist of the following:

- (i) *Annual Review Report.* An Annual Review Report shall be prepared by the Project Manager and shared with the Project Board and the Outcome Board. As minimum requirement, the Annual Review Report shall consist of the Atlas standard format for the QPR covering the whole year with updated information for each above element of the QPR as well as a summary of results achieved against pre-defined annual targets at the output level.
- (ii) *Annual Project Review.* Based on the above report, an annual project review shall be conducted during the fourth quarter of the year or soon after, to assess the performance of

the project and appraise the Annual Work Plan (AWP) for the following year. In the last year, this review will be a final assessment. This review is driven by the Project Board and may involve other stakeholders as required. It shall focus on the extent to which progress is being made towards outputs, and that these remain aligned to appropriate outcomes.

During the Project period 2008 and 2009, the annual review findings and conclusions will feed into the higher level review of the UNTP outcome 1 and contribute towards reporting on Somalia's progress towards the Millennium Development Goals.

## 7. LEGAL CONTEXT

This project document shall be the instrument referred to as such in Article 1 of the SBAA between the Government of Somalia and UNDP, signed on 16 May 1977.

Consistent with the Article III of the Standard Basic Assistance Agreement, the responsibility for the safety and security of the executing agency and its personnel and property, and of UNDP's property in the executing agency's custody, rests with the executing agency. The executing agency shall:

- a) put in place an appropriate security plan and maintain the security plan, taking into account the security situation in the country where the project is being carried;
- b) assume all risks and liabilities related to the executing agency's security, and the full implementation of the security plan.

UNDP reserves the right to verify whether such a plan is in place, and to suggest modifications to the plan when necessary. Failure to maintain and implement an appropriate security plan as required hereunder shall be deemed a breach of this agreement.

The executing agency agrees to undertake all reasonable efforts to ensure that none of the UNDP funds received pursuant to the Project Document are used to provide support to individuals or entities associated with terrorism and that the recipients of any amounts provided by UNDP hereunder do not appear on the list maintained by the Security Council Committee established pursuant to resolution 1267 (1999). The list can be accessed via <http://www.un.org/Docs/sc/committees/1267/1267ListEng.htm>. This provision must be included in all sub-contracts or sub-agreements entered into under this Project Document.

## 8. ANNEXES

Annex I – Risk Analysis

Annex II – Overview of each partners' profile

## ANNEX I – RISK ANALYSIS

### 1. Risk Assessment and Management Strategy

The costs of not producing the Federal Constitution by March 2009, in line with the timeframe set out in the Transitional Federal Charter, are considerably high. The already fragile and weak federal institutions that have been established since 2004 would be further weakened or even collapse, many of the recognised causes and drivers of conflict, especially in southern Somalia, would remain unaddressed and general public aspiration for a central government would likely deteriorate. The credibility of UN and international assistance to the Somali state may also be compromised. Conversely, it is acknowledged that constitution making in Somalia faces significant risks of failure or of increasing conflict if it is not undertaken in a peace inducing and inclusive manner.

In November 2007, UNDP's Governance Programme conducted a risk assessment of the Programme at large and its portfolio of projects, including the SCMSP. The risks identified and guiding principles proposed for increasing the probability of successful implementation in the given risk assessment apply to both UNDP and all implementing agents involved in the SCMSP. The guiding principles advised are:

|           |  |
|-----------|--|
| Overall   | <ul style="list-style-type: none"> <li>• Constitution-making should be an inclusive process; with opposition and Diaspora participating</li> <li>• Minimum conditions for international engagement should be spelled out</li> <li>• Political commitment should be secured from the highest level of TFG leadership</li> <li>• Independence of the IFCC to be guaranteed</li> <li>• Security and access are prerequisite for constitutional dialogue</li> <li>• Project should be undertaken in close collaboration with UNPOS</li> <li>• Donors consensus and one common approach to engagement</li> <li>• There is high risk of not making the constitution in time, but equal risks remain in not rushing it and conducting in a non-inclusive manner</li> <li>• Constitution should be used for peace-building and reconciliation</li> </ul> |
| Planning  | <ul style="list-style-type: none"> <li>• Planning for the project must be constantly updated to adopt to realities on the ground</li> <li>• Somali ownership should be emphasised in all stages of the planning process</li> <li>• Key stakeholder groups should be identified to be targeted in consultation and civic education</li> <li>• Benchmarks for continued engagement to be established</li> </ul>  |
| Technical | <ul style="list-style-type: none"> <li>• Technical modalities with regards to the implementation of the constitutional process should be jointly worked out by TFG, donors and implementing partners to achieve accountability and financial transparency</li> </ul>   |

The overall risk levels of the SCMSP are determined as medium to high, as far as political, operational, organisational and strategic risks are concerned. The highest risks are associated with the external climate of the security situation, waning political commitment and delays to constitution making, an unclear institutional framework for leading and co-ordinating the constitution-making process, and limited access to communities for dialogue. The failure to create a Boundaries Commission and any delays to planning and preparations for the electoral process will have a bearing on the constitutional process, and vice versa. Although UNDP and the consortium of partners may not have direct control over these risks, greater efforts would be directed at high-level political advocacy and building consensus with stakeholders, strengthening advisory services to the key institutions, and improving communications with donors and the public. Medium risks surround negative attitudes towards incorporating human rights standards into the constitution including women's rights and permitting true participation and freedom of expression in the dialogue process. The SCMSP would respond to this by issuing options or issues papers and increasing targeted consultations with communities, civil society

groups and Diaspora networks. Risks also surround weak co-ordination among the consortium of partners, which could lead to misunderstandings and delays in implementation, inappropriate management of assets and funds received by institutional counterparts and logistical difficulties associated with conducting an intensive series of workshops and trainings for institutional partners as will be required. To address the former, the SCMSP will conduct regular meetings among the consortium and apply a Project communications strategy, and to address the latter will undertake review and verification to determine the relevant course of action.

To track and monitor risks, the SCMSP Project Manager has overall responsibility for maintaining a Risk Log, as mentioned in section 5.1 of the project document, and for raising concerns to the Project Board for guidance. In case mitigation measures do not prevent the materialisation of a risk, the Project will define project-level responses based on analysis of the situation and risks arising. Where risks are beyond the scope of the Project itself and impact on the success of the project as a whole, it will be the Project Board through an extraordinary meeting and/or UNDP Senior Management to provide guidance and propose necessary responses for the Project, in particular where a decision is taken to suspend or withdraw support or to entirely revise the work plan. As an extraordinary meeting, representatives of UNPOS and the Project's consortium of partners will be invited. Decisions regarding the appropriate response will be taken on consensual basis, however, UNDP being ultimately responsible for project delivery will decide in case of disagreement amongst Project partners.

In order to support the constitutional process and provide advice from a political perspective in decision-making with regard to the constitution, it is proposed that an International Advisory Committee (IAC) on Constitution under the leadership of UNPOS be put in place. The IAC should take into account the information and assessment of a particular risk, situated within the wider context, in order to reach a decision on appropriate programme response measures to be taken.

## 2. RISK LOG

Project Title: Somalia Constitution Making Support Project

Award ID: 33816

Date: 12 March 2008

| # | Description  | Type                         | Impact & Probability  | Countermeasures   | Management Response  | Owner                              |
|---|--|------------------------------|-----------------------|---|--|------------------------------------|
| 1 | Constitution contributing to conflict, process untenable and raises controversies i.e. federalism , compliance with international human rights norms including gender equality | Political                    | P = 4 /5<br>I = 4 / 5 | Process designed to include strategic groups<br>Provide technical advice to make the text progressive and flexible<br>Continuous monitoring of conflict levels<br>Increase civic education and political dialogue | Monitor achievement of or progress towards project milestones<br>Additional support to encourage national partners to support the process<br>Consider suspending project if TFG dissolves          | Project Manager and Senior Advisor |
| 2 | Undefined roles and responsibilities of the national entities may create tension between the IFCC, PCC and Ministry bodies   | Organisational and Political | P = 3<br>I = 3        | Workshop on the Roles and Responsibilities, parties<br>Constitution of Working Groups   | Staff training<br>Promote inter-institutional communication through dialogue and consultation<br>Promote and encourage transparency and information sharing on all official policies and decisions | Senior Advisor                     |

| # | Description  | Type                    | Impact & Probability | Countermeasures  | Management Response  | Owner  |
|---|--|-------------------------|----------------------|--|--|--|
| 3 | Government has weak commitment to charter deadlines extending their mandated period regardless of constitution being in place or not | Strategic and Political | P = 5<br>I = 4       | Coordination of international pressure and dialogue with stakeholders<br>Establish early warning mechanisms to monitor progress of drafting          | Suspend transfer of funds to institutional counterparts where delays are occurring unnecessarily until corrective measures taken<br>Conduct targeted public consultations and high-level political discussions to lobby TFG<br>Report on issues to political UN entities and engage UNPOS  | Governance Programme Manager and Project Manager |
| 4 | Inadequate time for quality process and public consultation and adverse public and international opinion on rushed process           | Political               | P = 5<br>I = 5       | Improve communication with donors and public<br>Timely preparations for dialogue at sub-national level<br>Involve UNPOS to give political leadership | Explore innovative means for accessing communities for dialogue<br>Create interactive website on constitution and promote widely to Diaspora<br>Diversify consortium of partners to expand outreach and partner local NGOs/CSOs<br>Consider establishing IFCC Secretariat regional offices | Project Manager                                  |
| 5 | Government has weak commitment to freedom of expression and inclusive process  | Strategic and Political | P = 4<br>I = 4       | TFG to be alerted that support to constitution is contingent on minimum conditions including freedom of expression                                   | Suspend support to constitution making until corrective measures have been taken<br>Corrective measures must be agreed by UNDP and donors, and their implementation monitored locally  | Senior Advisor (and UNPOS)                       |

| # | Description  | Type        | Impact & Probability | Countermeasures   | Management Response   | Owner                            |
|---|--|-------------|----------------------|---|---|----------------------------------|
| 6 | Access and Security problems                                       | Security    | P=4 /5<br>I=4 /5     | Take note of early warning signs of security issues and logistical bottlenecks and alert national partners and consortium of challenges to deliverables | Improve access to accommodation in and travel to Baidoa for staff & consultants<br><br>Contingency plans to hold trainings for IFCC outside Somalia<br><br>Communicate logistical problems early to national counterparts, donors and | Project Manager                  |
| 7 | Partners do not deliver quality capacity development and trainings | Operational | P=2<br>I= 4          | Develop alternative roster of experts & INGOs to supplement trainings   | Conduct on going evaluations to ensure relevance of trainings   | Project Manager & Senior Advisor |



| # | Description   | Type                    | Impact & Probability | Countermeasures  | Management Response   | Owner  |
|---|---|-------------------------|----------------------|--|---|--|
| 8 | Failure to deliver external expertise to constitution making due to logistical difficulties or low calibre of experts willing to work in southern Somalia | Operational             | P = 4<br>I = 3       | Use local expertise as much as possible  | <p>Review cumbersome procurement processes and seek waivers when necessary</p> <p>Review consultancy fees for experts but taking care not to create distortions</p> <p>Contract local expertise, such as academics, and use UNDP's QUEST Project for connecting with Diaspora for short-term technical assistance</p> | Project Manager and Programme Specialist         |
| 9 | Constitution rejected at referendum   | Strategic and Political | P = 3<br>I = 5       | <p>Establish early warning mechanisms to monitor and gauge public response</p> <p>Support and encourage the TFG to proceed with reconciliation process by using participatory approach, inclusion, transparency and accountability</p> <p>Make sure the process is inclusive, clean-neutral, gender and minority sensitive</p> | <p>Review intervention strategy</p> <p>Adjust support to identify ways of revitalising public commitment to the constitution</p>  | Governance Programme Manager and Project Manager |

| #  | Description   | Type        | Impact & Probability | Countermeasures  | Management Response  | Owner                                 |
|----|---|-------------|----------------------|--|--|---------------------------------------|
| 10 | Asset transfer and management inadequately managed  | Operational | P = 3<br>I = 2       | Follow asset transfer procedures and ensure understanding in asset management on part of institutions receiving assets<br>Conduct special discussions with national stakeholders to protect equipment as an integral project resource<br>Jointly sign asset inventory lists and award asset IDs for each asset | Project or UNDP staff undertake regular asset verification<br>Issue warnings of withdrawal of support where no improvement visible<br>Suspend support where no improvement visible and mismanagement evident | Project Manager                       |
| 11 | Procurement processes weigh down efficient delivery of services and goods to counterparts | Operational | P= 3<br>I = 2        |  | Project and UNDP staff place high priority on ensuring streamlined procedures, recognising time sensitivities and political sensitivities of the project   | Governance Advisor<br>Project manager |

Key:

P = Probability on a scale from 1 (low) to 5 (high)

I= Impact on a scale from 1 (low) to 5 (high)

## **Annex II Profiles of Partners, Observers, Advisor organisations [Alphabetical order]**

### **Interpeace**

The International Peace building Alliance, Interpeace, works only with local partners in divided societies to build lasting peace. It promotes national dialogue by bringing together key actors across a broad cross section of society to analyse their country's problems, find home-grown solutions and to define a common vision for long-term development.

It has a dual mandate to:

- Assist societies torn apart by war to overcome conflict and build lasting peace.
- Support the United Nations and the international community in their efforts to build peace and prevent renewed conflict in cooperation with local and national actors.

Interpeace has a hybrid status as a Swiss association and acts as a link between local and national actors and the international community. It works in close partnership with the United Nations and this relationship is formalised in a Memorandum of Understanding and is carried out operationally through the UN Development Programme/Interpeace Joint Programme Unit (JPU).

Interpeace's work recognises that key to creating a lasting peace is in its ownership. Interpeace primarily works with local actors to ensure that the peace processes go beyond small political elite and engage a broad spectrum of society. By involving a broad cross section of society, it recognises that everyone has a responsibility to take part in the rebuilding and reconciliation process.

Interpeace began working in the Somali region in 1996. As there was no central government, they adopted a regional approach; setting up projects in Puntland (Garowe), Somaliland (Hargeisa) and south-central Somalia (Mogadishu). The work is carried out on the ground by three non-partisan partner organisations that promote peace and reconciliation in Somalia, and they are supported by the Interpeace Regional Office for Eastern and Central Africa in Nairobi, Kenya:

- Puntland Development and Research Centre (PDRC) in Garowe, Puntland
- Academy for Peace and Development (APD) in Hargeisa, Somaliland
- Centre for Research and Dialogue (CRD) in Mogadishu, south-central Somalia.

### **Max Planck Institute for Comparative Law**

Max Planck Institute for Comparative Public Law and International Law is based in Heidelberg, Germany. Presently, 45 scholars employed under a joint directorship are engaged in researching basic issues and current developments in the areas of public international law, European law, comparative public law and German public law.

Their work serves to promote the formulation and development of positive law as well as its conceptual and theoretical permeation. Attention focuses not only on particular substantive questions, but also on the interplay among public international law, European law and national public law.

The Institute has traditionally performed important advisory functions for parliaments, administrative organs and courts concerned with questions of public international law, comparative public law and European law. The contribution of the Institute to the practical development of public international law, constitutional law and European law occurs, furthermore, through the participation of its members in international conferences as well as their membership in national and international bodies. Additionally, the Institute is directly involved in the creation of legal institutions in several countries, at present particularly in Afghanistan and Sudan.

## **National Democratic Institute NDI**

Founded in 1983, NDI is an international non-profit, non-partisan organisation that provides technical assistance to civic and political leaders worldwide working to advance democratic values, practices and institutions in their respective countries. Based in Washington, D.C., and with offices in 60 countries on four continents, NDI has conducted democratic development programmes in more than 100 countries around the world. NDI works with democrats in every region of the world to build political and civic organisations, safeguard elections, and promote citizen participation, openness, and accountability in government. The Institute has provided legal and constitutional reform assistance to between 10-15 new or transforming democracies around the world since its founding. Three prominent examples of NDI's expertise and experience in this field are Indonesia, Sudan, and Iraq.

In Somalia, NDI is working with Somalia's transitional administration to develop its central leadership and decision-making structures. NDI's Somalia programme seeks to better enable TFG leaders to carry out their duties by providing targeted training-through workshops and seminars-for many of the specific skills and competencies integral to democratic governance. The specific programme objectives are to: (i) strengthen the institutional capacity of the TFG's core executive branch structures, particularly regarding their staffing and functions; (ii) assist newly installed executive and selected legislative branch officials, as well as elected members of parliament, to better understand and differentiate their respective roles and responsibilities as leaders and decision-makers in the development of democratic state institutions; and (iii) foster constructive working relationships among members of the TFG's Council of Ministers, as well as between the executive and legislative branches.

Building on its current activities in the region and its extensive experience in supporting newly transitioning democracies in other countries, the Institute is providing assistance in an incremental fashion in close coordination with relevant TFG officials. At the outset, NDI conducted a comprehensive needs assessment of the transitional institutions, mechanisms and processes.

Based on this assessment, the Institute crafted a customised training curriculum to assist the TFG, with particular emphasis on the executive and legislative branches. Since the ministers are also members of parliament (MPs), the curriculum is tailored to help these individuals differentiate their roles and responsibilities between the executive and legislative branches of government. Other illustrative training topics could include: the basics of democracy and principles and practices of good governance; roles and responsibilities of branches of government; internal consensus-building and negotiation; openness, transparency and accountability; policy design, coordination and review; instituting anti-corruption mechanisms; inter-ministerial communication and coordination; executive-legislative relations; establishing bilateral linkages with ministerial counterparts; strengthening women's participation in executive and legislative decision-making; the use of technology to enhance organisational efficiency; and effective management and leadership strategies. Drawing on its network of contacts, the Institute deploys specialists to serve as trainers, recruited on the basis of each major area of the core curriculum agreed to in partnership with the TFG.

NDI is also conducting a series of targeted capacity-building workshops and related technical assistance to support the emerging Council of Ministers Secretariat, Office of the Prime Minister, the Office of the President, and key staff members therein. Additional targeted trainings are devoted to supporting elected members of parliament, as well as in strengthening the voice and role of women in executive decision-making and in parliament. NDI draws upon a pool of experts from primarily other African countries, as well as from Europe, the Middle East and the United States to conduct training.

## **History of partnership**

The Somalia constitutional process has been managed since inception by a Consortium, consisting of five international partners including UNDP, who have the capacity and position to assist this delicate process. The Consortium was formed in February 2005 jointly by international partners in an attempt to achieve better coordination of international support to the constitutional process. Based on an open invitation to all interested international partners to participate in the process, its composition has been finalised during subsequent meetings.

The organisations in the Consortium have been consistent supporters of the Somali constitution building and peace process, invested their own resources as well as time with this process over the past three years. They bring in technical expertise, networks and experience to the constitution-making process.

While the work of the consortium has been efficient and successful, the lack of overall coordination of the process has let the international community to request UNDP to take on this role and ensure proper coordination and facilitation of the consortium members in its capacity as a neutral development-oriented UN agency with the relevant mandate in the area of state-building. Subject to the agreement of UNDP, international partners have committed resources to the process to be channelled through UNDP.

Following this request, UNDP convened a coordination meeting in October 2005 which was attended by the MPIL, NDI, Interpeace, and Novib-Oxfam among other organisations. In July 2006 UNDP organised a technical workshop for the members of the Constitutional commission and NDI and Interpeace participated in this contributing their time and resources. In subsequent consultations and technical meetings, the distribution of work among consortium members was finalised as reflected in the present document and additional detailed work plans and budgets by partner.

## **Justification for selection of partners**

The consortium members have been consistent supporters of the Somali constitution building and peace process, invested their own resources as well as time with this process over the past three years. They bring in technical expertise, networks and experience to this process.

The Consortium collectively has over a decade of experience in working on constitutional processes both in Somalia, the region and internationally. Members have a history of working with TFG institutions and with UNDP both on wider governance issues and in particular on supporting the constitution building process. In light of the need for continuity and consistency of the approach, the composition of the consortium needs to be maintained for the benefit of the constitutional process.

Based on this assumption, UNDP went through an extensive coordination and appraisal process with all involved stakeholders including the representatives of the international donor community, all involved national counterparts and consortium members to ensure proper appraisal and buy-in of each stakeholder.

In addition, UNDP has reviewed the implementation capacities of each consortium member in light of specific assigned tasks. The results of these assessments are documented in individual capacity assessment reports.

The above justifies the selection of consortium members for the implementation of activities outlined in the present document in line with UNDP programme and project management rules and regulations.

Annex III

**EVALUATION CHECKLIST FOR PARTNER NGOS IN SOMALIA**

[Please include details below beyond responses in the affirmative or negative]

I.

**GOVERNANING BOARD**

**PLEASE USE SPACE BELOW TO PROVIDE MORE DETAILS**

1. What is the NGO mission statement and goals? Yes  No   
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
2. Does the NGO have a functional board or governing body committed to achieving the organization's vision and goals? Yes  No   
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
3. Does the board provide an overall policy direction & oversight? Yes  No   
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_
  
4. Is the board capable of carrying out key roles? Yes  No   
(policy formulation, fund raising, public relations, financial oversight & lobbying)  
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\_\_\_\_\_  
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5. What is the composition of the committee members of the board? Who represent the varied interests of the stakeholders?  
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6. What mechanisms are in place for obtaining appropriate input from the stakeholders?

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**LEGAL STATUS**

7. Is the NGO constitution duly signed by the members? Yes  No

8. Is the NGO a registered or affiliated member of any NGO body? Yes  No

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9. Has the NGO got a code of conduct that is adhered to? Yes  No

**MANAGEMENT PRACTICES**

10. Describe the organizational structure of the NGO.

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11. Are NGO implementation plans jointly developed by management, staff and appropriate stakeholders? Yes  No

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12. What systems are in place for regular measure of congruence between stated vision/mission and operating culture?

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13. What systems are in place for measuring staff performance?

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14. What are the NGO staffing procedures?

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II. **FINANCIAL RESOURCES AND ACCOUNTABILITY**

15. What are the NGO financial procedures and reporting systems?

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16. Are there separate account categories for separate project funds?      Yes [ ]    No [ ]

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17. What mechanisms are in place to ensure budget controls?

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**INFORMATION MANAGEMENT AND REPORTING**

18. Does the NGO have the ability to prepare appropriate and regular reports? Yes  No

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19. Describe the NGO reporting formats and how they respond to stakeholder information requirements?

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20. Does NGO have the necessary information management tools for storage and dissemination? Yes  No  capture,

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21. Are there contingency plans for information storage? Yes  No

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