

**Xukuumadda Federaaliga KMG ah ee
Jamhuuriyadda Soomaaliya**



الحكومة الانتقالية الفيدرالية
لجمهورية الصومال

**The Transitional Federal Government of the Somali Republic
Office of the Prime Minister**

OPM 198/03/08

28 March 2008

**To the Ambassador of the Kingdom of the Netherlands
Nairobi, Kenya**

Excellency,

Noting that the World Food Programme (WFP) is a key humanitarian actor in Somalia, where it sends 80% of its assistance by sea. The security of its vessels is of fundamental importance in this regard for the entire humanitarian community in Somalia,

Taking note of United Nations Security Council resolution 1772 (2007) expressing concern at the upsurge in piracy off the Somali coast, and the joint press release issued on 10 July 2007 by the International Maritime Organization and the World Food Programme,

Taking into consideration the incidents of armed robbery committed in the territorial waters of Somalia, the Republic of Somalia requests that the Kingdom of the Netherlands lend its support for the protection of WFP contracted ships bound for Somalia,

Considering that, in order to accomplish this, the Kingdom of the Netherlands must have also obtained the agreement of the Flag State(s) of the WFP-contracted ships,

I have the honour therefore, writing on behalf of the Republic of Somalia, of making the following proposal to you:

The present provisions have been defined to meet the needs of protection of World Food Programme-contracted ships in the territorial waters of Somalia and their application is limited to the period of the presence of the Netherlands armed forces (further: the Netherlands forces) deployed in this connection on the territory of the Republic of Somalia.

The Netherlands forces will comprise Netherlands military personnel on board the Royal Netherlands Navy vessel(s) charged with accompanying WFP ships and Netherlands military personnel on board WFP-contracted ships.

The Royal Netherlands Navy vessel(s) charged with accompanying WFP-contracted ships shall be authorised to enter Somali territorial waters at any time during this three-month period, doing so with all weapons and munitions for security appropriate in the context of this mission.

For the protection of World Food Programme-contracted ships in its territorial waters, the Republic of Somalia authorises the Netherlands forces to take all necessary steps, including the proportionate use of

force. In this connection, the Netherlands forces shall assess the correct match between the means to be employed and the manner in which they are to be employed, at whatever level.

During their presence in the territorial waters of the Republic of Somalia, the Netherlands forces shall comply with all laws and customs in force in the Republic of Somalia.

The Netherlands forces present on Somali territory under the terms of the present agreement shall enjoy personal inviolability, immunity from prosecution in Somali criminal, civil and administrative courts and immunity from execution.

The Republic of Somalia and the Kingdom of the Netherlands give hereby mutual undertakings to waive all recourse for the purpose of obtaining redress for damage or injury possibly caused to their property or personnel, including damage or injury involving death, in connection with the presence of Netherlands forces or the execution by those forces of their tasks.

the Republic of Somalia waives all recourse against the Kingdom of the Netherlands in the event of prejudice caused to third parties by Dutch forces in the execution of their tasks. In the event of legal action instituted in connection with such prejudice, the Republic of Somalia shall stand in lieu of the Kingdom of the Netherlands in the proceeding. In all events, the Republic of Somalia shall pay any compensation due as redress for prejudice caused. If the latter is attributable to Netherlands forces alone in the course of the execution of their tasks, the Kingdom of the Netherlands shall refund the amount of the compensation to Republic of Somalia without delay. If both Governments are jointly responsible for the prejudice suffered by third parties or if that prejudice has been caused by their armed forces without it being possible to attribute it to one or other of those forces, the amount of the compensation shall be shared equally between them.

All equipment of the Netherlands forces shall be exempt from all tax and duty on entry to and on exit from the territory of the Republic of Somalia.

The Somali authorities shall accept without delay the handing over by Netherlands forces of all equipment seized.

Should the Netherlands forces detain any individual who has committed acts of armed robbery against World Food Programme-contracted ships, the Netherlands forces shall guard them and ensure their safety in accordance with the relevant provisions of international law, as long as the Netherlands forces maintains effective control over them.

The Kingdom of the Netherlands authorities may further decide, in accordance with international law, on possible further investigation and prosecution of such individuals, as well on any other legal issue stemming in any way from the effective control the Netherlands forces maintains over such individuals.

The death of any member of Netherlands forces personnel on the national territory or in the territorial waters of the Republic of Somalia shall be declared to the Somali authorities.

The Netherlands forces are authorised to have in their possession and to make use of an autonomous transmission system in territorial waters for the purposes of protection of World Food Programme ships. Access to the radio frequency spectrum is granted to the Netherlands forces free of charge.

Any dispute between the parties concerning the implementation or interpretation of the provisions hereof shall be settled exclusively by negotiation.

The Republic of Somalia and the Kingdom of the Netherlands may independently terminate this agreement in writing, giving such advance notice as is necessary for the Royal Netherlands Navy and the Netherlands forces to leave the Republic of Somalia and its territorial waters in an orderly fashion.

Expiry of the present agreement shall not discharge the Parties of obligations created during its implementation.

The provisions contained in this exchange of letters may be communicated to any third State that should so request from either of the parties.

I should be grateful if you would inform me whether the provisions set out above meet with the approval of the Kingdom of the Netherlands. If so, the present letter, and your reply, shall constitute an agreement entered into by the Republic of Somalia and the Kingdom of the Netherlands concerning the protection tasks to be performed by the Netherland forces with regard to World Food Programme ships in the territorial waters of the Republic of Somalia,

The Republic of Somalia gives consent to the agreement to take effect on the date of your reply and will expire no later than twelve months thereafter.

Please accept, Excellency, the assurances of my highest consideration.

For the Republic of Somalia:

Nur Hassan Hussein
Prime Minister

