



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

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The Honorable John Forbes Kerry  
United States Secretary of State  
United States Department of State  
2201 "C" Street, Northwest  
Washington, District of Columbia 20520  
United States of America

Dear Secretary of State Kerry:

The Federal Republic of Somalia presents its compliments to the Department of State. On behalf of the Government of the Federal Republic of Somalia, I, Abdi Farah Shirdon, Prime Minister of Somalia, have the distinct honor and high privilege, by this letter, of requesting, urgently, pursuant to the powers vested in me by the Federal Republic of Somalia Provisional Constitution, adopted 1 August 2012, that you use your good offices to obtain immunity for Mohamed Ali Samantar, the former Prime Minister of Somalia, from 1987 – 1990, and the Defense Minister and First Vice President of Somalia, from 1982 – 1986, in respect of certain civil litigation brought against him before the United States District Court for the Eastern District of Virginia, styled as *Bashe Abdi Yousuf, et alii, versus Mohamed Ali Samantar*, Civil Action No. 04-1360 ("the Litigation").

The Litigation was brought in 2004, by plaintiffs who have claimed that they or their family members were wrongly killed or injured by members of the Somali Armed Forces who were alleged to have been, intermittently, subordinates of Mr. Samantar, operating under his command and control. The Government of the Federal Republic of Somalia is of the considered view that the Litigation is injurious to the historic, ongoing process of peace and reconciliation among clans and political factions within Somalia, which is being fostered by the Government of Somalia, the United Nations, and other governments, including, not least, the United States, which has recently accorded formal recognition to the Federal Republic of Somalia.

I am advised that the Litigation has had a long history in the courts, and that, in the course of the Litigation, the Supreme Court of the United States determined that Mr. Samantar cannot assert statutory immunity, under the Foreign Sovereign Immunities Act, 28 U.S.C., § 1604, as that statute only addresses the immunity of governments, not claims of immunity by individual government officials. *Samantar v. Yousuf*, 130 S.Ct. 2278, 176 L.Ed. 2d (2010), and that, in proceedings subsequent to the aforesaid Supreme Court decision, Samantar's common law immunity claims were rejected after the United States filed a Statement of Interest with the District Court, on 14 February 2011, requesting that Samantar's claim of common law immunity from suit be denied, critically, because, among other things, at that time, Mr. Samantar was said to be "... a formal official of a state with no currently recognized government to request immunity on his behalf, including by expressing a position on whether the acts in question were taken in an official capacity . . . ." (Statement of Interest at ¶ 9), and that such rejection of the District Court's denial of Mr. Samantar's claim of common law immunity from suit was affirmed, on appeal, by the United States Court of Appeals for the Fourth Circuit. *Yousuf v. Samantar*, 699 F.3d 763 (4th Cir. 2012). I am further advised that, whilst Mr. Samantar's common law immunity from suit defense was under appellate review, the District Court

continued to allow the Litigation to proceed, with Mr. Samantar electing to take a default on 23 February 2012, with the District Court then proceeding to conduct a default damages hearing, and, thereafter, entering a default judgment against Mr. Samantar, *Yousuf v. Samantar*, 2012 WL 3730617 (E.D. Va. August 28, 2012), and that, at this writing, Mr. Samantar has a pending appeal, on jurisdictional grounds, to the Fourth Circuit, from the said default judgment, *Yousuf v. Samantar*, Record No. 12-2178, and that, on 16 January 2013, the Supreme Court of the United States granted Mr. Samantar an extension of time to 4 March 2013, within which to file a petition for a writ of *certiorari* from the above-referenced 2 November 2012, appellate decision denying Mr. Samantar's common law claim for immunity from suit. *Samantar v. Yousuf, et al.*, Application No. 12A707.

As adverted to above, by this letter, the Federal Republic of Somalia hereby affirms and ratifies Mr. Samantar's plea of common law immunity from suit, finding that Mr. Samantar's acts in question were all undertaken in his official capacity with the Government of Somalia, and would hasten to add that the Federal Republic of Somalia rejects the notion that Mr. Samantar's action were contrary to the law of Somalia or the law of nations, much less that he may be fairly said to be liable under any of the theories propounded in the Second Amended Complaint filed in the District Court.

It is of more than passing significance that Mr. Samantar elected to default in the District Court at a hearing on 23 February 2012, as that was the date at which the Honorable David Cameron, the Prime Minister of the United Kingdom of Great Britain and Northern Ireland, convened the London Somalia Conference, in which over 50 governments, including the United States, and officials from various international organizations, participated, a fact noted by Mr. Samantar's counsel, Joseph Peter Drennan, Esquire, at the said hearing, who also indicated to the District Court that Mr. Samantar concurred with the following remarks of The Honorable Hillary Rodham Clinton, at the commencement of the London Somalia Conference: "For decades, the world has focused on what we could prevent from happening in Somalia, be it conflict, famine, or other disasters. Now we are focused on what we can build. The opportunity is real." (Transcript of District Court Proceedings, 23 February 2012, at page 16)

The good will of the family of nations represented at the London Somalia Conference has served as a catalyst to the strengthening of the Federal Republic of Somalia and of the Somali civil society, the rule of law, and the Somali economy, whereas the Litigation, which, interestingly, was filed, literally, one month to the day following the formation of the Transitional Federal Government of Somalia, under the auspices of the United Nations, in Nairobi, Kenya, in 2004, harkens to the era of inter-clan conflict and strife, which has devastated Somalia in recent decades and poses a real threat to the progress that has been made.

The recognition of the Federal Republic of Somalia by the United States, just last month, represents an important milestone in the relations between our nations. Indeed, as the Honorable Hilary Clinton stated, in summing up her remarks at the press conference held after the meeting between Secretary Clinton and the Honorable Hassan Sheikh Mohamud, President of Somalia, in Washington, D.C., on 17 January 2013, as follows: "So we have moved into a normal sovereign nation to sovereign nation position, and we have moved into an era where we're going to be a good partner, a steadfast partner, to Somalia as Somalia makes the decisions for its own future."

To that end, the Federal Republic of Somalia specifically understands that this designation of immunity for Mr. Samantar should come in the form of a Statement of Interest of the United

States, to be submitted to the United States Supreme Court, the United States Court of Appeals for the Fourth Circuit, and the District Court, by the Attorney General, or his designee, pursuant to 28 U.S.C., § 517, and that the Department of State should move with dispatch to take all steps necessary to validate the immunity from suit to which Mr. Samantar is entitled, as a former government official of Somalia, and obtain a dismissal of the subject civil proceedings against him.

On behalf of the Federal Republic of Somalia, I wish to stress the critical importance of the instant request, and our deep appreciation of the prompt attention of the Department of State.

Respectfully yours,



Abdi Farah Shirdon, Prime Minister of  
the Federal Republic of Somalia

cc: Joseph Peter Drennan, Esquire, Counsel for Mohamed Ali Samantar;  
Shay Dvoretzky, Esquire, Supreme Court Counsel for Mohamed Ali Samantar