

IN THE UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF VIRGINIA

ALEXANDRIA DIVISION

BASHE ABDI YOUSUF, *et al.*, )  
 )  
 Plaintiffs, )  
 )  
 v. ) Civil Action No. 1:04 CV 1360 (LMB/BRP)  
 )  
 MOHAMED ALI SAMANTAR )

Defendant.

**PLAINTIFFS' SUPPLEMENTAL FILING RELATING  
TO CORRESPONDENCE WITH THE STATE DEPARTMENT**

Plaintiffs Bashe Abdi Yousuf, Aziz Mohamed Deria, John Doe I, Jane Doe, and John Doe II, (collectively, the "Plaintiffs"), by the undersigned counsel, respectfully submit this filing to address matters relating to correspondence submitted to the United States Department of State ("State Department") regarding this case. Specifically, Plaintiffs request that the Court accept two letters from the Government of the Republic of Somaliland to the State Department, attached hereto as Exhibits 1 and 2.

At the April 27, 2007 hearing in this matter, the Court took notice of two letters submitted by the Defendant that were assertedly written on behalf of the Transitional Federal Government ("TFG") of the Somali Republic. If the Court is inclined to consider those letters in its ruling on Defendant's Motion to Dismiss Plaintiffs' Second Amended Complaint ("Motion to Dismiss"), Plaintiffs seek leave to submit Exhibits 1 and 2 which provide a contrary position to the letters that Defendant Mohamed Ali Samantar ("Samantar") has provided to the Court.

## BACKGROUND

This case was filed in November 2004. In January 2005, the Court stayed the case to allow Samantar to request a suggestion of immunity or statement of interest from the State Department. For more than two years, the TFG, the government of Somaliland, and counsel for both parties submitted arguments to the State Department regarding the legal and foreign policy implications of conferring immunity on Samantar. The State Department did not provide a suggestion of immunity, and the Court reinstated the case on its own motion in January 2007. See, Order [January 22, 2007].

During the April 27, 2007 hearing the Court referenced a February 17, 2007 letter from Acting Prime Minister Salim Alio Ibro to U.S. Secretary of State Condoleeza Rice, attached hereto as Exhibit 3. The Court also accepted into the record an April 26, 2007 letter from Prime Minister Ali Mohamed Gedi to Secretary Rice, attached hereto as Exhibit 4. These letters request a conferral of immunity on Samantar and speculate that Plaintiffs' case would impact nascent reconciliation and reconstruction processes in Somalia.

Plaintiffs herein submit two letters from leaders of the Republic of Somaliland which directly contradict the letters submitted by Samantar. The first letter, dated March 3, 2005, is from Edna Adan Ismail, the Foreign Minister of the Republic of Somaliland, to James Gresser of the State Department. See Exhibit 1. In the letter, Ms. Ismail expresses the Somaliland government's support for Plaintiffs' suit against Samantar, noting that most of the events in the case occurred in Somaliland and were directed against current citizens of Somaliland or their decedents. *Id.* Ms. Ismail also states that she was not aware of "any feasible means for these victims, including the plaintiffs, to obtain redress for their suffering other than through legal proceedings such as the lawsuit in the United States where Mr. Samantar now resides." *Id.*

The second letter, dated June 2, 2007, is from the Minister of Foreign Affairs for the Republic of Somaliland, Abdillahi M. Duale, to Secretary of State Rice. See Exhibit 2. The letter expresses the Somaliland government's continued support for Plaintiffs' case. *Id.* Mr. Duale expresses the government's belief that providing Somalilanders with an opportunity to hold persons in the United States accountable for human rights atrocities would help to "support efforts of democratic transition and promote reconciliation in the region, rather than hinder those efforts." *Id.* Referencing the April 26, 2007 letter from the Prime Minister of the TFG to Secretary Rice, Mr. Duale explains that as a result of the Prime Minister's position as a longtime political ally of Samantar, he does not represent Somalilanders and his statements do not reflect a general consensus of the Somali people. *Id.*

### **ARGUMENT**

As mentioned above, for more than two years, the TFG, the Somaliland government, and counsel for both parties have submitted arguments to the State Department regarding the legal and foreign policy implications of conferring immunity on Samantar. In response to the letters from the TFG, the Somaliland government has submitted letters to the State Department expressing its support for Plaintiffs' litigation. See Exhibits 1 and 2. These letters have emphasized the importance of this litigation to the Somali people, who were the victims of the atrocities at the heart of the case, and the political alliances motivating the position taken by certain members of the TFG in their correspondence with the State Department. Should the Court consider any letters to the State Department in rendering its decision on Samantar's Motion to Dismiss, it should consider the letters from the Somaliland government provided herein.

Therefore, the Plaintiffs respectfully request that the attached two letters from the Republic of Somaliland, Exhibits 1 and 2, be accepted into the record by the Court.

### CONCLUSION

For the foregoing reasons, Plaintiffs request that the Court consider the Somaliland government letters submitted to the State Department in support of this litigation in rendering its decision.

Dated: June 26, 2007

BASHE ABDI YOUSUF  
AZIZ MOHAMED DERIA  
JOHN DOE I  
JANE DOE,  
and  
JOHN DOE II  
By Counsel

By: 

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San Francisco, California 94102  
(415) 544-0444

## CERTIFICATE OF SERVICE

I hereby certify, this 26th day of June, 2007, that a true copy of the foregoing was sent by electronic and first-class mail to the following counsel of record:

Harvey J. Volzer, Esq.  
216 South Patrick Street  
Alexandria, VA 22314

Julian Henry Spierer  
Fred B. Goldberg, Esq.  
Spierer & Goldberg, P.C.  
7101 Wisconsin Avenue, Suite 1201  
Bethesda, MD 20814



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Robert R. Vieth

329590/RE

# Exhibit 1

REPUBLIC OF



SOMALILAND

*Ministry of Foreign Affairs*

Tel/Fax: 00 252 828 3871; 00 252 2 426 922 ( M ) ; e-mail: slforeign@hotmail.com

REF:MFA/USA/2/504/05

03 March 2005

To: James Gresser, Esq.  
Office of the Legal Adviser,  
Diplomatic Law and Litigation  
United States Department of State  
2201 C Street, N.W., Room 6423  
Washington, D.C. 20520

Dear Mr. Gresser:

I send you greetings from Hargeisa on behalf of the people and government of Somaliland and convey to you our appreciation for the support that your government has been providing to our people during the past fourteen years that we have been engaged in establishing a sound system of democratic governance for Somaliland.

I also wish to share with you our appreciation in knowing that legal proceedings are being filed in a United States court by several victims against Mohamed Ali Samantar, and have also been provided with a copy of a February 10, 2005 letter addressed to the United States Secretary of State by the Minister of Foreign Affairs of the Transitional Federal Government of Somalia with a view of obtaining dismissal settlement for the accused.

Since most of the events at issue in the case occurred in Somaliland and were directed against persons who are now citizens of Somaliland or their decedents, and since the case involves actions that were taken by the former government of Somalia, the people and government of Somaliland are in full support of the lawsuit.

I am not aware of any feasible means for these victims, including the plaintiffs, to obtain redress for their suffering other than through legal proceedings such as the lawsuit in the United States where Mr. Samantar now resides.

Thank you for your consideration of this letter and for the continuing support of your government for the people of Somaliland.

Yours Sincerely,

Mrs. Edna Adan Ismail  
Foreign Minister  
Republic of Somaliland



## **Exhibit 2**





*Ministry of Foreign Affairs.*

Tel/Fax: 00252-225 3871. Tel: 00252 213 4495. Email: [slforeign@hotmail.com](mailto:slforeign@hotmail.com)

Ref: MFA/USA/213549/2007

2<sup>nd</sup> June 07

The Honorable Condoleezza Rice  
Secretary of State  
U.S. Department of State  
2201 C Street NW  
Washington, DC 20520

Dear Madame Secretary,

I send you greetings from Hargeisa on behalf of the people and government of Somaliland and convey to you our appreciation of the support that your government has been providing to our people over the many years that we have been engaged in establishing a sound system of democratic governance of Somaliland.

I have been provided a copy of a letter addressed to you by Mr. Ali Mohamed Gedi, dated April 26, 2007 concerning the matter of *Yousuf v. Samantar*, a human rights lawsuit pending in United States District Court for the Eastern District of Virginia.

I wish to reiterate statements made to you in a previous letter submitted by my predecessor, Mrs. Edna Adan Ismail, dated March 3, 2005, in which she expressed the support of our government for this type of human rights case involving abuses committed against the civilian population of the region now known as Somaliland.

To date, the people of this region have not seen accountability for the atrocities suffered under the command of former Prime Minister Mohamed Ali Samantar. An opportunity for accountability in the United States will help support efforts of democratic transition and promote reconciliation in the region, rather than hinder those efforts.

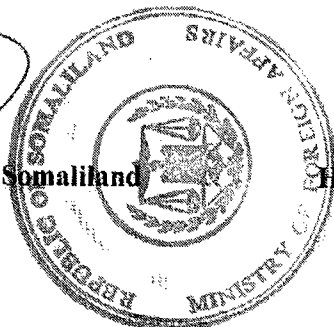
Mr. Ali Mohamed Gedi is a long time political ally of Mohamed Ali Samantar. His support for the dismissal of all allegations of human rights abuses against Mr. Samantar does not reflect a general consensus of the Somali people and as a leader in the Transitional Federal Government (TFG) of Somalia, he does not represent Somalilanders.

The allegations against Mr. Samantar in the human rights law suit do not concern official actions taken by the Somali government, but rather serious human rights violations, including torture and killing of civilians, in violation of Somali and international law.

Thank you for your consideration of this letter and your continued support of the people and government of Somaliland.

Yours sincerely,

*for* Abdillahi M. Duale  
Minister



Cc: The President of the Republic of Somaliland Hargeisa

# **Exhibit 3**

Jamhuuriyadda Soomaaliya  
Xukuumadda Federaalka KMG ah  
Xafiiska Ra'isul Wasaaraha



جمهورية الصومال  
الحكومة الاتحادية الفيدرالية  
مكتب رئيس الوزراء

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

Ref: ODPM/02/07

February 17, 2007

The Honorable Dr. Condoleezza Rice  
Secretary of State  
U. S. Department of State  
2201 C Street, NW  
Washington, D. C. 20520

Dear Madame Secretary:

By letter to you dated February 10, 2005, then Foreign Minister Hon. Abdullahi Sheikh Ismail had the honor of conveying to you the thanks of the Transitional Federal Government for the support given by the Government of the United States towards our efforts to reestablish order and legitimacy in Somalia after so many years of civil war and anarchy.

We write now to renew those thanks in view of the difficult two years which have elapsed during which time the continued support of the Government of the United States has given great encouragement and has proven critical to our recent successes. We note specially our gratitude to Assistant Secretary Dr. Jendayi Frazer for her singular efforts on our behalf.

In the previous letter, our Government also expressed its concern over the prosecution in a U. S. court of a lawsuit against a former Prime Minister and Head of Government Mohamed Ali Samantar. We requested that your Department initiate a statement of interest to request that the court dismiss this lawsuit as a violation of Mr. Samantar's immunity and as a threat to the reconciliation efforts then underway in Somalia.

We recently learned that the court is placing the lawsuit (*Yousuf v. Samantar*, No. 1:04 CV 1360, US Dist. Ct. for the E. Dist. Of Va.) back on its active docket. This event makes an expression of such interest that much more important.

We wish to indicate that the actions attributed to Mr. Samantar in the lawsuit in connection with the quelling of the insurgencies from 1981 to 1989 would have been taken by Mr. Samantar in his official capacities and to reaffirm Mr. Samantar's entitlement to sovereign immunity from prosecution for those actions.

We also wish to reemphasize the potential danger to the reconciliation process in Somalia of a lawsuit that would hold a flame to past events and revive old hostilities.

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P.O. Box 623 -- 00618 Sant Centre, NBI- Kenya, Tel: +254-20-2736618, Fax: +254-20-2736619  
Email: [premier@wananchi.com](mailto:premier@wananchi.com)

Let me underscore again our Government's debt of gratitude for the extraordinary work done by the U. S. Government in helping to restore stability to our country and add the prayer and belief that this process finally leads to the achievement of security and well being for all Somalis.

Sincerely,



**Salim Alio Ibro**  
Acting Prime Minister

cc: Hon. Dr. Jendayi Frazer  
Assistant Secretary of State for African Affairs



**DEPUTY PRIME MINISTER**

---

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Email: [premiersom@wananchi.com](mailto:premiersom@wananchi.com)

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# **Exhibit 4**

Sent By: HP LaserJet 3100;  
HPK-26-2007 10:16P FROM:  
26 Apr 07 11:43

973 436 1457;

Apr-26-07 3:09PM;

Page 2/3

Prime Minister Office

TO: 19734381457  
002521643323

P. 1

P. 1

Jamhuuriyadda Soomaaliya  
Xukuumadda Federaalka KMG ah  
Xafiiska Ra'isul Wasaaraha



جمهورية الصومال  
الحكومة الاتحادية  
مكتب رئيس الوزراء

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

Ref: OPM/630/07

Mogadishu, April 25, 2007

**The H. E. Honorable Dr. Condolezza Rice**  
Secretary of State,  
U. S. Department of State,  
2201 C Street, NW  
Washington, D. C. 20520

Your Excellency, Madame Secretary;

I am writing this letter to convey to you the thanks of the Transitional Federal Government (TFG) for the support given by the Government of the United States towards our efforts to reestablish order and legitimacy in Somalia after so many years of civil war and anarchy.

The tireless support of the Government of the United States has given great encouragement and has proven critical to our recent successes. We note specially our gratitude to Assistant Secretary Dr. Jendayi Frazer for her singular efforts on our behalf and her recent visit to Somalia.

In a previous letter, our Government also expressed its concern over the prosecution in a U. S. court of a lawsuit against a former Vice President and Prime Minister Mr. Mohamed Ali Samatar. We are requesting your Department to initiate a statement of interest by informing that the court dismisses this lawsuit as a violation of Mr. Samatar's immunity and as a threat to the reconciliation efforts then underway in Somalia.

Even though state collapse and anarchy took place in our country, nevertheless the diplomatic immunities of the then Somali Government officials have not been removed.

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Email: premier@wananchi.com

We recently learned that the court is placing the lawsuit (*Yousuf v. Samantar*, No. 1:04 CV 1360, US Dist. Ct. for the E. Dist. Of Va.) back on its active docket. This event makes an expression of such interest that much more important.

We wish to indicate that the actions attributed to Mr. Samantar in the lawsuit in connection with the quelling of the insurgencies from 1981 to 1989 would have been taken by Mr. Samantar in his official capacities and to reaffirm Mr. Samantar's entitlement to sovereign immunity from prosecution for those actions.

We also wish to reemphasize the potential danger to the reconciliation process in Somalia of a lawsuit that would hold a flame to past events and revive old hostilities.

Let me underscore again our Government's debt of gratitude for the extraordinary work done by the U. S. Government in helping to restore stability to our country and add the prayer and belief that this process finally leads to the achievement of security and well being for all Somalis.

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

  
Ali Mohamed Gedi  
Prime Minister



2  
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P. 2

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PRIME MINISTER OFFICE

26 APR 07 11:43