



# Sanctions and embargoes in Africa

## Implementation dynamics, prospects and challenges in the case of Somalia

### INTRODUCTION

As an alternative to military force in controlling the behaviour of subversive entities in the international system, the use of sanctions has since the end of World War II remained a major instrument by which individuals, non-state actors and states that threaten international peace and security are controlled.<sup>1,2</sup> Owing to the fact that the UN is made up of independent states with a common quest for international peace and security, the UN finds the instrument indispensable in fulfilling its core remit. The UN draws its authority to utilise sanctions from Article 41 of Chapter VII of the UN Charter, which permits the organisation to employ measures short of armed force to give effect to its decisions regarding international peace and security.<sup>3</sup> In the use of sanctions over the years, however, the UN's overdependence on the 'Great Power Unanimity' rule, which requires the consensus of all five permanent members of the Security Council on substantive matters, stifled the use of this instrument during the Cold War. The reason was a lack of consensus among the major powers within the Security Council as a result of differing national interests.

With the end of the Cold War and the subsequent emergence of an improved working relationship among the permanent members of the Security Council, the use of sanctions – arms embargoes in particular – became a common means by which the Council attempted to restrict the access of rogue entities to financial resources and arms. The post-Cold War years have thus witnessed a remarkable increase in the use of sanctions,<sup>4</sup> since the UN could freely make use of sanctions in its quest to maintain international peace and security. Arms embargoes have been imposed on many states and sub-state actors, including countries such as Angola, the former Yugoslavia, Iraq, Libya, Liberia, Haiti, Rwanda and Sierra Leone, for the purpose of repelling aggression, restoring the rule of democracy and human rights, pressuring regimes that were supporting terrorist activities, and chastising entities charged with international crimes.

Because of Africa's high incidence of unrest or conflict situations, a large number of the embargoes imposed during the 1990s affected this continent. Of the 17 mandatory arms embargoes imposed on Africa between 1992 and 2005, nine were imposed during the 1990s alone (see Table 2). One such embargo was placed on Somalia.

The Somali arms embargo was imposed in January 1992 by Security Council Resolution 733 (1992). The embargo was of a general and comprehensive scope, attempting to restrict the delivery of all weapons and military equipment into Somali territory. Sixteen years after its imposition, however, the territorial space of the country appears more awash with small arms and light weapons than it was before the embargo was imposed, as attested to by a series of reports submitted to the Security Council by the Monitoring Group on Somalia. According to the 2005 report, for instance, violations of the embargo have in recent times moved from being 'continual and numerous' to 'a sustained and dramatic upswing' in which small arms and light weapons easily reach Somalia daily.<sup>5</sup>

As a result, small arms and light weapons are not uncommon on the streets of Somalia and remain the means by which human rights are violated and war crimes and crimes against humanity are committed.<sup>6</sup> Somalia has also become a conduit and a trans-shipment point for arms destined for other territories in the sub-region, thereby impacting on the regional security situation. Against this backdrop, it can be argued that the Somali arms embargo is contributing little or nothing to the ongoing attempts to restore peace in the country. Notwithstanding this apparent failure in Somalia, arms embargoes remain a major non-war instrument for containing spoilers of peace in Africa and are still one of the major instruments available for stemming insecurity in Somalia.

For the purposes of understanding the embargo in Somalia as a basis not only for strengthening this measure in that country, but also for shedding light on the modalities and conditions for effective

implementation of embargoes elsewhere on the continent, this paper discusses the implementation and monitoring dynamics surrounding the Somalia embargo. Understanding the dynamics surrounding the Somali arms embargo is instructive for a number of reasons. First, the Somali conflict is typical of post-Cold War conflicts on the continent owing to its protracted nature and fluidity. Appreciating the requirements for establishing an effective embargo regime in such a complex situation will provide lessons for interventions in other conflicts on the continent. Second, the Somali imbroglio has eluded several important international interventions and resolution attempts and remains a scar on the conscience of the world as regards the ability of the international community to respond to complex emergencies in the 21<sup>st</sup> century. The findings of this paper and the policy options it offers could thus contribute to strengthening the Somali arms embargo as part of the ongoing international efforts towards lasting peace in that country.

The paper attempts to provide answers to important questions concerning the dynamics surrounding the implementation process and monitoring framework, prospects for effective implementation and factors necessary for the successful implementation of the embargo. It is divided into four main sections. The first section provides an overview of the Somali debacle as a basis for understanding the conditions that led to the imposition of the embargo and analyses the embargo and its evolution from a complete restriction on the delivery of all forms of arms into Somali territory to the passing of Council resolutions that spell out exemptions. This is followed by a section that discusses the components and modus operandi of the monitoring and implementation framework. The implementation itself and the monitoring dynamics of the embargo are discussed in section three. The paper then spells out the necessary and sufficient conditions for strengthening the embargo or using embargoes in Africa.

## UNDERSTANDING THE SOMALI CONFLICT: A BRIEF OVERVIEW

After about 17 years of post-independence peace, Somalis have lived in the throes of armed conflict since the late 1970s, beginning with the Ogaden War with Ethiopia. This war came about when Somalia intervened in support of a bid by Somali rebel fighters (the Western Somali Liberation Front – WSLF) to liberate the Somali-inhabited region of Ogaden in Ethiopia. In the ensuing confrontation between Somalia and Ethiopia, about 25 000 casualties were recorded by Somalia.<sup>7</sup> The devastating effects of the war on Somalia were largely blamed on the Siad Barre regime by many Somalis. Coupled with mistrust of the state and its ruling elite, and as a result of

corruption, exacerbating poverty levels, factional politics, ‘clanism’ and nepotism, the existing sense of ‘Somaliness’ or ‘pan-Somalianism’, which had held the Somali people together, began to wane.<sup>8</sup> Withdrawal of trust, confidence and commitment to the state led to the deepening of divisions along existing clan fault-lines and spawned several clan-based movements deeply suspicious of government and preoccupied with ousting the Siad Barre regime. Among the numerous groups that sprang up during this time were the Somali Salvation Democratic Front (SSDF), the Somali National Movement (SNM), the United Somali Congress (USC) and the Somali Patriotic Movement (SPM).<sup>9,10</sup>

The SSDF was in the main a Majerten clan movement under the leadership of Colonel Abdullahi Yusuf. In the 1980s this group is known to have engaged government forces periodically in the north-eastern part of the country. The SNM also emerged in the north-western part of the country in response to the concerns of the Isaaq clan. Their concerns essentially centred on the threat posed by the influx of Ogaden refugees and their disgust at the dictatorial policies of the Barre regime. As agitation over these grievances increased and the security situation in the north-western region worsened, the Barre regime responded by placing the region under military administration and engaging in a heavy military crackdown on the Isaaqs that allegedly resulted in their being dispossessed of their businesses. The ensuing clashes led to a civil war between the SNM and government forces in 1988 during which about 50 000 Somalis (mostly Isaaqs) were killed. In addition, up to 400 000 people fled into Ethiopia and some 400 000 were displaced internally. The city of Hargeysa was destroyed by aerial bombardments.<sup>11,12</sup>

Subsequent to the government–SNM clashes, there were confrontations between government forces and a number of movements, including the USC, the SPM and the SSDM in 1989.<sup>13</sup> The three movements were respectively largely Hawiye, Ogadeni and Majerten clan-based. The series of shattering and catastrophic events associated with the conflict persisted and led to the overthrow of Siad Barre in 1991, plunging Somalia into anarchy and insecurity.

## The immediate post-Barre anarchy

The overthrow of Barre’s regime gave way to a power struggle and inter-clan warfare in the country. Various factions turned on each other for control of resources, towns, seaports and neighbourhoods. The basis for the inter-clan or inter-movement opposition can in part be ascribed to age-old inter-clan animosities fostered by years of divide-and-rule politics as the clans became politicised. Many of the clans were resentful of each

other and suspicions of other clans' dominance and/or participation in government.

Inter-movement struggles gradually gave way to a warlord situation in which clan militias and gunmen preyed on the population by looting, banditry and the forcible occupation of homes. These ruinous militia-based activities blurred the distinction between banditry and the armed conflict. Militias under the command of merchants and warlords fought to secure their economic interests and to protect booty amassed during the ongoing chaos.

In their desperation to loot for economic reasons and to fund their wars, warlords and their militias targeted international relief operations, especially food aid. Whilst this situation persisted, communities, particularly those directly dependent on agriculture and those living in coastal settlements, suffered most, as they were deprived of their livelihoods and communal resources. In addition, there were incidents of rape, mass executions and the destruction of agricultural land and water supplies. More than 300 000 Somali lives are estimated to have been lost, while some 900 000 people were displaced, fleeing, in particular, to Kenya, Ethiopia, Yemen and Saudi Arabia.<sup>14,15</sup> Some 4.5 million people were gravely threatened by severe malnutrition, whilst about 1.5 million were deemed to be at immediate risk. By 1992, many Somali communities, including Baidoa, Bardheere, Merca, Brava, Kismayo and the two largest cities of Mogadishu and Hargeisa, had been destroyed.

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### The sources and role of arms in the anarchy

The source of small arms and light weapons in Somalia and their impact on the dynamics of insecurity in the country can be ascribed mainly to three factors: the local gun culture, the influence of Cold War super-power rivalry and the militarisation of Somali society as a consequence of years of insecurity and cycles of armed conflict.

Gun possession has always been part of the Somali culture in the country's post-colonial era. As a result, the proliferation of small arms and light weapons in Somalia is linked to several cultural, historical and political factors.

The nomadic life of Somalis has contributed to their dependence on the ownership of livestock as a means of livelihood, income generation and wealth. Owing to rampant livestock theft and the aggressive scramble for pasture and water resources associated with the nomadic way of life, livestock protection and fighting over resources has over the years become an intrinsic part of Somali life. Consequently, the possession and use of weapons has become an inevitable part of people's lives. In some Somali communities, those who possess guns consider themselves battle-ready and potential victors in the event of an outbreak of conflict. In other communities, weapons are considered a sign of wealth, prestige, power and authority. When it comes to the payment of dowries in marriage, for instance, a man who is able to offer a gun is believed to make a better husband.<sup>16</sup>

During the Cold War, the penchant for gun possession was heightened by an influx of weapons into the country resulting from Siad Barre's attempt to stockpile arms, allegedly as part of a plan to create a 'Greater Somalia',<sup>17</sup> but also to prop up his regime against growing discontent. Around this time the US and the Soviet Union were competing for influence over Somalia because of its strategic location on the Gulf of Aden, a situation Barre exploited militarily. In the 1970s, for example, the Soviet Union supported Barre's regime by providing military aid in exchange for a base at Berbera on the coast. Arms to the value of \$260 million are estimated to have been delivered by the Soviets to Somalia between 1973 and 1977.<sup>18,19,20</sup> By the time Barre lost the support of the Soviets, who switched to Ethiopia, he had succeeded in raising what was then one of the largest armies in Africa.

The Soviet support was replaced by that of the US and the Barre regime was able to benefit militarily to the tune of about \$154 million between 1981 and 1991 in return for a military base for a US rapid deployment force at Berbera. Apart from the US and the Soviets, other powers, including China and Italy, have at different times variously provided huge amounts of military assistance to the country. Between 1978 and 1982, for instance, Italy delivered arms to the value of some \$380 million to Somalia. Also during the Ogaden war with Ethiopia, Egypt, Iran and Saudi Arabia are reported to have provided military assistance to Somalia.<sup>21</sup>

Moreover, years of militarisation of Somali society resulting from the emergence of clan-based movements after the Ogaden war and the cycles of conflict in the 1980s contributed significantly to the arming of civilians through a clan-based arms race in which some movements armed their sympathisers and forces. The SNM is alleged to have been one movement distributing weapons. The insatiable demand for arms was fed by illegal arms brokers and businessmen. As a result, there

were significant arms acquisitions from Central Europe between 1992 and 1994.<sup>22</sup> The volume of black-market arms transactions, as well as purchases in open arms markets such as the Bakaraaha Arms Market (BAM) and the Argentine Market, increased significantly.<sup>23,24</sup>

The early 1990s saw the dissolution of the armies of both Somalia and Ethiopia, which were considered two of Africa's largest Cold War armies. This released a large quantity of arms into the hands of the region's armed groups, criminal elements and civilians. In Somalia alone, an estimated 500 000 weapons ended up in the hands of competing warlords.<sup>25</sup> The large outflow of weapons also made them available for sale in the region, leading to the emergence of a vibrant arms trade centred on and around Somalia in markets such as the Bakaraaha.<sup>26</sup>

Because of the prevalence of small arms and light weapons in Somalia, virtually all the armed conflicts within its borders have seen extensive use of weapons and equipment such as semi-automatic guns, rocket launchers, rocket-propelled grenades (RPGs), landmines, guns mounted on pick-up trucks and personnel carriers.<sup>27</sup> The extensive prevalence of arms in Somalia has helped '[t]o sustain the ability of all actors to engage in continued violent and deadly conflicts' and is a determinant in the security dynamics of the country.<sup>28</sup> Table 1 provides a detailed timeline of 48 incidents of

armed violence and arms-related events during 2008 that serve as a classical illustration of the role of arms in the Somalia imbroglio even after years of international resolutions. Data for 2008 has been used owing to the difficulty of collating data on the situation in the early 1990s, and also to highlight the extent to which arms still impact on the security situation in Somalia despite an arms embargo having been in place for 16 years.

## International response and the arms embargo

Even though the UN initially withdrew its operations from Somalia in response to the heinous anarchy that reigned after the toppling of Barre, especially the targeting of humanitarian aid workers, mounting international pressure for the organisation to respond to the rapid deterioration of security, increasing displacement and loss of life and damage to property across the country finally caused the UN to respond.<sup>30</sup> The Security Council, acting within its mandate under Chapter VII of the Charter, passed resolution 733 in January 1992 in which it expressed concern about the insecurity in Somalia and described the situation as a threat to international peace and security.

The Security Council requested the Secretary-General immediately to undertake the actions necessary

**Table 1** Timeline of major armed violence and arms-related events in Somalia, January to December 2008<sup>29</sup>

Date	Weapons-related or violent event
17 Jan 2008	Islamic militants fire off mortar shells and guns in Mogadishu, sparking crossfire with Ethiopian troops that leaves at least 20 people dead.
28 Jan 2008	Three staff members of Médecins Sans Frontières (MSF-Holland) are killed and one is wounded when their vehicle hits a landmine on a road between their home and the hospital where they worked in the southern Somali town of Kismayo.
3 Feb 2008	A roadside bomb kills eight civilians and wounds nine others when it explodes near a minibus full of passengers in Mogadishu.
5 Feb 2008	A grenade attack kills 21 people and wounds 100 in Bossaso, Puntland.
12 Feb 2008	Gunmen kidnap a German aid worker after exchanging fire with his bodyguards.
5 Mar 2008	A fire-fight between Islamic insurgents and Somali police at a checkpoint outside the capital leaves five people dead.
29 Mar 2008	At least 10 people are killed in Mogadishu after government troops shell a market area known to be an insurgent hideout.
6 Apr 2008	Four people are killed in Mogadishu in separate attacks overnight.
13 Apr 2008	Suspected Islamist insurgents drag two British nationals and two Kenyans out of their home in Beledweyn and kill them.
23 Apr 2008	Four more corpses are found in Mogadishu, bringing the death toll from the weekend's shelling and seizure of small towns by the Islamists to at least 103.
29 Apr 2008	An explosion in south-western Somalia kills four Ethiopian troops and the subsequent gunfire kills two civilians.
30 Apr 2008	Ethiopian troops allied to Somalia's shaky government open fire on civilians in south-western Somalia, killing 13, after an explosion there had killed two soldiers.
4 May 2008	Islamic insurgents kill at least three Ethiopian soldiers during a gunfight in Mogadishu. Inter-clan fighting in western Somalia, which broke out the previous evening, left at least 12 people dead and at least 15 others wounded.
5 May 2008	Troops open fire and kill at least two people as tens of thousands of people riot over high food prices in Mogadishu.

Date	Weapons-related or violent event
8 May 2008	Two police officers and five insurgents die when Islamist fighters fire RPGs and heavy submachine guns at the heavily-guarded K4 district of Mogadishu. Three other insurgents are captured. Islamist spokesman Abdirahim Issa Adow says fighters have killed eight policemen, while one Islamist fighter died and two were wounded.
21 May 2008	Dozens of heavily-armed gunmen kidnap two Italian aid workers and their Somali colleague in southern Somalia.
23 May 2008	A roadside bomb explodes near a compound housing AU peacekeepers in Mogadishu, causing some casualties.
26 May 2008	Islamist insurgents attack AU peacekeepers in Mogadishu, sparking fierce clashes that kill at least 13 Somalis, most of them civilians.
8 Jun 2008	Twelve civilians are killed in Mogadishu in crossfire between troops and suspected Islamic insurgents.
20 Jun 2008	The UN reports over 40 civilian casualties in Mogadishu the previous week.
21 Jun 2008	Hassan Mohamed Ali, head of the UN High Commission for Refugees in Mogadishu, is abducted from his home on the outskirts of Mogadishu. He is released in late August, but has suffered bullet wounds in the neck and knee.
22 Jun 2008	Gunmen kill Mohamed Hassan Kulmiye, a senior official with the Mogadishu-based Centre For Research and Dialogue (CRD).
6 Jul 2008	Gunmen open fire on people leaving a mosque in Mogadishu, killing one of the country's senior UN officials.
13 Jul 2008	A World Food Programme contractor is gunned down.
3 Aug 2008	A bomb hidden under a pile of garbage kills at least 20 people, half of them women.
21 Aug 2008	Armed pirates hijack a Japanese chemical tanker with 19 crew, an Iranian bulk carrier with 29 crew and a German cargo ship with nine crew off Somalia's coast.
22 Aug 2008	Fighting between the Islamic militia and clan militia kills 10 people in the southern port of Kismayo. According to witnesses, radical Islamic militia control most of Somalia's third-largest city after three days of fighting in which some 70 people die.
23 Aug 2008	Pirates fire on a Japanese-operated cargo ship off Somalia and attempt to board the vessel, but fail to seize it.
3 Sep 2008	Mortar shells slam into Mogadishu as insurgents vow to intensify attacks during the Muslim holy month of Ramadan. At least four people are killed.
14 Sep 2008	At least six people, including an AU peacekeeper, die in two separate incidents in Mogadishu.
15 Sep 2008	An AU peacekeeper is killed in a roadside bomb explosion in Mogadishu.
22 Sep 2008	Mortar rounds slam into a market in Mogadishu, killing up to 30 people, including children, and overwhelming hospitals with dozens of wounded.
25 Sep 2008	Pirates seize <i>Faina</i> , a 176 m Ukrainian cargo vessel loaded with 33 tanks and ammunition, off eastern Somalia.
29 Sep 2008	Islamist insurgents attack government forces and AU peacekeepers in Mogadishu overnight, killing at least four.
1 Oct 2008	At least seven civilians are killed in mortar-fire exchange that erupts when an AU plane lands at Mogadishu airport in defiance of a 'ban' by Islamist militia.
10 Oct 2008	Armed pirates off Somalia hijack a Greek chemical tanker with a crew of 20.
13 Oct 2008	Islamist insurgents attack AU peacekeepers in Mogadishu, triggering fierce clashes that kill a civilian and wound five others.
15 Oct 2008	Armed pirates hijack a bulk carrier with 21 crew members in the Gulf of Aden.
16 Oct 2008	At least 23 people are killed in Mogadishu when insurgents attack camps housing AU and Ethiopian troops, triggering heavy clashes.
19 Oct 2008	Three gunmen shoot an employee of the UN Children's Fund, UNICEF, as he walks home in the southern town of Hudur.
21 Oct 2008	Somali gunmen acting as freelance coastguards free a hijacked Indian dhow and its 13 crew members after a battle with pirates off the country's northern coast. The cargo-laden vessel was en route to Somalia from Asia when it was seized.
25 Oct 2008	A gunman kills Duniya Sheik Daud, a Somali employee, bringing the number of aid workers killed in 2008 to 15.
29 Oct 2008	Five suicide car-bomb attacks kill 28 people in Hargeisa, the capital of Somaliland, and in Bosasso, Puntland.
5 Nov 2008	Six employees of the French aid group Action Against Hunger are kidnapped in the town of Dhusamareb.
26 Nov 2008	Two foreign journalists are kidnapped while doing a story on the rampant piracy in northern Somalia.
2 Dec 2008	A Burundi soldier serving with African Union forces in Somalia is killed while fighting Islamist insurgents in Mogadishu.
5 Dec 2008	At least 12 people are killed as mortar shells rain down on homes and a small market in Mogadishu.
30 Dec 2008	Mortars slam into a busy market in Mogadishu.

to increase humanitarian assistance to the affected population and to contact all parties involved in the conflict to commit to a cessation of hostilities, a ceasefire and a process of reconciliation, and to facilitate the delivery of humanitarian assistance. The Secretary-General was also tasked to take measures to ensure the safety of personnel sent to provide humanitarian assistance. The Security Council also called on all states to refrain from any actions that might contribute to insecurity in Somalia and undermine the peaceful settlement of the conflict. The resolution also charged all states to 'immediately implement a general and complete embargo on all deliveries of weapons and military equipment to Somalia until the Security Council decides otherwise'.<sup>31</sup>

The Security Council thereby imposed a comprehensive and mandatory international arms embargo on Somalia. According to the preamble to the resolution, this action was taken primarily for the purpose of establishing peace and stability in the country.<sup>32</sup> Not having provided for any exemptions whatsoever, the embargo imposed a restriction on the importation of any military equipment by all actors within Somalia. This included such items as military helmets, non-lethal military equipment intended for humanitarian or protective use and even military equipment for use by the UN-approved mission. By inference, the embargo lacked a specific target so as to make its implementation and monitoring easy and effective, and to prevent any circumvention of the provisions by arms brokers and conflict profiteers. To assist humanitarian organisations, UN agencies and UN-approved missions to realise their mandates and missions, the Council granted exemptions for protective clothing, flak jackets and military helmets for such bodies in paragraphs 2 and 3 of resolution 1356 (2001), paragraph 5 of resolution 1725 (2006) and paragraph 6 of resolution 1744 (2007). The exemptions were reiterated in paragraphs 11 and 12 of resolution 1772 (2007).<sup>33</sup>

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The embargo was only part of what can be termed the Council's 'package response' to the Somalia imbroglio

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Generally, arms embargoes are instituted as a way of modifying the behaviour of parties in a conflict situation by restricting the supply of arms.<sup>34</sup> Achieving this goal, however, is a function of the specificity of targeting, the institution of enforcement measures and the establishment of a monitoring mechanism.<sup>35</sup> Within this context

the resolution should have outlined specific targets for its restrictions, established modalities for end-user arms certificate verification, restricted the sale of arms at all levels, including suppliers, and instituted an implementation and monitoring framework. In the case of Somalia, however, the embargo was broadly imposed on the territory of Somalia and lacked specific modalities for end-user certificate verification, a prohibition on weapons sales or the delivery of weapons to actors outside the country and, most important, a call for the immediate establishment of a framework for implementation and monitoring.<sup>36</sup> The effect of these defects in the definition and scope of the embargo clearly highlight the inherent weaknesses of the embargo and became the precursor to some of its challenges.

## IMPLEMENTATION AND MONITORING MECHANISM

The Security Council is the principal body legally permitted by the UN Charter to utilise the arms embargo as an instrument for the maintenance of international peace and security. In the 1960s, however, the Council's quest for effective monitoring, oversight and verification of the sanction on Southern Rhodesia led to the establishment of a committee charged with that function, known as a sanctions committee. Since then, the Council has regularly made use of sanctions committees in supervising the implementation and verification of imposed sanctions across the world.<sup>37</sup> This has been the case after 1990 in particular, with 25 of the 27 mandatory UN arms embargoes imposed by the Security Council being administered by committees.<sup>38</sup> In Africa, 15 of the 16 mandatory arms embargoes after 1990 have seen the establishment of committees to administer them. See Table 2 for a detailed listing of these embargos and the dates the respective sanctions committees were established.

Sanctions committees are established by Security Council resolutions and derive their mandate from the Council. Operationally, they are required to report regularly to the Council on suspected and/or reported embargo-busting activities that have been brought to their attention by UN member states, regional organisations, peacekeepers or a Sanctions Monitoring Group.<sup>40</sup>

Apart from sanctions committees, the Council extensively uses independent groups and panels of experts as another means of providing oversight of its embargoes. Such bodies investigate allegations and/or reports of embargo-busting activities and are usually required by the resolution establishing them to report to the Sanctions Committee, which in turn reports to the Council. The first use of such a body was the creation of the UN International Commission of Inquiry established

**Table 2 UN arms embargoes in Africa, 1990 to 2006<sup>39</sup>**

Targeted entity	UNSC Resolution	Date imposed	Date lifted	Year sanction committee was established
Somalia	733	23 Jan. 1992	Still in force	1992
Libya	748	31 Mar. 1992	12 Sept. 1994	1992
Liberia	788	19 Nov. 1992	7 Mar. 2001 <sup>a</sup>	1995
Insurgents in Angola	864	15 Sept. 1993	9 Dec. 2002	1993
Rwanda	918	17 May 1994	16 Aug. 1995 <sup>a</sup>	1994
Insurgents in Rwanda	1011	9 June 1995	Still in force	1994
Sierra Leone	1132	8 Oct. 1997	5 June 1998 <sup>a</sup>	1997
Insurgents in Sierra Leone	1171	5 June 1998	Still in force	1998
Eritrea and Ethiopia <sup>b</sup>	1227	12 Feb. 1999	17 May 2000 <sup>a</sup>	-
Eritrea and Ethiopia	1298	17 May 2000	15 May 2001	2000
Liberia	1343	7 Mar. 2001	22 Dec. 2003 <sup>a</sup>	2001
Insurgents in Ituri, North and South Kivu, Democratic Republic of Congo	1493	28 July 2003	18 Apr. 2005 <sup>a</sup>	2004
Liberia	1521	22 Dec. 2003	Still in force	2003
Insurgents in Darfur, Sudan	1556	30 July 2004	29 Mar. 2005 <sup>a</sup>	-
Cote d'Ivoire	1572	15 Nov. 2004	Still in force	2004
Darfur, Sudan	1591	29 Mar. 2005	Still in force	2005
Insurgents in Democratic Republic of Congo	1596	18 Apr. 2005	Still in force	2004

<sup>a</sup> Different coverage or new demands were stipulated in a new resolution on or after this date.

<sup>b</sup> Voluntary embargo

by resolution 1013 (1995) to investigate reports of embargo violations in Rwanda.

The same monitoring pattern has been established for Somalia. The Security Council, which reserves the overall legal right to oversee the embargo, has established a Sanctions Committee and a Monitoring Group, both of which are administratively supported by the Sanctions Branch of the UN Secretariat. The Somalia embargo has thus been provided with a four-pillared monitoring structure. Having discussed the role of the Security Council in the embargo monitoring process, the remaining arms embargo monitoring components for Somalia are discussed in greater detail below.

### Somalia Sanctions Committee

The resolution establishing the Somalia arms embargo (resolution 733 (1992)) did not spell out the framework for the development of a monitoring mechanism for Somalia. However, after three months of inactivity on the embargo, Council Resolution 751 (1992) pronounced the establishment of a sanctions committee for the Somalia

embargo in accordance with rule 28 of the provisional rules of the Council, and specifically charged it to do the following:

- Seek information from states on actions taken by them to implement the embargo
- Consider the reported information on violations
- Make recommendations to the Security Council on ways to increase the effectiveness of the embargo
- Offer recommendations deemed appropriate in response to violations

Reasons for the three-month hiatus before the passing of Resolution 751 are difficult to find. It can be argued that the Security Council's pronouncement of the embargo was not a conscious and immediate strategy to counter the anarchy in Somalia, but was only part of what can be termed the Council's 'package response' to fluid armed conflict situations such as the Somalia imbroglio. In such responses, the Security Council condemns the situation, calls for a ceasefire, enjoins states to cooperate and not to jeopardise the security situation, asks for

humanitarian access and/or cooperation with humanitarian agencies and, in some cases (such as Somalia), calls on states to refrain from delivering arms into the country.

Indeed, if the Council really had placed emphasis on the use of the embargo as a strategic instrument to quell the armed conflict, one would have expected immediate action on the part of the Council to operationalise the embargo by establishing an implementation framework, a reporting mechanism and the enforcement of measures to deter embargo-busting activities. For more than a decade, up to the present, no Security Council actions and pronouncements regarding the Somalia embargo have included deterring measures, not even naming and shaming. Even after the establishment of the 15-member sanctions committee in April 1992, little activity was seen with regard to the committee's core remit of monitoring and implementing the embargo. For the first eight years of its existence, the committee was basically inactive and is reported to have held just 15 formal meetings of a procedural nature.<sup>41</sup>

The Sanctions Committee on Somalia, like other sanctions committees, is required to take its decisions by consensus arrived at by means of a 'no-objection procedure'. Under this procedure the chairman of the committee is required to consult all members on a proposed decision before circulating such a decision to members. Members of the committee then have five days to respond, unless an emergency situation exists.<sup>42</sup> The chairman is able to act on a decision only if there is no objection from any member of the committee within the allocated time. This method of decision-making presents great difficulties since any of the 15 committee members, who tend to be guided by national interests, can veto the decision. In the case of Somalia, however, this situation has not occurred during most of the committee's existence primarily because little work has been done by the committee.

One of the most critical challenges of the monitoring group is that it is required to be based in Nairobi

The committee has for most of its existence relied on Somalia's neighbours and other East African countries to provide information on allegations, suspicions and reports of embargo-busting activities levelled against them, and to appealing to states to refrain from activities

that violate the embargo, such as in a Security Council press statement of 27 October 1999. By restricting itself in this manner, the committee can be said to have relied primarily on the cooperation and goodwill of states in the execution of its functions. As can be expected in an anarchic international system characterised by 'national interestism', many states not only denied the allegations of embargo-busting activities levelled against them, but also fell short on the provision of information. Consequently, in spite of ample public knowledge of and even Security Council presidential reports on gross embargo violations, reports by the sanctions committee to the Security Council did not provide any concrete details or even allude to violations of the embargo.<sup>43</sup> This discrepancy between the committee's reports and the reality on the ground brought the committee's effectiveness into question.

## The Monitoring Group

In an effort to improve the effectiveness of the sanctions committee and ultimately the oversight of the embargo, the Security Council proposed in 2002 the establishment of a mechanism for the generation of independent information on violations. To be able to institute such a mechanism smoothly, the Council tasked a two-member team of experts to advise on the necessity and prospects of instituting a panel of experts to assist with the generation of the required information. On the basis of their findings and recommendations, the Council instituted a three-member panel of experts that had the primary responsibility of supporting the sanctions committee in its activities. In 2003, the mandate of the panel was expanded to include the following tasks:

- Investigating violations of the Somali arms embargo by land, air and sea, in particular by pursuing any sources that might reveal information related to violations
- Detailing information and making specific recommendations in relevant areas of expertise related to the violations and the measures required to give effect to and strengthen the arms embargo in its various aspects
- Carrying out field-based research, where possible, in Somalia, its neighbouring states and other states, as appropriate
- Assessing the capacity of states in the region to implement the arms embargo fully through a review of their national customs and border control regimes
- Focusing on ongoing arms embargo violations, including the transfer of ammunition, single-use weapons and small arms
- Seeking to identify those who continue to violate the arms embargo inside and outside Somalia, and

their active supporters, and providing the Security Committee with a draft list for possible future action<sup>44</sup>

In addition to this expansion of mandate, the panel was converted into a monitoring group made up of four members based in Nairobi, Kenya. The mandate of the monitoring group has since been renewed every six months.

The monitoring group functions by using data collecting techniques such as questionnaires, interviews, visits to countries and field trips. It submits reports on its activities to the Security Council via the sanctions committee every six months. As an entity established by a resolution of the Security Council, the monitoring group draws its operational mandate from the Council, but is guided in its operations by the sanctions committee. Notwithstanding this, the group is required to work independently of the committee's influence. In its operations, however, one of the most critical challenges of the monitoring group is the fact that it is required to be based in Nairobi, like most UN agencies operating in Somalia. Even though this is for security reasons, it affects the ability of the group to monitor the day-to-day dynamics surrounding the embargo in the country in an effective manner.

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Despite the existence of a monitoring framework, much remains to be done for the effective implementation of the arms embargo in Somalia

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### Sanctions Branch of the UN Secretariat

The sanctions committee and the monitoring group rely heavily on the Sanctions Branch of the UN Secretariat for logistical and administrative support, including arrangements for meetings and the circulation of information by letter, report and *note verbale*. One of the most important supports the Sanctions Branch of the UN Secretariat provides to the entire monitoring framework is the retention of the requisite institutional memory necessary for continuity in the implementation and monitoring of the embargo. Membership of neither the sanctions committee nor the monitoring group is permanent and it is the duty of the Secretariat to orient new members towards the nature, modus operandi and historical context within which the bodies operate and members are required

to function. The Secretariat also serves as a reference body that members of the sanctions committee and the monitoring group consult for any embargo information or guidance required.

The Security Council, the sanctions committee, the monitoring group and the Sanctions Branch of the Secretariat, which form the monitoring framework of the Somalia arms embargo, act independently but in an interdependent manner towards the implementation of the embargo. However, the vertical operational relationship between the Security Council, the sanctions committee and the monitoring group poses some problems.

The first difficulty is the delay that occurs in the flow of information from the field to the Security Council where action pertaining to the strengthening and direction of the embargo must occur. The second difficulty is that the structure denies the Security Council first-hand feedback from a body it has mandated to investigate and make recommendations. These problems have dire implications for the character of the Security Council's responses concerning the embargo and the overall surrounding dynamics of the sanctions regime on Somalia, as will be discussed later.

### Peacekeeping forces and the embargo: the context of AMISOM

Generally, peacekeeping forces contribute to the enforcement of arms embargoes by reporting violations for investigation, by assisting with the conduct of investigation and also by assisting with the removal of arms in domestic circulation within the framework of demobilisation, disarmament and re-integration (DDR) processes. Despite the existence of a monitoring framework, much remains to be done in terms of monitoring and the effective implementation of the arms embargo in Somalia. In this regard, a widening of the monitoring net through the use of the AU Mission to Somalia (AMISOM) as a primary contributor to the monitoring and implementation activities would be laudable. However, none of these functions and/or benefits can be envisaged in the case of AMISOM for the simple reason that the mission has not been mandated for that function by the Peace and Security Council (PSC) of the AU.

Even if the mission were to be mandated to monitor the embargo, implementation of the mandate would still face considerable difficulties for two important reasons. First, AMISOM currently lacks capacity, being under-equipped and under-manned. Compared with an authorised strength of 7 650 troops supported by maritime and air components, the mission currently comprises about 3 000 troops made up of two battalions each from Uganda and Burundi.<sup>45</sup> Practically, therefore, the force is localised in its deployment, overstretched

and ineffective even in the delivery of its core mandate of supporting the Transitional Federal Government of Somalia (TFG) in stabilising the country, facilitating the provision of humanitarian assistance and creating conditions conducive to Somalia's long-term stabilisation, reconstruction and development.

Second, peacekeepers have been known to contribute to embargo-busting activities. ECOWAS peacekeepers in Liberia and Sierra Leone and the UN Mission in the Democratic Republic of Congo (MONUC) have, for instance, been variously alleged to have been involved in some embargo-busting activities, including facilitating the transfer of arms to embargo targets in the mission area.<sup>46</sup> Similarly, AMISOM personnel are alleged to have been involved in arms trading activities in various Somali arms black markets. According to the April 2008 report of the monitoring group, elements of AMISOM and the Ethiopian forces were reported to be involved in arms sales on the black market through local interlocutors.<sup>47</sup> Despite vehement denials, the accusations taint AMISOM's character and integrity in this regard and bring into question any attempt to engage its personnel in monitoring the arms embargo.<sup>48</sup> Proverbially, it would be synonymous with 'putting the cat to guard the mouse'.

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The contribution of AMISOM to the security situation could indirectly impact on the mutually reinforcing relationship between insecurity and arms acquisition

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Notwithstanding these challenges, the presence of peacekeepers presents an opportunity to impact directly on the arms embargo through deterrence and indirectly through their contribution to an improvement in the domestic security situation. As a neutral entity representing the international community in the quest for peace, the presence of AMISOM has the capacity to influence the behaviour of embargo-busters through deterrence. This stems from the fact that embargo-busters may not want their activities exposed to the international community through the force. In a study of some 27 UN arms embargo cases carried out by the Stockholm International Peace Research Institute (SIPRI) and the Department of Peace and Conflict Research of Uppsala University, for instance, it was noted that the presence of peacekeepers 'appears to have had a positive impact on target behaviour'.<sup>49</sup>

In addition, despite the extremely challenging nature of the security environment within which AMISOM operates, the force is still able to make an impact on the prevailing security situation through deterrence, preventive deployments, temporary accompaniment and protection through direct interaction with beneficiaries, among other innovative strategies, at least around the seat of the TFG. Through these strategies, the force can be said to be positively influencing the security situation in the country to some extent. If the force was to be adequately materially equipped and their capacity numerically strengthened, their contribution to the security situation in Somalia could have an indirect impact on the mutually reinforcing relationship between insecurity and arms acquisition, which is essential for effective implementation of the embargo.

## IMPLEMENTATION DYNAMICS AND CHALLENGES OF THE EMBARGO

A number of dynamics define the context within which the Somali arms embargo operates and provides the basis for understanding the performance of the embargo. These are discussed in detail below.

### Council dynamics and the emergence of impunity

Since the implementation of the Somali arms embargo, the Security Council has demonstrated its commitment to it in three major ways. The Council has established a monitoring framework, as discussed above, to monitor implementation of the embargo, to investigate violations and to make recommendations on more effective implementation. It has maintained this framework by renewing the mandates of the Somali Monitoring Group every six months and it has called on UN member states to refrain from violating the embargo and to report any violations known to them. Out of these, a number of reports have been submitted to the Security Council by the various bodies of the implementation framework – the sanctions committee, the monitoring group and, at one point in time, the team of experts. In all, 11 reports have been submitted by the sanctions committee, beginning with its report of 15 January 1996 following the Security Council's formal requirement of March 1995 that annual reports be submitted by all sanctions committees.<sup>50</sup> The monitoring group and its predecessor, the team of experts, have produced 10 major reports during their existence.<sup>51</sup>

In all the reports submitted there has been consistent evidence of arms embargo violations by Somali faction leaders, their regional sponsors and individual arms brokers. The March 2003 report of the monitoring group,

for instance, indicated that it had found clear patterns of flagrant violations that established that some states, including some states in the region, had been giving weapons, equipment, military training and financial support to factions in the Somali conflict. It also found that despite the embargo, Somali factions were still purchasing weapons on the international arms market.<sup>52,53</sup> Similarly, in the March 2005 report it was revealed that 34 individual arms shipments had been uncovered that were in direct contravention of the embargo, undertaken by individual Somalis such as Sheikh Yusuf Said Indohaade, governor of lower Shabelle, Bashir Rage, a prominent businessman, Sheik Hassan Dahir Aweys, an Al Tihad leader, some members of the TFG, as well as opponents to the TFG, in particular elements in the business community, warlords and traders.

## The inaction of the Security Council has contributed to the emergence of a culture of impunity

The monitoring group also advised in the October 2005 report that Ethiopia, Yemen and other states in the region had supplied arms directly to the TFG, whilst actors opposed to the TFG were supplied by criminal groups and arms trading networks largely through the Bakaraaha Arms Market (BAM). It was noted further that the BAM at Irtofte in Mogadishu was growing phenomenally owing to the continued supply of arms by foreign criminal groups and arms trading networks operating in Somalia.<sup>54</sup> The November 2006 report identified violations of the embargo by countries such as Djibouti, Egypt, Eritrea, Ethiopia, the Islamic Republic of Iran, Lebanon (through Hizbollah), the Libyan Arab Jamahiriya, Saudi Arabia, the Syrian Arab Republic and Yemen.<sup>55</sup> The monitoring group has also consistently in each report given recommendations with regard to the strengthening of the embargo. The recommendations include the adoption of secondary sanctions regimes, such as financial sanctions against individuals deemed to be actively involved in violations of the embargo; a travel ban; diplomatic sanctions whereby the UN would revoke representative rights to the UN and its agencies; and an integrated arms embargo which would ban allied activities, such as the importation of charcoal and fish, from Somalia.<sup>56</sup>

Notwithstanding the explicit findings and strong recommendations in the monitoring group's reports,

there has not been a single instance in which any of the embargo-busters (including states, individuals and faction leaders) has been held accountable for their actions and inaction by the Security Council as a way of registering the Council's serious intent to ensure the effective implementation of the embargo. The inaction of the Security Council in bringing violators to task through punitive measures has contributed to the emergence of a culture of impunity in which some of the violators perceive the Somali embargo regime as merely being 'part of a package response' administered by the proverbial 'dog that neither barks nor bites'. As the March 2003 report of the monitoring group puts it, there is a feeling of 'business as usual' among violators and arms embargo violation will continue until such time as the Security Council begins to hold violators accountable for their actions.<sup>57,58</sup>

The Security Council's lack of a strong hand in enforcing the embargo can be explained in part by the internal political dynamics within the Council, the lack of a strong enforcement capacity on the part of the Council and the absence of a comprehensive Council strategy towards Somalia.

## Embargo-busting activities of other states

Security Council Resolution 722 (1992) calls on 'all states to immediately implement a general and complete embargo on all deliveries of weapons and military equipment to Somalia until the Security Council decides otherwise'.<sup>59</sup> By these words, the Council places all states as the fulcrum around which the implementation and effectiveness of the embargo revolves. This is perhaps the basis upon which the early monitoring framework found it justifiable to resort to or rely on the goodwill of states in the implementation of the embargo.

Indeed, the reliance on states, particularly those in the East African region, to enforce the embargo is not new to the practice of embargo implementation across the world, especially in Africa. A review of sanctions regimes across Africa suggests that the effectiveness of embargoes on the continent is partly a product of the ability and willingness of other states to contribute to its enforcement. The Somali embargo is thus, by default, tied to the apron strings of states that share borders with Somalia, such as Kenya, Eritrea, Ethiopia and Yemen, amongst others. Since the embargo's imposition, therefore, the roles of these and other states have remained indispensable in the overall performance of the sanctions regime.

Unfortunately, however, the 10 reports of the monitoring group submitted to the Council since 2003 have variously implicated some of the states contiguous to Somalia, particularly Djibouti, Ethiopia, Yemen and

Eritrea, as well as other states, including the Islamic Republic of Iran, Libyan Arab Jamahiriya, Saudi Arabia and the Syrian Arab Republic. They have all been reported by the monitoring group as having busted the embargo in any one or more of the following ways:

- Direct delivery of military material to factions in the armed conflict
- Provision of military services, such as training
- Use of their territories for the trans-shipment of arms to Somalia
- Entering into Somali territory with weapons for use by troops of the state in question (the embargo violator), as was the case of Ethiopia and its troops during their presence in Somalia

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Eritrea's support of anti-TFG factions can be explained within the leitmotif that 'my friend's enemy is my enemy too'

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Although many of the states have vehemently contested the monitoring group's findings, their embargo-busting activities can be explained partly within three broad paradigms. First is the lack of capacity on the part of some states to rigidly enforce an arms embargo. This is a reality for many African states, given that they often still grapple with domestic security issues and factually lack the capacity to police their borders effectively. For instance, the Nairobi Protocol for the prevention, control and reduction of small arms and light weapons in the Great Lakes Region and the Horn of Africa provides a framework for regional action in all matters relating to proliferation of small arms and light weapons. Since the institutionalisation of the framework, important progress has been made in many signatory states, ranging from the establishment of national focal points to national action plans on arms control and management, public awareness-raising and the destruction of some weapons. Even though Somalia has been a signatory to the protocol since 2005, the highly militarised nature of Somali society and the conflict raging in the country pose critical challenges to the framework being operationalised in the country and the region as a whole. The porous nature of borders in the region in particular provides an enabling environment for illicit arms trafficking syndicates and for the influx of weapons from Somalia into other countries in the region. Consequently, even if states have the will to enforce a clamp-down on arms proliferation

activities, their inability to police their borders effectively will continue to undermine their efforts.

Second is what could be explained as a lack of will to enforce the embargo for geopolitical reasons such as exist between Ethiopia and Eritrea, and what is alleged to be a proxy for the manifestation of their rivalry. This argument is discussed in more detail below. In cases such as these a state may be reluctant to enforce restrictions on arms deliveries, provided the end-user or ultimate beneficiary is an ally. Indeed, such a state may well actively undermine the effectiveness of the embargo in order to protect its own national interests. Thirdly, the lack of will could be due to the inability of the state to identify a commensurate nexus between the cost it will incur in enforcing the embargo and its national interest.

The persistent action of states in contravention of the arms embargo places extreme strain on the effectiveness of the embargo: as long as states, particularly those in the region, continue to indulge in activities that undermine the effectiveness of the embargo, there is little a monitoring mechanism can do to restrain arms transfers.

### Impact of regional security dynamics

The East African region is currently one of the hot spots of conflict on the continent. Apart from the conflicts in Somalia and Darfur, there is the ongoing, decade-long tension between Ethiopia and Eritrea. In the case of the latter, the rivalry is not limited to the border region over which the two countries are at war, but has found extension in other issues and territories. One such front is Somalia, which has become a battleground for a proxy war between the two countries. In the October 2005 and May 2006 reports of the Monitoring Group on Somalia, Eritrea is explicitly mentioned as providing support to factions opposed to the TFG, which is supported by Ethiopia.<sup>60,61</sup>

The context within which the rivalry has extended to Somalia stems principally from the border conflict, but also from other geopolitical interests. Ethiopia, for example, has a critical interest in the internal dynamics of Somalia because of the extent to which the promotion of fundamentalism in Somalia can extend into Ethiopia. Coupled with this is the long-standing Ogaden issue, which is fundamental to an understanding of Ethiopia-Somalia relations. In the case of Eritrea, the basis for its support of factions opposed to the TFG stems principally from what can be described as 'commonality of enemy'. With Ethiopia's strong backing of the TFG, factions opposed to the TFG have invariably become opposed to Ethiopia, especially during Ethiopian troop presence in Somalia. Eritrea's support of anti-TFG factions can therefore be explained within the context of the leitmotif that 'my friend's enemy is my enemy too'. It can also be

argued that it is in the interest of Eritrea to keep Ethiopia perpetually entangled in the complicated Somali security maze as a way of preventing Ethiopia from concentrating on the border issue with Eritrea.

With the two countries deeply entangled in the security situation in Somalia by proxy as a result of their own strategic interests, their continued support for their allies can be envisaged. This implies that their alleged financial and military support of their allies will continue to undermine the effectiveness of the embargo.

## Increasing domestic militarisation and the war economy

The complexities associated with the cycle of conflict in Somalia and the increasingly worsening security situation in the country have contributed to the creation of two complexes in Somali society: the militarisation of society and the emergence of a 'culture of living by the gun'. Consequently, arms-based crimes such as predation, pillaging and piracy in the Gulf of Aden have become the means of survival for many in Somalia. For these, the gun is a means to livelihood. For those who happen to be victims of such criminality, gun possession is the only means of protecting their lives, property and investment. The effects of this on the arms embargo are daunting, since insecurity is a basis for arms stockpiling. Increasing insecurity has always implied increasing arms demand, which is subject to a supply response by illegal arms racketeers. The Somali situation is thus subject to the illicit demands of faction leaders, a militarised and insecure Somali society, the daring exploits of arms profiteers attempting to satisfy a vast demand and the outflow of superfluous arms from Eastern Europe at the end of the Cold War, which in combination present a massive challenge to UN attempts aimed at enforcing the embargo.

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Arms embargo in a conflict situation is synonymous with a fire-fighter wrapping a burning man in a blanket

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The increased significance of arms in Somali society and the continued militarisation of the people have contributed to the emergence of a war economy that is based in part on the smuggling of weapons, producing a fertile ground in which illicit arms trafficking networks thrive. For some, the supply of arms to Somalia is motivated purely by economic considerations, rather than having political

objectives. A typical example is the alleged sale of arms by elements within AMISOM, even though there is a possibility that some of those weapons could be used against them at some point in time. Associated with this is the fungible nature of weapons. Many warlords, individuals and militiamen reportedly sell their weapons when they are in dire need of money. These same people repurchase weapons when their financial standing improves and the need arises. By so doing, they take advantage of the fungibility of weapons arising from an insecurity-driven arms stockpiling that further undermines the arms embargo.

## Absence of a functioning central authority

Coupled with the hurdle of increasing insecurity in Somalia is the lack of a strong central government to administer the day-to-day functions of the Somali state, a situation that has prevailed since the fall of the Barre regime in 1991. The absence of a functioning central authority is evident in the country's uncontrolled borders. Somali territorial waters have also become a haven for international pirate activity in the Gulf of Aden. The challenge this situation poses to the arms embargo is that there is no oversight of arms trading in the country and of arms movements across the borders. Furthermore, in its struggle to take control of the country, the lame federal government in Mogadishu has also been accused of involvement in embargo-busting activities.

## FAILURE OF THE EMBARGO: A MISSED OPPORTUNITY?

The purpose of an arms embargo in a conflict situation is synonymous with that of a fire-fighter wrapping a burning man in a blanket or closing the windows when the house begins to burn. The blanket or the closed window deprives the combustion process of oxygen, thereby quenching the fire in time. An arms embargo, in its strictest sense, aims to quell armed conflict by denying participants in the conflict access to weapons with which to perpetrate violence.<sup>62</sup> In the case of Somalia, *ceteris paribus*, the implied effect of the Security Council's arms embargo on Somalia would have been a gradual decline in armed hostility as a result of access to weapons by armed groups and Somali society in general being gradually reduced. This embargo would have reduced the role of weapons in the ongoing debacle, impacted on the increasing militarisation of Somali society and ultimately affected any prevailing proclivity to resort to arms in the event of conflict. Concurrent with other dynamic political processes and international conflict resolution efforts, factions would have been forced to give peace a place in their list of options.

However, such a domino effect on the Somali peace process has been missed since the laxity of states to enforce the embargo, the lack of punitive measures, weak state borders and related complexities have vari-ously contributed to the abysmal failure of the embargo regime. Consequently, instead of the embargo helping to quench the raging inferno of armed conflict, Somalia has become a suction point for all kinds of arms and conflict profiteers in the full glare of a UN arms embargo. In addition, the country has become a fount of arms for other parts of the African continent. The international community has missed an opportunity to influence the situation in Somalia and contribute to the peace process because of its inability to deny the situation a critical element.

## Conditions for effective arms embargoes in Africa

From the dynamics surrounding the Somali arms embargo, a number of conditions that impact on arms embargoes in Africa can be deduced. These include, but are not limited to, the following:

- A functioning central authority
- The support of other states
- Improving the domestic security situation
- Character of the UN Security Council regarding the enforcement of the embargo
- Regional and international security dynamics
- The extent of militarisation of the host society
- The extent and pervasiveness of the prevailing war economy

Of these seven factors, and others that may be identified from embargoes imposed elsewhere in Africa, a number are necessary whilst others are only sufficient conditions for the effective implementation of an embargo. This section categorises these factors into two broad groups: necessary and sufficient conditions.

### Necessary conditions

The concept of a necessary condition stipulates that for a condition *X* to be necessary for the occurrence of a condition *Y*, the falsity or non-existence of *X* should guarantee the falsity or non-existence of *Y*. This implies that without *X*, *Y* cannot exist.<sup>63</sup> Within the context of the Somalia embargo, four main conditions can be classified.

#### *A functioning central authority*

The absence of a strong central government has dire implications for the effectiveness of an arms embargo. In

the absence of a functioning government the functions of statehood, particularly the maintenance of territorial integrity, practically dissipate, thereby exposing the territory to various forms of illicit activity, including arms smuggling and arms proliferation. In Somalia, border-control authorities, which are traditionally state-controlled, do not exist. The country's entire border is thus unprotected and vulnerable to entities intent on smuggling illicit weapons and ammunition in or out of the country. Effective border control is intertwined with domestic efforts to fight illegal arms racketeering and arms proliferation, and these in turn are determinants of the effective implementation of an embargo. The existence of a legitimate and functioning authority that, at a minimum, is able to exercise some control over the territory of the state is necessary for successful arms embargo enforcement.

This means that the effectiveness of the Somali arms embargo is, to some extent at least, tied to the strength of the TFG. The feebleness of this 'government', as evidenced starkly by the country's increasing lawlessness, its criminality (piracy, in particular) and its porous borders, is one of the factors in the current failure of the embargo. For the embargo to make any impact, there needs to be an authority that provides some border policing and that can clamp down on illegal arms racketeering, especially the clandestine activities at BAM.

#### *The support of other states*

The success of an embargo is dependent on support by other states. Other states can impact on an arms embargo in several ways, including the direct delivery of military materiel to factions in the armed conflict, the provision of military services such as training, the use of their territories for the trans-shipment of arms and the supply of military material for the use of the embargo violator's own troops in the conflict territory, as was the case with Ethiopia's direct involvement in Somalia. To contribute to the success of an arms embargo, therefore, other states must prevent their territories being used for arms trans-shipments to the embargoed territory. States with arms manufacturing industries should consider the conversion of these industries to general manufacturing and should destroy surplus weapons to prevent them from being used in conflict zones.<sup>64</sup>

In Africa, where many states may not be directly involved in the industrial manufacture of arms, it is important for states to prevent the use of their territories for trans-shipment activities and to discourage local amateur arms manufacturing and smuggling syndicates. They can also contribute to international attempts to name and shame rogue entities involved in arms racketeering and embargo-busting activities. Where such

commitment is lacking in a state bordering on an arms embargo target, it becomes virtually impossible to clamp down on embargo-busting activities.

The Somali embargo is explicably tied to other states in the region and any lack of interest, political will and enforcing capacity will seriously affect the proper functioning of the embargo.

### *Improving the domestic security situation*

Insecurity is a recipe for the development of an arms race between contesting entities, be they individuals, non-state actors or states. As long as the security situation continues to deteriorate in a war-ravaged society, the prospects of an embargo succeeding will remain a mirage. A societal quest for security in such situations becomes linked to the ability to secure arms for protection. People in such situations will go to any extent to secure arms.

This implies that an arms embargo, and this is the case in many African situations, should be part of a comprehensive conflict resolution process that impacts practically on the security situation on the ground. For Somalia this means that the ongoing peace processes must be stepped up, since improved security is a necessary determinant of the effectiveness of the embargo.

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The stronger and more operational the elements of a war economy, the greater the number of individuals who depend on it for livelihood and survival

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### *Character of the UN Security Council*

As the body responsible for international peace and security, and the one that employs the arms embargo instrument to achieve this, it is important for the Security Council to demonstrate that it is willing and able to use 'sticks' in realising the objectives of the arms embargoes it has imposed. The imposition of sanctions against embargo-busting states and the indictment of individuals who transgress arms embargoes would send a strong signal to all actors, quelling the situation in which embargoes are undermined with impunity across the world. Without such action by the Security Council, war situations will continue to be an opportunity for conflict profiteers to enrich themselves, states to fight by proxy and entities to arm their allies.

The four conditions outlined above are necessary for any success stories to be registered, not only in Somalia, but also other parts of the world.

### **Sufficient conditions**

A condition *X* is said to be sufficient for the occurrence of a condition *Y* if the existence of *X* brings about the existence/occurrence of *Y*, but it might not by itself bring about the existence of *Y*.<sup>65</sup> With respect to Somalia, three main conditions fall within this description.

#### *Regional security dynamics*

Conflicts across Africa, ranging from West Africa through the Great Lakes Region to other parts of the continent, have always either been affected by the prevailing security situation in the region, or have themselves at some time rippled out to affect the regional security situation. Critical to this are the proliferation of small arms and light weapons into and out of the conflict region and interference by regional security saboteurs in what might otherwise have remained a domestic situation. In Somalia, an example of the latter is the alleged proxy war between Asmara and Addis Ababa. The prevailing regional security situation is thus an important determinant of the success of an embargo. As far as Somalia is concerned, it can be said that as long as the rivalry between Ethiopia and Eritrea persists, the arms embargo will be compromised. A conducive regional security situation is thus a sufficient condition for achieving an effective embargo, even though it does not, in itself, guarantee the effectiveness of the embargo.

#### *The extent of militarisation of the host society*

Societies that have a long history of militarisation, such as that in Somalia, also have a long history of gun or arms possession.<sup>66</sup> This provides a breeding ground for arms racketeering and makes the imposition of an arms embargo difficult. It is thus a sufficient condition for a country under embargo to be less militarised.

#### *The extent of the war economy*

In Somalia, an extensive and pervasive war economy has developed around the arms industry in BAM. The stronger and more operational the elements of a war economy, the greater will be the number of individuals who are dependent on it for their livelihood and survival. Equally, the inherent forces that keep such an economy going, i.e. the complex relationships that build up around the supply and demand components of the economy, become more difficult to distinguish and to eliminate. The mutually re-enforcing relationships impact negatively on the success of an arms embargo.

It is important to realise that the necessary and sufficient conditions for an arms embargo in Somalia are not mutually exclusive in practice. An attempt to strengthen the embargo cannot come about by isolating any one of these conditions. They are all important. However, in terms of prioritisation, it is beneficial to pursue the necessary conditions first, since without progress with regard to these no overall progress can realistically be expected to be made with the enforcement of the embargo.

## CONCLUSION

The Somali arms embargo may have failed abysmally in restricting access to weapons by factions involved in the conflict, but it has not failed in offering instructive lessons for other embargoes on the continent and for strengthening the use of embargoes as an instrument for the pursuit of peace in the world. The Somali experience provides a number of important lessons. The first is that there should be an understanding and appreciation of the dynamics surrounding the embargo regime. These factors include the actions and inaction of the Security Council, the will, interests and capacity of other states, the existence of a functioning authority, the prevailing regional security dynamics, the extent of the affected society's militarisation and other factors as discussed. Secondly, there are necessary and sufficient conditions that have to be met in order to ensure the effectiveness of sanctions and strengthen arms embargoes.

Against the backdrop of lessons provided by the arms embargo on Somalia, it is important to be informed by the following policy recommendations:

- The pronouncement of an arms embargo should not merely be part of a 'package response' to armed violence or conflict. It should be seen as an important strategic response capable of impacting greatly on the nature and dynamics of armed conflict. This means that arms embargoes should, where appropriate, be included in any strategic response to conflict on the continent. All efforts should then be made to bring such embargoes into operation properly and to monitor their implementation effectively.
- The overreliance on the goodwill of states in the implementation of arms embargoes poses enormous challenges to their effectiveness owing to the anarchic nature of the international system and the extent to which national interests differ. Efforts should therefore be made to mandate the monitoring and implementation mechanisms appropriately so that the extent of violations can be monitored effectively without overreliance on other states for information.
- If an arms embargo is considered to be part of a broader response to a crisis, then other political and

diplomatic efforts to restore peace and improve the security situation in the affected country should be pursued vigorously, since insecurity has implications for the effectiveness of the arms embargo. As regards Somalia, the ongoing peace processes, particularly the Djibouti talks, should be pursued with vigour. In addition, as an improving security situation in Somalia is crucial to the effective implementation of the embargo, it is important for the African Union's Peace and Security Council (AUPSC) to consider strengthening the AMISOM troop presence. This is particularly crucial given the lack of enthusiasm on the part of the UN to deploy 'blue-hats' into Somalia after the withdrawal of the Ethiopian troops.

- In order for an arms embargo to contribute to the overall peace process, it is important that the Security Council deals effectively with all states and others found to be involved in embargo-busting activities. The Security Council needs to demonstrate its capacity to take punitive action against embargo-busting entities, especially in the case of Somalia. This will establish the Council's seriousness in realising the goals of the embargo and help obliterate the sense of impunity with which some entities undermine embargoes. Secondary sanctions against states and non-state actors undermining the embargo should be employed in this regard.
- When it comes to strengthening embargoes, conditions such as the existence of a functioning central authority, an improving domestic security situation and the character of the Security Council, especially as far as its willingness to take sanctions busters to task is concerned, are indispensable. With regard to the situation in Somalia, these factors pose daunting challenges as they are in practice non-existent.

If the lessons of the Somali arms embargo can be learnt, the effectiveness of the Security Council's embargo regime could be greatly improved.

## NOTES

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- 3 See Article 41 of Chapter VII of the UN Charter.
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- 6 These range from the killing of non-combatants to the abduction and killing of humanitarian workers, population displacements, the hijacking of ships and armed contestations across the country
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## ABOUT THIS PAPER

The Somalia arms embargo was imposed in January 1992 by Security Council Resolution 733 (1992) primarily to restrict the delivery of all weapons and military equipment into Somali territory as a way of impacting on the worsening security situation in the country. Sixteen years after its imposition, however, the country appears to be more awash with small arms and light weapons than it was before the embargo was imposed. This paper argues that even though the Somali embargo may have failed abysmally in restricting the access of factions in the conflict to weapons, it has not failed in offering instructive lessons for other embargoes on the continent and in strengthening the use of embargoes as an instrument for the pursuit of peace in the world. On this basis, the implementation and monitoring dynamics of the arms embargo in Somalia are discussed as a basis for not only strengthening it, but also shedding light on modalities and conditions for effective implementation of embargoes elsewhere on the continent. The author stresses that for an embargo to succeed in Somalia and elsewhere, the Security Council must demonstrate to embargo-busting entities its ability to employ 'sticks' in the enforcement of the embargo. Among other factors, the existence of a functioning central authority, the support of other states, an improving domestic security situation and the character of the Security Council in relation to the embargo are identified as necessary conditions for the effective implementation of any arms embargo on the continent.

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