

Mixed Migration Task Force Somalia

Mixed Migration through Somalia and across the Gulf of Aden



April 2008

EXECUTIVE SUMMARY

Every year, tens of thousands of migrants and refugees make the hazardous journey from their place of origin through the North East region of Somalia, Puntland, and onwards across the Gulf of Aden. There are various motivations for this movement, including flight from persecution and human rights violations as well as the desire to access better economic opportunities, which is what provides its “mixed” character. Many die during the journey, while others are subjected to abuse and injury at the hands of unscrupulous smugglers. Despite the inherent dangers, the number of persons attempting the crossing from Puntland to Yemen has increased significantly. In 2006, 22,000 persons were reported to have crossed to Yemen. In 2007, figures from UNHCR Yemen indicate that approximately 29,000 persons attempted the crossing, of whom more than a thousand perished. To date in 2008, the rate is approximately double. The international community and Somali regional authorities recognise the enormous challenges this raises for States in the region, yet also that the humanitarian and economic causes and consequences must be addressed.

This Strategy Paper is derived from a study completed in January 2008, commissioned by the Mixed Migration Task Force Somalia (see Box), in order to improve understanding of the complex migration flow through Somalia to Yemen. The Paper outlines the dynamics and challenges along the migration routes that converge in Puntland, on the hazardous sea journey to Yemen, and during the reception of people in Yemen. Other routes, such as that through Djibouti, are briefly analysed, although the primary focus is on the movement between the port town of Bossaso, Puntland, and Yemen, from where a considerable part of the crossings begin.

Mixed Migration Task Force Somalia

In early 2007, under the auspices of the Inter Agency Standing Committee’s (“IASC”) Protection Cluster, a *Mixed Migration Task Force* (“MMTF”) was established with UNHCR and IOM acting as co-chairs. MMTF membership includes OCHA, UNDP, UNICEF, OHCHR, DRC (Danish Refugee Council), and NRC (Norwegian Refugee Council). The purpose of the MMTF is to provide a more focused, rights-based strategy for response to protection and humanitarian needs of migrants and asylum seekers transiting through Somalia. It was recognized that while a degree of coordination and response existed, a pro-active, regional strategy that addressed the multi-faceted dynamics of this movement was lacking. All activities and outputs resulting from the work of the MMTF are overseen directly by the IASC Protection Cluster with regular consultations with the Somalia UN Country Team (UNCT).



Figure 1: Migrants boarding boats near Bossaso

The Paper provides recommendations for a strategy to address these challenges. These are built around the evident need to improve coordination, policy setting and analysis at the regional level, as well as responses within Somalia. It recommends an expansion of co-ordinated humanitarian interventions in order to address the current limitations to human rights protection for migrants and refugees, including engagement with and capacity building of national and regional authorities and addressing the economic causes of this phenomenon.

All photographs included in this document are credited to A. Fazzina, December 2007

SECTION I: Migration Dynamics Through Somalia

1. Background

The movement of people within and from the Horn of Africa is not a new phenomenon. Seasonal movements of nomadic pastoralists between Somalia, Kenya and Ethiopia transcend national borders, and regional trading routes have long been established. Movements of Somali labour migrants and students to France, Italy and Great Britain began during the colonial period, forming the initial Somalia diaspora, while the expansion of the oil industry in the Arabian Peninsula in the 1970s and 1980s attracted increasing numbers of labour migrants. It is estimated that by 1987, 375,000 skilled Somalis had found employment in the Gulf States¹.

The collapse of the Somali State and subsequent civil war and economic difficulties has provided the main driver for the subsequent displacement of Somalis, both within the region and abroad. By 1992, civil war and famine had claimed the lives of approximately 280,000 Somalis and around one million Somalis had been forced to leave their homes. Many families with connections and money travelled to Europe, the USA, Australia, and Canada; many poorer families meanwhile moved to neighbouring countries, such as Ethiopia (180,900), Kenya (141,100), and Yemen (55,200), or remained internally displaced within Somalia.

Following the withdrawal of the Peace Enforcement Operation in Somalia (UNOSOM) in 1995, political and inter-clan fighting, human rights violations, natural disasters and limited economic opportunities have fuelled regular internal and external displacement of Somalis. Droughts in South Central Somalia in July and August 2006 were followed by floods in the inter-riverine areas in November of the same year. By the end of 2006, the UN estimated that Somalia had 400,000 internally displaced persons (IDPs) concentrated in urban centres such as Mogadishu and often living in appalling conditions. In December 2006, the Ethiopian army intervened in support of the Transitional Federal Government against the Union of Islamic Courts. The subsequent insurgency in Mogadishu and military responses by Ethiopian and TFG forces in 2007, accompanied by violations of human rights and humanitarian law, led to a massive displacement of civilians from Mogadishu, estimated at up to 700,000 persons, primarily to other parts of Somalia, by the end of 2007.

Significant movement from Ethiopia to countries beyond the Horn of Africa has existed since at least the 1974 revolution. A mass exodus to Somalia occurred in 1977 following the eruption of the conflict in the Somali National Regional State of Ethiopia. This outflow continued into the mid-1990s and was joined and supplemented by Ethiopians from other regions.

2. Main Migration Routes from the Horn of Africa to Yemen

The main migration movement from the Horn of Africa to Yemen includes the sea passage from areas around the port towns of Bossaso (Puntland) and Obock (Djibouti), in some cases using Berbera (Somaliland, or North West Somalia,) in transit, to various arrival points along the Yemeni coast. The majority of persons attempting to use these routes come from three areas: the Oromo and Tigrinya regions of Ethiopia; the Somali National Regional State of Ethiopia; and South Central Somalia. Each point of origin produces a distinct set of paths towards the port cities from where the migrants attempt to cross to Yemen.

¹ Joakim Gundel, *The Migration-Development Nexus: Somalia Case Study*, 2002



2.1 Route 1: Ethiopia – Somaliland – Puntland – Yemen

This route is mostly taken by Ethiopians from the highlands as well as a proportion of Ethiopians from the northern part of the lowlands. Migrants and refugees use a network of well-organised smugglers as they travel from hubs in Ethiopia, across the border into Somaliland and onwards towards Bossaso. Transit points along the route, notably Hargeisa and Bura'o, act as areas where some persons seek employment for some weeks or months to earn enough money to be smuggled to the next stage. Once in Bossaso migrants and refugees tend to congregate in compounds around the port, where there are a number of tea shops, each owned by a person from their respective areas of origin. The tea shop owners act as intermediaries, helping would-be voyagers to obtain passage on smugglers' boats to Yemen.

2.2 Route 2: Somali National Regional State of Ethiopia – Puntland – Yemen

Ethiopians from the lowlands, especially those of the Ogaden clan, appear to prefer to travel through areas where they have some protection through their clan affiliation (Darod). Although some do cross directly into Somaliland to join Route 1, others from around Werder, take a route which crosses the border into Puntland (between Garowe and Galkayo) and travel via Garowe to Bossaso. Families coming from the more southerly areas of the lowlands, near Gode, cross into the Hiran and Galgaduud regions of Somalia and then make their way towards Galkayo. This is a more dangerous route as these areas inside Somalia are occupied by different Hawiye clan communities frequently engaged in inter-clan conflicts, an active Ethiopian military presence, and a number of legal and illegal checkpoints on the roads inside Somalia. The migrants and refugees using this route are not reliant on any formal smuggling networks as they follow well-worn trade routes. Once in Bossaso, they stay with relatives or in the IDP settlements of Bush, Balade, Tawakal, Absame and Abow around Bossaso.

2.3 Route 3: South Central Somalia – Puntland – Yemen

While starting points may be in any of the regions of South Central, the roads systems tend to converge in the Hiran region, with movements then channelled along the main road through Galgaduud, Galkayo, Garowe and Bossaso. A main transport artery in Somalia, this route is used regularly by taxis, trucks and buses, which transport displaced persons either through private hire or together with goods. With over 300 checkpoints recorded in South Central Somalia by December 2007 demanding illegal payments for safe passage and numerous reports of looting and sexual violence against passengers, this route has become increasingly dangerous. The smugglers active in Bossaso are, in some cases, also known to arrange the travel of migrants and refugees to Bossaso.

2.4 Route 4: Ethiopia – (Somaliland) – Djibouti – Yemen

Passage to Yemen via Djibouti, either through Somaliland by road, by boat from places near Berbera, or directly by road from Ethiopia, has been a main route for migrants and refugees travelling from the eastern part of Ethiopia. More recently, increasing numbers of Somalis are also using this route even though the distance is greater than through Bossaso, arguably because there is increasing awareness of the dangers involved in the Bossaso crossing. The Djibouti route became more popular following two bomb explosions in areas frequented by Ethiopian migrants and refugees in Bossaso in early February 2008. Once in Djibouti, migrants and refugees use the town of Arhibe as a transit point, staying for as many as three months to earn funds for the next leg of their journey, across to Yemen.

In March 2008, a group of Ethiopians and Somalis from South Central Somalia were detained by the Somaliland authorities in Borama. Interviews conducted by UNHCR revealed that the Somalis had used the Berbera area as an exit point for crossing to Yemen, citing the difficulties of crossing the border into Djibouti. This appears to be a new potential route, requiring further research and more detailed monitoring in the future.

3. Profile of Migrant and Refugee Population in Bossaso and Reasons for Movement

3.1 Profile of Mixed Migration Population in Bossaso

As the term implies, the profile of persons involved in 'mixed migration' through Bossaso reflects their differing reasons for leaving their places of origin, their motivations for continuing to specific locations (which may change en route) and differing legal statuses. All, however, use the same smuggling and transport infrastructure, which can make distinctions among the individuals difficult to establish.

The main groups known to be part of the mixed migration flow through Bossaso include highland and lowland Ethiopians, Somalis predominantly from South Central Somalia and small numbers of Kenyans, Ugandans, Tanzanians and Sudanese.

The precise number of persons waiting to cross to Yemen is difficult to establish, not least because of the estimated 20,000 Somali internally displaced persons (IDPs) in Bossaso living with host families and in the same make-shift compounds and slums as the migrants and refugees. The distinction between a Somali IDP and a potential Somali refugee is fluid. Many of the IDPs in Bossaso, even those who initially did not intend to cross to Yemen, can become part of the flow if the right conditions present themselves. Based on rapid assessments of the migrant and refugee sites in Bossaso and key informant interviews, the MMTF estimates the number of potential Somali migrants at any given time to be more than 9,000 persons.

The Ethiopian migrant and refugee population is predominantly young, male and single, although there are some families, mothers with children, older women and unaccompanied minors (UAMs)² within it. Approximately 15% of the population consists of young women, often living in the IDP sites or near the port. The exact number of UAMs travelling is unknown since many children may attach themselves, however temporarily, to an adult. UNHCR in Yemen registers children who claim or appear to be unaccompanied but a significant proportion subsequently fail to remain at UNHCR facilities. Reports indicate that there is an increasing number of elderly trying to make their way to Yemen. Because of the lack of proper shelter, they stay in extremely poor conditions, forced to sleep rough in compounds near the port.

The presence of Kenyans, Ugandans, and Tanzanians making the voyage from Puntland to Yemen is a relatively new development, detected for the first time in 2007. Individuals from these countries arrived in Puntland either as divers and fishermen working on the fishing boats that operate off the coast of Puntland or as "stowaways" on large ships going to Puntland. The original departure port of the vessels is ordinarily Mombassa. Assuming the ship is not itself destined to Yemen, passengers and stowaways disembark in Bossaso and join the migrant and refugee populations there. At present, the number of persons travelling this route is very low. Given the difficulty and danger of getting to Bossaso and the precariousness of existence once there, it is not anticipated that Bossaso will become a major hub for migratory traffic from outside the already established source areas.

² The term 'unaccompanied children' refers to children who are not accompanied by any adult, having been separated from both parents and other relatives or legal or customary guardians. The term 'separated children' includes children who may be accompanied by a relative or other adult, but where this person may not be able, suitable or willing to assume responsibility for the child's long-term care. It is suggested therefore to refer to both separated and unaccompanied children. See UNHCR, UNICEF, ICRC, IRC, Save the Children (UK), World Vision: *Inter-Agency Guiding Principles on Unaccompanied and Separated Children*, Geneva, 2003

3.2 Push and Pull Factors

The combination of economic collapse, conflict, and human rights violations within the Horn of Africa has created a complex movement of persons seeking safety and employment in countries outside the region. It remains difficult to draw generalisations on push and pull factors, however, as motivations to leave a place of origin can be location-specific and pull factors will change depending on information gathered along the route and financial constraints. Nevertheless, the following broad trends have been identified:

- Interviews with persons fleeing Mogadishu in 2007 have emphasised physical insecurity and the need for international protection as a primary motivation for their fleeing. This is combined with a lack of livelihood opportunities, a situation which has been exacerbated by the conflict. As the individuals travel further from these initial push factors, their rationale for moving may change. Interviews in Bossaso indicated that some persons from Mogadishu felt relatively secure in Bossaso and, if employment were available, would not be interested in continuing their journey even if their original intention was to go to Yemen or beyond. By contrast, other Somalis considered the living conditions in Bossaso to be deplorable and while they may not have initially intended to travel further, the opportunity for improved economic security in Yemen and beyond became an important pull factor encouraging them to risk the crossing.
- Some Ethiopian highlanders as well as many lowlanders may flee for reasons related to a need for international protection or due to limited economic opportunities in their places of origin or possibly both. Interviews with Ethiopian lowlanders in Bossaso suggest that many will choose to stay in Bossaso, not willing to risk the onward journey to Yemen. This was explained by the stronger clan affiliation of Ethiopian lowlanders to the Darod clans in Bossaso, allowing better clan protection and the possibility of employment. Other lowlanders choose to make the journey to Yemen for economic reasons, while highlanders, lacking any clan protection, continue on due to limited physical and economic security in Bossaso.
- For other Ethiopian highlanders, the main motivation for migration described by those interviewed in Bossaso is economic. They have been encouraged by the 'success stories' of other persons from their region who were able to reach and find work in the Gulf States or Europe, after travelling through Yemen. This does not mean, of course, that some of these individuals may not also have international protection needs.
- Movement from all places of origin is also perceived as a livelihood coping strategy, diversifying household income sources to include remittances should the voyage be successful. For Somalia, remittances from the more than one million-strong Somali diaspora amount to an annual flow between USD 750 million and USD one billion. This income forms not only the backbone of the commercial and service sectors, but of individual and household purchasing power. It is estimated that of the total amount remitted each year, USD 360 million contributes directly to household incomes. This pull factor is self-reinforcing, as family members abroad will often pay for the travel of other members through Bossaso, using the extensive international money transfer services available.
- Somalis arriving in Yemen are recognized as refugees on a prima facie basis. The availability of this status and the protection it confers arguably encourages individuals from regions sharing significant characteristics with Somalia to claim that they are themselves Somali. While refugees are protected against *refoulement*, many of them move onward from the coast to other parts of Yemen and even to other countries for a variety of reasons, including more favourable livelihood opportunities. Indeed to a considerable extent it is those without better prospects, mostly women and children, who remain in Yemen's only refugee camp, at Al Kharaz, near Aden.

4. Smuggling Operations and Onward Travel to Yemen

4.1 Smuggling Operations to Yemen

While there is little evidence of linkages to major international crime syndicates, the networks of smugglers are trans-national, with migrants and refugees carrying contact details for persons within the network at each stage of the journey. Some smugglers maintain contacts with individuals or groups in Yemen, with Somali refugees, and the Somali diaspora in Kenya, although only anecdotal information could be found to link Somalis living in Nairobi with operation of the smuggling network in Somalia.

In Bossaso, in addition to approximately 34 agents (12 are reportedly Ethiopian), several hundred people are involved in the smuggling network, including boat owners, boat crews, restaurant and café owners, telephone centre owners, policemen, businessmen, truck owners, and landlords. There are indications of strong links between individuals within the local government and the smuggling network. Smugglers in Bossaso aggressively market their services. They use agents to make radio calls to Mogadishu and other places, relaying information, and, as noted earlier, sometimes arrange the transport of migrants and refugees to Bossaso. The agents provide misleading information to potential boat passengers minimizing the risks involved in the journey, as well as the opportunities for onward travel from Yemen.

Once they receive information from the boat owners that a boat is ready, the agents collect the migrants from Bossaso and drive them to the departure points. At Marrero, there is a restaurant where the migrants and refugees can eat before the trip, as they will not be allowed to take food and water aboard. The argument offered by the smugglers is that, without proper toilet facilities aboard the fishing boats, the passengers cannot be allowed to eat or drink during the journey. The migrants and refugees are often separated by nationality and there are indications that the treatment of Ethiopians by boat crews is worse than that for Somalis. While waiting, the migrants are guarded by gunmen, reportedly often drunk or using Khat, a popular mild narcotic. Loading into the boats is well organised, with the passengers lined up on the shore and then made to walk, in small groups, escorted by gunmen through waist deep water to the boats moored in shallow waters close to shore.

A Puntland police report indicates that there are approximately 12-14 boats involved in the smuggling trade. Each boat travels on average twice a month. The average cost of a trip to Yemen is between USD 50 and USD 80 per person for passage on a larger boat, which carries between 100-120 people. For travel on a faster boat operating from the beach area next to the port of Bossaso, the price rises to USD 150. Anecdotal evidence suggests profitability is so high and the cooperation of smugglers so close that if the boat sinks or is captured by the Yemeni coastguard, agents and boat owners will pool funds to purchase a new boat within the week.

4.2 Arrival in Yemen

Crossings to Yemen take place throughout the year, although there is an increase between August and April each year, corresponding with a period of more stable weather and tidal patterns. In 2007, there was a marked increase during the holy month of Ramadan, when interviewees stated that they believed the Yemeni coastguard would be less vigilant. In January 2007 there were 788 reported arrivals; while one year later in January 2008, the number increased to 4,481, more than a five-fold increase, with over one third of the arrivals originating from Djibouti.

Reception of those arriving along the Yemeni coast depends largely on the place of arrival along a stretch of 2,400 km of the Yemeni Coast (on the Red Sea and the Gulf of Aden). While in previous years the entry points were primarily along 165 kilometre stretch of the coastline of Shabwa province, recent arrivals started to land at different locations of other provinces' coastlines such as Abyan, Aden and Taiz, making monitoring and response to immediate needs extremely difficult. Migrants and refugees landing near Bel Har, or Bir Ali are taken to a temporary transit centre, built by the Yemen Land Natural Gas company

(LNG) and operated by the Society for Humanitarian Solidarity (SHS), before travelling to the UNHCR reception centre at Mayfa'ah, a 45 minute drive inland from Bir Ali. UNHCR established another reception centre in Ahwar on the coast of Abyan to respond to those arriving along the shore of Abyan Governorate. Eventually, those arriving in Dubab and Al Mohka located on the red sea are transferred to the reception center in the refugee camp of AL Kharaz. UNHCR's partners have established roving teams to look for and receive arriving passengers along the coast; while focal points, identified along the coast, contact UNHCR or NGOs to inform about arrivals. In each reception/transit center, new arrivals can receive medical treatment, water and food. In the reception centre, they able to rest for two or three days. The existence of an estimated 30 entry points along the Yemeni coastline has meant that a substantial number of new arrivals do not approach and consequently are not registered by UNHCR, which hampers the keeping of accurate statistics on new arrivals.

Having arrived in Yemen, the migrants and refugees who wish to continue onward use either organised smuggling routes, attempt the journey alone or use informal smuggling assistance near the borders. To finance the onward travel, migrants and refugees work on farms or engage in domestic work or other low-skilled labour.

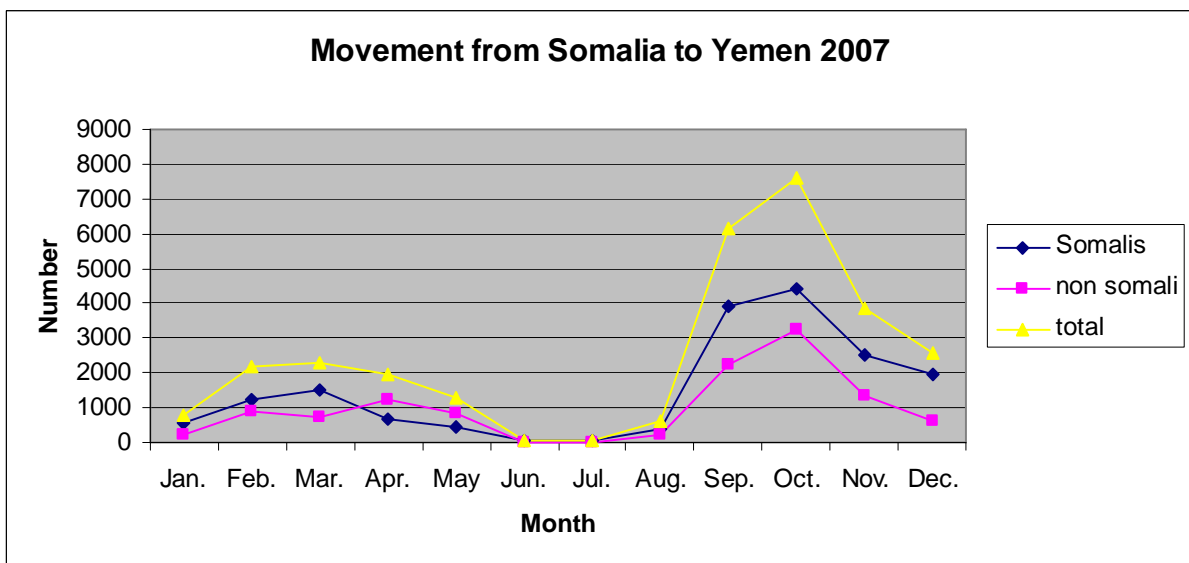
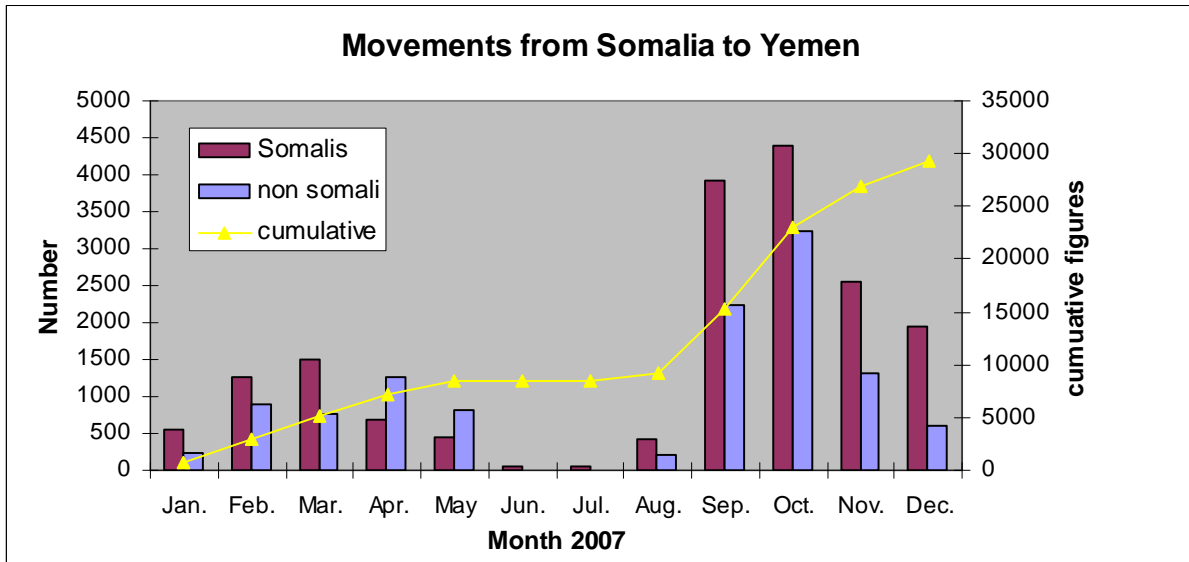


Figure 3: Statistics based on arrival data collected in Yemen

SECTION II: CHALLENGES

1. Challenges to Refugee and Human Rights Protection

1.1 International and National Human Rights Norms

The following are the main international and regional legal instruments and norms relating to the protection of refugees, internally displaced persons and migrants respectively:

- International human rights instruments oblige States party to protect the human rights of all people under their jurisdiction, regardless of their status. This body of law is based on the Universal Declaration of Human Rights (UDHR), and includes inter alia the 1965 International Convention on the Elimination of All Forms of Racial Discrimination (CERD), the 1966 International Covenant on Civil and Political Rights (ICCPR), the 1966 International Covenant on Economic, Social and Cultural Rights (ICESCR), the 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the 1984 Convention Against Torture (CAT) and the Convention on the Rights of the Child (CRC). The international human rights framework is complemented by regional human rights instruments such as the 1981 African Charter on Human and Peoples' Rights and the League of Arab States revised Arab Charter on Human Rights of May 22, 2004, which only entered into force very recently, on 15 March 2008.
- The 1951 Convention Relating to the Status of Refugees (1951 Convention), its 1967 Protocol as well as regional refugee instruments such as the Convention Governing the Specific Aspect of Refugee Problems in Africa (1969 OAU Refugee Convention), form the legal basis for the international protection of refugees. These instruments define those upon whom protection is to be conferred and the rights and benefits they are entitled to. The cornerstone of international refugee law is the principle of *non-refoulement*, or non-return, which protects refugees from involuntary return to countries of feared persecution. This principle is also part of customary international law and as such binds even States which are not parties to the Refugee Conventions. Somalia, Ethiopia, Djibouti and Yemen are all signatories to the 1951 Convention and its 1967 Protocol.
- Internally displaced persons are protected by the national law of their country and in addition receive specific attention through the 1998 Guiding Principles on Internal Displacement. While not legally binding as such, the Guiding Principles implement existing international human rights law and humanitarian law and provide guidance to actors on the rights of IDPs.
- Migrant workers in foreign countries are protected under the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (CMW). The CMW has not yet been signed by Ethiopia, Yemen, Somali or Djibouti. The CMW emphasizes that persons who qualify as migrant workers under its provisions are entitled to enjoy respect for their human rights regardless of their legal status. The CMW takes into account relevant international labour standards as well as international human rights law. Part VI of the CMV imposes a series of obligations on States parties in the interest of promoting "sound, equitable, humane and lawful conditions" for the international migration of workers and members of their families.

These international and regional instruments are binding on States parties to them. This creates an obligation not only to avoid interfering with the rights protected by the instruments but also requires States to take all necessary actions to protect persons under their jurisdiction against abuses by private actors. The following sections illustrate abuses and violations of rights whether or not the cause of the abuse is directly attributable to a State authority.

1.2 Protection Challenges during Flight/Transit

Migrants coming from Ethiopia suffer multiple abuses through their journey from Addis Ababa or elsewhere to Bossaso. Most live in appalling conditions and many sleep outside and work in the most menial and exploited jobs. In addition to accidental deaths through dehydration, hypothermia, snake bites and similar hazards, migrants and refugees are routinely subject to human rights abuses such as murder, theft, and sexual violence while in transit along the main routes. Migrants and refugees have reported that perpetrators of the abuses include the police, government officials, members of militias, common criminals and the smugglers themselves.

Detention and deportation by law enforcement officials of persons travelling through Somaliland and Puntland occurred at various points in 2007 and have continued into 2008. For Puntland, this has primarily focused on Somalis displaced from the South Central region arrested in Garowe and deported back to South Central through Galkayo. In two incidents in February and May 2007, over 450 Somalis, including women and children, were detained in sub-standard conditions, some of whom were allegedly later deported back to South Central Somalia.

The relationship between Somaliland and the Ethiopian Government (through representatives based at its trade mission in Hargeisa) is a relatively close one. In August 2006 an Ethiopian asylum-seeker from the highlands accused of having links with Eritrea was allegedly arrested at the request of the Ethiopian representative and *refouled* to Ethiopia, where he was allegedly detained and mistreated for a prolonged period before the charges against him were dismissed. Migrants, asylum-seekers and refugees from the Ethiopian lowlands and highlands remain at risk of arbitrary detention and *refoulement*. Numerous instances of deportations to Ethiopia have been recorded in Somaliland, some apparently involving individuals alleged to be affiliated to Ethiopian opposition movements. Somalis from regions other than Somaliland are also at risk of deportation, including individuals from South Central Somalia.

1.3 Protection Challenges in Bossaso

Living conditions in Bossaso are harsh for migrants, IDPs and refugees alike. While some Somali IDPs manage to live among members of the local community, Ethiopians tend to live in compounds and settlements near the port. During their stay in Bossaso, most migrants and refugees are effectively captives of the agents of the smugglers. They depend on them for food, accommodation and communications. Migrants and refugees are compelled to use services provided by the agents and smugglers – or at least are obliged to pay for them whether they use them or not— since if they do not, they may lose their chance of making the crossing. The smugglers also hire gunmen to guard migrants and refugees prior to their departure. These gunmen have allegedly been responsible for looting, sexually abusing and on occasion even murdering those they were hired to guard.

The conditions in the accommodation arranged by the smugglers and their agents are extremely precarious. Ethiopians live in overcrowded, open compounds with inadequate sanitation facilities. The impact of these conditions is harshest for the most vulnerable, notably women and children. Although migrants theoretically enjoy access to hospitals when they fall victim to a serious accident or illness, in practical terms they are not admitted to Bossaso hospitals owing to their inability to pay for treatment (the average consultation fee is 50,000 Somali shillings or roughly USD 2) or due to their lack of family or clan support. Even when international agencies support the hospitals, many migrants report that they were refused admission.

Two main themes emanate from the human rights challenges facing individuals in the mixed migratory flow in Bossaso: first, individuals lack protection owing to the non-existence or insufficiency of the usual protection structures and second, as noted, women and children suffer the worst. Illustrations of the impact of the lack of protection include:

- Widespread impunity for perpetrators of crimes, including serious, violent crimes
- Gangs forming in the settlements in response to abuse from groupings within the host community and the absence of law enforcement
- Dominant clans in the IDP settlements economically and otherwise exploiting minority clan members
- Rent-gauging of migrants, refugees and IDPs by landlords, sometimes also involving sexual extortion
- Police harassment of foreigners, particularly of Ethiopians and those from outside the dominant local clan

Instances of the especial vulnerability of women and children include:

- Newly arriving migrant, refugee and IDP women being made offers of assistance by individuals who convert the women's inability to repay into recruitment for sex work. Sex workers report that some clients come to their homes at night and rape them.
- Women and children being attacked and in some cases raped when forced to sleep outside or when out fetching water, food or fuel or having to relieve themselves
- Female Genital Mutilation (FGM) continuing to be widely practiced in the settlements and notwithstanding obviously deficient health facilities

On 5 February 2008, two heavy explosions occurred in Bosasso at two sites known to be frequented by Ethiopian migrants and refugees. A total of 21 Ethiopian civilians were killed and 70 more were wounded. Although the Islamist group *Al Shabaab* claimed responsibility for the act, there are indications that it may have been linked to deals gone severely amiss in the smuggling trade. A definitive explanation of the attacks, including the motivations for them, is not yet available. Without doubt, however, the bombings have significantly heightened concern for the protection of migrants and refugees in Bossaso.

1.4 Protection Challenges During the Crossing to Yemen and Beyond

Physical abuses during the Gulf of Aden crossing are well-known and well-documented. Abuses include beatings, stabbings, shootings, burns, asphyxiation, suffocation, neglect causing dehydration and, most common of all, throwing persons overboard to drown (either deliberately with an intention of killing the person or with indifference to that possibility when the boats are emptied some distance from the shores of Yemen to allow the crews to flee). The violence is sometimes alleged by the boat crews committing it to be necessary to ensure discipline aboard the vessel and thus the risk of its being detected or capsizing. In 2007, of the 28,882 persons known to have attempted the crossing, 1,225 (approximately 4% of the total) are known to have drowned or were killed by the crews smuggling them.

Arriving at the Yemeni coast does not bring an end to the risks faced by the migrants and refugees making the journey. Smuggling crews have routinely resorted to forcing passengers, including women and children, overboard several hundred metres from the shore to swim the final distance. It is at this point that many cases of drowning have been reported.

Once in Yemen, there are reports of migrants and refugees, including women and children, sleeping without shelter in sub-standard conditions. For those making it, the onward journey to neighbouring countries brings a repetition of the risks already faced by the migrants and refugees: economic exploitation, abandonment to the desert elements en route, becoming ensnared in prostitution or trafficking rings, sexual violence and robbery.

2. Policies and Capacities of the National and Regional Authorities

2.1 Puntland

While Puntland enjoys an enhanced level of autonomy from an admittedly challenged central authority in Somalia, it is not and does not purport to be an independent State. It has consequently not ratified international or regional protection instruments itself but is bound by those entered into by Somalia. Nevertheless, in many practical respects Puntland determines its own way on issues relating to displacement.

In September 2006, for instance, the Puntland authorities passed a Presidential Decree³ which prohibited the smuggling of human and other related activities, following which approximately 1,370 Ethiopians were arrested and deported. UNHCR and other agencies intervened when that deportation was quickly followed by the arrest of a further 600 migrants. Despite the action of international agencies to provide a system to screen for those with international protection needs, the threat of arrest and deportation continues irrespective of the person's vulnerability.

The brevity and narrow approach of the Presidential Decree highlights the Puntland authorities' lack of a comprehensive policy for migration. There is no defined agency or ministry tasked with responsibility for all migration issues though, practically, most of the work is undertaken by the Ministry of Interior and State Security. Puntland does not have a functioning Migration Department capable of handling the management of legal migrants in accordance with international standards, let alone the tens of thousands of irregular migrants, refugees and IDPs. Government officials do confirm the illegality of the smuggling activities and are able to cite several instances of smuggling boats being captured and impounded. However, these arrests do not seem to be part of a clear policy or strategy to deal with the phenomenon but isolated actions taken against particular smugglers who, some weeks later, are reported to be free and able to return to their trade.

It is widely recognized that the Puntland police made some progress towards limiting smuggling several years ago. In 2002-2003, a police unit was fully dedicated to dealing with human smuggling and, by 2003, had managed to control the smuggling to a large extent. According to police officials, however, their control has deteriorated greatly in the last four years. They point to three reasons for this:

- Impunity for abuses
- A lack of political will to crack down on smuggling, partly due to the reputed involvement of influential government officials in the business (which may now be exacerbated by the worsening security environment in Puntland)
- Limited assistance from the international community

2.2 Somaliland

Somaliland is not an internationally recognized State and has not ratified the 1951 Convention, its 1967 Protocol, the 1969 OAU Refugee Convention, the 1954 and 1961 Statelessness Conventions or any other related international or regional instruments. Nevertheless, the constitution of Somaliland provides for continued adherence to international treaty obligations entered into by the State of Somalia, including human rights instruments and the 1951 and 1969 Refugee Conventions in addition to incorporating a provision for 'political' asylum for those 'lawfully' entering or resident in the territory of Somaliland. Somaliland's unrecognised claims for independence add a political dynamic to its treatment of "foreigners." Persons fleeing the violence in South Central Somalia, or who do not belong to the main clan groupings, are non-nationals of Somaliland under the Constitution, but are IDPs under international law. In October 2003, following the killings of four international aid workers, a *Foreigners Expulsion Policy* was proclaimed by the President of Somaliland. This took the form of a decree directing that all 'illegal foreigners' should

³ Puntland 2006 – Decree No 01/09 of 25 September 2006

leave the country within 45 days. The decree provided unofficial sanction for a wave of assaults, robberies and generalized harassment of non-Somalilanders. While the policy was suspended, it provides a strong indication of Somaliland's approach towards persons it considers to be non-nationals. In 2006, UNHCR detected an increasing tendency on the part of the government to categorize some cases involving foreigners as matters of 'national security', for which an extra-statutory 'National Security Committee' assumes jurisdiction. As detailed above, detention and deportations of foreigners and Somalis from South Central Somalia have continued into 2008.

2.3 Yemen

Yemen is currently working on a comprehensive migration policy. A newly formed Ministry for Migrants is still in its early stages and is looking to the international community for assistance. The Ministry of Interior has a department that deals with immigration, and also handles the detention of all illegal migrants, while the Ministry of Foreign Affairs (Consular Department) is also involved in migration management. In general, the collaboration with the various national counterparts is considered positive (including the coastguard, the national security apparatus, the Ministries of Human Rights and Health and Sana'a University). The appointment of a focal point within the government, Governorates and refugees/reception centres would enhance the effectiveness of coordination and capacity-building efforts.

The Yemeni government has signed and ratified a series of bilateral agreements, which in some cases include clauses on labour migration. With regard to the sending countries (specifically domestic workers) there are bilateral agreements with the governments of Ethiopia, Eritrea and India. There are two labour laws in Yemen: Law No. 19 of 1991 and Law No. 5 of 1995, containing a number of provisions regulating the employment of foreigners. In principle, only foreigners with a work permit can obtain a residence permit and the immigration of certain categories of workers is restricted (e.g. construction workers, administrative personnel, agricultural workers and some service providers).

In order to prevent the presence of undocumented migrants, the Yemeni government regularly announces strict measures for monitoring the residence status of foreigners. Recently, migrants were informed that they had to obtain residence permits otherwise they would be arrested and deported. Businesses which employ undocumented foreigners were warned that they had to prepare residence and work permits for their workers within a couple of weeks. One of the main reasons given for this action is that the increasing flow of refugees and migrants, in particular from Somalia and Ethiopia, is placing a heavy financial burden on the country. Another reasons cited for these measures is national security.

Yemen acceded to the 1951 Refugee Convention and its 1967 Protocol in 1980. Refugee-specific legislation is not yet in place although draft refugee legislation exists and the Government is committed to its adoption. Yemen has acceded to almost all universal human rights instruments although the application of human rights standards remains a challenge.

Somalis who arrived in Yemen following the State collapse in 1991, and Ethiopian officers and cadets who fled following the overthrow of the Mengistu regime enjoy prima facie refugee status in Yemen. All other persons seeking asylum are subject to individual refugee status determination. Non-Somalis, the majority of whom originate from Ethiopia, are increasingly perceived by the authorities as irregular economic migrants. They are frequently rounded up and taken to Sana'a where many have been summarily deported. As a result, Ethiopians try to move quickly on their own once they arrive at the Yemeni shore they seek to avoid being collected and transferred to reception centres so as not to be detected by the Yemeni authorities. This creates major obstacles to ensuring that the protection needs of possible refugees are adequately addressed.

The Yemeni Navy patrols Yemeni territorial waters, reinforced by the Yemeni coastguard (which is part of the Ministry of the Interior). The coastguard has additionally a specific mandate with respect to rescue at sea. In February 2005, a security pact was signed between Yemen and France, providing for training of Yemeni units, intelligence-sharing and monitoring of the Bab al-Mandab strait. As of October 2007 there

have been two joint operations between the coastguard and Coalition forces to track and arrest smugglers after they have disembarked their passengers. The US navy meanwhile supports Yemen in controlling the Bab al-Mandab through the 1,100 member Combined Joint Task Force for the Horn of Africa. German and Italian ships have joined the effort to curtail the activities of smugglers in the region. The UK as well as the USA recently conducted training for the Yemeni coastguard and UNHCR has conducted training on reception, refugee law and rescue at sea for 120 persons, including 40 high ranking officers. As a result of the extra measures taken by the Yemeni authorities to control the coast of Yemen in 2007, smugglers fearing detection by the coastguard began changing their smuggling routes and drop-off points along Yemen's vast shoreline, making it harder to find, register and provide assistance to new arrivals.

2.4 Beyond Yemen – Saudi Arabia and the Gulf States

The wealth of the Gulf countries has attracted millions of migrant workers and the region is a favourite destination for persons seeking employment opportunities. Moreover, its geographical proximity to hot-spots in South West Asia, the Middle East and the Horn of Africa has encouraged asylum-seekers and refugees from these regions to combine seeking safety with the search for better economic opportunities in the Gulf region. These two factors, wealth and geography, have led to the adoption by Gulf States of restrictive immigration policies. Notwithstanding, the number of migrants in the Gulf is currently estimated at about 10 million persons. Of this number, some, as noted, are refugees. They, like economic migrants, may obtain work permits and access the labour market only as long as their stay in a given country is in conformity with relevant immigration regulations.

Somali asylum-seekers approaching UNHCR in the Gulf region mostly belong to one of the following categories: (1) those who have been living in the Gulf as economic migrants for an extended period of time, (2) those who entered the Gulf on a short visit visa (tourism, family visit, pilgrimage) and remained beyond the expiry of their visa and (3) irregular movers, i.e. individuals who first came to Yemen and then moved onward without proper documentation to a Gulf country.

Somali asylum-seekers in the Gulf region may have entered a given country illegally or may have entered it with a legal status (e.g. residence permit) which was then lost for one or another reason (e.g. expiry or termination of employment contract). As a matter of both general principle and daily practice, asylum-seekers, Somali or otherwise, have access to UNHCR in the Gulf countries. Asylum-seekers are not targeted for arrest by the authorities. In terms of national policy applied by the authorities in all the Gulf States, asylum-seekers who have entered a given country illegally ought to regularize their status vis-à-vis applicable immigration regulations prior to contacting UNHCR. Those with protection needs, however, are entitled to have that need determined by UNHCR even if they are illegally in the country.

In view of the deterioration of the situation in some areas of Somalia, UNHCR's office in Saudi Arabia continues to inform, advise and counsel its counterparts in the region on the required standard of treatment for Somalis in view of the latest developments in their place of origin, as well as explaining the rationale for provision of international protection or for a complementary form of protection for this particular group at this particular time. UNHCR advocates with local authorities to ensure that persons of concern obtain authorization to remain in the relevant country, protection against expulsion and access to basic social and economic rights on a par with those granted to foreigners (education, medical care, housing, access to assistance or employment) as well as for the preservation of family unity to prevent the forcible return of nuclear family members.

2.5 Customary Protection Mechanisms in Somalia

In Somalia, and to a lesser extent in Yemen, a customary structure, i.e. the traditional elders, play an important role in ensuring the clan-based protection of citizens. The traditional elders (known as Oday in Somalia) are especially significant partners in a country lacking a fully functional central government.

Somali Xeer, or customary laws, are unwritten agreements, passed down orally from generation to generation. Primarily based in management of daily issues within a clan, Xeer can and have been expanded to manage inter-clan relations, including marriage, hospitality and treatment of foreigners, rules of resource use, and for compensation for crimes committed by members of one clan against another. Xeer hold entire sub-clan groups collectively responsible for a crime committed by one or more of their members. If the compensation is not paid, then the aggrieved clan may opt to kill the criminal or members of that person's clan. This can set off a cycle of blood vengeance between two clans until elders agree on resolution through negotiations and possibly further compensation.

The pervasive nature of Xeer and the authority of clan leaders in comparison to administrative institutions in Puntland mean that the vast majority - estimated at 90% - of disputes and criminal cases are dealt with under Xeer rather than through formal justice systems. For the police to arrest an accused person, the accuser will often have to pay for the service, as well as for the period in detention. Resolution of the dispute will in most cases then be dealt with by negotiation between the parties under the auspices of their respective elders, and will not reach the courts. This limitation is particularly detrimental to persons without representation by elders, effective protection through the Xeer system, or without the threat of force through clan support - for instance, Somali minority clans and foreigners.

The strength of Xeer represents both a challenge - in that Somali minority clans and most foreigners are excluded from its protection and can therefore be abused with impunity - and a potential way forward if support from traditional leaders can be galvanised to expand the Xeer to afford protection to these groups. In 2006, elders in Somaliland amended the Xeer in accordance with international human rights standards and the teachings of Islam, in a process facilitated by the Danish Refugee Council. The elders reaffirmed the rights of minorities, women, children and foreigners, signed a declaration stating this and held seminars across Somaliland to make their constituencies aware of the changes. Measurable improvements in respect for the rights of migrants and other foreigners through this process in Somaliland and Puntland, however, continue to be elusive.

SECTION III: RESPONSES

1. Overview of Activities Which Have Been or Are Being Undertaken

In response to the protection and humanitarian needs of individuals in the mixed migratory flow through Somalia, the Inter-Agency Standing Committee (IASC) Protection Cluster has pursued activities including strengthening of national protection capacities, collaborative advocacy interventions, rights-based programming, and development of preventative mechanisms and the shaping of inter-sectoral programmes. Many of the initial activities have concentrated on addressing major information gaps and strengthening coordination in the field.

While in mid-2007, the security situation in Puntland was considered sufficiently stable for the UN Security Management Team to recommend a reduction of the security phase to Phase 3, by December 2007 the situation for humanitarian organisations had deteriorated dramatically. The aforementioned bomb explosions in Bossaso together with kidnappings of journalists and aid workers (including staff of agencies directly involved in mixed migration response efforts) led most international agencies to reduce or withdraw their staff. The situation has subsequently deteriorated even further with an armed attack on UNHCR personnel in Garowe on 5 April 2008 resulting in an increase in security phase to Phase 4. In addition, the conflict between Somaliland and Puntland over the disputed Sool and Sanaag regions through which migrants travel to Bossaso and Djibouti has reduced humanitarian access to crucial areas. With Puntland providing financial and military support to the TFG in South Central Somalia and increasing reports of radical Islamist elements in Puntland, the future security environment in Puntland remains unstable and unpredictable. At the same time, the capacity of the Puntland authorities to guarantee security for humanitarian workers is extremely limited.

The humanitarian crisis in South Central Somalia and the dramatic displacement of 700,000 persons from Mogadishu in 2007 has over-stretched organisations' funding and staff capacities. With not enough financial or human resources to cover the needs of vulnerable IDP populations in Somalia, agencies without an established mandate for activities in the mixed migration context remain hesitant to commit to mixed migration activities, particularly in light of the precarious security situation in Puntland.

1.1. Access to Basic Services

From 2006 until now, there has been a marked increase in the number of migrants and refugees in Bossaso. Despite this, very limited facilities are in place to handle the increased numbers. While a reception and transit centre was rapidly established to accommodate Ethiopians at risk of deportation during the government crackdown in 2006, it was never intended to become permanent. Even if it had been, a number of unforeseen problems which emerged after the centre had opened would have compelled its closure. In particular, it was learned that the centre was being used as a recruitment ground for smugglers, reputedly including some law enforcement officials. In 2007 a request by the Puntland authorities to establish another transit centre was rejected in light of the experiences of 2006. Whether with appropriate safeguards such a centre could be pursued is an open question. UNICEF provided medicines to clinics in Bossaso though a number of migrants and refugees claimed that they could not access this service.

1.2 Identification and Protection of Refugees

UNHCR has Refugee Status Determination (RSD) projects in Hargeisa, Somaliland and Garowe, Puntland, catering to the immediate protection needs of asylum-seekers and refugees. The RSD staffing capacity in Garowe was strengthened in 2007 to enable an increase in RSD capacity. In a Memorandum of Understanding concluded between UNHCR and the Refugees Affairs Commission (RAC) of the Puntland Ministry of the Interior in late 2006, RAC undertook to conduct the registration and documentation of asylum-seekers while UNHCR agreed to conduct the actual refugee status determinations. The status of

the operation in Garowe is in some question following the already mentioned attack on UNHCR's principal determination officer there on 5 April 2008.

In Somaliland, in March 2006, the Refugee Eligibility Committee (REC) of the Ministry of Interior suspended registration of new asylum-seekers on the instructions of the President following a surge in asylum applications, primarily from Ethiopian highlanders. Following extensive discussions, the Minister nominated a new REC in October 2006 which, for the first time, included two women. As of the end of 2007, REC had not resumed registration despite UNHCR putting in place the necessary measures to allow REC to discharge its functions. Through a system of identification and referral for registration and accelerated RSD processing, however, a system for responding to particularly vulnerable cases has been established.

Refugees recognised by UNHCR in Somalia are granted Mandate refugee status. They are entitled to services such as health and education and, for vulnerable individuals, a subsistence allowance. Durable solutions options in Puntland and Somaliland are presently limited for the most part to third country resettlement and in some cases voluntary repatriation to the country of origin. In 2007, 32 cases (91 individuals) departed Somaliland for resettlement, mainly to Canada, while 92 cases (252 individuals) were submitted for consideration. Based on indications from the Puntland authorities to support such measures, an increased emphasis on self-reliance and income-generating activities is planned for 2008 and following years.

1.3 Prevention of Sexual and Gender-Based Violence

There is a high incidence of gender based violence among the displaced populations. Under the IASC Protection Cluster, the gender-based violence working groups in the field and in Nairobi assess the prevalence of gender-based violence and the adequacy of responses in Galkayo, Bossaso, Baidoa and Garowe. A mapping of gender-based violence in the displacement-affected regions of Somalia is currently being undertaken through the Protection and Population Movement Monitoring initiative (see section immediately below). This will allow the areas where the incidence of gender-based violence is highest to be prioritized for targeted response.

1.4 Protection and Population Movement Monitoring

Various mechanisms have been established to monitor human rights violations against migrants and other displaced persons in Somalia. These include the Population Movement Tracking (PMT) initiative which monitors displacement caused by floods, clan conflict, drought and cross border movements. Through a network of over 20 local NGO partners, PMT delivers early warning and weekly analysis of displacement patterns, which is disseminated to a wide audience both at the local and international level. This process is complemented by protection monitoring conducted by UNICEF, UNHCR, Oxfam Novib and NRC, again through a network of local partners across the country, recording and advocating against human rights violations within Somalia. Various other mechanisms are in place to monitor specific problems faced by migrant communities in Bossaso, which are communicated to both local and national coordination bodies, while the PMT process is being extended to cover the migrant population.

1.5 Provision of Information

An advocacy strategy has been developed including radio and leaflet messages to potential migrants warning of the dangers involved in crossing to Yemen through Bossaso and advising of protection options within Puntland. The information campaign materials are produced in the various languages relevant to the mixed migration population and have been piloted in Mogadishu as well as in Bossaso. IOM has also supported radio spots and television broadcasts in Ethiopia. The strategy includes efforts to lobby national and regional authorities, traditional leaders and other stakeholders for increased engagement on mixed migration issues. The campaign may already have enjoyed some success as some migrants arriving recently in Yemen from Djibouti claim to have chosen that route because of what they learned in information materials about the relatively greater danger of the one from Bossaso. A more coordinated

campaign is required, including in areas of origin and additional sites of departure, together with enhanced messaging of alternatives to making the crossing.

1.6 Assisted Voluntary Return (“AVR”)

In response to an increase in stranded migrants and rejected asylum-seekers in Bossaso, IOM carried out two separate AVR operations in 2006, and one in 2008. A number of previously returned persons from the first operation subsequently attempted to access AVR for a second time. To limit people recycling, it was proposed that AVR should only be available for the most vulnerable stranded migrants and rejected asylum-seekers and should be undertaken at the end of the high season, around March/April.

2. Proposed Strategy

Accompanying the instant MMTF study into the phenomenon of mixed migration across the Gulf of Aden from Bossaso are a number of recommendations intended to provide clearer strategic direction for improving responses in the short, medium and longer term. With the MMTF's concurrence, and to ensure consistency with the approach being followed by other countries in the region, these recommendations have been incorporated into a strategy table following the framework of UNHCR's 10 Point Plan. The Somalia (Puntland and Somaliland) strategy tables will be consolidated into a regional document for discussion at the upcoming meeting on mixed migration in Sana'a, Yemen.

Two main strategic priorities encapsulate the detailed activities provided in the MMTF Somalia strategy tables:

2.1 Improve Regional Coordination, Analysis and Linkages to Regional Organisations

MMTF activities, including the present study, have inevitably focused attention on the situation inside Somalia. As can be surmised from the preceding sections of this paper, there are significant gaps in understanding of the regional dynamics, including connections between the Bossaso route and alternative migration routes, especially through Djibouti, that are witnessing continued or renewed population movements. While organisations working in Ethiopia, Djibouti and Yemen as well as in more distant transit/destination countries have considerable knowledge of the mixed migration situation in their specific countries, this disparate information needs to be pulled together to better inform a coordinated regional response.

In addition, no regular, regional forum exists to specifically address the issue of mixed migration in the Gulf of Aden. Countries of origin, transit and/or destination as well as regional bodies such as IGAD and the AU need a mechanism for regular dialogue on relevant issues, including policy-setting and cross-border cooperation. One such mechanism may be the Regional Consultative Process (RCP), which is to be discussed at an upcoming regional conference on inter-state and intra-regional cooperation on migration management in Addis Ababa, co-hosted by IOM, IGAD and the AU. A number of other regional or international initiatives such as the Sana'a Forum, the Ministerial Consultation on Contractual Labour (which opened in Abu Dhabi in January 2008) and the EU-Africa Dialogue, would benefit from the existence of such a mechanism. With sufficient permanency, a regional consultative process would be able to address the root causes of mixed movement, which it is apparent the present study and many of the proposed response strategies do not adequately do.

2.2 Improve Coordination within Somalia and Engender Commitment to Medium and Long Term Interventions

Until 2007, responses to mixed migration within Somalia were primarily reactive, with the humanitarian community becoming busiest during the seasonal peak in crossings between August and April. Funding commitments from donors and activities of involved organisations have tended to be short-term, not necessarily addressing the main challenges of the movement, as set out in Section II above. Some responses have been channelled through specific projects, such as RSD and advocacy, but better coordinated and more consistent and substantial interventions are required. The MMTF has significantly improved coordination between relevant agencies in 2007 yet it remains a Nairobi-based body which is not positioned to ensure the needed bridge between actors throughout the region. Coordination mechanisms do exist at the field level within Somalia, most notably the IASC Protection Clusters in Hargeisa, Bossaso and Galkayo. More, however, needs to be done to ensure these clusters are properly empowered and supported by experienced staff and that the linkages and information-sharing between them and throughout the region is made systematic.