



UK Mission to the
United Nations
in Geneva

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Note No 072

The Permanent Mission of the United Kingdom of Great Britain and Northern Ireland presents its compliments to the United Nations Special Rapporteur on extreme poverty and human rights, the Chair of the Working Group on the issue of human rights and transnational corporations and other business enterprises, the United Nations Independent Expert on the situation of human rights in Somalia and the Special Rapporteur on the protection and promotion of human rights and fundamental freedoms while countering terrorism and has the honour to respond to the letter from the Special Rapporteurs, Independent Expert and Chair of the Working Group dated 16 January 2016 concerning Somalia Money Transfer Operators.

The United Kingdom Government wishes to express concern about the arguments put forward concerning human rights and the issue of money transfers. It does not accept the assertions concerning the UK's human rights obligations, nor indeed on the human rights issues that you consider to be engaged by the question of money transfers. This includes: the arguments suggesting that the United Kingdom has extra-territorial obligations under international human rights law, and particularly in respect of Somalia; the characterisation of obligations under the International Covenant on Economic, Social and Cultural Rights (ICESCR) on "international assistance and cooperation"; the definition of what constitutes culture within the meaning of the ICESCR; and the assertion that the closing of Somali Money Transfer Operators (MTOs) represents and leads to discrimination against and stigmatization of Somalis in the United Kingdom. As such, the United Kingdom Government does not accept the substantive premise of this communication. The UK has legal obligations to counter money-laundering and the financing of terrorism, and acts proportionately in fulfilling those obligations.

The United Kingdom has a long-standing policy of cooperation with the UN's human rights special procedures. In the spirit of constructive engagement, the United Kingdom Government takes this opportunity to share with you information about its work on Somali Money Transfer Operators. This is without prejudice to its position on the substantive premise of your letter and its position on the human rights argumentation it contains as set out above.

The Permanent Mission of the United Kingdom avails itself of this opportunity to renew to the Special Rapporteurs, the Independent Expert and the Chair of the Working Group the assurances of its highest consideration.



24 March 2016

Special Rapporteur on extreme poverty and human rights
Chair of the Working Group on the issue of human rights
and transnational corporations and other business enterprises
Independent Expert on the situation of human rights in Somalia
Special Rapporteur on the protection and promotion of human rights
and fundamental freedoms while countering terrorism

Office of the High Commissioner for Human Rights

Annex – Information in response to UN Communication on MTOs and Somalia

The UK Government recognises the huge significance of remittance flows to Somalia; these provide a vital lifeline for the population. As such continue to support efforts to maintain remittance flows from the UK to Somalia.

In the UK, whilst some Money Transfer Operators or Money Service Businesses (MSBs) serving the UK-Somalia corridor have experienced banking issues, to date we have not seen any interruption in remittance flows in this corridor. To be clear, over the last two years we have not seen any significant change in the total value of flows from the UK to Somalia. We have not received notice of any cases where an individual has not been able to remit funds to Somalia, or has experienced significant difficulties in attempting to do so.

Although transaction costs have increased slightly during 2015, the latest data for Q4 2015 for the UK-Somalia corridor is 6.98%, compared to the UK average of 7.25% for sending remittances abroad (World Bank Remittance Price Database Q4 2015). This compares to the average G20 cost in the same time period of 7.46%.

The banking issues affecting the sector have therefore not had as severe an impact as had been feared, and as may have been experienced in other jurisdictions. The market has in fact adapted, usually with small MSBs acting as principals under a larger agent, through structures that at this stage appear to be resilient.

However, the UK Government is not complacent on this issue, and so continues to take steps to continuing address this problem, both through international fora and domestically.

Last year the UK was at the forefront of calls for the G20 to address this issue, and the wider de-risking trend. This led to the Financial Stability Board and World Bank taking forward work on this agenda, including global evidence gathering exercises on de-risking in the remittance sector, and pressure on correspondent banking relationships. The UK Government has always seen developing a strong evidence base on the scale and impact of this trend as fundamental to being able to address it.

As you will know, this exercises found that the withdrawal of banking services from the MSB sector is a global trend of varying severity in different jurisdictions. It also concludes that there are many drivers, not just Anti-Money Laundering and Counter-Terrorist Financing (AML/CTF) regulations, as has previously been thought by many. Instead the World Bank surveys showed that there is a complex mix of factors driving this trend, from risks posed by the activity/particular jurisdictions, supervision of the MSB sector, compliance costs and, significantly, the lack of profitability of many parts of this sector. The UK Government fully supports the recommendations of the Financial Stability Board and World Bank for areas of further action to tackle the de-risking trend.

The UK is also an active member of the Financial Action Task Force, and welcomed the paper on Money Value Transfer Services adopted at the last Plenary meeting, in February 2016. The UK continues to contribute to FATF discussions on a further paper on 'Correspondent Banking and other intermediated relationships', which the group will look to publish over the course of this year.

Domestically, we have taken a number of actions over the last three years, aimed at addressing this trend and protecting remittance flows from the UK. We have had a particular focus on the UK-Somalia corridor, given the fragility of this corridor, and the significance of these flows to Somalia. This work has been overseen by the Action Group on Cross Border Remittances, which the

Government established in 2013, specifically to address de-risking issues. The actions we have taken to date (dated October 2015) are summarised in an update document available here on the Action Group website -

[https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/471064/UK-Somalia Safer Corridor Initiative.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/471064/UK-Somalia_Safer_Corridor_Initiative.pdf)

This document details the work we have done in each “mile” of the remittance flows from UK to Somalia, but some of the key interventions are also described below.

Firstly, the Action Group has focussed on building dialogue between the banking and MTO sectors. This group met monthly, and currently quarterly, providing a useful forum for discussion on key areas of concern between the key sectors. This has been supplemented by the establishment of a technical focussed sub-group, chaired by the British Bankers Association, which allows for more detailed discussion of technical areas directly between the banks and MSBs. Under the Action Group, two sets of guidance have also been produced – one for the MSB sector, and one for banks on banking the MSB sector. Crucially, the guidance for the banks provides a legal safe harbour in court if a bank can demonstrate it has been followed.

Secondly, given the concerns around AML/CTF risks, the Action Group has sought to take forward work which both reduces risk, and promotes a better and more nuanced understanding of risk. The MSB sector presents risks for many reasons, not just in the UK but globally. In 2015 the UK carried out a National Risk Assessment to develop a comprehensive understanding of the different money laundering and terrorist financing risks present in our financial system. This was based on consultation with law enforcement, supervisors and industry. This concluded that the MSB sector presents a medium risk for money laundering, and a high risk for terrorist financing. These conclusions were drawn across the UK MTO sector, rather than focussed on any specific corridor/receiving jurisdiction. The Government published the risk assessment in full, and it is available here – <https://www.gov.uk/government/publications/uk-national-risk-assessment-of-money-laundering-and-terrorist-financing>

There are also of course significant risks posed by the Somali-end of remittance transactions too, not least the presence of Al-Shabaab in some parts of the country. The terrorist financing risk remains a significant concern for many banks, as does that lack of a fully functioning banking system in Somalia.

Under the Action Group, we have taken forward a number of actions to address the risks present. HM Revenue and Customs, the AML/CFT supervisor for the MSB sector in the UK, doubled the number of compliance visits to the sector, in order to develop a more comprehensive understanding of where the risks lie within the sector, and to set about addressing them. The National Crime Agency also held a series of workshops on risk management with the banks and MSB sectors.

Thirdly, the UK Government is committed to assisting the Somalia Government in tackling the underlying structural deficiencies in the country financial system and to boost compliance in the Somali MSB Sector.

The Somali Federal Government has, with the support of the donors including DFID, recently passed key anti-money laundering/counter terrorist financing legislation which has been signed into Somali law. This is a very significant step forward and will enable the implementation of important compliance standards for MSBs in Somalia, including on issues such as customer registration and record keeping.

In parallel, through a DFID funded World Bank project, an independent firm (Abyrint) has been chosen to conduct supervision of MSBs on behalf of the Central Bank of Somalia. Known as the “Trusted Agent”, they will monitor adherence to compliance standards by MSBs. We expect supervisory work to commence in Q2 2016 which should provide greater assurance to international financial institutions of the transparency and accountability of the MSB sector in Somalia.

A Somali Remittances Stakeholder Advisory Council co-chaired by the Central Bank of Somalia and the World Bank, and attended by DFID, HMT, U.S. Government, IMF and Central Bank of Kenya, meets on a quarterly basis to review progress on strengthening channels for remittances to Somalia. This body will review the findings of the Trusted Agent and ensures coordination between donor activities, including additional support being provided by the U.S. Treasury.

We hope this information is useful in setting out greater detail on the situation in the UK, and the actions the Government has taken to support the MSB sector, particularly the UK-Somalia corridor.