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Executive Office of the Secretary-General
Cabinet du Secrétaire général

URGENT

To: The DSG

Please find attached for your approval the draft SG report on the Guinea-Bissau sanctions regime.

The SG recommends maintaining the current sanctions regime to support the fragile progress in the country and suggest to the SC the establishment of a two-person Panel of Experts to monitor progress in the country in relation to the sanctions regime.

Political Unit
11 August 2015

Received in ODSG

11 August 2015

Seen by:

ER

15-06681

POL/04/006

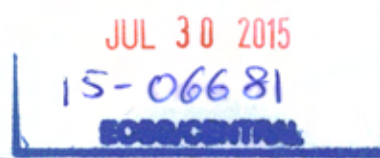
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Note to Deputy Secretary-General

DRAFT REPORT ON THE GUINEA-BISSAU SANCTIONS REGIME

1. I attach, for the Secretary-General's review and approval, the draft text of his report to the Security Council on the progress made with regards to stabilization and restoration of constitutional order in Guinea-Bissau, submitted pursuant to Security Council resolution 2203 (2015). The report contains an assessment on the sanctions regime imposed on Guinea-Bissau, as well as recommendations on the continuation of the sanctions regime in the post-election environment, in line with paragraph 12 of resolution 2048 (2012). The report is due to the Council by 18 August.
2. I would be grateful if you could obtain the Secretary-General's approval of the draft at his earliest convenience.

Jeffrey Feltman
29 July 2015

cc: Ms. Malcorra

Pol/04/006

Jan Eliasson

Date: August 11, 2015

Report of the Secretary-General on the progress made with regards to stabilization and restoration of constitutional order in Guinea Bissau

I. Introduction

1. The present report is submitted pursuant to Security Council resolution 2203 (2015) and contains an assessment on the progress made by Guinea-Bissau with regard to the stabilization of the country and restoration of constitutional order. The resolution also requested me to provide recommendations on the continuation of the sanctions regime in the post-election environment, in line with paragraph 12 of resolution 2048 (2012).

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2. The Department of Political Affairs (DPA) undertook an assessment, in consultation with the United Nations Integrated Peacebuilding Office in Guinea-Bissau (UNIOGBIS), from 22 June to 21 July 2015. Consultations were held with the President of the Republic, the Prime Minister, the Minister of Defence and military chiefs, the President of the Assembleia Nacional Popular (National People's Assembly - ANP), the President of the Supreme Court in Guinea-Bissau, as well as with representatives from Angola, Brazil (Chair of the Guinea-Bissau Configuration of the Peacebuilding Commission), China, France, Guinea-Bissau, Morocco, Nigeria, Portugal, the Russian Federation, Senegal, Spain, the United Kingdom, the United States, the African Union (AU), the Economic Community of West African States (ECOWAS), the European Union (EU), the United Nations Office for West Africa, and civil society organisations (the Guinea-Bissau Human Rights League, the Juvenile Association for the Protection and Promotion of Human Rights, the Justice and Peace Commission, and the Political Platform for Women). Some of the individuals designated by the 2048 Sanctions Committee were also interviewed to obtain their views on the sanctions measures applied against them.

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II. Key findings

3. United Nations sanctions, adopted about one month after the 12 April 2012 coup d'état in Guinea-Bissau, was a swift and decisive act of conflict prevention by the Security Council. Three years on, the 2048 sanctions regime continues to have an impact on the 11 designated individuals and has a deterrent effect on other potential political spoilers. Although the travel ban may not have been completely enforced, it did make it more difficult for listed individuals to travel in the region for the purposes of gathering support for another coup.

4. Moreover, the sanctions have had a psychological and stigmatizing effect on designated individuals, as they conveyed the opprobrium of the international community for their unconstitutional actions in connection with the coup d'état. The maintenance of the sanctions regime signals an on-going commitment of the Security Council to encourage the rule of law and the fight against impunity in the

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country. United Nations sanctions are widely regarded as the only serious measure holding coup leaders accountable for their actions.

5. Since the adoption of the 2048 sanctions regime, Guinea-Bissau has made progress. Today, there is a legitimate, competent, inclusive and democratic Government that has ushered in a period of optimism and hope for the country. The Government has shown the political will to implement many of the necessary reforms in the areas of defence, security and judicial sectors, and continues to enjoy the support of the international community.¹

6. While Guinea-Bissau is on its path to recovery, neither national nor international actors can afford to be complacent. As I had indicated in my 19 January 2015 report (S/2015/37), the root causes of instability in the country have not been addressed, and the return to constitutional order since last year's elections is still fragile and would need to be maintained. In addition to these root causes, the ability of the elected authorities in particular the President of the Republic, the Prime Minister and the President of the ANP, to constructively work together still requires close and sustained regional and international support.

7. For these reasons, Guinea-Bissau will continue to benefit from the support of the Security Council, to deter any potential spoiler within or outside the military who may wish to obstruct or undermine the required reform process outlined in the Government's strategic vision and development plan.

8. The current sanctions regime remains relevant to the situation in Guinea-Bissau. Resolution 2048 (2012) sends an unequivocal message to all political actors in Guinea-Bissau that the required sanctions framework is already in place for the Council to take action against any political spoiler. The designation criteria² established by the Council allows the 2048 Sanctions Committee to act against anyone who undermines constitutional order, stability, rule of law, civilian power, and anyone who furthers impunity in Guinea-Bissau.

9. To assist the Council and its 2048 Sanctions Committee in its work and to send a clear signal that the Council remains vigilant against those who might seek to threaten the stability and constitutional order of the country, the Council may wish to consider the establishment of a two-person Panel of Experts; take steps to review the individuals on the 2048 Sanctions List, to determine if they still meet the designation criteria; as well as establish clear benchmarks for the lifting of sanctions in Guinea-Bissau.

¹ In resolution 2203 (2015), the Council focused and extended the mandate of UNIOGBIS until 29 February 2016. Donors pledged 1.2 billion US dollars at the 25 March 2015 International Partners' Round Table for Guinea-Bissau in Brussels, Belgium in support of the Government's Strategic Vision and Development Plan 2015-2020. The EU has lifted Article 96 of the Cotonou Agreement measures which had limited EU aid to the country after the attempted coup d'état in April 2012, and the ECOWAS has extended the mandate of the ECOWAS Mission in Guinea-Bissau until 31 December 2015.

² Resolution 2048 (2012), paragraph 6.

III. United Nations Sanctions in Guinea Bissau

10. On 18 May, the Security Council adopted resolution 2048 (2012) which put in place a travel ban against five high-ranking military officers³ of the "Military Command" who had carried out a coup d'état a month earlier. The adoption of this resolution was preceded by an immediate condemnation of the coup by the Security Council the day after it took place⁴ and a Presidential Statement on 21 April⁵, which demanded the immediate restoration of constitutional order in Guinea-Bissau, the reinstatement of the legitimate democratic Government and the resumption of the 18 March 2012 electoral process interrupted by the military coup. Two months later, on 18 July 2012, the 2048 Sanctions Committee approved the designation of six additional individuals⁶, all members of the "Military Command" that assumed responsibility for the 12 April 2012 coup d'état. On 4 and 5 April 2014, INTERPOL-United Nations Security Council Special Notices were issued for all 11 designated individuals.⁷

11. The adoption of the 2048 sanctions regime was particularly swift and decisive, even as regional and international partners (all committed to a zero-tolerance policy against coup) approached the crisis from different perspectives and deliberated different courses of action. Notwithstanding these differences, the broad contours of an approach to the crisis emerged. That included mediation efforts followed by the brief imposition of targeted sanctions by ECOWAS,⁸ and the deployment of a contingent of the ECOWAS Standby Force to Guinea-Bissau. The European Union, a key development partner of the country, imposed a travel ban as well as an assets freeze against a number of individuals, while the AU, the Community of Portuguese Language Countries (CPLP) and the International Organization of La Francophonie suspended Guinea-Bissau from their activities, and the African Development Bank and the World Bank suspended development operations in the country pending the restoration of constitutional order. Throughout the next three years, the harmonization of efforts amongst key regional and international partners, including the CPLP, UN, ECOWAS, the AU and the EU remained a recurring theme.

³ Ibraima Camará, António Injai, Estêvão Na Mena, Daba Nualna and Mamadu Ture.

⁴ See press release SC/10607.

⁵ See S/PRST/2012/15.

⁶ Sanha Clussé, Cranha Danfa, Idrissa Djaló, Tchipa Na Bidon, Tcham Na Man and Júlio Nhate.

⁷ The issuance of these notices was made possible by an agreement that the Committee signed with Interpol in March 2014.

⁸ ECOWAS leaders put the military junta on notice that if it failed to comply with the conditions put forward within 72 hours, the organization would immediately impose targeted sanctions on its members and their associates, as well as diplomatic, economic and financial sanctions on Guinea-Bissau. On 29 April 2012, ECOWAS imposed diplomatic, economic and financial sanctions on Guinea Bissau after talks in Banjul between Foreign Ministers of the regional Contact Group and Guinea Bissau's political stakeholders failed to reach an arrangement to return the country to constitutional rule within 12 months. The sanctions were lifted once such an agreement was reached.

12. Against this backdrop, the signing of the 18 May 2012 ECOWAS-mediated Political Agreement by the Military Command and 25 political parties ushered in a tenuous transitional arrangement, and divided the international actors supporting Guinea-Bissau. The exclusion of Guinea-Bissau's largest political party, the African Party for the Independence of Guinea and Cape Verde (PAIGC), raised serious questions as to the legitimacy of the transition, and was seen by some as non-compliant with resolution 2048 (2012). The transitional political landscape only improved after 17 January 2013, when the PAIGC and its political allies signed the Political Transition Pact and the Political Agreement. In the months that followed, key political stakeholders agreed to arrangements for the remainder of the transition, including the adoption of a new consensual Transitional Pact and Political Agreement, as well as a Transitional Roadmap, the appointment of a more inclusive Transitional Government, new leadership of the National Electoral Commission and the holding of elections.

13. The people of Guinea-Bissau went to the polls on 13 April and 18 May 2014 to elect a new President and members of the ANP. Despite episodes of political intimidation and serious human rights violations in the lead up to the elections, they were successful and the relative calm that followed was a crucial milestone in Guinea-Bissau's return to constitutional order. President José Mário Vaz and Prime Minister Domingos Simões Pereira both belong to the PAIGC, which retained its leading position in the ANP with 57 of the 102 seats.

14. It is difficult to isolate the contribution of United Nations sanctions in the restoration of constitutional order in Guinea-Bissau. On the one hand, it appears that they had limited impact at all on members of the "Military Command". In the initial phases of the transition, not only did the "Military Command" fail to relinquish their positions of authority, the military continued to involve itself in the country's political and judiciary affairs. Subsequently, reports emerged that some of the designated individuals even travelled abroad to countries in the region. General Indjai and many of his fellow officers also remained in their positions throughout the transition period, and eight sanctioned individuals were promoted during the transition. At the time of the writing of the report, six of the 11 designated individuals still retained the same appointment within the military since the events of April 2012.⁹

15. However, while the implementation of the travel ban was imperfect, it was not completely ineffective. Its application to members of the "Military Command" prevented easy travel throughout the region for the purpose of gathering support. On 18 September 2012, following reports that General Indjai travelled to Côte d'Ivoire and Mali, transitting through Senegal, the Chair of the 2048 Sanctions Committee wrote to both Côte d'Ivoire and Senegal, respectively. Both Member States replied, confirming the violation and committed to taking steps to avoid another violation. With the exception of Colonel Idrissa Djaló (who still remains in the Gambia), all individuals claimed that the travel was for medical reasons for

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⁹ Ibraima Camará, Sanha Clussé, Tcham Na Man, Estêvão Na Mena, Daba Nualna and Mamadu Ture.

which exemptions may have been granted by the 2048 Sanctions Committee had they availed themselves of the exemption provisions in paragraph 5 of resolution 2048 (2012). One designated individual attempted to travel to a European country also for medical treatment but was denied a Schengen visa to enter Europe.

16. Moreover, the impact of United Nations sanctions on those 11 designated individuals went beyond the limitation of their freedom of movement. Idrissa Djaló travelled to the Gambia after he was nominated for the position of Ambassador in that country by the transitional Government, but his credentials were not received, though he remains in the country. At a crucial time for the return to constitutional order, the travel ban was used to disqualify some designated individuals from running as candidates in the 2014 elections. On 15 September 2014, responding to national and international pressure to reform the defence and security sector, President José Mário Vaz issued a presidential decree dismissing General Indjai as the Chief of General Staff of the Armed Forces. In addition to that dismissal, the President has taken other steps with regard to SSR, most notably the launch of a national SSR plan by the Minister of Defence on 14 September 2014.

17. United Nations sanctions have also had a significant psychological impact on the targeted individuals. Those designated individuals felt ostracised and described the measures as an ignominious stain on their professional and personal record. General Indjai, for example, made several public statements of the derision he would feel from being intercepted if he attempted to travel.

18. While many of the designated individuals continued to hold prominent posts in the armed forces, their status as sanctioned individuals was nevertheless felt as they were excluded from military courses, ceremonies, receptions and other events by most embassies in Guinea-Bissau. According to one civil society interlocutor interviewed, one sanctioned individual experienced multiple negative consequences following the imposition of sanctions against him: "he lost friends, he was unable to obtain his doctorate and even lost the lease on his rental house."

19. By 2014, the sanctioned individuals were observed to be exhausted and were considering leaving the armed forces - an effect attributed to the targeted sanctions and international pressure.

20. From the perspective of Bissau-Guineans, United Nations sanctions also represented the support of the Security Council to the rule of law and the fight against impunity in the country. United Nations sanctions are widely regarded as the only serious measure holding coup leaders accountable for their actions. Aside from the sanctions against the designated individuals, ordinary citizens have not yet seen serious consequences faced by the perpetrators of the coup as well as the perpetrators of human rights violations. Therefore, United Nations sanctions are very much viewed in country as an important accountability measure that supports the broader reconciliation process.

IV. Progress towards stabilization of the country and restoration of constitutional order

21. Since the April/May 2014 elections in Guinea-Bissau, the country has made steady progress in the restoration of constitutional order, and made a start towards the difficult processes of security and justice sector reform. In 2014, these included the launch of a national SSR plan and the establishment of a Committee on demobilization; the adoption of the Government priority plan; the appointment of an Inspector-General for the fight against corruption; the reactivation of the Commission for Constitutional Review, the dismissal of General Indjai and other changes at the senior command level of the military, changes at the Ministry of Justice, the appointment of a new General Prosecutor, and the appointment of a new Head of Police.

22. In the eyes of Bissau-Guineans and the international community, these early reform efforts were bolstered by the promulgation of the decree law which amends the Law on the Establishment of the Special Pension Fund for the armed forces and security institutions, when the members of the Ad Hoc Commission on Constitutional Reform took office in February 2015, and when the Secretary of State for International Cooperation and Communities was arrested in connection with an investigation into illicit issuing of passports during the transition. Amidst those encouraging signs, international donors committed US\$1.2 billion at the International Partners' Roundtable for Guinea-Bissau on 25 March 2015, in support of the Government's Vision and Strategy for 2015-2025 and its Strategic and Operational plan "Terra Ranka" for 2015-2020.

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23. Notwithstanding those positive developments, Guinea-Bissau remains at a crossroads. As I had reported in my strategic assessment (S/2015/37), the potential for relapse into instability and unconstitutionality will remain high as long as the root causes remain unaddressed. The root causes of instability in the country lie in a complex interrelation of four main factors: (a) political-military dynamics; (b) ineffective State institutions and the absence of rule of law; (c) poverty and lack of access to basic services (particularly for women and youth); and (d) impunity and human rights violations. Even with considerable international support, it will take time for the country to overcome those considerable challenges.

24. Beyond the structural root causes of instability in Guinea-Bissau, the ability of elected authorities to work together remains a key concern. For example, during this assessment, active diplomatic efforts from key bilateral, regional and international partners were needed to help defuse tensions between President Vaz and Prime Minister Simões, which culminated in a motion of confidence in the Government unanimously adopted by the ANP on 25 June.

25. In January 2015, I reported to the Council that the President, the Prime Minister and the President of the ANP held consistent views regarding the key priorities of the country and the vision for its future. The implementation of the Government's priority plan will require compromise and statesmanship from those elected authorities to overcome the predictable resistance to change.

26. A collaborative relationship amongst elected authorities will be required to steer the country with a sense of common purpose to take the decisions needed in the reform processes. An unravelling of the political consensus within the Government, and the exacerbation of tensions between the main political leaders, could impede essential reform efforts, increase chances of military interference in the affairs of Government or, in the worst instance, a coup d'état.

V. Recommendations on the Continuation of United Nations Sanctions

27. The state building process in Guinea-Bissau is in its initial stages. The country faces extreme levels of poverty and the social contract is weak. Since its independence in 1974, the country has never seen a Government complete its term in office. The political instability in the country has been accompanied by repeated serious human rights violations, including politically motivated assassinations, abductions, cases of torture, arbitrary arrests, detentions of political opponents and civil society representatives, and restrictions on the freedom of expression and assembly.

28. Given this history, the unresolved root causes of instability, and the still-recent return of constitutional order, the Security Council needs to remain vigilant to any potential for relapse in Guinea-Bissau. Thus far, the sanctions regime has been a unique example of conflict prevention by the Council. United Nations sanctions, complemented with other international support and pressure, were applied when the political and security situation in the country was critical but not yet catastrophic. **In recognition of the encouraging but fragile progress in the country, it is my assessment that the Council may wish to maintain its sanctions regime, to support the consolidation of constitutional order and stability in Guinea-Bissau.**

29. The sanctions regime as outlined in resolution 2048 (2012) remains relevant to the context at hand. The designation criteria established by the Council already allow its 2048 Sanctions Committee to act against anyone who undermines the constitutional order, stability, rule of law, civilian power, and who furthers impunity in Guinea-Bissau. **The Council may wish to maintain the current designation and send a clear message to all Bissau-Guineans that this sanctions regime is applicable to all spoilers regardless of their political or institutional affiliation, and that the Council is ready to adopt additional sanctions measures and designations, as and when required.**

30. To enable the Council to be able to take action against those who might undermine the state and peacebuilding process, **the Council may wish to consider the establishment of a two-person Panel of Experts.** Such a Panel could promote greater awareness in-country of the sanctions regime and the Panel's existence would signal to would-be political spoilers that the Council is closely monitoring developments in the country. Should the Council decide to establish such a Panel, it could mandate the Panel to identify those who meet the designation criteria for targeted measures. Specific attention could be paid by the Panel to those that undermine the process of national dialogue and reconciliation, perpetrate acts of human rights violations, impede the security sector and judicial reform processes, undermine the process of state and

peacebuilding through corruption and organized crime, as well as to those who misappropriate the country's natural resources.

31. The focus on corruption and natural resources by the Panel would be an important complement to the considerable financial investment that has been and will be made by international partners to the country. The Council has taken such an approach in its sanctions regime in Somalia, and reporting by the Monitoring Group on Somalia and Eritrea on financial and resource issues has been very useful to the Federal Government of Somalia, the 751/1907 Sanctions Committee, and the international community to address corruption and the diversion of aid in Somalia.

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32. Sanctions are not an end in themselves; **the Council could consider establishing clear benchmarks for the lifting of sanctions in Guinea-Bissau.** These benchmarks may include the completion of the retirement and demobilization process of identified military and security personnel and the consolidation of civilian control over the military; completion of the national dialogue and reconciliation process, and the establishment of a justice system that is capable of investigating and prosecuting the serious crimes committed since 2009. The Panel of Experts, proposed above, would be well placed to monitor progress against any benchmarks set.

33. At an appropriate time, **the Council and its 2048 Sanctions Committee may wish to review its sanctions list to ascertain if the 11 listed individuals still meet the designation criteria.** Such an approach is important to respect the due process rights of any individuals on United Nations sanctions lists. The Panel of Experts, proposed above, would also be very helpful in such a review exercise, including informing designated individuals of the ways in which they can apply for de-listing from the 2048 Sanctions List. Such a review, and any potential removal from the 2048 Sanctions List, should take into account the ability of the national justice system to hold perpetrators of the coup and other human rights violations to account.

34. Three years ago, Guinea-Bissau was a divided country; but today, with an inclusive Government, Guinea-Bissau has taken its proper place on the international stage. Continued attention by the Security Council, including through the 2048 Sanctions Committee, remains vital for the consolidation, respect for, and maintenance of, constitutional order, democratic governance, and stability in Guinea-Bissau.