



**Security Council Committee pursuant to resolution 751 (1992) concerning
Al-Shabaab**

Implementation Assistance Notice No. 1

**Recommendations on procedures and notification requirements related to inspection of
vessels suspected of carrying charcoal from Somalia and/or the seizure of charcoal
suspected to originate in Somalia by Member States pursuant to Security Council
resolutions 2036 (2012), 2060 (2012), 2111 (2013), 2182 (2014) and 2662 (2022)**

Updated on 18 May 2023

References:

- Security Council resolution 2662 (2022) and other resolutions dealing with Somalia sanctions regime, available at:
<https://www.un.org/securitycouncil/sanctions/751/resolutions>;
- The guidelines of the 751 Committee for the conduct of its work, available at
<https://www.un.org/securitycouncil/sanctions/751/guidelines>;
- United Nations Convention on the Law of the Sea (UNCLOS), available at
https://www.un.org/depts/los/convention_agreements/texts/unclos/unclos_e.pdf.

Rationale

1. This IAN, approved by the Committee, aims to assist Member States to take the necessary steps to ensure full and effective implementation of the ban on the export of charcoal from Somalia. It also aims to support other public and private entities, and natural persons in terms of awareness to avoid potential violations of the ban. It offers a summary of the procedural requirements to implement the ban, including steps Member States must adhere to if or when a Member State decides to inspect a vessel suspected of carrying charcoal from Somalia or seize and dispose of any charcoal identified in relevant inspections.

Background

2. The ban on the export of charcoal from Somalia was imposed initially by resolution 2036 (2012), which considered that the commerce in charcoal from Somalia may pose a threat to the peace, security, or stability of Somalia. Additionally, paragraph 22 of resolution 2036 (2012) “decided that Somali authorities shall take the necessary measures to prevent the export of charcoal from Somalia and that all Member States shall take the necessary measures to prevent the direct or indirect import of charcoal from Somalia, whether or not such charcoal originated in Somalia.”

Paragraph 22 of resolution 2036 (2012) further requires all Member States to report to the Committee on the steps they have taken towards effective implementation of the charcoal ban. This was reaffirmed most recently by resolution 2662 (2022). Lastly, paragraph 41 of resolution 2662 (2022) renews the provisions set out in paragraph 15 and 17 of resolution 2182 (2014) concerning the authorization for Member States, acting nationally or through voluntary multinational naval partnerships, such as ‘Combined Maritime Forces’, in cooperation with the Federal Government of Somalia (FGS) and which the FGS has notified to the Secretary-General and which the Secretary-General has subsequently notified to all Member States, in order to ensure strict implementation of the charcoal ban, to inspect, without undue delay, in Somali territorial waters and on the high seas off the coast of Somalia, vessels bound to or from Somalia which they have reasonable grounds to believe are carrying charcoal from Somalia in violation of the charcoal ban, and to seize and dispose of any items identified in such inspections, and the authorization for Member States to collect evidence directly related to the carriage of such items in the course of such inspections, and that charcoal seized may be disposed of through resale which shall be monitored by the Panel of Experts.

Implementation measures and procedural requirements Member States may follow before or after inspections of vessels suspected of carrying charcoal from Somalia

Preventing import of charcoal

3. To implement its obligation to prevent the importation of charcoal from Somalia into its territory, a Member State may and is encouraged to inspect vessels suspected of carrying charcoal from Somalia and their cargoes in its territorial sea, in accordance with the international law of the sea, prevent the docking in its territory of such vessels, inspect such vessels and cargoes within its ports, and prevent the offloading of charcoal from Somalia, or the clearing of the consignment of charcoal from Somalia through customs. The resolutions do not require Member States to deny a vessel entry into port in the case of emergency, or in the case of return to its port of origination.

4. The Committee requests that Member States shall inform the Committee of the measures they have taken within five working days after arrival of the vessel, including an explanation of the grounds for and results of the inspection and, where possible, information including: the flag of the vessel, the name of the vessel, the name and identifying information of the master of the vessel, the owner of the vessel, the original seller of the cargo, the size of the consignment, the names of the consignees, agents and shippers, relevant genuine or falsified documentation, and efforts made to seek the consent of the vessel’s Flag State within five working days after the inspection of a vessel suspected of carrying charcoal from Somalia. In particular, the Committee requests that the Member State inform the Committee of the intended or likely next port of call of the vessel in the event it does not return to Somalia to enable the Committee to coordinate further with Member States.

Seizure, disposal or destruction

5. As a necessary measure to prevent the import of charcoal from Somalia, whether or not such charcoal originated in Somalia, Member States may seize and confiscate consignments of charcoal from Somalia that have entered their national territory, for the purposes of disposal or destruction, in order to deny any financial benefit accruing to any individual or entity involved in the shipment, including charcoal traders and facilitators, owners of the consignment or shippers.

In addition, Member States may seek on a case by case basis to recover the costs arising from seizure and confiscation, including docking fees of the vessel or temporary storage of charcoal, from individuals and entities engaged in facilitating the violation of the charcoal ban such as the consignees of the charcoal cargo or the owners of the vessel. Furthermore, the Committee notes that Member States may seek on a case by case basis, to recover the costs associated with the destruction of seized and confiscated stocks of charcoal from Somalia from individuals and entities engaged in facilitating the violation of the charcoal ban such as the consignees of the charcoal cargo or the owners of the vessel.

6. Following the seizure and confiscation of a charcoal shipment from Somalia, Member States may proceed with the destruction of the offloaded charcoal in an environmentally responsible manner. Illustrative examples of such destruction methods include: sequestration as biochar; solid waste management and in-situ water treatment; activated carbon feedstock; co-firing in coal fired power stations and cement kilns; and landfill mixed disposal. In addition, the Committee encourages Member States to ensure that the bags containing the charcoal are either recycled or destroyed in an environmentally responsible manner. The Committee also notes that Member States may seek technical assistance from United Nations bodies with technical capabilities and expertise to determine the advantages and disadvantages of the options for destruction of charcoal shipments, and best practices for establishing effective and environmentally sound means of destruction. The Committee will be available to advise Member States on the relevant UN bodies if necessary.

7. Exceptionally and in close consultation with the Committee, instead of destruction, Member States may locally resell, in accordance with their domestic legislation and according to transparent and accountable procedures, a portion or the whole of a shipment of Somali charcoal that has been seized and confiscated. The Committee requests that Member States consult with the Committee with respect to the ultimate distribution of the proceeds of such a resale, with a view to ensuring that they are distributing said proceeds in a manner consistent with the objectives of the relevant Security Council resolutions. From the proceeds of such a resale, a Member State may recover costs associated with measures undertaken to implement the charcoal ban, including destruction of subsequent shipments. As a consequence of a local resale, no financial benefit should accrue to individuals and entities engaged in facilitating the violation of the charcoal ban such as the consignees or shippers whose cargo has been seized and confiscated.

8. The Committee encourages the Member State to inform the Committee of any seizure and confiscation of a charcoal shipment within five working days of its actions and should provide full available information as detailed in paragraph 4 above and the intentions of the Member State for disposal. Following the disposal of the shipment in a timely manner, the Member State is encouraged to inform the Committee of the measures it has taken and is encouraged to provide all accounts of any resale, in part or in whole of the shipment, expenditures from the proceeds, and any remaining balance.

9. The Committee recalls that Member States acting under the authorization provided for in paragraph 15 of resolution 2182 (2014), and renewed by paragraph 41 of resolution 2662 (2022), are further authorized by the Security Council, in paragraph 17 of resolution 2182 (2014), to seize and dispose of (such as through destruction, rendering inoperable or unusable, storage, or transferring to a State other than the originating or destination States for disposal) any items identified in the inspections pursuant to paragraph 15 of resolution 2182 (2014), the delivery,

import or export of which is prohibited by the charcoal ban. Member States are also authorized to collect evidence directly related to the carriage of such items in the course of such inspections. Furthermore, the Security Council decided that charcoal seized in accordance with this paragraph may be disposed of through resale, which is to be monitored by the Panel of Experts.

10. The Committee further recalls that Member States acting under the authorization provided for in paragraph 15 of resolution 2182 (2014), and renewed by paragraph 41 of resolution 2662 (2022), are requested, in paragraph 19 of resolution 2182 (2014), to dispose of any charcoal seized in an environmentally responsible manner, taking into account the United Nations Environment Programme's 4 September 2013 letter to the Chair of the Committee, and this Implementation Assistance Notice, and that the Council called upon all Member States in the region to cooperate in the disposal of such charcoal.

11. The Committee also recalls that the authorization provided for in paragraph 15 of resolution 2182 (2014), as renewed by paragraph 41 of resolution 2662 (2022), includes the authority to divert vessels and their crews, to a suitable port to facilitate the disposal of the seized charcoal, with the consent of the port State, and that the authorization further includes the authority to use all necessary measures to seize items pursuant to paragraph 17 of resolution 2182 (2014) in the course of inspections. Any Member State cooperating in the disposal of items identified in inspections pursuant to paragraph 15 of resolution 2182 (2014), the delivery, import or export of which is prohibited by the charcoal ban, shall provide a written report to the Committee no later than 30 days after such items enter its territory on the steps taken to dispose or destroy them.

12. The Committee recalls that Member States acting under the authorization provided for in paragraph 15 of resolution 2182 (2014) and renewed by paragraph 41 of resolution 2662 (2022), are requested, in paragraph 16 of resolution 2182 (2014), to make good-faith efforts to first seek the consent of the vessel's Flag State prior to any inspections. The Member States conducting inspections pursuant to paragraph 15 of resolution 2182 (2014) are also authorized to use all necessary measures commensurate with the circumstances to carry out such inspections and in full compliance with international humanitarian law and international human rights law, as may be applicable.

13. Paragraph 20 of resolution 2182 (2014) requests the Committee to notify the Flag State of the inspected vessel that an inspection has been undertaken.

14. The Committee recalls that a Member State that undertakes an inspection pursuant to paragraph 15 of resolution 2182 (2014) shall in accordance with paragraph 20 of the same resolution promptly notify the Committee and submit a report on the inspection containing all relevant details, including an explanation of the grounds for and the results of the inspection and where possible including the flag of the vessel, the name of the vessel, the name and identifying information of the master of the vessel, the owner of the vessel, and the original seller of the cargo, and efforts made to seek the consent of the vessel's Flag State.

Preventing export of charcoal

15. To prevent the export of charcoal from Somalia, the Committee encourages the Somali authorities to take control within Somalia of production areas, reducing production to levels of local consumption, in accordance with relevant national laws, block access routes to ports, and

prevent docked vessels from loading charcoal cargo. The Committee notes that, in order to advance the objectives of the relevant Security Council resolutions, Somali authorities may wish, as feasible, to seize charcoal within the territory of Somalia intended for export and dispose of it within Somali territory.

16. As requested by the Security Council, ATMIS should support and assist the Somali authorities in preventing the export of charcoal, particularly in areas where its contingents have security control and can block access to ports and loading of docked vessels.

17. The Committee encourages the Somali authorities and ATMIS to report to the Committee regularly on the steps they have taken towards effective implementation of the charcoal ban.

18. Paragraph 35 of resolution 2662 (2022), which reiterates its requests that ATMIS support and assist Somalia in implementing the charcoal ban and facilitate regular access for the Panel to charcoal exporting ports.

Monitoring

19. The Committee encourages Member States to invite the Panel of Experts to monitor the measures undertaken to implement the Somali charcoal ban. States are also encouraged to provide the Panel of Experts with documentary evidence, other materials and information that could further its investigations into violations of the charcoal ban. In addition, other United Nations bodies with technical capabilities and expertise may be invited to observe implementation measures.

Safety issues

20. The Committee is aware of the safety issues associated with bulk transportation, storage and disposal of charcoal, which should be handled according to standard industry safety procedures applicable in each Member State and/or generic industry safety references. States are encouraged to seek the necessary technical assistance from relevant United Nations bodies.

Economic issues

21. Recalling the right of Member States in accordance with Article 50 of the United Nations Charter to consult with the Security Council with regard to special economic problems arising from carrying out of its preventive or enforcement measures, the Committee and the Panel of Experts stand ready to provide additional guidance, upon request, to Member States about the implementation of the charcoal ban pursuant to resolutions 2036 (2012), 2060 (2012), 2111 (2013) and 2182 (2014).

Annex 1. Template for Member States to employ upon an inspection of a vessel suspected of carrying charcoal from Somalia, the seizure and disposal of charcoal, and collection of evidence

Sender:

- The Permanent Mission of the State conducting the inspection, seizing or disposing of charcoal, and collecting evidence

Addressee:

- His/Her Excellency, the Chair of the Security Council Committee pursuant to resolution 751 (1992) concerning Al-Shabaab, through the Senior Secretary of the Committee, (Room DC2-2030, United Nations, New York, NY 10017; e-mail: sc-751-committee@un.org).
 - CC:
 - His Excellency, Permanent Representative of the Federal Republic of Somalia to the United Nations, New York, somalia@un.int,
 - Office of the National Security Advisor of the Federal Republic of Somalia, through, nsa@presidency.gov.so.

Date:

Five working days after the inspection of a vessel suspected of carrying charcoal from Somalia or no later than 30 days after charcoal enters a Member State's territory on the steps taken to seize or dispose of said charcoal.

First Section: Introduction

The Permanent Mission of [*insert name*] to the United Nations in New York presents its compliments to the Chair of the UN Security Council Committee pursuant to resolution 751 (1992) concerning Al-Shabaab.

Second Section: Explanation of the grounds for and results of the inspection

The Permanent Mission of [*insert name*] has the honour to inform the Committee of inspection of a vessel suspected of carrying charcoal from Somalia, pursuant to paragraph 34 of resolution 2662 (2022), which reaffirms the Committee's decisions to ban the import and export of Somali charcoal , as set out in paragraph 22 of its resolution 2036 (2012), and paragraphs 11 to 21 of resolution 2182 (2014) hereafter "the charcoal ban".

As requested by paragraph 15 of resolution 2182 (2014), the Permanent Mission of [*insert name*] inspected [*insert vessel name*] on [*insert date*] because [*insert justification*].

As requested in paragraph 16 of resolution 2182 (2014), The Permanent Mission of [*insert name*] made a good-faith effort to first seek the consent of the vessel's Flag State prior to our inspection.

AND/OR

As authorized by paragraph 17 of resolution 2182 (2014), The Permanent Mission of *[insert name]* has decided to seize and dispose of (such as through destruction, storage, transferring to a State other than the originating or destination States for disposal, or resale monitored by the Panel of Experts) *[insert amount]* of charcoal that was discovered on the *[insert vessel name]* on *[insert date]* in *[insert location]*. The same paragraph also authorizes The Permanent Mission of *[insert name]* to collect evidence directly related to the carriage of charcoal in the course of our inspection of the *[insert vessel name]*. *[Insert and outline any evidence collected]*.

Third Section: Vessel Identification Information

As a result of our inspection, The Permanent Mission of *[insert name]* has recorded the following vessel- and cargo-related information for dissemination with the Committee:

- Flag of the vessel;
- Name of the vessel;
- Name and identifying information of the master of the vessel;
- Owner of the vessel;
- Original seller of the cargo;
- Size of the consignment;
- Names of the consignees;
- Agents and shippers;
- Relevant genuine or falsified documentation;
- Efforts made to seek the consent of the vessel's Flag State; and
- Intended or likely next port of call of the vessel.

The Permanent Mission of *[insert name]* will *[insert type of disposal]* the seized charcoal.

- Destruction: How will you destroy it?
- Storage: Where will you store it and for how long?
- Transfer for disposal: To whom will you transfer the charcoal and why?
Resale monitored by the Panel of Experts: To whom will you sell the seized charcoal, what are your expenses to date in managing/facilitating the seized charcoal?