

# Meeting the Humanitarian Imperative in Somalia

Aug. 10, 2011



Speakers:

- **Kay Guinane**, Director, Charity & Security Network
- **Eric D. Johnson**, Associate General Counsel at CARE USA

# Background

## February 2007 to March 2008:

According to USAID “over **\$319 million** in assistance was provided by USAID through international and local nongovernmental organizations and United Nations agencies.”

**2010:** U.S. aid dropped to just under **\$30 million**.

## What happened?

2008: al-Shabaab, which controls territory with 60% of Somalis needing assistance, is listed as a Foreign Terrorist Organization



# Why the sharp drop in aid?

- The law prohibits providing “material support” to a listed terrorist group, regardless of intent.
- The [humanitarian exemption](#) only extends to medicine and religious materials.
- Food, water, or other essentials are NOT included.



# U.S. Delays Somalia Aid, Fearing It Is Feeding

**Terrorists** Oct. 9, 2009

## The New York Times

- Reported that “United Nations officials say they have no choice but to work with local Shabab commanders to distribute critically needed aid...” and that “the American government has been withholding millions of dollars in aid shipments while a new set of rules is worked out to better police the distribution of aid.”
- The State Department sought “confirmation that OFAC (Treasury) will not seek enforcement action against United States government employees, grantees and contractors” if, “accidental, unintentional or incidental benefits” goes to al-Shabab. Treasury responded by saying any transactions with al-Shabab “were prohibited, but that it would not prosecute American aid officials if they acted in 'good faith.'”
- In late 2009 the UN and U.S. were at an impasse over what the language should be, but no agreement was reached.

<http://www.nytimes.com/2009/10/02/world/africa/02somalia.html?pagewanted=2>

# Fast Forward -> 2011

Drought + armed conflict + al Shabaab interference + U.S. material support laws =  
Famine.

July: U.S. aid groups call on Treasury to grant licenses permitting humanitarian aid in al-Shabaab controlled territory.



# Treasury's Office of Foreign Asset Control and Licensing Powers

Regulations implementing the sanctions programs :

31 CFR Part 501 provides a process that authorizes otherwise blocked transactions by giving OFAC power to grant two types of licenses:

- **General license**– authorizes otherwise prohibited transactions under appropriate terms and conditions. See 31 CFR 501.801(a).
- **Specific license** – authorizes a single, successful applicant to engage in transactions otherwise prohibited and not authorized by a general license. See 31 CFR 501.801(b).

# Joint congressional hearing on July 7, 2011

## *Assessing the Consequences of the Failed State of Somalia*

Testimonies from State Department officials and humanitarian organizations underscored the urgent need for immediate assistance to the nearly three million Somalis facing starvation inside the war-torn country.

Reuban Brigety, the State Department's Deputy Assistant Secretary of Population, Refugees, and Migration, called for immediate assistance to relieve what he described as "the desperate and deplorable state of malnutrition" among Somali children.

# New Policy Announced

**On Aug. 2, 2011** the State Department announced that U.S. aid groups that provide famine aid in areas of Somalia controlled by al-Shabaab will **not be prosecuted if they act in good faith to reach victims of the famine.**

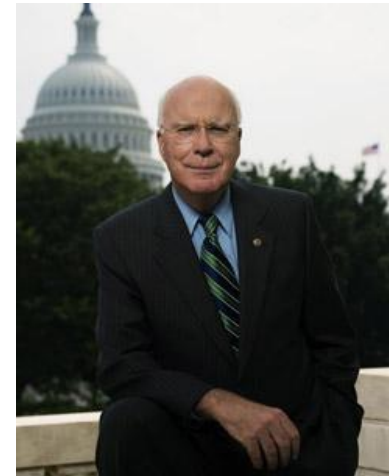


**On Aug. 4, 2011** Treasury released a Frequently Asked Questions document that states that **only U.S. government agencies and their grantees benefit from the new policy.**

The Department of Justice, which oversees criminal prosecutions, remains silent.

# Sen. Leahy's Aug. 3 letter to Clinton and Holder

- Urges exemptions for relief organizations providing aid in Somalia
- Expresses concern about material support law's impact on peacebuilding
- Urges dialog to develop new set of guidelines



# Bipartisan Support in Senate Hearing

Senate Foreign  
Affairs Committee  
Subcommittee on  
African Affairs

Hearing Aug. 3,  
2011



**Republican Senator Johnny Isakson :**

“Well, I wanted to be quite clear. I understand is important that the [Obama] administration and our country do everything they can to prohibit U.S. aid getting into terrorist hands, and that is one of the reasons for some of the restrictions. **But when you do reach a crisis point in a humanitarian problem like this, it seems like there ought to be expedited procedures, or else the people you are trying to help are going to be dead.”**

# Senators Kerry and Coons urge expansion of humanitarian aid efforts in the Horn of Africa

Aug. 8, 2011

“We encourage the administration to consider additional ways to ease and expedite the provision of **explore expanding the pool of those licensed to provide assistance in southern Somalia to include U.S. humanitarian groups funded by private donors or other countries.** aid. Specifically, it should While it is absolutely imperative to restrict the flow of resources to al-Shabaab, we must draw on all available resources as we balance security concerns with pressing humanitarian needs.”



Erik D. Johnson  
Associate General Counsel



# Have more questions?

- Please send us your additional questions, and we will forward them to federal officials.
- Email them to: [info@charityandsecurity.org](mailto:info@charityandsecurity.org)