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THE EAST AFRICAN COMMUNITY CONFLICT MANAGEMENT BILL, 2011

MEMORANDUM

The object of this Bill is to establish within the East African Community a Conflict Prevention, Management and Resolution Mechanism responsible for the—

(a) identification of potential sources of conflict and devising response options;

(b) provision of pre-emptive measures to address conflict situations;

(c) development of capacity for mediation and negotiation to forestall and diffuse conflicts;

(d) proposing modalities for intervention and stabilisation of conflict situations;
(e) operationalisation of a conflict early warning and response mechanism for the Community;

(f) facilitation and support of negotiation and mediation capacity for the Community;

(g) provision of appropriate mechanism for conflict management;

(h) enhancement of the planning capabilities of the Community in relation to regional tensions;

(i) development of capacities at the Secretariat and in the Partner States to anticipate and mitigate conflicts; and

(j) sensitization and popularization of the East African Community conflict prevention, management and resolution mechanism.

HON, DR. ODETTE NYIRAMILIMO (MP),
East African Legislative Assembly.
THE EAST AFRICAN COMMUNITY CONFLICT MANAGEMENT BILL, 2011

ARRANGEMENT OF CLAUSES

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ENTITLED

THE EAST AFRICAN COMMUNITY CONFLICT MANAGEMENT ACT 2011

An Act to make provision for an East African Community conflict prevention, management and resolution mechanism and to provide for other related matters

ENACTED by the East African Community and assented to by the Heads of State.

1. This Act may be cited as The East African Community Conflict Management Act, 2011 and shall come into force on such date as the Council may, by notice published in the Gazette appoint.

2. In this Act unless the context otherwise requires—

"Assembly" means the East African Legislative Assembly established by Article 9 of the Treaty;

"Community" means the East African Community established by Article 2 of the Treaty;

"conflict" means a disagreement through which the parties involved perceive a threat to their needs, interests or concerns;
“conflict prevention” means the effort made to prevent the escalation of a dispute into violent conflict;

“conflict resolution” means a wide range of methods of addressing sources of conflict and of finding means of resolving or of continuing it in less destructive form;

“Council” means the Council of Ministers of the Community established by article 9 of the Treaty;

“Directorate” means the Directorate of the Office established under section 10;

“Director” means the Director appointed under section 10;

“disaster management” means strategies for managing disasters which help to ensure that loss of life, property and environmental degradation is minimized, and includes strategies for the prevention, preparedness, response and recovery, situation and risk analysis, and the planning and the implementation of plans or programs, and for monitoring and evaluation;

“early warning” means the process of collecting, verifying and analysing information for the purpose of identifying threats to peace and security and communicating the information to the responsible authorities;

“mediation” means a process of dialogue and negotiation in which a third party assists parties to a dispute, with their consent, to prevent, manage or resolve a conflict without resort to force;

“member” means a member of the Office;
“negotiation” means a dialogue between parties, intended to reach an understanding, resolve point of difference, or gain advantage in the outcome of the dialogue, to produce an agreement upon courses of action, to bargain for individual or collective advantage or to craft outcomes to satisfy various interests of the parties involved in the negotiation process;

“Office” means the Office of Eminent Personalities established under section 4;

“Partner States” means the Republic of Burundi, the Republic of Kenya, the Republic of Rwanda, the United Republic of Tanzania, the Republic of Uganda, and any other country granted membership to the Community under Article 3 of the Treaty;

“preventive diplomacy” means special efforts or actions taken to ensure timely intervention to avoid conflict in the Community;

“person” means a natural or legal person;

“Secretariat” means the Secretariat of the Community established by Article 9 of the Treaty;

“Secretary General” means the Secretary General of the Community provided for under Article 67 of the Treaty.

“Summit” means the Summit of the Heads of State established by Article 9 of the Treaty; and

“Treaty” means the Treaty establishing the East African Community.
3. (1) The main objective of this Act is to promote peaceful resolution of conflicts that might arise in the Community.

(2) The specific objectives of this Act are to—

(a) prevent internal, cross boundary and regional conflicts affecting the Partner States;

(b) bring together the conflicting parties for mediation;

(c) encourage the parties to resolve the conflict amicably; /

(d) encourage cooperation among the Partner States in conflict management;

(e) co-ordinate post conflict management; and

(f) deepen the culture of reconciliation among the Partner States for better neighborliness and sustainable internal peace.

4. (1) There is established an Office known as the East African Community Office of Eminent Personalities.

(2) The Office shall be responsible for prevention, management and resolution of conflicts in the Community.

(3) The Office shall be responsible to the Secretary General.

5. The functions of the Office are to—

(a) identify potential sources of conflict;

(b) provide for pre-emptive mechanisms to address conflict situations;
(c) develop capacity for mediation and negotiation to forestall and diffuse conflicts;

(d) propose modalities for intervention and stabilisation of conflict situations;

(e) operationalise the conflict early warning and response mechanism of the Community;

(f) facilitate and support the negotiation and mediation capacity of the Community;

(g) provide appropriate mechanisms for conflict management in the Community;

(h) enhance planning capabilities in relation to regional tensions in the Community;

(i) develop capacities at the Secretariat and in the Partner States to anticipate and mitigate conflicts;

(j) sensitise the people of East Africa on the East African Community conflict prevention, management and resolution mechanism; and

(k) facilitate the Partner States in resolving internal conflicts utilising the mechanism under this Act.

6. (1) The Office shall consist of ten eminent persons, two from each Partner State, appointed by the Summit upon recommendation of the Council.

(2) Members of the Office shall hold office for a period of three years and shall be eligible for re-appointment once.

(3) The Summit shall, within ninety days upon the coming into force of this Act appoint the first members of the Office.
(4) The members of the Office shall elect from among themselves a Chairperson and a Deputy Chairperson who shall hold office on a rotational basis.

(5) A person shall be qualified to serve as a member of the Office if that person—
  
  (a) is a citizen of a Partner State;

  (b) has made outstanding contribution to the cause of peace, security and development in the Community or internationally;

  (c) does not hold an office of emolument in an organ or institution of the Community; or

  (d) has an interest and proven experience in the affairs of the Community.

7. (1) The office of a member shall fall vacant upon—

  (a) resignation in writing by the member, to the Council;

  (b) death of the member; or

  (c) removal of the member from office by the Summit upon written recommendation of the Council.

(2) A member shall only be removed from office on any of the following grounds—

  (a) inability to perform the functions of his or her office due to the infirmity of body or mind; or

  (b) misconduct.

8. (1) The Office shall meet at least once a year and at such other times as the Office deems necessary.
(2) The quorum at any meeting of the Office shall be two thirds of the members.

(3) Decisions of the Office on all matters shall be by consensus.

(4) Where consensus cannot be obtained, the question proposed for decision shall be directed to the Summit through the Council for final decision.

(5) The Office shall establish its own rules of procedures for the conduct of its business.

9. (1) A member of the Office or any person attending any meeting of the Office shall be paid such remuneration or allowances as the Council may determine.

(2) The terms and conditions of service of a member of the Office shall not be varied to the disadvantage of the member.

10. (1) The Office shall have a Directorate which shall be within the Secretariat.

(2) The Directorate shall be responsible for the day to day operations of the Office.

(3) The Directorate shall be the Executive organ of the Office and shall be responsible for the implementation of the functions of the Office.

(4) The Directorate shall have such departments as the Council may determine.

(5) The Council shall upon recommendation of the Secretary General appoint a Director who shall be the chief executive officer of the Directorate.
(6) The Director shall hold office for a term of five years and be eligible for re-appointment for one further term;

(7) The Directorate shall have such other officers and employees as the Council may, on the recommendation of the Secretary General determine.

(8) The officers and employees of the Office shall hold office on the terms and conditions of the staff of the Community.

11. The Office shall submit its annual reports to the Council through the Secretary General.

12. The budget for the Office for each financial year shall be prepared by the Secretary General for consideration by the Council and approval by the Assembly.

13. (1) The Secretary General shall on an annual basis cause to be prepared financial statements of the Office.

(2) The financial statements of the Office shall be audited by the Audit Commission in accordance with the Treaty.

(3) The Audit Commission shall submit the report of its audits made under subsection (2) to the Council, which shall cause them to be laid before the Assembly within six months.

14. The Partner States shall establish a special fund to facilitate the implementation of this Act.

15. (1) A person in the service of the Office shall be immune—

(a) from legal process in respect of words spoken or written or acts performed by him or her in the course of duty while in service and after service of the Office;
(b) together with his or her spouse and members of his or her family forming part of the household, from immigration restrictions, alien registration and from national service obligations.

16. (1) The members and staff of the Office shall protect confidential information, data and materials of a similar nature from disclosure to third parties.

(2) The members and staff of the Office shall maintain confidentiality of the information of the Office and shall not copy, publish, or disclose such information to third parties without authorization from the Council.

17. (1) A Partner State shall not disrespect an advice or ruling of the Office.

(2) A Partner State who contravenes subsection (1) may through the Summit be dealt with in accordance with Article 146 of the Treaty.

18. The Partner States shall operationalise the Conflict Early Warning Mechanism which shall facilitate the detection and prevention of conflicts in the Community.

19. The Partner States shall operationalise the Conflict Prevention, Management and Resolution Mechanism of the Community which shall include—

(a) the establishment of the conflict early warning mechanism through national and regional early warning units;

(b) data collection, analysis and formulation of response options to inform decision making;
(c) the establishment through the Summit upon recommendation of the Council, of preventive diplomacy by designating and deploying special representatives or envoys to ensure timely intervention to avoid conflicts;

(d) the establishment of a panel of eminent personalities in accordance with section 4 to facilitate mediation or negotiation processes;

(e) the deployment of an East African Community Force to stabilize areas affected by violent conflict within the context of Chapter 23 of the Treaty;

(f) the mobilization and delivery of humanitarian assistance to alleviate human suffering resulting from conflicts, coordinated by the Secretariat;

(g) the establishment in each Partner States of an internal mechanism to handle disputes and conflicts through national reconciliation units to foster social healing and cohesion;

(h) where the conflict involves armed struggle, the establishment of a mechanism to disarm, demobilize and reintegrate the former fighters and to rehabilitate them and the victims of the conflict; and

(i) the establishment of a special fund to facilitate the implementation of the mechanism.

20. The Summit shall, upon the recommendation of the Council, deploy an East African Community Force within the context of Chapter 23 of the Treaty to stabilize areas affected by violent conflict.
21. The Secretariat shall coordinate the mobilization and delivery of humanitarian assistance to alleviate human suffering resulting from conflicts in the Community.

22. The Council may make Regulations for the better carrying into effect the provisions of this Act.