JUMUIYA YA AFRIKA MASHARIKI

East African Community
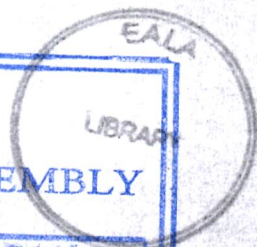
REPORT OF EAST AFRICAN COMMUNITY COUNCIL OF MINISTERS TO EAST AFRICAN LEGISLATIVE ASSEMBLY ON PROGRESS MADE BY THE COMMUNITY IN THE DEVELOPMENT OF ITS COMMON FOREIGN AND SECURITY POLICIES.

JULY 2018.

EAC SECRETARIAT

ARUSHA

EAST AFRICAN COMMUNITY

REPORT OF EAC COUNCIL OF MINISTERS TO EALA ON PROGRESS MADE BY THE COMMUNITY IN THE DEVELOPMENT OF ITS COMMON FOREIGN AND SECURITY POLICIES.

1.0 INTRODUCTION

In line with the oversight role of the East African Legislative Assembly, Article 59 (3) c of the Treaty for the Establishment of the East African Community *inter alia* provides that " *the Assembly shall hold an annual debate on the report to be submitted to it by the Council on the progress made by the Community in the development of its common foreign and security policies*".

This report has been prepared in fulfilment of this requirement for consideration by the 9th Joint Meeting of the Sectoral Councils on Cooperation in Defence, Interstate Security and Foreign Policy Coordination and onward transmission to the 38th Meeting of the EAC Council of Ministers.

2.0 BACKGROUND

Peace and security is identified as a pre-requisite for the success of EAC integration and anchors all integration stages. The movement to the single customs territory, implementation of the various common Market imperatives and establishment of the pillars of the monetary union all call for reciprocal foreign and security policies to anchor these gains in the international arena and ensure that integration gains do not produce negative unintended consequences.

Towards this end, Chapter 23 of the Treaty is explicit on the enabling policy interventions expected of the Foreign, Defence and Peace and Security sectors. The importance of security is further emphasized by the EAC vision of "a prosperous, competitive, secure, stable and politically united East Africa...."

Chapter 23 of The Treaty for the Establishment of the East African Community provides for co-operation in Political matters. Article 123 requires Partner States to put in place common Foreign and Security Policies the objective being to:

a) safeguard the common values, fundamental interests and independence of the Community;
b) strengthen the security of the Community and its Partner States in all ways;
c) develop and consolidate democracy and the rule of law and respect for human rights and fundamental freedoms;
d) preserve peace and strengthen international security among the Partner States and within the Community;
e) promote co-operation at international fora; and
f) enhance the eventual establishment of a Political Federation of the Partner States.

Article 124 provides for Cooperation in Regional Peace and Security wherein Partner States undertake to, among others:

a) to foster and maintain an atmosphere that is conducive to peace and security through co-operation and consultations on issues pertaining to peace and security of the Partner States with a view to prevention, better management and resolution of disputes and conflicts between them.

b) to promote and maintain good neighbourliness as a basis for promoting peace and security within the Community.

Article 125 provides for the establishment of a framework to facilitate close cooperation in Defence Matters in enhancing collective approach to defense related issues.

2.0 FOREIGN POLICIES

2.1 The Protocol on Foreign Policy Coordination

The Protocol on Foreign Policy Coordination was signed in December 2010 upon approval by Summit. The Protocol defines a systematic cooperation that will eventually lead to the establishment of a regional common foreign policy, as required by the Treaty.

The objective of the Protocol of on Foreign Policy Coordination is to guide Partner States coordinate their respective foreign policies in a manner that promotes cohesion

at the same time as the community consolidates the other stages of integration and incrementally builds towards a political federation.

Eventually, upon its coming into force, the Protocol on Foreign Policy Coordination will provide a framework for the pursuit of the Partner States Common foreign policy objectives.

Article 4 (a- h) of the Protocol provides for the objectives as follows:
  (a) Promote development and harmonization of policies and strategies to support foreign policy co- ordination;
  (b) Safeguard the common values and interests of the Community;
  (c) Develop and promote the consolidation of democracy, the rule of law, respect for human rights and fundamental freedoms within the Community and with foreign countries;
  (d) Preserve peace and strengthen security among the Partner States and with foreign countries;
  (e) Provide operational mechanisms within which to fully effect the coordination of the foreign policies of the Partner States.
  (f) Strengthen co-operation in order to promote and market the Community abroad;
  (g) Promote the participation of the peoples of the Partner States in the Diaspora in the development of the Community; and
  (h) Enhance cooperation in the fight against international crimes.

Article 2 of the Protocol gives the Scope of Cooperation where the Partner States undertake to co- operate in foreign policy co- ordination and to promote and articulate Community policies and strategies for the purpose of:
  - -Collaboration in diplomatic and consular matters;
  - -Collaboration in multilateral diplomacy;
  - -Collaboration in economic and social activities; and
  - -Collaboration in capacity building.

2.2 Protocol on Immunities and Privileges

The Protocol on Privileges and Immunities of the East African Community was signed on 30th April 2015. The Protocol gives the East African Community the right to enjoy International legal personality and avails to the staff of the Community, organs and Institutions, Immunities and Privileges as are necessary for the proper discharge of their functions under the treaty. The provisions of the Protocol apply to:

a) Immunity of the property and assets of the Community;

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b) Protection of funds of the Community;

c) Tax exemption for the Community;

d) Facilities in respect of official communication; and

e) Privileges and immunities of persons employed in the service of the Community

Article 2 of the Protocol provides for the objective of the Protocol as follows

The objective of this Protocol is to standardize the status, privileges and immunities to be accorded by the Partner States to:

- The assets and properties of the Community wherever situated in the Partner States; and
- Persons employed in the service of the Community.

All Partner states are expected to ratify the protocol. To date no Partner State has ratified the Protocol on Immunities and Privileges hence limiting its implementation.

3.0 DEFENCE POLICIES

3.1 Protocol on Cooperation in Defence

In line with the provisions of Article 125 of the Treaty, an MoU to guide cooperation in Defence was concluded on 30th November 2001.The MoU was upgraded to a Protocol on 28th April 2012.Full ratification was achieved on 19th November 2015 whereupon it came into effect. The objectives of the Protocol on Defence are:

a) Develop, promote and pursue policies and programs aimed at widening and deepening cooperation among the Partner States in Defence Affairs for their mutual benefit;

b) Promote Peace and Stability with and good neighborliness among Partner States in order to guarantee the protection and preservation of life and property, the wellbeing of the people in the Community and their environment as well as creation of conditions conducive to sustainable development;

c) Anticipate and prevent conflicts .In circumstances where conflicts have occured,to undertake Peace Support Operations and Peace Building functions for the resolution of such conflicts;

d) Promote and implement Peace Building and Post Conflict Reconstruction activity to consolidate Peace and prevent resurgence of violence;

e) Coordinate and Harmonize regional efforts in the prevention and combatting international terrorism in all its aspects;

f) Undertake such other activities ancillary to cooperation in Defence Affairs that are calculated to further the objectives of the Community, as the Partner States may from time to time determine.

The Protocol provides for cooperation in the following four areas:

a) Military Training
b) Joint Operations
c) Technical Cooperation
d) Visits and Exchange of information

The Protocol further provided for commencement for negotiations on a Mutual Defence Pact one year after coming into effect. The Draft Mutual Defence Pact along with its implementation mechanism has already been concluded and will be considered by the 38th Meeting of the EAC Council of Ministers for adoption.

It is important to note that while the EAC Defence Cooperation is robust, it is not part of the AU Africa Standby Force. EAC Partner States are troop contributors to SADC and Eastern Africa Standby Forces within the continental arrangement.

3.2 Regional Counter Terrorism Strategy

Recognizing terrorism as the single most potent security threat, Regional Counter Terrorism Strategy was developed and adopted by the EAC Summit of Heads of State on 30th April 2014.The Strategy is based on four pillars namely Prevent, Protect, Disrupt and Respond. Its Action plan has already been developed and will be presented to the 38th Meeting of the EAC Council of Ministers for adoption and implementation. The Action Plan envisages the establishment of East African Counter Terrorism Centre (EACTC) to coordinate implementation of the Strategy.

4.0 PEACE AND SECURITY POLICIES

The EAC is situated in a region that has witnessed cyclical instability and civil strife over the last four decades. While a lot of progress has been made in the restoration of the rule of law and inculcation of the culture of Peace, a number of security challenges still obtain for which an appropriate response must be developed.

4.1 POLICY RESPONSES

The Sector has concluded the following policy instruments necessary to facilitate structured interventions in respect of the identified threats:

a) ***Development of a Peace and Security Protocol:*** The EAC Peace and Security Protocol was signed on 15th February 2013.The objective of the Protocol is to promote peace, security and stability within the Community and good neighbourliness among the Partner States. The scope of the Protocol covers:

> i) *Conflict Prevention ,Management and Resolution;*
> ii) *Prevention of genocide;*
> iii) *Combatting terrorism;*
> iv) *Combatting and suppressing piracy*
> v) *Peace support operations*
> vi) *Disaster Risk Reduction ,management and crisis response;*
> vii) *Management of Refugees;*
> viii) *Control of proliferation of Small Arms and Light Weapons*
> ix) *Combatting transnational and cross border crimes ;including drug and human trafficking, illegal migration, money laundering, cybercrime and motor vehicle theft;*
> x) *Addressing and combatting cattle rustling; and Prisons and Correctional Services including exchange of prisoners,detention,custody and rehabilitation of offenders*

To-date all Partner States with the exception of the Republic of Burundi have ratified the Protocol. The Protocol is expected to provide a legal domicile to all Peace and Security interventions. Delay in full ratification hence coming into force is holding back implementation of a number of critical Peace and Security interventions. In the meantime, the Regional Strategy on Peace and Security continues to provide Policy Domicile for ongoing interventions.

b) ***Adoption of a Regional Strategy for Peace, Security, and its Implementation Plan:*** The EAC Council of Ministers adopted an updated Strategy for Regional Peace and Security along with its implementation plan in 2014.The Strategy identifies 23 objectives for interventions all of which are duly covered by the Protocol on Peace and Security. The implementation plan was mainstreamed into the EAC 5th Development Strategy for implementation within the confines of available budgetary resources. Twenty-three objectives are set out in the Strategy for implementation. The Strategy provides form to the Protocol on Peace and Security.

c) ***Protocol on combatting Illicit Drug Trafficking in the East African Region:*** This Protocol was concluded on 13th January 2001 and was fully ratified by all Partner States and hence is under implementation.

The Objective of the Protocol on Illicit Drug Trafficking are as follows:

   a) To reduce and eventually eliminate illicit drug trafficking, money laundering, related corruption and illicit use and abuse of drugs through cooperation among enforcement agencies and demand reduction through coordinated programme in the region;

   b) To eliminate the production of illicit drugs; and

   c) To protect the region from being used as a conduit for drugs destined for international market.

The Scope of the Protocol is:

   i. The Ratification of International Conventions
   ii. Promulgation of domestic legislation
   iii. Provision of mutual legal assistance
   iv. Law enforcement
   v. Drug Demand Reduction

Through this Protocol joint trainings, exchange of information and joint anti-drug operations have been upscaled.

d) ***Regional Small Arms and Light weapons Policy:*** An EAC SALW Policy was adopted by the Council of Ministers in 2009.The Policy currently guides regional efforts towards SALW control with interventions that include *Capacity Development* of National coordination Entities referred to as National Focal Points through training and provision of equipment; *Marking , Tracing* and *recordkeeping ,Arms Collection and Destruction, Stockpile management and security, Legislation Harmonization*; *Awareness creation and engendering* SALW processes:

e) ***ESA-IO Maritime Security Strategy:*** An East and Southern Africa (ESA)-Indian Ocean (IO) Regional Maritime Strategy and Action Plan adopted by ESA-IO Ministers responsible for Maritime Security in October 2010 was adopted by the EAC Council of Ministers in 2013. Implementation commenced in 2014 with seed support from the European Union.

The comprehensive strategy addresses Alternative Livelihoods in Somalia, Law Enforcement Capacity Building, Combating laundering of Piracy Proceeds, Operational Capacity Building and information exchange. Implementation is coordinated between the EAC, The Indian Ocean Commission, IGAD and COMESA. Forum has been established to collectively and comprehensively address security challenges facing all inland water bodies, piracy included.

f) **Conflict Prevention Management and Resolution (CPMR):** to ensure sustainable peace and harmonious co-existence, CPMR framework was developed with support from the AU Africa Peace Facility. The framework broadly provides for:

    I.   Conflict Early Warning, including establishment of a Situation Room;

    II.   Mediation and Establishment of Good Offices(Panel of Eminent Persons);

    III.   Peace Support Operations ;

    IV.   Demobilization ,Disarmament, Resettlement, Reconstruction and Rehabilitation;

    V.   Post conflict Reconstruction and Development; and

    VI.   East African Community Peace Facility.

g) **Refugee Management Policy:** a process has been underway to develop a Refugee Policy with the ultimate objective of harmonizing practice and mechanisms on Refugee Management. This process is yet to be concluded and is being undertaken with the support of UNHCR. An inception Report has already been concluded providing a summary of prevailing practices, legal and institutional mechanisms prevailing in the Partner States along with a comparative analysis.

h) **Protocol relating to the Establishment of the AU Peace and Security Council:** The EAC, being part of the building blocks of the AU, is bound by the Protocol Relating to the Establishment of the AU Peace and Security Council. Within the Family of RECs, the EAC along with the four other RECs and 2 Regional Mechanisms concluded an *MoU in 2007.* Through this collaborative process, a cross section of regional Peace and Security initiatives have been implemented through the AU Continental Early Warning System(CEWS) ,the AU Border Programs, The AU SALW Steering Committee and The AU Counterterrorism Steering Committee. This has also facilitated promotion of regional coordination and cooperation and best practices exchanged across regions. These initiatives remain critical to meeting EAC obligations to the AU.

i) ***Cooperation with the UN***: The EAC was granted observer status at the UN in March 2003 and remains an active member of the global body in all aspects Peace and Security included. In this regard, regular reporting obligations to the UN Office of Disarmament Affairs, UN Counter Terrorism Executive Directorate and UN Security Council Resolution 1540 have continued to be fulfilled.

j) **Cooperation with other organizations in the region with Peace and Security Mandate**: To ensure complementarity, eliminate duplication and promote tapping on to comparative inherent in these organizations, a number of cooperation mechanisms have been concluded.MoUs have been concluded as follows:

    i. *Regional Centre on Small Arms(RECSA)-on Management of Small Arms and Light Weapons(SALW);*

    ii. *UN High Commission on Refugees (UNHCR)-on Refugee Management;*

    iii. *International Criminal Police Organization (INTERPOL)-on transnational organized crime;*

    iv. *Eastern and Southern Africa Anti Money Laundering Group(ESAAMLG)-on Anti Money Laundering and Combatting Financing of Terrorism;*

    v. *Inter - Governmental Authority on Development(IGAD)-on a wide range of developmental issues security inclusive; and*

    vi. *International Conference on the Great Lakes Region Secretariat (ICGLR) - on a wide range of developmental issues security inclusive.*

4.2 CONSTRAINTS

a) Delay in operationalization of the EAC Peace and Security Protocol pending full ratification;

b) Absence of an enabling institutional framework in the form of a Directorate for Peace and Security which is central to coordinating implementation of the Protocol and Strategy;

c) Resource scarcity with high Donor dependence for Peace and Security programs;

d) Absence of a rapid response decision-making process on Peace and Security matters that can address sensitive and urgent security challenges.

5.0 THE PROPOSED EAC PEACE AND SECURITY MECHANISM.

Through an initiative of the Sectoral Council of Defence in 2011 and subsequent EAC Council of Ministers directive in 2012, negotiations have been underway for the establishment of a mechanism that can provide timely response to urgent Peace and Security issues in the EAC Region. Through the Joint Meeting of the Sectoral Councils on Defense, Inter-State Security and Foreign Policy Co-ordination, the intricacies relating to the cross-cutting security issues are being deliberated on.

Negotiations on this subject are still in progress albeit at a slow pace; with the expectation that the ultimate mechanism agreed upon will be responsive to the specific security challenges that bedevil the region.