

RECUEIL DES INSTRUMENTS JURIDIQUES ET INSTITUTIONNELS
DE FACILITATION DU TRANSPORT ET DES ÉCHANGES
EN AFRIQUE SUBSAHARIENNE

ANNEXE V-12

**AGREEMENT ESTABLISHING THE INTERGOVERNMENTAL AUTHORITY
FOR DEVELOPMENT (IGAD)**

(NAIROBI 1996)

AGREEMENT ESTABLISHING
THE INTER-GOVERNMENTAL
AUTHORITY ON
DEVELOPMENT (IGAD)

*ASSEMBLY
OF HEADS OF STATE
AND GOVERNMENT*

INTRODUCTION

The Intergovernmental Authority on Development (IGAD) superseded the Intergovernmental Authority on Drought and Development (IGADD) established in 1986 by the then drought afflicted six Eastern African countries of Djibouti, Ethiopia, Kenya, Somalia, Sudan and Uganda. The State of Eritrea was admitted as the seventh member of the Authority at the 4th Summit of Heads of State and Government in Addis Ababa, September 1993.

Although IGADD was originally conceived to coordinate the efforts of member states to combat drought and desertification, it became increasingly apparent that the Authority provided a regular forum where leaders of the Eastern African countries were able to tackle other political and socio-economic issues in a regional context. Realising this the Heads of State and Government of Djibouti, Eritrea, Ethiopia, Kenya, Sudan and Uganda, at an extra- ordinary Summit on 18 April 1995, resolved to expand the mandate of IGADD and made a declaration to revitalise IGADD and expand cooperation among member states. The revitalised IGADD was renamed the Intergovernmental Authority on Development (IGAD).

Agreement Establishing the Inter-Governmental Authority on Development (IGAD)

The Republic of Djibouti

The State of Eritrea

The Federal Democratic Republic of Ethiopia

The Republic of Kenya

The Republic of Somalia

The Republic of Sudan

The Republic of Uganda

Considering the well established ties of brotherhood and fruitful co-operation existing among our peoples and governments;

Cognizant of the wide ranging similarities of present and future challenges and interdependence of our countries as well as the extensive complementarities of our natural resource endowments;

Convinced that Africa's ability to meet the challenges for promoting sustained economic growth, its ability to interact and compete in the global economy on behalf of its inhabitants will depend on collective self reliance and on its determination and ability in pooling its considerable natural endowments and human resources through appropriate, sustainable and practical arrangements for co-operation as stipulated in the Treaty Establishing the African Economic Community;

Recalling further the spirit, principles and objectives of the Treaty Establishing the Common Market for Eastern and Southern Africa (COMESA);

Mindful of our responsibility to guarantee the economic security and development of our peoples in order to minimize the vulnerability of our States;

Confident that the development of economic cooperation and integration between the countries of the region will contribute to the achievement of the purposes set forth in the Charters of both the OAU and the United Nations;

Resolved to pursue comprehensive cooperation on the basis of equality and mutual benefit with the view to achieving economic integration;

Convinced of the need for concerted efforts to combat drought and other natural or man-made disasters;

Inspired by the noble purpose of promoting peace, security and stability, and eliminating the sources of conflict as well as preventing and resolving conflicts in the sub-region;

Recalling our Declaration of 18 April 1995 in Addis Ababa, Ethiopia on the vital need for a more expanded cooperation among our countries within the framework of an expanded and revitalised IGADD;

hereby agree on the following:

Article 1

Definition of Terms

"Agreement" means the Agreement establishing the Inter-Governmental Authority on Development (**IGAD**).

"Principal Agreement" Means the Agreement establishing the Inter-Governmental Authority on Drought and Development in Eastern Africa (**IGADD**).

"Council" means the Council of Ministers established under Article 8 of the Agreement.

"Committee" means the Committee of Ambassadors established under Article 8 of the Agreement.

"Assembly" means the Assembly of Heads of State and Government of the Authority established under Article 8 of the Agreement.

"Member State" means a member of the Authority

"Executive Secretary" means the Chief Executive officer of the Authority established under Article 13 of the Agreement.

"Protocol" means an instrument of implementation of the Agreement, having the same legal force as this Agreement.

Article 1A

Establishment and Legal Status

- a) An Inter-Governmental Authority on Development (**IGAD**) hereinafter referred to as the "Authority" is hereby established.
- b) Membership shall be open only to African States in the sub-region which subscribe to the principles, aims and objectives enshrined in the Agreement.
- c) New members shall be admitted by a unanimous decision of the Assembly.
- d) Application for membership shall be made by means of an official written request to the Assembly.

Article 2

The Headquarters of the Authority shall be located at Djibouti in the Republic of Djibouti.

Article 2A

The Assembly may establish and locate any institution of the Authority in any Member State based on functional considerations and equitable distribution of activities of the Authority in the Member States

Article 3

The Authority shall have the capacity of a legal person to perform any legal act appropriate to its purpose, in accordance with the provisions of the present Agreement. In particular, it shall have the capacity (a) to contract (b) to acquire and dispose of immovable and movable property and (c) to institute legal proceedings. The Authority shall, in the exercise of its legal personality, be represented by the Executive Secretary.

Article 4

The Authority shall negotiate a Headquarters' agreement with the Host State.

Article 5

The Host Government shall accord the Authority and its personnel the necessary privileges and immunities to facilitate its activities. These privileges and immunities shall not be lesser than those accorded to other regional or international organizations of comparable status.

Article 6

The Member States agree to extend to the Authority and its personnel such privileges and immunities as may be necessary for carrying out their tasks within their respective national territories and as are accorded to personnel of other regional or international organisations on mission.

Article 6A

Principles

The Member States solemnly reaffirm their commitment to the following principles:

- a) The sovereign equality of all Member States;
- b) Non-interference in the internal affairs of Member States;
- c) The peaceful settlement of inter- and intra-State conflicts through dialogue;
- d) Maintenance of regional peace, stability and security;
- e) Mutual and equitable sharing of benefits accruing from cooperation under this Agreement;
- f) Recognition, promotion and protection of human and people's rights in accordance with the provisions of the African Charter on Human and People's Rights.

Article 7

Aims and Objectives

The Aims and Objectives of the Authority shall be to:

- a) Promote joint development strategies and gradually harmonize macro-economic policies and programmes in the social, technological and scientific fields;
- b) Harmonize policies with regard to trade, customs, transport, communications, agriculture, and natural resources, and promote free movement of goods, services, and people and the establishment of residence;
- c) Create an enabling environment for foreign, cross-border and domestic trade and investment;
- d) Achieve regional food security and encourage and assist efforts of Member States to collectively combat drought and other natural and man-made disasters and their consequences;
- e) Initiate and promote programmes and projects for sustainable development of natural resources and environment protection;
- f) Develop and improve a coordinated and complementary infrastructure, particularly in the areas of transport and energy;
- g) Promote peace and stability in the sub-region and create mechanisms within the

- sub-region for the prevention, management and resolution of inter and intra-State conflicts through dialogue;
- h) Mobilize resources for the implementation of emergency, short-term, medium-term and long-term programmes within the framework of sub-regional cooperation;
 - i) Promote and realize the objectives of the Common Market for Eastern and Southern Africa (**COMESA**) and the African Economic Community;
 - j) Facilitate, promote and strengthen cooperation in research, development and application in the fields of science and technology.
 - k) Develop such other activities as the Member States may decide in furtherance of the objectives of this Agreement.

Article 8

Structure and Operation

The Authority shall comprise the following organs:

- a) An Assembly of Heads of State and Government;
- b) A Council of Ministers ;
- c) A Committee of Ambassadors;
- d) A Secretariat

Article 9

The Assembly of Heads of State and Government

- 1) The Assembly of Heads of State and Government is the supreme organ of the Authority.
- 2) The functions of the Assembly shall be to:
 - a) Make policy, direct and control the functioning of the Organisation;
 - b) Determine the main guidelines and programmes of cooperation;
 - c) Give guidelines and monitor political issues especially on conflict prevention, management and resolution;
 - d) Appoint the Executive Secretary upon the recommendation of the Council of Ministers;

- e) Approve the scale of assessment of contributions of Member States to the budget the Authority upon the recommendation of the Council of Ministers.
- 3) The Assembly shall meet at least once a year and at any time upon the request of any of the Member States upon agreement of the majority of its members.
- 4) The decisions of the Assembly of Heads of State and Government shall be reached by consensus.

Article 10

The Council of Ministers

- 1) The Council shall be composed of the Ministers of Foreign Affairs and one other focal Minister who shall be designated by each Member State.
- 2) The functions of the Council shall be to:
 - a) make recommendations to the Assembly on matters of policy aimed at the efficient functioning and development of the Authority;
 - b) approve the budget of the Authority;
 - c) review the operations of the Authority and guide its work in accordance with the Agreement;
 - d) oversee the functioning of the Secretariat;
 - e) promote, monitor, coordinate and harmonize initiatives for realizing the Authority's objectives.
 - f) prepare the agenda for the Assembly;
 - g) monitor the implementation of the decisions of the Assembly;
 - h) promote peace and security in the sub-region and make recommendations to the Assembly;
 - i) receive and review reports from subsidiary organs and make recommendations to the Assembly;
 - j) monitor and enhance humanitarian activities;
 - k) follow up political and security affairs which include conflict prevention, management and resolution as well as post conflict peace building;

- l) approve staff and financial rules and regulations;
 - m) undertake any other functions assigned by the Assembly.
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- 3) The Council may establish ad hoc sectoral Ministerial committees to deal with issues in their respective sectors. The committees shall meet as often as may be necessary for the attainment of the objectives of the Agreement. The specific terms of reference of the committees shall be agreed upon by Member States in consultation with the Secretariat.
 - 4) The Council shall meet twice a year and at any time at the request of any of the Member States upon the agreement of the majority of its members.
 - 5) All decisions of the Council shall be reached by consensus. If however the Council fails to reach an agreement by consensus, a decision shall be taken by two third majority of members present and voting by secret ballot as long as such members constitute a legal quorum.

Article 11

The Committee of Ambassadors

- 1) The Committee of Ambassadors shall comprise Member States' Ambassadors or Plenipotentiaries accredited to the country of the Headquarters of the Organization. The Committee of Ambassadors shall report to Council.
- 2) The functions of the Committee of Ambassadors shall be:
 - a) Advise the Executive Secretary on the promotion of his efforts in realizing the work plan approved by the Council of Ministers;
 - b) Guide the Executive Secretary on the interpretation of policies and guidelines which may require further elaboration;
- 3) The Committee shall hold meetings as and when necessary at the Secretariat to follow-up the activities of the Secretariat and shall in turn advise their respective Member States.
- 4) All decisions of the Committee shall be reached by consensus. If however the

committee fails to reach an agreement by consensus, a decision shall be taken by two-third majority of members present and voting as long as such members constitute legal quorum.

Article 12

The Secretariat

- 1) The Secretariat is the executive body of the Authority and shall:
 - a) be headed by an Executive Secretary to be appointed by the Assembly for a term of four years renewable once;
 - b) have its own staff and be assisted by experts and technicians made available to it by Member States.

- 2) The functions of the Secretariat shall be:
 - a) to implement the decisions of the Assembly and the Council;
 - b) to prepare draft proposals and agreements on matters arising from the decisions and recommendations of the Assembly and the Council;
 - c) to prepare surveys, studies, information and guidelines on legal, political, economic, social, cultural and technical matters of common concern to, and essential for broadening and deepening cooperation among Member States;
 - d) to initiate, identify and coordinate development programmes and projects;
 - e) to be responsible to service the meetings of the Assembly, Council of Ministers and that of the other policy organs.
 - f) to assist the policy organs in their work relating to political and humanitarian affairs.
 - g) to perform such other functions as entrusted to it by any organ of the Authority.

Article 13

The Executive Secretary

The Executive Secretary shall be the chief executive officer of the Secretariat with the following duties and responsibilities:

- a) initiate measures aimed at promoting the objectives of the Authority;

- b) promote cooperation with other organizations in the furtherance of the objectives of the Authority.
- c) consult and coordinate with the Governments and other institutions of Member States to ensure conformity and harmony with agreed policies, programmes and projects.
- d) organize meetings of the Assembly, the Council and any other meetings convened on the direction of the Assembly or the Council;
- e) prepare recommendations concerning the work of the Authority for consideration by the appropriate policy organ;
- f) serve as custodian of documents and property of the Authority;
- g) administer the finances of the Authority;
- h) prepare annual reports of the Authority;
- i) submit a report on the activities of the Authority and its financial conditions to the regular sessions of each Council;
- j) prepare the Budget of the Authority for submission to the Council;
- k) negotiate, with the approval of the chairman of Council, with other States and international organizations in order to obtain financial and technical assistance on behalf of the Authority;
- l) perform such other functions as may be determined by the Summit or Council from time to time;

Article 13 A

Areas of Cooperation

Member States agree to develop and expand cooperation and undertake to:

- a) enhance cooperation and coordination of their macroeconomic policies in the areas of sustainable agricultural development and food security;
- b) improve the handling and analysis of data in agro-meteorology and climatology, nutrition, social and economic indicators and establish a strong food information system.
- c) coordinate and strengthen effective mechanisms for monitoring and control of migrant pests, spread of animal and plant diseases and pests;

- d) cooperate in improving their capacity in agricultural research, training and extension services;
- e) coordinate their effort to:
- preserve, protect and improve the quality of the environment,
 - ensure the prudent and rational utilization of natural resources,
 - develop harmonious environmental management strategies and policies.
 - strengthen national and sub-regional meteorological networks and services.
 - strengthen the sub-regional seismological network.
 - strengthen the hydrological networks and services.
 - strengthen land resource monitoring systems.
 - promote environmental education and training.
- f) coordinate their efforts towards the sustainable management and utilization of shared natural resources.
- g) harmonize existing national plans of action for marginal lands and dry lands management and control of land degradation in line with the resolution of Urgent Action for Africa under the UN Convention to Combat Desertification (UNCCD). In this regard Member States shall prepare National Action Programmes to implement the UNCCD;
- h) support the elaboration of Sub-regional Action Programmes for the implementation of the UNCCD in line with the Implementation Annex for Africa under the Convention.
- i) work towards the promotion of trade and gradual harmonization of their trade policies and practices and the elimination of tariff and non-tariff barriers to trade so that it can lead to regional economic integration;
- j) gradually harmonize their transport and communication policies, and development of infrastructure and remove physical and non physical barriers to inter state transport and communications;
- k) cooperate in the gradual harmonization of their fiscal and monetary policies;
- l) create an enabling environment for cross border investment and gradually harmonize their investment policies.
- m) cooperate in increased sustainable utilization and development of energy resources in the sub-region, and in the gradual harmonization of their national energy policies and energy development plans.
- n) cooperate in the gradual harmonization of their national policies in scientific and

- technological research and development, transfer of technology, and their policies on capacity building in science and technology in the sub-region;
- o) facilitate the free movement and right of establishment of residence of their nationals within the sub-region;
 - p) promote social and cultural exchanges as an effective means of consolidating regional cooperation and understanding.
 - q) respect the fundamental and basic rights of the peoples of the region to benefit from emergency and other forms of humanitarian assistance.
 - r) at the national level and in their relations with one another, be at all times guided by the objectives of saving lives, of delivering timely assistance to people in distress and of alleviating human suffering. In this regard, Member States shall facilitate the movement of food and emergency supplies in the event of man-made or other natural disasters from surplus of deficit areas.
 - s) facilitate repatriation and reintegration of refugees, returnees and displaced persons and demobilized soldiers in cooperation with relevant governmental and non-governmental organizations in accordance with the existing national, regional and international instruments;
 - t) work out programmes and projects that could help establish a relief, rehabilitation and development continuum."

RESOURCES

Article 14

- a) The finances of the Authority shall be derived from contributions of Member States as well as assistance from other sources.
- b) Member States shall promptly pay their annual contributions to the budget of the Authority on the basis of formula approved by the Assembly.
- c) Any Member State which, without the dispensation of the Assembly, falls in arrears of its financial contributions to the Authority for the preceding two years and above shall:
 - i) be barred from speaking and voting at the meetings of Experts and Policy Organs of the Authority;

- ii) be barred from presenting candidates for managerial positions at the Secretariat;
- iii) where the Authority secures bank overdraft facilities to cover for such non contribution be liable to pay interest accruing on such overdrafts.

Article 15

The Authority is empowered to receive donations and grants.

Article 16

The Authority shall set up a Special Drought Fund to be used during emergencies.

Article 17

Protocols

- a) Member States shall conclude such protocols as may be necessary to execute the aims and objectives of this Agreement.
- b) Each protocol shall be approved by the Assembly on the recommendation of the Council, and shall thereafter become an integral part of this Agreement.

Article 18

Relations with other organizations

In pursuit of its aims and objectives under this Agreement, the Authority may enter into agreements with other regional organizations and with intergovernmental and non-governmental agencies and non-member states.

Article 18A
Conflict Resolution

Member States shall act collectively to preserve peace, security and stability which are essential prerequisites for economic development and social progress. Accordingly Member States shall:

- a) take effective collective measures to eliminate threats to regional co-operation peace and stability;
- b) establish an effective mechanism of consultation and cooperation for the pacific settlement of differences and disputes;
- c) accept to deal with disputes between Member States within this sub-regional mechanism before they are referred to other regional or international organisations.

GENERAL PROVISIONS

Article 19

The present Agreement may be amended following an official written request from any Member State to the Chairman of the Council of Ministers. An Amendment shall only come into effect after it has been approved by consensus failing that it shall come into effect after approval by two thirds of the Member States.

Article 20

The present Agreement shall be approved or ratified by the signatory States or acceded to by new members in accordance with the respective constitutional procedures of each State.

Article 21

The present Agreement shall enter into force one month after a majority of signatory States have filed their official written approval or ratification documents with the Republic of DJIBOUTI.

Article 22

- a) Any Member State wishing to withdraw from the Authority shall give to the Chairman of the Assembly one year's written notice of its intention to withdraw and at the end of such year shall, if such notice is not withdrawn, cease to be a Member State of the Authority.

- b) During the period of one year referred to in the preceding paragraph, a Member State wishing to withdraw from the Authority shall nevertheless observe the provisions of this Agreement and shall remain liable for the discharge of its obligations under this Agreement.

Article 23

The original text of the Agreement as well as any instrument of approval, ratification or accession shall be deposited with the Government of the Republic of DJIBOUTI which shall notify all Member States of its entry into force as well as the deposit of the instrument of approval, ratification or accession.

Article 24

Both English and French versions of this Agreement are authentic.

IN FAITH WHEREOF, the undersigned have placed their signatures at the end of this Agreement.