

Protocol and structure of the Organ

APPENDIX F.1: PROTOCOL ON POLITICS, DEFENCE AND SECURITY CO-OPERATION

PREAMBLE

We, the Heads of State or Government of:

The Republic of Angola
The Republic of Botswana
The Democratic Republic of Congo
The Kingdom of Lesotho
The Republic of Malawi
The Republic of Mozambique
The Republic of Namibia
The Republic of Seychelles
The Republic of South Africa
The Kingdom of Swaziland
The United Republic of Tanzania
The Republic of Zambia
The Republic of Zimbabwe

TAKING COGNISANCE of the decision of SADC to create the ORGAN on Politics, Defence and Security which decision appears in the Gaborone Communique of 28th June 1996;

VOTING Article 9 of the Treaty which establishes the Organ;

BEARING IN MIND that Chapter VIII of the UN Charter recognizes the role of regional arrangements in dealing with such matters relating

to the maintenance of international peace and security as are appropriate for regional action;

RECOGNISING AND RE-AFFIRMING the principles of strict respect for sovereignty, sovereign equality, territorial integrity, political independence, good neighborliness, non-aggression and non-interference in internal affairs of other States;

RECALLING the 1964 resolution of the Assembly of Heads of State and Government of the Organisation of African Unity, declaring that all Member States pledge to respect the borders existing on their achievement of national independence;

FURTHER REAFFIRMING the primary responsibility of the United Nations Security Council in the maintenance of international peace and security, and the role of the Central Organ of the Organisation of African Unity Mechanism for Conflict Prevention, Management and Resolution;

CONVINCED that peace, security and strong political relations are critical factors in creating a conducive environment for regional co-operation and integration;

CONVINCED FURTHER that the Organ constituted an appropriate institutional framework by which Member States could co-ordinate policies and activities in the area of politics, defence and security;

DETERMINED to achieve solidarity, peace and security in the Region through close co-operation on matters of politics, defence and security;

DESIROUS TO ENSURE that close co-operation on matters of politics, defence and security shall at all times promote the peaceful settlement of disputes by negotiation, conciliation, mediation or arbitration;

ACTING in pursuance of Article 10A of the Treaty;

HEREBY AGREE AS FOLLOWS:

ARTICLE 1

DEFINITIONS

In this Protocol terms and expressions defined in Article 1 of the Treaty shall bear the same meaning unless the context otherwise requires.

In this Protocol, unless the context otherwise requires:

“Chairperson” means the Chairperson of the Organ;

“ISDSC” means the Inter-State Defence and Security Committee;

“ISPDC” means the Inter-State Politics and Diplomacy Committee;

“Signatory” means a Member State which signs this Protocol;

“State Party” means a Member State that has ratified or acceded to this Protocol.

ARTICLE 2

OBJECTIVES

1. The general objective of the Organ shall be to promote peace and security in the Region.
2. The specific objectives of the Organ shall be to:
 - a) protect the people and safeguard the development of the Region against instability arising from the breakdown of law and order, intra-state conflict and aggression;
 - b) promote political co-operation among State Parties and the evolution of common political values and institutions;
 - c) develop common foreign policy approaches on issues of mutual concern and advance such policy collectively in international fora;
 - d) promote regional co-ordination and co-operation on matters

related to security and defence and establish appropriate mechanisms to this end;

- e) prevent, contain and resolve inter- and intra-state conflict by peaceful means;
- f) consider enforcement action in accordance with international law and as a matter of last resort where peaceful means have failed;
- g) promote the development of democratic institutions and practices within the territories of State Parties and encourage the observance of universal human rights as provided for in the Charters and Conventions of the Organisation of African Unity and United Nations respectively;
- h) consider the development of a collective security capacity and conclude a Mutual Defence Pact to respond to external military threats;
- i) develop close co-operation between the police and state security services of State Parties in order to address:
 - (i) cross border crime; and
 - (ii) promote a community based approach to domestic security;
- j) observe, and encourage State parties to implement United Nations, African Union and other international conventions and treaties on arms control, disarmament and peaceful relations between States;
- k) develop peacekeeping capacity of national defence forces and co-ordinate the participation of State Parties in international and regional peacekeeping operations; and
- l) enhance regional capacity in respect of disaster management and co-ordination of international humanitarian assistance.

ARTICLE 3

STRUCTURES

The Organ shall be an institution of SADC and shall report to the Summit.

The Organ shall have the following structures:

- a) the Chairperson of the Organ;
- b) the Troika;
- c) a Ministerial Committee;
- d) an Inter-State Politics and Diplomacy Committee (ISPDC);
- e) an Inter-State Defence and Security Committee (ISDSC);
- f) such other sub-structures as may be established by any of the ministerial committees.

The Troika shall consist of:

- a) the Chairperson of the Organ
- b) the Incoming Chairperson who shall be the Deputy Chairperson of the Organ; and
- c) the Outgoing Chairperson.

ARTICLE 4

CHAIRPERSON OF THE ORGAN

The Summit shall elect a Chairperson and a Deputy Chairperson of the Organ on the basis of rotation among the members of the Summit except that the Chairperson and the Deputy Chairperson of the Summit shall not simultaneously be the Chairperson of the Organ.

The term of office of the Chairperson and Deputy Chairperson of Organ shall be one year respectively.

The Chairperson of the Organ shall consult with the Troika of SADC and report to the Summit.

The Chairperson, in consultation with the Troika of SADC, shall be

responsible for the overall policy direction and the achievement of the objectives of the Organ.

The Chairperson may request reports from any ministerial committee of the Organ on any matter which is within the competence of the committee.

The Chairperson may request any ministerial committee of the Organ to consider any matter which is within the competence of the committee.

The Chairperson may request the Chairperson of SADC to table for discussion any matter that requires consideration by the Summit.

ARTICLE 5

MINISTERIAL COMMITTEE

The Ministerial Committee shall comprise the ministers responsible for foreign affairs, defence, public security and state security from each of the State Parties.

The Committee shall be responsible for the co-ordination of the work of the Organ and its structures.

The Committee shall report to the Chairperson.

The Committee shall be chaired by a Minister from the same country as the Chairperson for a period of one year on a rotation basis.

The Chairperson of the Committee shall convene at least one meeting on an annual basis.

The Chairperson of the Committee may when necessary convene other meetings of the Ministerial Committee at a request of either ISPDC or ISDSC.

The Committee may refer any relevant matter to, and may request reports from ISPDC and ISDSC.

ARTICLE 6

INTER-STATE POLITICS AND DIPLOMACY COMMITTEE

ISPDC shall comprise the minister responsible for foreign affairs from each of the State Parties.

ISPDC shall perform such functions as may be necessary to achieve the objectives of the Organ relating to politics and diplomacy.

ISPDC shall report to the Ministerial Committee without prejudice to its obligation to report regularly to the Chairperson.

ISPDC shall be chaired by a Minister from the same country as the Chairperson for a period of one year on a rotation basis.

The Chairperson of ISPDC shall convene at least one meeting on an annual basis.

The Chairperson of ISPDC may convene such other meetings as he or she deems necessary or as requested by another Minister serving on ISPDC.

ISPDC may establish such sub-structures as it deems necessary to perform its functions.

ARTICLE 7

INTER-STATE DEFENCE AND SECURITY COMMITTEE

ISDSC shall comprise the ministers responsible for defence, ministers responsible for public security and ministers responsible for state security from each of the State Parties.

ISDSC shall perform such functions as may be necessary to achieve the objectives of the Organ relating to defence and security, and shall assume the objectives and functions of the existing Inter-State Defence and Security Committee.

ISDSC shall report to the Ministerial Committee without prejudice to its obligation to report regularly to the Chairperson.

ISDSC shall be chaired by a Minister from the same country as the Chairperson for a period of one year and on a rotating basis.

The Chairperson of ISDSC shall convene at least one meeting on an annual basis.

The Chairperson of ISDSC may convene such other meetings as he or she deems necessary or as requested by another minister serving on ISDSC.

ISDSC shall retain the Defence, State Security and Public Security Sub-Committees and other subordinate structures of the existing Inter-State Defence and Security Committee.

ISDSC may establish such other structures as it deems necessary to perform its functions.

ARTICLE 8

COMMITTEE PROCEDURES

The following provisions shall apply to the ministerial committees of the Organ:

- a) the quorum for all meetings shall be two-thirds of the State Parties;
- b) the ministerial committees shall determine their own rules of procedure; and
- c) decisions shall be taken by consensus.

ARTICLE 9

SECRETARIAT

SADC Secretariat shall provide secretariat services to the Organ.

ARTICLE 10

CO-OPERATION WITH NON-STATE PARTIES AND INTERNATIONAL ORGANISATIONS

In recognition of the fact that political, defence and security matters transcend national and regional boundaries, co-operation agreements on these matters between State Parties and non- State Parties, and between State Parties and organisations, other than SAC, shall be accepted provided that such agreements shall not:

- a) be inconsistent with the objectives and other provisions of the Treaty and this Protocol;
- b) impose obligations upon a State party that is not a party to such co-operation agreement, and
- c) impede a State Party from fulfilling its obligations under the Treaty and this Protocol.

Any agreement between the Organ and a non-State party, or between the Organ and an international organisation, shall be subject to approval by the Summit.

ARTICLE 11

CONFLICT PREVENTION, MANAGEMENT AND RESOLUTION

Obligations of the Organ under International Law

- a) In accordance with the Charter of the UN, State Parties shall refrain from the threat or use of force against the territorial integrity or political independence of any state, other than for the legitimate purpose of individual or collective self-defence against an armed attack.
- b) State Parties shall manage and seek to resolve any dispute between two or more of them by peaceful means.
- c) The Organ shall seek to manage and resolve inter- and intra-state conflict by peaceful means.

- d) The Organ shall seek to ensure that the State Parties adhere to and enforce all sanctions and arms embargoes imposed on any party by the United Nations Security Council.

Jurisdiction of the Organ

- a) The Organ may seek to resolve any significant inter-state conflict between State Parties or between a State Party and non- State Party and a 'significant inter-state conflict' shall include:
- (i) a conflict over territorial boundaries or natural resources;
 - (ii) a conflict in which an act of aggression or other form of military force has occurred or been threatened; and
 - (iii) a conflict which threatens peace and security in the Region or in the territory of a State Party which is not a party to the conflict.
- b) The Organ may seek to resolve any significant intra-state conflict within the territory of a State Party and a 'significant intra-state conflict' shall include:
- (i) large-scale violence between sections of the population or between the state and sections of the population, including genocide, ethnic cleansing and gross violation of human rights;
 - (ii) a military coup or other threat to the legitimate authority of a State;
 - (iii) a condition of civil war or insurgency; and
 - (iv) a conflict which threatens peace and security in the Region or in the territory of another State Party.
- c) In consultation with the United Nations Security Council and the Central Organ of the Organisation of African Unity Mechanisms for Conflict Prevention, Management and Resolution, the Organ may offer to mediate in a significant inter- or intra-state conflict that occurs outside the Region.

Methods

- a) The methods employed by the Organ to prevent, manage and resolve conflict by peaceful means shall include preventive diplomacy, negotiations, conciliation, mediation, good offices, arbitration and adjudication by an international tribunal.
- b) The Organ shall establish an early warning system in order to facilitate timeous action to prevent the outbreak and escalation of conflict.
- c) Where peaceful means resolving a conflict are unsuccessful, the Chairperson acting on the advice of the Ministerial Committee may recommend to the Summit that enforcement action to be taken against one or more of the disputant parties.
- d) The Summit shall resort to enforcement action only as a matter of last resort and, in accordance with Article 53 of the United Nations Charter, only with the authorization of the United Nations Security Council.
- e) External military threats to the Region shall be addressed through collective security arrangements to be agreed upon in a Mutual Defence Pact among the State Parties.

Procedures

- a) In respect of both inter- and intra-state conflict, the Organ shall seek to obtain the consent of the disputant parties to its peacemaking efforts.
- b) The Chairperson, in consultation with the other members of the Troika, may table any significant conflict for discussion in the Organ.
- c) Any State Party may request the Chairperson to table any significant conflict for discussion in the Organ and in consultation with the other members of the Troika of the Organ, the Chairperson shall meet such request expeditiously.
- d) The Organ shall respond to a request by a State Party to mediate in a

conflict within the territory of that State and the Organ shall endeavour by diplomatic means to obtain such request where it is not forthcoming.

- e) The exercise of the right of individual or collective self-defence shall be immediately reported to the United Nations Security Council and to the Central Organ of the Organisation of African Unity Mechanism for Conflict Prevention, Management and Resolution.

ARTICLE 12

CONFIDENTIALITY OF INFORMATION

The State Parties undertake not to disclose any classified information, obtained under this Protocol or as a result of their participation in the Organ, other than to members of their own staff whom such disclosure is essential for purposes of giving effect to this Protocol or any decision taken by the Organ.

State Parties shall ensure that the staff referred to in paragraph 1 of this Article shall at all times maintain strict secrecy.

State Parties further undertake not to use any classified information obtained during any multilateral co-operation between them to the detriment of any Member State.

A State Party shall remain bound by the requirements of confidentiality under this Article even after it withdraws from the Organ.

ARTICLE 13

SETTLEMENT OF DISPUTES

Disputes arising between two or more State Parties from the interpretation or application of this Protocol which cannot be settled amicably shall be referred to the Tribunal.

ARTICLE 14

WITHDRAWAL

A signatory may withdraw from this Protocol upon the expiration of twelve (12) months from the date of giving written notice to that effect to the Chairperson of the Organ. Such Signatory shall cease to enjoy all rights and benefits under this Protocol upon the withdrawal becoming effective.

ARTICLE 15

RELATIONSHIP WITH OTHER INTERNATIONAL AGREEMENTS

1. This Protocol in no way detracts from the rights and obligations of State Parties under the Charters of the United Nations and the Organisation of African Unity.
2. This Protocol in no way detracts from the responsibility of the United Nations Council to maintain international peace and security.
3. This Protocol shall not derogate from existing agreements between a State Party and another State Party or a non-State Party and an international organisation, other than SADC, provided that such agreements are consistent with the principles and objectives of this Protocol.
4. Where an existing agreement is inconsistent with the principles and objectives of this Protocol, the Member State shall take steps to amend the agreement accordingly.

ARTICLE 16

SIGNATURE

This Protocol shall be signed by duly authorized representatives of the Member States.

ARTICLE 17**RATIFICATION**

This Protocol shall be subject to ratification by the Signatories in accordance with their respective constitutional procedures.

ARTICLE 18**ACCESSION**

This Protocol shall remain open for accession by any Member State.

ARTICLE 19**AMENDMENTS**

Any State Party may propose an amendment to this Protocol.

IN WITNESS WHEREOF, WE, the Heads of State or Government, or duly authorised representatives, of SADC Member States, have signed this Protocol.

APPENDIX F.2: STRUCTURE OF NEW SADC ORGAN

