



## **Second Summit of the International Conference on the Great Lakes Region**

### **Protocol on Non-Aggression and Mutual Defence in the Great Lakes Region**

30 November 2006

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As amended by the Summit

## **PREAMBLE**

We, Heads of State and Government of the member States of the International Conference on the Great Lakes Region:

**Deeply concerned** by the recurrent conflicts and persistent insecurity within and between the States of the Great Lakes Region, while recognising the efforts and initiatives undertaken at the national, regional and international level to resolve these conflicts and promote security;

**Reaffirming** our commitment, subscribed to in the Declaration on Peace, Security, Democracy and Development in the Great Lakes Region, adopted in Dar-es-Salaam (United Republic of Tanzania) on 20 November 2004 to make this region "... a space of sustainable peace and security for States and peoples, political and social stability, shared growth and development";

**Recalling** the African Union's Solemn Declaration on the Common African Defence and Security Policy 2004, which encourages 'the conclusion and ratification of non-aggression Pacts between and among African States and the harmonization of such agreements, including the Pact of Non-Aggression of the Economic and Monetary Community of Central Africa (CEMAC);

**Recalling** the African Union Pact of Non-aggression and Common Defence adopted by the Summit of the African Union in Abuja on 31 January 2005;

**Taking account of** the provisions of the Security Council Resolution 1325, on the protection of women and children during armed conflicts and the need for the equitable representation of women in making decisions aimed at ending such conflicts;

**Reaffirming** that the obligation of non-interference in the internal affairs of any State and that of refraining in international relations from any military, political, economic or other form of coercion aimed against the sovereignty, political independence or territorial integrity of any State in accordance with international law, are essential conditions for ensuring peace, security, stability and development in the Great Lakes Region;

**Mindful** of the responsibility of States to protect populations from genocide, war crimes, ethnic cleansing and crimes against humanity, and gross violations of human rights in the Great Lakes Region;

**Reaffirming** the strict obligation of each State not to permit the use of its territory as a base for subversion or aggression against other States;

**Reaffirming** further the duty of all States to settle their international disputes by peaceful means in accordance with international law;

**Agree** as follows:

## **Article 1**

### **Definitions**

In this Protocol, unless the context otherwise requires, the following mean:

1. **Acts of Subversion:** any act that incites, aggravates or creates dissension within or among Member States with the intention or purpose of destabilizing or overthrowing the existing regime or political order by, among other means, fomenting racial, religious, linguistic, ethnic or other differences, in a manner inconsistent with the Constitutive Act of the African Union, the African Union Non-Aggression and Common Defence Pact, or the Charter of the United Nations.
2. **Aggression:** the use, intentionally and knowingly, of armed force or any hostile act, as referred to in Article 1(3)(g to k), perpetrated by a State, a group of States, an organization of States or an armed group or by any foreign or external entity, against the sovereignty, political independence, territorial integrity and human security of the population of a Member State, contrary to the Constitutive Act of the African Union, the African Union Non-Aggression and Common Defence Pact or the Charter of the United Nations.
3. The following shall constitute acts of aggression, regardless of a declaration of war by a State, group of States, organization of States, or armed groups, or by any foreign entity whatsoever:
  - a. The use of armed forces against the sovereignty, territorial integrity and political independence of a State, or any other act inconsistent with the provisions of the Constitutive Act of the African Union, the African Union Non-Aggression and Common Defence Pact, or the Charter of the United Nations;
  - b. The invasion or attack by armed forces against the territory of a Member State, or military occupation, however temporary, resulting from such an invasion or attack, or any annexation by the use of force of the territory of a Member State or part thereof;
  - c. The bombardment of the territory of a Member State or the use of any weapon against the territory of a Member State;
  - d. The blockade of the ports, coasts or airspace of a Member State;
  - e. The attack by the armed forces of a State on the land, sea or air forces, or marine and air fleets of a Member State;
  - f. The use of the armed forces of a Member State which are within the territory of another Member State with the agreement of the latter, in contravention of the conditions provided for in the African Union Non-Aggression and Common Defence Pact;

- g. The action of a Member State in authorising its territory, to be used by another Member State for committing an act of aggression against a third State;
  - h. The sending by, or on behalf of a Member State, or the provision of any support to armed groups, mercenaries, and other organized trans-national criminal groups which might carry out hostile acts against a Member State, of a gravity comparable to the acts listed above, or its substantial involvement therein;
  - i. Acts of espionage which could be used, contrary to Article 7(4), for military aggression against a Member State;
  - j. Technological assistance of any kind, intelligence and training given to another State for use, contrary to Article 7(4), with the aim of committing acts of aggression against another Member State; and
  - k. The encouragement, support, harbouring or provision of any assistance for the commission of terrorist acts and other violent trans-national organized crimes against a Member State.
4. **Armed groups:** any armed groups that do not belong to, or are not officially incorporated into, the defence and security forces of Member States.

5. **Designated border security zones:** the following common border zones:

- a. **Zone 1**, comprising the East of the Democratic Republic of Congo, the West of Uganda and the West of Rwanda;
- b. **Zone 2**, comprising the North of the United Republic of Tanzania, the South of Uganda, and the South-West of Kenya;
- c. **Zone 3**, comprising the North-East of Uganda, the North-West of Kenya, and the South-East of Sudan;
- d. **Zone 4**, comprising the North-West of Uganda, the North-East of the Democratic Republic of Congo, and the South-West of Sudan in the West Nile border triangle;
- e. **Zone 5** comprising the North of the Democratic Republic of Congo, the South-West of Sudan, and the South-East of the Central African Republic;
- f. **Zone 6**, comprising the North-West of the Democratic Republic of Congo, the North-East of the Republic of Congo, and the South-West of the Central African Republic;
- g. **Zone 7**, comprising the North-West of Angola, the West of the Democratic Republic of the Congo and the South of the Republic of Congo;

- h. **Zone 8**, comprising the North-West of Zambia, the South of the Democratic Republic of Congo, and the East of Angola;
- i. **Zone 9**, comprising the West of the United Republic of Tanzania, the South of Burundi, the North of Zambia and the South-East of the Democratic Republic of Congo;
- j. **Zone 10**, comprising the East of the Democratic Republic of Congo, the West of Burundi, and the West of Rwanda;
- k. **Zone 11**, comprising the North-West of the United Republic of Tanzania, the South-West of Uganda, and the East of Rwanda; and
- l. **Zone 12**, comprising North-West of the United Republic of Tanzania, the South-East of Rwanda, and the North-East of Burundi.

## **Article 2**

### **Objectives**

The objectives of this Protocol are to:

1. Resolve and prevent internal and inter-state armed conflicts, subversive activities and serve as a legal framework for eradicating persistent insecurity of any kind within and between Member States;
2. Eliminate threats to peace, security, stability and sustainable development in the Great Lakes Region through collective security;
3. Ensure respect for the sovereignty and security of States, the inviolability of borders and the territorial integrity of States;
4. Safeguard human and people's rights, gender equity, the rule of law, democracy, and sustainable development in the Great Lakes Region;
5. Ensure that disputes between Member States and, between Member States and armed groups are resolved by peaceful means;
6. Ensure that any Member State is prevented from permitting the use of its territory as a base for aggression or subversion perpetrated against another Member State;

## **Article 3**

### **Renunciation of the Threat or Use of Force by Member States**

1. Member States agree to renounce any resort to the threat or use of force as policies, means, or instrument of settling any differences, disputes, or the pursuit of national objectives.

2. This renunciation is without prejudice to the primary responsibility of Member States to preserve the integrity of their sovereignty and to protect the lives and human rights of all persons and all peoples, including women and children, residing within their territories.
3. Member States shall assume primary responsibility for not permitting the use of their territories as a base for any form of aggression or subversion against another Member State.
4. **Member States undertake to criminalize any act of aggression or subversion against other States by individuals or groups operating in their respective States.**

## Article 4

### Prohibition on the Threat or Use of Force by Member States

1. Member States undertake to refrain, in their international relations, from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the Charter of the United Nations, the Constitutive Act of the African Union, the relevant resolutions of the Security Council of the United Nations and the African Union Peace and Security Council.
2. Member States agree strictly to abide by the duty of non-interference in matters which are within the domestic jurisdiction of any State, in accordance with international law, the Charter of the United Nations, and the Constitutive Act of the African Union.
3. Any act, by a Member State, of sending its armed forces or armed or insurgent groups across the frontier of another State, without the agreement of that State, shall constitute a breach of the prohibition on the threat or use of force and the duty not to intervene in matters which are within the domestic jurisdiction of any State.
4. Any act by a Member State, of harbouring within its territory armed or insurgent groups engaged in armed conflict, violence, or subversion against the government of another State shall constitute a breach of the prohibition on the threat or use of force and the duty not to intervene in matters which are within the domestic jurisdiction of the said State.
5. Any act, by a Member State, of providing direct or indirect support whatsoever to armed groups engaged in armed conflict, violence, and/or, the unconstitutional overthrow of a Government of another State shall constitute a breach of the prohibition on the threat or use of force and the duty not to intervene in matters which are within the domestic jurisdiction of any State.

6. Member States undertake to refrain from acts of reprisal involving the threat or use of force against other States.
7. Member States agree that a breach of the obligations contained in the provisions of this article shall entail State responsibility for such a breach.
8. Member States agree that the provisions of this Article and Article 5 of this Protocol shall not impair the exercise of their responsibility to protect populations from genocide, war crimes, ethnic cleansing, crimes against humanity, and gross violations of human rights committed by, or within, a State. The decision of the Member States to exercise their responsibility to protect populations in this provision shall be taken collectively, with due procedural notice to the Peace and Security Council of the African Union and the Security Council of the United Nations.

## **Article 5**

### **Non-Aggression**

1. Member States have a duty to refrain from acts and threats of aggression as defined in Article 1 (2) and (3) of this Protocol, as well as any propaganda related to such acts and threats.
2. Any use or threat of the use of force against the sovereignty, territorial integrity and political independence of a State, contrary to Article 4, or in any manner not authorised by the Charter of the United Nations and the Constitutive Act of the African Union, shall amount to an act of aggression.
3. An act of aggression shall be punishable individually as an international crime against peace as set out in the regional and international legal instruments defining such a crime.
4. Member States shall counter acts of aggression committed against any one of them by armed groups, taking into account the provisions of Articles 6 and 8 of this Protocol.

## **Article 6**

### **Mutual Defence**

1. Member States retain the inherent right to individual or collective self-defence in the event of an armed attack, according to Article 51 of the Charter of the United Nations.
2. A Member State which resorts to self-defence shall determine that its territory has been subject to an armed attack, and shall notify the other Member States,

the Peace and Security Council of the African Union, and the Security Council of the United Nations of such an attack.

3. Member States agree that any armed attack against one or more of them shall be considered an attack against them all and consequently they agree that, if such an armed attack occurs, each of them, in exercise of the right of individual or collective self-defence will assist the State or States so attacked by taking forthwith, individually or in concert with the other Member States, such action as it deems necessary, including the use of armed force, to restore and maintain the peace, security, stability, and development of the Great Lakes Region.
4. Member States agree to build their joint capacity for mutual assistance and defence aimed at enabling collective and effective responses to armed attacks against one or more of them by utilising the command structures of the African Intervention Force.
5. Member States shall promote and enhance mutual defence by creating a climate of confidence, trust, and good faith between themselves and their peoples by formulating policies, measures and mechanisms aimed at enhancing good neighbourliness and multi-sectoral cooperation.

## **Article 7**

### **Regional Responsibility for Managing Common Border Security**

1. Member States undertake to assume regional responsibility for the management of the security of their common borders within the context of trans-border proximity management strategies, with the active participation of the populations or communities straddling border areas, according to Article 23 of the Dar-es-Salaam Declaration on Peace, Security, Democracy and Development in the Great Lakes Region.
2. Member States agree that the existing bilateral arrangements or instruments on border security are integrated into the framework of this Protocol.
3. Member States agree that the management of border security shall be undertaken on the basis of joint regional responsibility and the pooling of resources in each of the designated border security zones.
4. Member States undertake in particular to pool intelligence, resources, capacities and competences, in order to secure their common borders effectively and efficiently in all the designated border security zones, in a spirit of good faith, cooperation, mutual respect, trust, confidence and good neighbourliness.
5. Member States agree to establish border security patrols along their common border zones.
6. Member States agree that the following principles are applicable to maintain border security in all zones:

- a. The intangible character of the boundaries existing at the time of independence;
  - b. The duty of neighbouring States to delimit and to demarcate existing boundaries strictly in keeping with the territorial frontiers in existence at the time of independence;
  - c. The role of borders in setting the outer limits to the sovereignty, authority, competence, and jurisdictions of neighbouring States;
  - d. The duty to respect and to maintain the inviolability of borders by ensuring that armed forces and armed groups do not cross the borders of a Member State without the notification and consent of the neighbouring State concerned;
  - e. The duty to refrain, subject to the right of individual or collective self-defence, from the threat or use of force in violation of the existing international borders of another State to resolve any disputes, particularly territorial disputes and frontier incidents.
7. Member States agree to establish mechanisms for the joint control, surveillance and management of common borders, such as the Joint Border Commissions.

## **Article 8**

### **Measures against Armed Groups**

1. Member States hereby denounce all armed groups in the Great Lakes Region and repudiate any association with such groups, and agree to strictly combat all activities undertaken by such groups.
2. Member States guarantee to prohibit armed groups from using their territories as a base for carrying out armed attacks, committing acts of aggression or subversion, against the sovereignty, security, territorial integrity and political independence of any Member State.
3. Member States undertake not to give any help, directly or indirectly, actively or passively, to armed groups operating against any Member State.
4. Member States undertake to apprehend and disarm, far from their common borders, members of armed groups who use, or attempt to use, their territories to prepare, or mount armed attacks, and/or, conduct subversive activities against other States.
5. Member States undertake to intercept and disarm members of armed groups fleeing across their common borders, without prejudice to the obligations concerning the protection of refugees and the free movement of persons within the Great Lakes Region.
6. A Member State whose armed forces are engaged in the hot pursuit of armed groups shall inform and notify Member States towards whose territory the armed

- groups are fleeing, and shall request any such Member States to intercept, apprehend and disarm them.
7. A Member State unable or unwilling to intercept armed groups in flight or operating on its territory shall be encouraged to enter into bilateral agreements which specify the conditions under which the armed forces of another Member State may undertake the hot pursuit of the said armed groups, provided that such agreements shall be consistent with the objectives of this Protocol.
  8. Member States shall ensure that all the members of an armed group which resorts to the threat or use of force as a policy to attain its objectives, or as a means of settling its disputes with a Member State, shall incur individual and collective criminal responsibility for the acts or omissions of the said armed group.

9. Member States agree to accord each other mutual assistance in prosecuting armed groups throughout the Great Lakes Region.
10. Nothing in the provisions of this Article shall affect the right of individual or collective self-defence in the event of an armed attack, or the failure, after notification or request, to intercept and disarm members of an armed group pursued by the defence and security forces of a Member State.
11. Member States agree that the failure by a Member State to abide by its obligations under paragraphs 1-6 of this Article shall constitute a fundamental breach of this Protocol and a threat to regional peace and security, for which such a Member State shall be held responsible by the other Member States or has to account for itself before the Summit of the Conference.

## **Article 9**

### **Small arms and light weapons**

1. Member States agree that the illicit proliferation of small arms and light weapons, including anti-personnel mines constitutes a threat to peace, security, and stability in the Great Lakes Region, and undertake to promote common policies and strategies aimed at putting an end to this proliferation in accordance with the international agreements in force.

## **Article 10:**

### **Final provisions**

1. This Protocol shall be an integral part of the Pact and shall not be subject to separate signature and ratification by the Member States.
2. For any Member State which has ratified the Pact in terms set out in Article 30 of the Pact, this Protocol shall automatically enter into force at the same time as the Pact in accordance with Article 33 of the Pact.

3. Nothing contained in this Protocol shall be construed to be contrary to the provisions of the Pact, the Constitutive Act of the African Union, and the Charter of the United Nations.