

East African Community, African Regional Bodies

Protocol on combating Drug Trafficking in the East African Region

Legislation as at 13 January 2001

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East African Community

Protocol on combating Drug Trafficking in the East African Region

Not commenced

[This is the version of this document at 13 January 2001.]

PREAMBLE

The United Republic of Tanzania, the Republic of Kenya and the Republic of Uganda signatories to the Treaty for the Establishment of the East African Community.

CONSIDERING the provisions of Article 124(5)(e) of the Treaty for the Establishment of the East African Community;

COMMITTED to the establishment of a regional institutional framework in combating illicit drug supply, demand and related corruption in Partner States through legislative and social policies;

CONCERNED about the magnitude of and the rising trend in, the illicit production, use and abuse of, demand for, and traffic in drugs in the East African region;

CONCERNED that such illicit use of and traffic in drugs poses a serious threat to the health and welfare of the peoples of East Africa and adversely affects the economic, cultural and political foundations of society;

CONSCIOUS that funds derived from illicit drug trafficking might distort the economies of the region;

CONSCIOUS of the fact that illicit drug trafficking is a serious international problem;

AWARE that the region is being increasingly used as a conduit for illicit drugs for international markets and that illicit drug trafficking and related corruption often complement each other and generate large financial gains and wealth enabling trans-national criminals and organisations to penetrate, contaminate and corrupt the structures of governments, legitimate commercial and financial business and society at all levels;

CONVINCED that co-operation between Partner States is necessary to eradicate illicit drug production and trafficking.

CONVINCED that such co-operation can only be effected through implementation of coordinated, comprehensive and integrated drug control and prevention programmes that address both supply and demand and involve the public, the private sector, businesses and Non-Governmental Organisations;

DETERMINED to combat the root causes of drug related crime by adopting and strictly enforcing legislation against illicit drug production, trafficking, drug abuse, money laundering and diversion of precursor chemicals;

DETERMINED to stop the use of the region as a conduit for drugs destined for international markets and to deprive those who are engaged in illicit drug trafficking of the proceeds of their criminal activities; and

DESIROUS of making a joint effort to achieve the above mentioned aims and objectives;

HEREBY AGREE AS FOLLOWS:

Article 1 – Definitions

In this Protocol, unless the context otherwise requires:

"**community prevention**" means any activity undertaken at the level of a community designed to reduce the underlying causes of drug abuse peculiar to the community;

"**controlled delivery**" shall have the meaning assigned to it in Article 1 of the UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988;

Not commenced

"**corruption**" means abuse or misuse of any office for private gain or benefit or the giving or receipt by any person of any benefit of whatever nature which is not legally due;

"**Council**" means the Council of Ministers of the East African Community;

"**demand reduction**" means those measures that aim to deter the use of illicit drugs and help people who use illicit drugs to stop using them and limit or minimise some of the worst effects of disease and harmful behaviour;

"**drugs**" means any narcotic drug or psychotropic substance;

"**illicit drug trafficking**" means the offences set forth in Article 3, paragraphs 1 and 2 of The UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988;

"**Interstate Security Committee**" means the Interstate Security Committee of the Community;

"**money laundering**" means engaging directly or indirectly in a transaction that involves money or property which is the proceeds of illicit drug trafficking or receiving, processing, concealing, disguising, transforming, converting, disposing of, removing from, bringing into any territory, money or property that is the proceeds of illicit drug trafficking;

"**narcotic drugs**" means any of the substances, natural or synthetic, referred to in Schedules I and H of the Single Convention on Narcotic Drugs of 1954 as amended by the 1972 Protocol Amending The Single Convention on Narcotic Drugs, 1954;

"**Partner State**" means the United Republic of Tanzania, the Republic of Kenya and the Republic of Uganda and any foreign country granted membership to the Community;

"**precursor chemicals**" means substances frequently used in the illicit manufacture of narcotic drugs or psychotropic substances as defined in Article 12 and Table I and II of the UN Convention Against Illicit Drugs and Psychotropic Substances, 1988;

"**proceeds of illicit drug trafficking**" means any property derived from or obtained directly or indirectly, from drug trafficking;

"**property**" means any asset whether corporeal or incorporeal, movable or immovable, tangible or intangible and legal documents or instruments evidencing title to, or interest in, such assets;

"**psychotropic substance**" means any substance, natural or synthetic, or any natural material referred to in Schedules I, II, III and IV of The Convention on Psychotropic substances, 1971;

"**region**" means the geographical area of the United Republic of Tanzania, the Republic of Kenya and the Republic of Uganda and any country granted membership to the Community;

"**Secretariat**" means the Secretariat of the East African Community; and

"**Treaty**" means the Treaty for the Establishment of the East African Community.

Article 2 – Objectives

The main objectives of this Protocol are:

- 1 to reduce and eventually eliminate illicit drug trafficking, money laundering, related corruption and the illicit use and abuse of drugs through co-operation among enforcement agencies and demand reduction through co-ordinated programmes in the region;
- 2 to eliminate the production of illicit drugs; and
- 3 to protect the region from being used as a conduit for drugs destined for international markets.

Article 3 – International conventions

Partner States which have not acceded to or ratified the undermentioned United Nations Conventions shall do so as soon as possible:

- (a) The Single Convention on Narcotic Drugs, 1961 as amended by the 1972 Protocol Amending the Single Convention on Narcotic Drugs, 1961;
- (b) The Convention on Psychotropic Substances, 1971; and
- (c) The UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988.

Article 4 – Domestic legislation

- 1 Partner States shall promulgate and adopt domestic legislation which shall satisfy the provisions of the Conventions referred to in Article 3 of this Protocol.
- 2 Subject to paragraph 1 of this Article, the legislation shall, *inter-alia*, make provisions for:
 - (a) drug trafficking, money laundering, diversion of precursor chemicals, conspiracy, incitement and instigation and drug abuse to be illegal;
 - (b) custodial sentencing which will serve both as punishment and as a deterrent and would include provision for rehabilitation;
 - (c) the destruction of drugs seized both in bulk and in respect of any retained samples;
 - (d) prevention and detection of laundering of proceeds of illicit drug trafficking;
 - (e) effective measures for dealing with the proceeds of illicit drug trafficking including the tracing, freezing and seizure, confiscation and forfeiture of the said proceeds, including instrumentalities;
 - (f) rendering of mutual administrative and legal assistance in respect of illicit drug trafficking including tracing, freezing and seizure, confiscation and forfeiture of the said proceeds, including instrumentalities;
 - (g) approximation of extradition laws between the Partner States; and
 - (h) controlled delivery in conformity with the UN Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 and International practices.
- 3 Partner States shall approximate penalties applicable in the domestic laws with those of other Partner States in so far as their respective laws allow.

Article 5 – Mutual legal assistance

- 1 Partner States shall co-operate with each other to afford mutual legal assistance to provide evidence and assistance in the investigation and prosecution of illicit drug trafficking.
- 2 Mutual legal assistance shall, *inter alia*, include the following:
 - (a) requests for and communication of statements, exhibits, photographs, transcripts and reports for use as evidence;
 - (b) investigation and detection of offences;
 - (c) execution of searches and seizures;
 - (d) inspection of sites or examination of subjects and/or documents;
 - (e) request for judicial documents;

- (f) service of judicial documents;
 - (g) identification or tracing of suspects and identification, tracing, freezing and confiscation of the proceeds of illicit drug trafficking or related corruption; and
 - (h) subject to their consent, the transfer of prisoners between jurisdictions to give evidence.
- 3 Partner States may further agree upon any other form of mutual legal assistance consistent with their domestic laws.
 - 4 Partner States shall designate a competent authority,-the name of which shall be communicated to the Secretary General, which shall have the responsibility and power to administer and monitor requests for mutual legal assistance.
 - 5 Requests for mutual legal assistance shall be in writing to the competent authority and shall contain:
 - (a) the identity of the authority making the request and a recitation of its authority for making such a request;
 - (b) the subject matter and nature of the investigation or prosecution to which the request relates;
 - (c) a description of the assistance sought; and
 - (d) any other relevant information available to the requesting Partner State that may be of use to the requested Partner States.
 - 6 The requested Partner State may request any such additional information which might be necessary for the execution of the request in accordance with its domestic law.

Article 6 – Law enforcement

- 1 Partner States shall establish appropriate mechanisms for co-operation among their enforcement agencies to promote effective enforcement including the following:
 - (a) establishment of direct communication systems and focal points to facilitate free and fast flow of information among the law enforcement agencies in the region, to combat illicit drug trafficking, money laundering and related corruption;
 - (b) establishment of an effective infrastructure to enhance effective drug law enforcement, including suitable facilities at all designated points of exit and entry;
 - (c) establishment of special multi-disciplinary drug law enforcement units in each Partner State for combating of illicit drug trafficking and money laundering and diversion of precursor chemicals;
 - (d) establishment of joint training courses to equip law enforcement agencies/units and prosecutors with appropriate skills for carrying out their tasks effectively;
 - (e) promotion of co-operation with international organisations such as International Criminal Police Organisation (INTERPOL), United Nations International Drug Control Programme (UNDCP), World Customs Organisation (WCO) and International Narcotics Control Board (INCB) and to utilise existing data bases;
- 2 Partner States shall establish a regional drug data base which will be serviced by the Sub-committee of Experts established under Article 8 of this Protocol.

Article 7 – Drug demand reduction

Partner States shall:

- (a) develop, implement and evaluate policies and strategies aimed at establishing a comprehensive and integrated demand reduction programme that will include the development of community prevention, public and school education and research activities so as to address the underlying causes of drug abuse;
- (b) establish mechanisms to co-ordinate, monitor and evaluate the demand reduction efforts of Government and Non-Governmental Organisations (NGOs);
- (c) co-operate with the public, the private sector, business and NGOs to give higher priority in their programmes to combating drug abuse and the demand for drugs;
- (d) establish appropriate facilities for the treatment, rehabilitation and social re-integration of drug dependent persons and make these available to Partner States;
- (e) promote the establishment of employee assistance programmes in all work situations regarding drug abuse;
- (f) provide and share systematic information and research data on drug abuse, drug trafficking and demand reduction programmes in order to facilitate regional co-operation and co-ordination;
- (g) ensure the availability of adequate training opportunities for personnel involvement in all aspects of demand reduction programmes and to share those opportunities within the region; and
- (h) provide adequate human, financial and technical resources for the implementation of the activities to combat drug abuse.

Article 8 – Institutional arrangements

- 1 The Council shall establish a multi-disciplinary Sub-Committee of Experts which shall be chaired, on a rotational basis, by the Directors of Criminal Investigation of the Partner States.
- 2 The Sub-Committee of Experts shall meet at least once annually.
- 3 The Committee of Experts shall be responsible to the Interstate Security Committee, for, *inter alia*, the following:
 - (a) receiving drug-related information from Partner States;
 - (b) organising training programmes;
 - (c) evaluating programmes required to be put in place and a programme of cooperation for the implementation of this Protocol;
 - (d) providing assistance to Partner States as and when appropriate; and
 - (e) generally overseeing the implementation of this Protocol.

Article 9 – Settlement of disputes

The Parties to this Protocol shall strive to amicably settle any disputes or differences between them arising from, or connected with this Protocol by mutual understanding.

Article 10 – Amendment

- 1 An amendment to this Protocol may be effected by mutual consent of the Partner States in accordance with Article 150 of the Treaty.

Not commenced

- 2 Subject to paragraph 3 of this Article, a proposal for the amendment of this Protocol shall be submitted to the Secretary General by any Partner State for preliminary consideration by the Council.
- 3 The Secretary General shall submit the proposal for amendment to the Council under paragraph 2, after:
 - (a) all Partner States have been duly notified of the proposal; and
 - (b) three months have elapsed since the notification.

Article 11 – Ratification

This Protocol shall be ratified by the Partner States in accordance with their respective constitutional procedures.

Article 12 – Entry into force

This Protocol shall enter into force thirty (30) days after the deposit of the instruments of ratification with the Secretary General by all the Partner States.

Article 13 – Depository and registration

- 1 This Protocol and all instruments of ratification shall be deposited with the Secretary General who shall transmit certified true copies thereof to all the Partner States.
- 2 The Secretary-General shall register this Protocol with the Organisation of African Unity, the United Nations, and such other organisations as the Council may determine.

IN WITNESS WHEREOF the undersigned have appended their signatures hereto:

DONE at Arusha, Tanzania this 13th day of January 2001 in three originals all done in the English language and all of them being equally authentic.