

East African Community, African Regional Bodies

Protocol of the establishment of the East African Community Monetary Union

Legislation as at 30 November 2013

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East African Community

Protocol of the establishment of the East African Community Monetary Union

Not commenced

[This is the version of this document at 30 November 2013.]

PREAMBLE

Pursuant to the provisions of Articles 5 (2), 82 and 151 of the Treaty for the establishment of the East African Community, the provisions for the establishment of the East African Community Monetary Union are hereby set forth:

WHEREAS the Republic of Burundi, the Republic of Kenya, the Republic of Rwanda, the Republic of Uganda and the United Republic of Tanzania (hereinafter referred to as the "Partner States") are parties to the Treaty for the Establishment of the East African Community (hereinafter referred to as the "Treaty");

AND WHEREAS by the provisions of paragraph 1 of Article 151 of the Treaty, the Partner States undertook to conclude such Protocols as may be necessary in each area of co-operation, which shall spell out the objectives and scope of, and institutional mechanisms for co-operation and integration;

AND WHEREAS

- (a) under paragraph 2 of Article 5 of the Treaty, the Partner States undertook to establish among themselves and in accordance with the provisions of the Treaty, a Customs Union, a Common Market, subsequently a Monetary Union and ultimately a Political Federation;
- (b) pursuant to paragraph 2 of Article 5 and Articles 75 and 76 of the Treaty, the Partner States have established among themselves, a Customs Union in accordance with the provisions of the Protocol for the Establishment of the East African Community Customs Union, and a Common Market in accordance with the provisions of the Protocol for the Establishment of the East African Community Common Market;
- (c) under Chapter Fourteen of the Treaty Partner States agreed to cooperate in monetary and financial matters;

CONSIDERING that the objective of the East African Community Monetary Union shall be to promote financial stability and facilitate the achievement of sustainable growth and development of the Community;

RECOGNISING that the Monetary Union together with the other integration stages of the Community will contribute to the achievement of:

- (a) harmonious, balanced and sustainable economic development;
- (b) sustainable and non-inflationary economic growth;
- (c) intra-regional economic and financial system integration; and
- (d) efficient allocation of resources for economic development;

CONSCIOUS of their individual obligations and commitments under the Treaty, the Articles of Agreement of the International Monetary Fund and other regional and international agreements;

AGREE AS FOLLOWS:

Part A – Interpretation

Article 1 – Interpretation

In this Protocol, except where the context otherwise requires:

"**Community**" means the East African Community established by Article 2 of the Treaty;

"**Council**" means the Council of Ministers of the Community established by Article 9 of the Treaty;

"**East African Central Bank**" means the East African Central Bank established in accordance with Article 20;

"**East African currency unit**" means the unit of currency that the currencies of the Partner States shall be converted into before adoption of a single currency;

"**financial key**" means the cost and benefit sharing formula or figure indicating the financial contribution of each Partner State in the single currency area in relation to the East African Central Bank;

"**financial market infrastructure**" means a multilateral system among participating institutions, including the operator of the system, used for the purposes of clearing, settling, or recording payments, securities, derivatives, or other financial transactions;

"**financial system**" means interconnected financial institutions, markets, instruments, services, practices and transactions in the Community;

"**free floating**" means an exchange rate regime that is determined by market forces of demand and supply;

"**harmful tax competition**" means tax measures introduced within the Community as a result of preferential tax regimes that offer tax advantages to particular entities in one Partner State to the detriment of other Partner States;

"**monetary union**" means the East African Community Monetary Union established by Article 2;

"**national central bank**" means the central bank of a Partner State;

"**payment system**" means a set of instruments, procedures, and rules for the transfer of funds between or among participants, including the participants and the entity operating the arrangement;

"**public entity**" means an entity established by Community law or any national law of a Partner State, and includes a local authority or any other body or entity where the Government of a Partner State has a controlling interest;

"**Secretary General**" means the Secretary General of the Community appointed under Article 67 of the Treaty;

"**single currency area**" means the geographical area of the Partner States which adopt the single currency;

"**System of central banks**" means a network of central banks composed of the East African Central Bank and the national central banks of the Partner States in the single currency area where the East African Central Bank formulates the policies which are implemented by the national central banks;

"**Summit**" means the Summit of the Heads of State established by Article 9 of the Treaty;

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

Part B – Establishment, objectives and scope of the Monetary Union

Article 2 – Establishment of the East African Community Monetary Union

1. In order to promote the objectives of the Community under Article 5 of the Treaty and in accordance with the provisions of this Protocol, the Partner States hereby establish a Monetary Union.

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2. The Monetary Union referred to under paragraph 1 shall be known as the East African Community Monetary Union (hereinafter referred to as the "Monetary Union").
3. Notwithstanding paragraph 1, the Monetary Union shall be realized progressively in accordance with Article 5 and the Schedule.
4. The Monetary Union shall be governed in accordance with the relevant laws of the Community.

Article 3 – Objective of the Monetary Union

The objective of the Monetary Union shall be to promote and maintain monetary and financial stability aimed at facilitating economic integration to attain sustainable growth and development of the Community.

Article 4 – Scope of co-operation in the Monetary Union

1. The provisions of this Protocol shall apply to activities undertaken by the Partner States, in co-operation in monetary and financial matters.
2. For the purposes of paragraph 1, the Partner States agree to:
 - (a) harmonize and coordinate their fiscal policies;
 - (b) formulate and implement a single monetary policy and a single exchange rate policy;
 - (c) develop and integrate their financial, payment and settlement systems;
 - (d) adopt common principles and rules for the regulation and prudential supervision of the financial system;
 - (e) integrate their financial management systems;
 - (f) harmonize their financial accounting and reporting practices;
 - (g) adopt common policies and standards on statistics; and
 - (h) adopt a single currency.

Part C – Pre-requisites for the Monetary Union

Article 5 – Pre-Requisites for the Monetary Union

1. For the purpose of realizing the Monetary Union, the Partner States shall:
 - (a) fully implement the Protocol Establishing the East African Community Customs Union and the Protocol Establishing the East African Community Common Market;
 - (b) harmonise and coordinate their fiscal policies;
 - (c) harmonise and coordinate their monetary and exchange rate policies;
 - (d) adopt common principles and rules for payments and settlements;
 - (e) harmonise their payments and settlement systems;
 - (f) harmonise their policies and laws relating to the production, analysis and dissemination of statistical information;
 - (g) introduce bands and gradually fix their bilateral exchange rates to facilitate the conversion of the currencies of the Partner States to the East African currency unit; and

Not commenced

- (h) integrate their financial systems and adopt common principles and rules for the regulation and supervision of the financial system.
- 2. For the purpose of realizing the Monetary Union, each Partner State shall:
 - (a) phase out any outstanding national central bank lending to its government and public entities; and
 - (b) attain the macroeconomic convergence criteria specified in Article 6 (2) and maintain the criteria for at least three consecutive years.
- 3. For the purpose of paragraph 2(b), the Partner States agree to monitor the following indicative convergence criteria:
 - (a) a ceiling on core inflation of 5%;
 - (b) a ceiling on fiscal deficit, excluding grants, of 6% of Gross Domestic Product; and
 - (c) a tax to Gross Domestic Product ratio of 25%.
- 4 Each Partner State shall develop a medium-term convergence program to facilitate the attainment of the agreed macroeconomic convergence criteria.
- 5 The Council shall, on the recommendation of the institution responsible for surveillance, compliance and enforcement to be established in accordance with Article 21, determine whether a Partner State meets the requirements of paragraphs 1 and 2.

Part D – Convergence

Article 6 – Macroeconomic convergence criteria

- 1. The Partner States undertake to attain and maintain macroeconomic convergence.
- 2. For the purposes of paragraph 1, macroeconomic convergence shall be assessed on the following performance convergence criteria:
 - (a) a ceiling on headline inflation of 8%;
 - (b) a ceiling on fiscal deficit, including grants of 3% of Gross Domestic Product;
 - (c) a ceiling on gross public debt of 50% of Gross Domestic Product in Net Present Value terms; and
 - (d) a reserve cover of 4.5 months of imports.
- 3. The Council shall develop measures to regularly monitor, assess, and enforce adherence to the macro-economic convergence and foster fiscal discipline in the Partner States.

Part E – Macroeconomic policy framework

Article 7 – Macroeconomic policy framework

In order to achieve macroeconomic stability, economic growth and balanced development, the Partner States agree to adhere to the macroeconomic policy framework comprising the fiscal policies, the monetary policy and the exchange rate policy provided for in this Part.

Article 8 – Fiscal policies

1. For purposes of Article 7, the Partner States undertake to:
 - (a) harmonise and co-ordinate their fiscal policies;
 - (b) disclose their fiscal policies to the other Partner States;
 - (c) coordinate their fiscal policies with the single monetary policy and exchange rate policy;
 - (d) harmonise and coordinate their budget frameworks;
 - (e) coordinate and harmonize their public procurement policies;
 - (f) implement their economic policies to achieve and maintain macroeconomic convergence;
 - (g) adopt and adhere to the principles of fiscal discipline;
 - (h) avoid harmful tax competition;
 - (i) disclose their aid flows to the East African Central Bank; and
 - (j) ensure efficient mobilization and allocation of resources.
2. The Council shall develop a mechanism to implement this Article.

Article 9 – Public debt management

1. In implementing their fiscal policies, the Partner States shall:
 - (a) adjust their net financing to their respective Governments in accordance with the debt ceiling specified in Article 6 (2) (c); and
 - (b) disclose to the Council the status of their domestic and external debts, including their publicly guaranteed debts, on a quarterly basis.
2. The Partner States agree to adopt a common public debt management framework.

Article 10 – Building resilience and managing economic shocks

1. The Partner States agree to establish mechanisms for managing economic shocks that may arise from exogenous factors and ensuring economic resilience among the economies of the Partner States.
2. The mechanisms under paragraph 1 shall:
 - (a) identify, monitor and mitigate any economic risks in a Partner State that threaten the economic stability of the Monetary Union;
 - (b) build and maintain the resilience of the economies of the Partner States to economic shocks; and
 - (c) stabilize the Monetary Union or the economy of a Partner State in the event of an economic shock.
3. The mechanisms under paragraph 1 shall include:
 - (a) an early warning system which shall ensure that the risk profile of the economy of each Partner State is regularly monitored and there are measures to mitigate any risks that may arise; and
 - (b) a stabilization facility to provide assistance to a Partner State experiencing or threatened with a severe exogenous economic shock.

Not commenced

4. Notwithstanding paragraph 2(a), the Council may allow a Partner State to exceed the fiscal deficit target provided that the Partner State does not breach the convergence ceiling on the debt ratio.

Article 11 – Monetary policy

1. For the purposes of Article 7, the East African Central Bank shall formulate a single monetary policy for the Monetary Union.
2. The single monetary policy shall be binding on the Partner States in the single currency area.
3. The primary objective of the monetary policy shall be to achieve and maintain price stability.
4. Without prejudice to paragraph 3, the monetary policy shall contribute to financial stability and economic growth and development.

Article 12 – Exchange rate policy

1. For the purposes of Article 7, the East African Central Bank shall formulate a single exchange rate policy for the single currency area.
2. The exchange rate regime for the single currency area shall be free floating.
3. For the purposes of paragraph 1, the Partner States in the single currency area undertake to transfer to the East African Central Bank foreign reserves as may be determined by the Council.
4. The foreign reserves under paragraph 3 shall not include the International Monetary Fund reserve positions and the Special Drawing Rights of the Partner States.

Article 13 – Foreign exchange transactions by Partner States

For the purposes of Articles 11 and 12, foreign exchange transactions by the Governments of the Partner States in the single currency area shall be carried out through the system of central banks referred to in Article 20 (2).

Part F – Financial, payment and settlement systems

Article 14 – Financial system

1. The Partner States undertake to develop and operate an efficient, stable, and integrated financial system.
2. The financial system under paragraph 1 shall:
 - (a) promote the development of the financial sector;
 - (b) promote financial inclusion and deepening;
 - (c) facilitate regulation and prudential supervision of the financial sector;
 - (d) facilitate the development of the financial system infrastructure;
 - (e) facilitate early identification of risks or shocks to the financial system;
 - (f) promote a comprehensive, accurate and systematic assessment of financial stability;
 - (g) promote adoption of preventive and timely risk mitigation policies;
 - (h) facilitate coordination and promotion of a speedy region wide response to a crisis within the financial system;

Not commenced

- (i) ensure market efficiency and stability;
 - (j) facilitate the orderly, fair and transparent market conduct of the financial sector;
 - (k) promote and strengthen competition for greater affordability of financial services;
 - (l) promote confidence and the protection of consumers and investors; and
 - (m) fulfil its key economic functions without significant defaults or adverse systemic impact on the real or financial sector.
3. The Partner States shall ensure that the financial system:
- (a) is resilient to endogenous and exogenous shocks;
 - (b) facilitates effective assessment, pricing and management of risks; and
 - (c) promotes resilience to major structural changes.
4. The financial system under paragraph 1 shall include the following subsectors:
- (a) banking;
 - (b) capital and money markets;
 - (c) insurance;
 - (d) retirement benefits;
 - (e) micro finance; and
 - (f) other financial services.

Article 15 – Payment and settlement systems

1. The Partner States shall develop and implement secure, efficient, reliable, and integrated payment and settlement systems.
2. The objective of the payment and settlement systems shall be to ensure the efficient flow of financial transactions within the Monetary Union.
3. For the purposes of paragraph 1, the Partner States undertake to:
 - (a) adopt an integrated trading and securities depository system; and
 - (b) harmonise and integrate the payment and settlement system financial market infrastructure with other systems.

Article 16 – Financial management, accounting and reporting

1. The Partner States shall integrate their financial management systems.
2. Partner States shall harmonize their financial accounting and reporting practices.

Part G – Statistics

Article 17 – Statistics

1. The Partner States shall, while observing internationally accepted best practices, develop, and adopt common methods, concepts, definitions, and classifications for compiling, analyzing and disseminating the statistics necessary for the proper functioning of the Monetary Union.
2. For the purposes of paragraph 1, the Council shall provide a framework that shall promote impartiality, reliability, independence and common methods in the compilation, analysis, and dissemination of statistics in the Monetary Union.

Part H – Single currency

Article 18 – Name, status and adoption of single currency

1. The Partner States undertake to adopt a single currency.
2. The single currency shall be adopted by at least three Partner States that meet the requirements of Articles 5 and 6.
3. The Partner States which adopt the single currency shall form the single currency area.
4. The Summit shall, on the recommendation of the Council, pronounce the formation and commencement of the single currency area.
5. The Summit shall determine the name of the single currency.
6. The single currency shall be the legal tender of the single currency area.
7. The Summit shall, on the recommendation of the Council, pronounce the date on which the single currency shall become the legal tender of the single currency area.
8. The single currency shall be used in the payment and settlement systems for the settlement of all transactions in the single currency area except as otherwise provided by an Act of the Community.

Article 19 – Determination of conversion rates

The Council shall before the single currency becomes the legal tender of the single currency area, fix irrevocable conversion rates at which the single currency shall replace the currencies of the Partner States.

Part I – Institutional mechanisms

Article 20 – The East African Central Bank

1. The Summit shall, on the recommendation of the Council, establish an East African Central Bank.
2. The East African Central Bank shall, together with the national central banks of the Partner States in the single currency area, form a functionally integrated system of central banks.
3. The system of central banks shall perform the functions of a central bank in the single currency area.
4. In the performance of its functions, the East African Central Bank shall be independent and shall not be influenced by a Partner State.

Not commenced

5. The Partner States in the single currency area shall provide the capital for the East African Central Bank as may be determined by the Council.
6. The financial rights and obligations of the Partner States in the single currency area in relation to the East African Central Bank shall be distributed among the Partner States in the single currency area in accordance with the financial key determined by the Council and shall be adjusted every three years.

Article 21 – Other institutions to support the Monetary Union

The Summit shall, on the recommendation of the Council, establish the following institutions to support the Monetary Union:

- (a) institutions responsible for financial services;
- (b) an institution responsible for surveillance, compliance and enforcement;
- (c) an institution responsible for statistics; and
- (d) any other institution necessary for the proper functioning of the Monetary Union.

Part J – General provisions

Article 22 – Harmonisation of policies, laws and systems

1. The Partner States undertake to harmonise their policies, laws and systems for the purposes of implementing this Protocol.
2. The Council shall issue directives for the purposes of this Article.

Article 23 – Transitional provision

The Summit shall, on the recommendation of the Council, establish an institution to be known as the East African Monetary Institute, which shall be responsible for the preparatory work for the Monetary Union.

Article 24 – Measures to address imbalances

The Council shall develop measures to support a Partner State that experiences macroeconomic or structural imbalances arising from the implementation of this Protocol.

Article 25 – International and regional agreements on matters relating to Monetary Union

For the purposes of Article 130(3) of the Treaty, the Partner States shall involve the East African Central Bank in the negotiation, conclusion and implementation of any agreement with a foreign entity that may impact on the single monetary policy and single exchange rate policy.

Article 26 – Admission to single currency area

The Summit, may on the recommendation of the Council, admit a Partner State which fulfils the requirements of Articles 5 and 6, into the single currency area.

Article 27 – Regulations, directives and decisions

The Council shall make regulations, issue directives, or take decisions necessary for the effective implementation of this Protocol.

Article 28 – Dispute settlement

Any dispute between Partner States arising from the interpretation or application of this Protocol shall be settled in accordance with the provisions of the Treaty.

Article 29 – Amendment of the Protocol

1. This Protocol may be amended by the Partner States in accordance with the provisions of Article 150 of the Treaty.
2. Subject to the provisions of paragraph 1, the Council may:
 - (a) with the approval of the Summit, review the Schedule and make such modifications as it may deem necessary; and
 - (b) submit to the Partner States proposals for the amendment of the provisions of this Protocol.

Article 30 – Entry into force

This Protocol shall enter into force upon ratification and deposit of instruments of ratification with the Secretary General by all the Partner States.

Article 31 – Depository and registration

1. This Protocol and all instruments of ratification shall be deposited with the Secretary General who shall transmit certified copies of the Protocol and the instruments of ratification to all the Partner States.
2. The Secretary General shall register this Protocol with the African Union, the United Nations, the International Monetary Fund and such other organizations as the Council may determine.

DONE at Kampala, Uganda, on the 30th day of November, in the year Two Thousand and Thirteen.

IN FAITH WHEREOF the undersigned have appended their signatures hereto: