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## Introductory note on the Pact on Security, Stability and Development in the Great Lakes region

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*Introductory Note on the Pact on Security, Stability and Development in the Great Lakes Region.*  
*By Dr Chaloka Beyani\*.*

The *Pact on Security, Stability and Development in the Great Lakes Region* (the Pact) was adopted by the Heads of State and Government of the Member States of the International Conference on the Great Lakes (IC/GLR) in Nairobi on 15<sup>th</sup> December 2006. The eleven Member States of the Conference and signatories to the Pact are Angola, Burundi, Central African Republic, Democratic Republic of Congo, Kenya, Republic of Congo, Rwanda, Sudan, Tanzania, Uganda and Zambia. The Great Lakes Region comprises the combined territorial space of these States.

The Pact stems from the concerted efforts of the Member states to formulate a legal basis for preventing and resolving internal and international armed conflicts in the Great Lakes Region. A major objective is to create lasting conditions for security, stability, sustainable development and reconstruction in the region as a whole. The genesis of the idea lies in the *Dar-es-Salaam Declaration on Peace, Security, Democracy and Development in the Great Lakes Region 2004*. This *Declaration* was the founding instrument of the IC/GLR. By adopting it at their first Summit in Dar- es-Salaam on 19 and 20 November 2004, the Heads of State and Government of the Member States assumed far-reaching commitments conducive to promoting peace, security, democracy, and development. The terms of the *Dar-es-Salaam Declaration* were such that these commitments were of immediate effect and required urgent legal implementation.

The Pact was thus conceived and designed to provide the legal framework for implementing the *Dar-es-Salaam Declaration*. It transforms the commitments assumed under this *Declaration* and places them on a binding legal footing comprising ten *Protocols* and four Programmes of Action identified by the Conference to be areas of priority.

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The ten Protocols are: 1) the *Protocol on Non-aggression and Mutual Defence in the Great Lakes Region* 2006; 2) the *Protocol on Democracy and Good Governance* 2006; 3) the *Protocol on Judicial Cooperation* 2006; 4) the *Protocol for the Prevention and the Punishment of the Crime of Genocide, War Crimes and Crimes against Humanity and all forms of Discrimination* 2006; 5) the *Protocol Against the Illegal Exploitation of Natural Resources* 2006; 6) the *Protocol on the Specific Reconstruction and Development Zone* 2006; 7) the *Protocol on the Prevention and Suppression of Sexual Violence Against Women and Children* 2006; 8) the *Protocol on the Protection and Assistance to Internally Displaced Persons*; 9) the *Protocol on Property Rights of Returning Persons* 2006; and 10) the *Protocol on the Management of Information and Communication* 2006.

I acted as legal advisor to the IC/GLR and led the drafting of the *Pact* and the *Protocols on Non-aggression and Mutual Defence, Prevention and Suppression of Sexual Violence Against Women and Children, Protection and Assistance to Internally Displaced Persons, Property Rights of Returning Persons*. As an additional part of my advisory function I also redrafted the rest of the *Protocols* to harmonize their provisions and align them with those of the *Pact* and the Programmes of Action. This was necessary because the *Protocols* were drafted first, individually and independently of each other, and the *Pact* was drafted after the *Protocols* to provide the integrated legal framework of the IC/GLR. It should be noted that the formulation of international instruments is substantively different from the drafting of national legislation where the draughtsman serves as a legal technician. In the framework of the IC/GLR where the principle of political ownership of the peace process by the Member States was dominant and political and economic interests were acute following hostilities in that Region, the drafting involved was radically innovative and challenging.

It involved substantive research, knowledge and application of international law to a variety of areas covered by the *Protocols*. The exercise shows the role that academic international lawyers can play in the creative application of international law in a diplomatic and politically

interactive process concerning the reconstruction of States emerging from armed conflict at regional level. Once the texts were formulated, the role of the drafter carried with it great diplomatic and legal responsibility in negotiating the adoption of the texts while maintaining principle and impartiality amongst conflicting interests, guiding deliberations to reach compromises, and reconciling Member States to arrive at desirable levels of common agreement on the applicable obligations. This was not easy given that each Member State had its own lawyers, the composition of which varied from meeting to meeting, and that different traditions of the common law and civil law obtaining in the legal systems of some of the Member States influenced their different approaches to international law. Sometimes this led to conflicting legal positions between the Member States.

Nevertheless, the substantive framework of the *Pact*, the *Protocols* and Programmes of Action, embody international legal obligations in the field of post-conflict reconstruction in the Great Lakes Region. The Pact stands as an integrated package to which the principle of non-selectivity applies as regards the application of the *Protocols* and Programmes of Action, which are the main constituent elements of the legal package contained in the *Pact*. It symbolizes a unique approach to international law making and application whereby the *Protocols* and Programmes of Action are mutually reinforcing, complete with monitoring and overlapping implementation mechanisms. For example, a project designed under the Programme of Action in Humanitarian, Social and Environmental Issues specifically seeks to ensure that Member States comply with relevant obligations under international human rights law and international humanitarian law.

The legal foundation of the Pact links the ten *Protocols* and the four Programmes of Action thematically and structurally. Therefore the Programme of Action for Peace and Security supports the implementation of the *Protocol on Non-aggression and Mutual Defence*. Similarly, the Programme of Action for Democracy and Good Governance supports the implementation of the *Protocols on, Democracy and Good Governance, Judicial Cooperation, Prevention and the*

*Punishment of the Crime of Genocide, War Crimes and Crimes against Humanity and all forms of Discrimination, the Protocol Against the Illegal Exploitation of Natural Resources, and the Protocol on the Management of Information and Communication* . The Programme of Action for Economic Development and Regional Integration aids implementation of the *Protocol on the Specific Reconstruction and Development Zone* under which provision is made for a Special Fund for Reconstruction and Development. Finally, the Programme of Action on Humanitarian, Social and Environmental Issues gives support to the implementation of the *Protocols on the Prevention and Suppression of Sexual Violence Against Women and Children, Protection and Assistance to Internally Displaced Persons, and the Protocol on Property Rights of Returning Persons*.

These Programmes of Action make up the structure of the IC/GLR. Underlying them is the concept that there cannot be peace and security without democracy and good governance, economic reconstruction and development, and without solving the existing problems of human insecurity arising from the impunity of sexual violence, the displacement of persons, and outstanding property claims by returning persons and refugees. In short, each Programme of Action and the *Protocols* adopted under it cannot be implemented successfully in isolation of all the others because they are all strategically complementary. The function of the *Pact* is to hold the legal framework integrating the *Protocols* and Programmes of Action together and to bind the Member States legally to that end. Consequently the entry into force of the *Pact* will automatically bring about the entry into force of the *Protocols* and give effect to the obligations pertaining to the implementation of the Programmes of Action.

This is the sense in which the framework of the *Pact* presents an important model on the use and application of international law in post-conflict situations. It also reflects the emerging practice of the States of the Great Lakes Region on international law making to prevent and resolve regional conflicts. Most significantly, the *Pact* establishes the International Conference on the Great Lakes Region as a regional organization with an implementation mechanism which the Member States brought into force immediately after signing the *Pact*, by adopting a *Declaration*

*on Implementation of the Pact Pending Entry into Force* on 15<sup>th</sup> December 2006. As a result, the implementation and operational machinery established by the *Pact* is in force, with the Headquarters of the Secretariat established in Bujumbura, Burundi 1<sup>st</sup> March 2007.