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IGAD as an International Organization, Its Institutional Development and Shortcomings

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Abstract

The heads of state and government of the East African sub-region established a forum known as the Inter-Governmental Authority on Development (IGAD) for expanded cooperation in 1996. The conclusion of the treaty by which IGAD was created was the beginning, not the end, of commitment to IGAD through the principle of *pacta sunt servanda* [agreements are binding and must be implemented in good faith]. In spite of the great hopes, optimism and aspirations placed on the creation of IGAD, the challenge then become IGAD members' commitment to the treaty establishing IGAD. If member states are unable to grant powers to IGAD and cooperate to enable IGAD to execute its objectives, IGAD cannot work as was intended, hence it remains open to questions. This article discusses IGAD's fundamental features and the institutional progress it has achieved, as well as the challenges it faces as an international legal body.

IGAD'S EVOLUTION: A DESCRIPTIVE ASPECT

The Inter-Governmental Authority on Development (IGAD) is one of Africa's youngest sub-regional organizations, founded in 1996 to supersede the Inter-Governmental Authority on Drought and Development (IGADD), which was founded in 1986 by the then drought afflicted eastern African countries of Djibouti, Ethiopia, Kenya, Somalia, Sudan and Uganda.[1] Following independence, the state of Eritrea was admitted as the seventh member of IGADD at the fourth Summit of Heads of State and Government in Addis Ababa, in September 1993. IGADD's aim was simply to provide coordinated efforts in managing drought and development across the eastern Africa sub-region with a focus on food security.[2] Ten years later, in 1996, IGADD evolved into IGAD, which produced a much broader mandate and ambitious objectives

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1 Agreement Establishing Inter-Governmental Authority on Drought and Development in Eastern Africa (Assembly of Heads of State and Government, Djibouti, 16 January 1986) (IGADD Agreement); Agreement Establishing the Inter-Governmental Authority on Development (Nairobi, 21 March 1996): IGAD/SUM-96/AGRE-Doc (IGAD Agreement), available at:. <http://igad.int/index.php?option=com_content&view=article&id=93&Itemid=124&limitstart=3> (last accessed 12 December 2010).

2 Preamble and art 7 of the IGADD Agreement, id.

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that embrace cooperation in almost all socio-economic, political and environmental fields.[3]

Although IGAD was revitalized in 1996, its gradual evolution as a forum had been taking place since the early 1990s. There were three breakthroughs that paved the way to IGAD's evolution. First, the Treaty Establishing the African Economic Community (AEC) of June 1991 (Abuja Treaty) foresaw, in the long term, the formation of a common economic community for the whole of Africa.[4] The Abuja Treaty accorded special recognition to the critical role of the existing regional (in the words of the Abuja Treaty, otherwise called sub-regional) economic communities (RECs) at the stage of establishing the AEC,[5] and also highlighted political stability as an important component for development in the post-Cold War era. The second breakthrough was the 1992 Rio UN Summit (in chapter 12 of agenda 21), which led to the UN Convention to Combat Desertification and broke new ground in international environmental law.[6] In promoting and implementing both the AEC and the convention, the sub-regional groupings were given special impetus and high priority. The third and strongest motivation was that the conclusion of three decades of war between the Eritrean liberation movement and Ethiopia in 1991 and the subsequent good bilateral relationship and cooperation between these countries created a conducive and promising new era and "opened up possibilities, not only for peace in the sub-region but also for serious efforts for economic integration and economic cooperation".[7] This contributed significantly to the re-invigoration of IGADD. Member states were convinced that "the sub-region's economic and social development ultimately depends on the prevalence of peace and security and that the absence of those conditions severely constrains or nullifies

3 See preamble, arts 7 (aims and objectives) and 13 (areas of cooperation) of the IGAD Agreement, above at note 1.

4 Treaty Establishing the African Economic Community (Abuja, Nigeria, 3 June 1991).

5 Id, art 88.

6 UN Conference on Environment and Development (Rio de Janeiro, Brazil, 3–14 June 1992): A/CONF.151/26 (vol I). For the test adopted by the conference, see (1992) XXXI *ILM* 814, in particular at 876. See also UN *Action 21* (UN, 1993) at 7–271: Doc. A/CONF.151/26/Rev.1; arts 2(2) and 210(1) of the UN Convention to Combat Desertification, available at: <http://www.un.org/millennium/law/xxvii-25.htm> (last accessed 12 December 2010).

7 Paper presented by S Mesfin, minister of foreign affairs of the Federal Democratic Republic of Ethiopia, at the International Conference on Economic Integration and Trans-boundary Resources, organized by the Ethiopian International Institute for Peace and Development (EIIPD), Addis Ababa, 8–10 September 1997. See EIIPD *Economic Integration in the IGAD Sub-Region* (EIIPD, March 1998) at 13. Indeed, this strong bilateral cooperative relationship between the two governments has developed politically from their alliance for 15 years as the Eritrean People's Liberation Front and the Tigray People's Liberation Front.

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whatever practical efforts were being made to tackle its basic economic, social, environmental and humanitarian problems".[8]

In spite of these innovative factors, IGADD's structure and capacity was not adequate. First, IGADD was not capable of implementing its proposed five year programme (1992–96) and its secretariat had only 12 professionals without any significant operational potential.[9] At the beginning of 1995 it became clear that the original IGADD mandate required revisiting to enable the organization to deal with emerging sub-regional challenges. The IGADD heads of state and governments opened an extraordinary summit on 18 April 1995 in Addis Ababa, Ethiopia, and signed a declaration to revitalize and expand IGADD's mandate, taking into account both political stability and development issues.[10] Between 1995 and 1996 there were intensive meetings and consultation among officials of member states: the ministers of foreign affairs, and the heads of delegates and experts group. On 21 March 1996, at the second extraordinary summit held in Nairobi, Kenya, the Assembly of the Heads of State and Government finalized the process: a Letter of Instrument to Amend the IGADD Charter/Agreement was signed; a new Agreement Establishing the IGAD (IGAD Agreement) was adopted; and IGADD was renamed IGAD with a new structure and an expanded mandate.[11] The IGAD Agreement significantly upgraded IGADD's old legal status, governance structure and mandate. The preamble of the agreement also confirms that IGAD is founded on the basis of "the Abuja Treaty, COMESA, and both the OAU/AU[12] and UN Charters".[13] With the entry into force of the agreement, IGAD had taken a new legal and juridical direction. As a result, IGAD can be considered a closed economic-functional-political organization for achieving peace, prosperity and sub-regional integration.[14]

In conjunction with the launch of the revitalized IGAD, a development partnership forum was initiated by a consortium of donor governments and

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8 Paraphrased from "IGAD project profiles" in IGAD's second special summit (Nairobi, 21 March 1996); AH Bashir (IGAD executive secretary) preface to Protocol of the Establishment of a Conflict Early Warning and Responses Mechanism for IGAD Member States (2002, published by IGAD with the Assistance of the German Society for Technical Cooperation (GTZ)).

9 "The IGADD 5-year programme 1992–1996" (1992, IGAD): IG/CM/5-5/91-92.

10 "IGAD general information" (1997, IGAD Publication Unit) especially at 1.

11 Amendments to the Agreement Establishing Inter-Governmental Authority on Drought and Development in Eastern Africa, Assembly of Heads of State and Government (Nairobi, 21 March 1996): IGAD/SUM-96/AGRE-Doc.

12 Common Market for Eastern and Southern Africa (COMESA); Organization of African Unity (OAU); African Union (AU).

13 IGAD Agreement, above at note 1.

14 Compare with P Sands and P Klein *Bowett's Law of International Institutions* (5th ed, 2001, Sweet & Maxwell), especially paras 1-031 – 1-034; C Domenic "Coordination between universal and regional organizations" in NM Blokker and HG Schermers (eds) *Proliferation of International Organizations: Legal Issues* (2001, Kluwer Law International) 65; J Klabbers *An Introduction to Institutional Law* (2002, Cambridge University Press) at 3–28.

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international organizations, which were closely following and supporting the process of revitalizing IGAD. However, IGAD member states declared that the relationship should be one of partnership and direction rather than one of a traditional donor-recipient relationship with its dependency syndrome.[15] As a result, in January 1997, these groups were formally established as the IGAD Partners Forum (IPF) for development in order to assist IGAD with funds for sub-regional development programmes, mainly infrastructure projects.[16] The IPF worked with IGAD at three levels: technical expert level; operational or ambassadorial level; and policy or ministerial level.[17] However, the shared common vision and goals have proved ambiguous and problematic in practice.[18] The IPF currently comprises: the UN Development Programme, World Bank, International Organization for Migration, European Union, Austria, Belgium, Canada, Denmark, France, Germany, Greece, Ireland, Italy, Japan, Netherlands, Norway, Sweden, Switzerland, UK, and USA.[19]

IGAD'S LEGAL STATUS AS AN INTERNATIONAL ORGANIZATION

IGAD's international legal personality

The question of whether IGAD is an international organization under international law is evidently and closely related to its possession of international legal personality and internationally exercisable powers.[20] In general, IGAD meets the objective criteria (that it is created by states, by treaty under international law and has its own international organs); hence it can be said that IGAD's international legal personality is implied.[21] However, as history

15 Proceedings of the Summit of Heads of State and Government of IGAD member states for the launching of a revitalized IGAD (Djibouti, 25–26 November 1996), in particular the speech of Isaias Afwerki, president of the State of Eritrea, at 31–32 (annex C3).

16 Id at 1–2 (annex B).

17 Ibid.

18 "IPF speaks: IGAD interviews with IPF chairman, Ambassador Guido La Tella, ambassador to the Federal Republic of Ethiopia" (July – August, September – October 2002) 3/4 *IGAD Newsletter* 2 at 6–7.

19 See <http://igad.int/index.php?option=com_content&view=article&id=93&Itemid=124&limitstart=5> (last accessed 12 December 2010).

20 CF Amerasinghe *Principles of the Institutional Law of International Organizations* (2nd ed, 2005, Cambridge University Press) at 68–86; *Reparations for Injuries Suffered in the Service of the United Nations* advisory opinion (1949 ICJ) rep 174 at 178–79; Sands and Klein *Bowett's Law*, above at note 14 at 469–76; HG Schermers and NM Blokker *International Institutional Law: Unity with Diversity* (3rd ed, 1995, Nijhoff) at 29–33.

21 F Seyersted "International personality of intergovernmental organizations: Do their capacities really depend upon their constitutions?" (1964) 4 *Indian Journal of International Law* 1 at 31–40; I Brownlie *Principles of Public International Law* (6th ed, 2003, Oxford University Press) at 649; Schermers and Blokker, id at paras 29 and 33–43; Sands and Klein, id at 16; Amerasinghe, id at 82–83; PHF Bekker *The Legal Position of Intergovernmental Organizations: A Functional Necessity Analysis of their Legal Status and Immunity* (1994, Nijhoff) at 38 and 41; AS Muller *International Organizations and Their Host States: Aspects of Their Legal Relations* (1995, Kluwer Law International) at 4; D Akande "International organizations" in MD Evans (ed) *International Law* (2003, Oxford University Press) 269 at 274.

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shows, the fulfilment of these criteria alone may not ensure IGAD's international legal personality.[22] At this point, it is necessary to obtain further evidence by investigating IGAD's founding treaty and subsequent practice.

The IGAD Agreement does not spell out any explicit provision regarding IGAD's international legal personality. However, article 3 of the agreement states: "The Authority shall have the capacity of a legal person to perform any legal act appropriate to its purpose, in accordance with the present Agreement.[23] In particular, it shall have the capacity: (a) to contract; (b) to acquire and dispose of immovable and movable property; and (c) to institute legal proceedings. The Authority shall, in exercising its legal personality, be represented by the Executive Secretary."[24] This provision refers to IGAD's legal personality and capacity in an ambiguous way, in that it does not make clear whether it is at the international or national level.

Of course, article 3 refers to two types of characteristic: IGAD's "functional personality" and "descriptive capacity". On the one hand, the article refers to the legal capacity which empowers IGAD, as a typical functional entity, to perform any legal act appropriate to its purpose, in accordance with the agreement. As stated earlier, the agreement and purpose by which and for which IGAD was created are compatible with the international plan and mission. From this point of view, it may be assumed that article 3 would also operate at an international level.[25] Again, article 3 imposes the treaty obligation and/or authorization to attribute a certain measure of legal capacity and power to IGAD. This demonstrates the possibility for IGAD to have recourse to the doctrine of implied powers as instrumental to executing its objectives and purposes as well as functions entrusted to it, by way of adopting a decision by IGAD's policy organs and through agreements entered into by IGAD's executive secretary, which this article discusses later.[26]

On the other hand, article 3 adds the classical and widely used form of descriptive domestic personality clause, conferring upon IGAD specific (domestic) legal capacities, stipulated from (a) to (c) of the same article: "to contract, acquire and dispose of immovable and movable property and institute legal proceedings". Indeed, the IGAD Agreement should have stated more clearly

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22 ND White *The Law of International Organizations* (1996, Manchester University Press) at 37–41; Brownlie, id at 649; Schermers and Blokker, id at 21–23; Akande, ibid.

23 Art 3 of the IGAD Agreement, above at note 1.

24 Ibid.

25 *Reparations* case, above at note 20 at 179; *The Jurisdiction of the European Commission of the Danube between Galatz and Braila* advisory opinion (1927 PCIJ) Ser B, No 14 (18 December); *Legality of the Use by a State of Nuclear Weapons in an Armed Conflict* (requested by WHO) advisory opinion (1996 ICJ) rep 66 at paras 19 and 74–5.

26 Compare with Bekker *The Legal Position* above at note 21 at 47 and 76–77; Brownlie *Principles of Public International Law*, above at note 21 at 649; Klabbers *An Introduction to Institutional Law*, above at note 14 at 66, note 28; M Roma-Montaldo "International organizations legal personality and implied powers of international organisations" (1970) 44 *British Year Book of International Law* 111 at 111–55.

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and distinctly the legal personality at the international and domestic level, as is stated in some treaties. For instance, article 88 of the Treaty of the Economic Community of West African States (ECOWAS) states: "(1) The Community shall enjoy international legal personality. (2) The Community shall have in the territory of each Member State: the legal powers required for the performance of the functions assigned to it under this treaty; power to enter into contracts and acquire, hold and dispose of movable and immovable property."[27] Similar examples of the explicit attribution of international legal personality can be found in article 186(1) and (2) of the 1994 Common Market for Eastern and Southern Africa (COMESA) Treaty[28] and article 4(1) of the 1998 Rome Statute of the International Criminal Court.[29]

Whether or not IGAD possesses international legal personality can, however, be ascertained by deduction from other capacities and powers[30] that are stipulated in the IGAD Agreement as well as from the functions with which IGAD has been entrusted, as noted by the International Court of Justice in the *Reparations* case.[31] It is therefore necessary to establish whether the IGAD Agreement contains any express capacity, indicative of the possession of international legal personality.

Treaty-making capacity

The IGAD Agreement contains explicit provision for a treaty-making capacity, a general power that is exercisable on the international plane. Article 18 states: "In pursuit of its aim and objectives under this Agreement, the Authority may enter into agreements with other regional organizations and with intergovernmental and non-governmental agencies and non-Member States".[32] The International Law Commission states that "all entities having treaty-making capacities necessarily have international legal personality; on the other hand, it does not follow that all international persons have treaty-making capacities".[33] IGAD's capacity to conclude an agreement is, in fact, an obvious result of its possession of international legal personality.[34] In

27 Available at: <http://www.afrimap.org/english/images/treaty/ECOWAS%20Treaty.pdf> (last accessed 12 December 2010).

28 Available at: <http://www.africa-union.org/root/au/RECs/comesa.htm> (last accessed 20 December 2010).

29 UN doc A/CONF.183/9, available at: <http://untreaty.un.org/cod/icc/statute/romefra.htm> (last accessed 12 December 2010).

30 A Reinisch *International Organizations Before National Courts* (2000, Cambridge University Press) at 54 and 75–76; I Brownlie *The Rule of Law at the Fiftieth Anniversary of the UN* (1998, Nijhoff) at 36; Muller *International Organizations*, above at note 21 at 76; Roma-Montaldo "International organizations legal personality", above at note 26 at 115.

31 *Reparations* case, above at note 20 at 178–79.

32 Art 18 of the IGAD Agreement, above at note 1.

33 ILC A/4169 at 10, para 8(a), cited in Sands and Klein *Bowett's Law*, above at note 14 at para 15-009.

34 M Kaniel *The Exclusive Treaty-Making Power of the European Community up to the Period of the Single European Act* (1996, Kluwer Law International) at 6–9; *Reparations* case, above at note 20 at 179; Muller *International Organizations*, above at note 21 at 76.

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addition to the express provision of treaty-making capacities, the IGAD founding treaty implicitly recognized this right by stating that IGAD has to maintain all appropriate relations and co-operation with sub-regional, regional and global organizations, such as COMESA, the African Union (AU), UN and the IGAD partners for better and effective cooperation and realization of IGAD's objectives and projects.[35] Again, article 4 of the IGAD Agreement also confers upon IGAD a specific power: the power to negotiate a headquarters' agreement with the host state.[36] Negotiation or the recognition of the capacity to conclude a host agreement with a sovereign state, a principal subject of international law, is also said to be an indicator of international legal personality, demonstrating, expressly or impliedly, the organization's possession of international legal personality.[37] IGAD, represented by its executive secretary, may exercise its international legal personality, allowing it to negotiate and sign agreements, including a headquarters agreement.[38] In fact, it has exercised its treaty-making powers and has already concluded various types of treaties, both formal and less formal as well as a headquarters agreement.

Immunities and privileges

IGAD is also granted immunities and privileges in the territory of each member state, the same as those accorded to the missions of other regional or international organizations. Article 6 of the IGAD Agreement stipulates: "The Member States agree to extend to the Authority and its personnel such privileges and immunities as may be necessary for carrying out their tasks within their respective national territories and as are accorded to personnel of other regional and international organizations on mission".[39] Where such provision exists, it follows that IGAD member states have accepted an obligation to recognize such legal status and privileges within their legal systems.[40] The powers to conclude treaties and the rights to enjoy privileges and immunities are regarded as indicators or evidence of IGAD's international legal personality.[41] Moreover, IGAD has its own internal rules: service and financial

35 Preamble of the IGAD Agreement, above at note 1; IGAD-IPF technical experts meeting (Djibouti, April 1998).

36 Id, art 4.

37 Muller *International Organizations*, above at note 21 at 12–24 and 81 and chap 3; Klabbers *An Introduction to Institutional Law*, above at note 14 at 284; *The Applicability of the Obligation to Arbitrate Under Section 21 of the UN Headquarters Agreement* case, advisory opinion (1988 ICJ) rep 15 at para 7.

38 Art 3 of the IGAD Agreement, above at note 1.

39 Id, art 6.

40 Brownlie *Principles of Public International Law*, above at note 21 at 654; Amerasinghe *Principles of the Institutional Law*, above at note 20 at 316 and 345; K Ahluwalia *The Legal Status, Privileges and Immunities of the Specialised Agencies of the United Nations and Certain Other International Organizations* (1964, Nijhoff) at 208.

41 For instance, the International Court of Justice affirmed the UN's international legal personality by referring to the UN's express treaty-making capacity in chap 12, arts 57 and 63

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regulations, and rules of procedure that apply to any IGAD meeting. These rules are not derived from and do not depend upon any other legal system but from international law: its constituent treaty.[42]

IGAD's objective personality

With regard to IGAD's objective personality, it could be said that, if IGAD ascribes to be an international legal person, the recognition by third parties or validity of its international legal personality will depend on the mutual necessity of there being co-operation between IGAD and the third party that wishes to engage in such affairs.[43] In fact, article 18 of the IGAD Agreement and article 6 of the subsequent Protocol on the Establishment of a Conflict Early Warning and Response Mechanism for IGAD Member States (CEWARN) state that IGAD possesses the ability to conclude agreements not only with member states but also with non-member states.[44]

IGAD has been recognized as one of the building blocks for the establishment of the AEC: the so-called RECs in Africa. It acceded to the Protocol on Relations between the AEC and the RECs signed on 25 February 1998.[45] This means that IGAD adheres to the principle of cooperation between the RECs and the AU as outlined in the Abuja Treaty.[46] In its 11th session, held on 20 March 2006, the IGAD Summit passed a declaration, the Nairobi Declaration, to ensure that IGAD remains committed to the ideals and objectives for which it was created and remains a REC as defined under the Abuja Treaty.[47] In its seventh ordinary session, held on 1 July 2006, the AU Assembly also reaffirmed IGAD as one of the RECs. As an economic and political forum, functioning to fulfil its objectives, IGAD has already entered into cooperation and concluded several agreements with non-member states, sub-

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as well as art 105 of the UN Charter; see *Reparations* case, above at note 20 at 178–79; Reinisch *International Organizations*, above at note 30 at 56.

42 *Arab Organization for Industrialization and Others v Westland Helicopter Ltd* case, Swiss Federal Supreme Court (judgment of 19 July 1988) *80 International Law Report* 652 at 658; Schermers and Blokker *International Institutional Law*, above at note 20 at para 1196.

43 Klabbers *An Introduction to Institutional Law*, above at note 14 at 54; Amerasinghe *Principles of the Institutional Law*, above at note 20 at 88–90; G McGodrick *International Relations Law of the European Union* (1997, Longman) at 28.

44 Art 18 of the IGAD Agreement, above at note 1, and art 6 of the Protocol on the Establishment of a Conflict Early Warning and Response Mechanism for IGAD Member States (Khartoum, 9 January 2002) (CEWARN Protocol).

45 Proceedings of the sixth ordinary IGAD Summit of the Heads of State and Government (Djibouti, 16 March 1998) at 2–5; IGAD "Progress report of the IGAD executive secretary for 1 January – 30 September 1999" (2 October 1999): IGAD/CM-19/99 working paper no 3.

46 Abuja Treaty, above at note 4.

47 Declaration of the 11th Summit of IGAD Heads of State and Government (Nairobi, 20 March 2006). See also declaration of AU first conference of African ministers of integration (COMAI), 30–31 March 2006 (Ouagadougou, 31 March 2006) at 7–8: COMAI/Decl (I).

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regional, regional and global organizations.[48] Thus, under international law, IGAD's cooperation with any entity is valid and derives from its possession of international legal personality. However, in order for IGAD to be an international organization under international law, it owes not only its existence under international law but even more importantly its ability to act internationally to the international instrument that founded it.

IGAD's INSTITUTIONS AND SUBSEQUENT PRACTICE

As an autonomous intergovernmental organization, IGAD has its own policy and administrative organs vested with the equivalent qualifications of their spheres of attribution in order for IGAD to be able to express its will and perform its own acts autonomously. The voting powers and frequency of meetings in the joint operation of IGAD's decision-making powers within different functions and different levels are articulated in IGAD's founding treaty and rules of procedure.[49]

The highest policy making organ is the Assembly of Heads of State and Governments of the member states (Assembly). It meets at least once a year and any time upon the request of any of the member states with the agreement of the majority of its members. Decisions and determinations of the Assembly are reached and exercised only by consensus.[50] The next policy organ is the Council of Ministers (Council) made up of foreign ministers and one other focal minister designated by each member state. The Council has the power and responsibility, among others, of formulating policies, approving IGAD's work programme and annual budget, promoting peace and security and other initiatives for the realization of IGAD's objectives, as well as approving staff and financial rules and regulations. The Council is also empowered to establish ad hoc sectoral ministerial committees dealing with issues in their respective sectors. The Council meets at least twice a year in ordinary session; its decisions reached by consensus or, failing this, by a two thirds majority of the members present. The sectoral committees meet as often as may be necessary. Specific terms of reference for the committees are agreed by member states in consultation with the Secretariat.[51]

There is a Committee of Ambassadors comprised of IGAD member states' ambassadors or plenipotentiaries accredited to the country of IGAD's headquarters. However, this committee is only a consultative organ to the Secretariat and the respective foreign ministers.[52] The IGAD Secretariat,

48 Decisions on the moratorium on the recognition of RECs (Assembly of the AU, seventh ordinary session, Banjul, 1–2 July 2006): DOC.EX.CL/278 (IX).

49 Arts 9–13 of the IGAD Agreement, above at note 1; "Legal quorum, rule 5 of the rules of procedure governing IGAD meeting" and "Election of the Bureau, rule 5 of the rules of procedure governing IGAD meeting" (Nairobi, 4 July 1997): IGAD/CM-16/Rules-Doc.

50 Id, art 9.

51 Id, art 10.

52 Id, art 11.

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chaired by an executive secretary, provides secretarial, administrative, technical and coordinating support services for IGAD.[53] In 2003, IGAD established a new IGAD policy organ, the Committee of Permanent Secretaries (CPS), with a specific mandate for peace and conflict prevention issues.[54] The CPS is made up of permanent secretaries or equivalent ranks from the Ministries for Foreign Affairs of the member states, the IGAD executive secretary and the director of the Peace and Security Division and the coordinator of the CEWARN unit. The CPS reports directly to the Council; it meets at least twice a year and is complementary to the existing IGAD decision-making structure.[55]

As the Assembly is IGAD's supreme policy-making organ, it holds the main decision-making powers and process of IGAD. However, due to the undemocratic practices of and mistrust between IGAD governments, the meetings become just a ceremonial club of the governments. The efficiency of IGAD's decision-making processes also appears to depend on the linkage existing between the different IGAD institutions and their capacity. The IGAD Secretariat, which is the administrative arm of the organization, continues to function and make genuine efforts to achieve its objectives, but lacks sub-regional competence, whether legal power or human and technical resources. It also lacks its own auxiliary institutions such as a judicial body to rule on settling internal disputes and complaints arising among staff and provide legal advice to the executive secretary including on disputes over the interpretation of IGAD legal documents. The lack of a group of experts at the disposition of the Secretariat and the Committee of Ambassadors makes IGAD's day-to-day demanding tasks less efficient.

IGAD's institutional development

As an international organization, IGAD has made functional and institutional progress. Most importantly, but not exclusively, under article 17 of the IGAD Agreement, IGAD policy institutions passed and adopted certain legally binding declarations and legally non-binding resolutions, and emanated protocols and statutes in order to execute IGAD's aims and objectives.[56] After the cessation of the two year Ethio-Eritrea "border" war, the Khartoum Declaration of the eighth IGAD Summit of Heads of State and Government of 23 November 2000 (Khartoum Declaration) recognized the need for an innovated IGAD and a sub-regional peace and security structure as an urgent matter.[57] It recommended the establishment of a sub-regional mechanism for conflict

53 Id, arts 12 and 13.
54 CEWARN Protocol, above at note 44.
55 Id, art 9.
56 Particularly the preambles and art 17 of the IGAD Agreement, above at note 1.
57 Declaration of the eighth ordinary IGAD Summit of Heads of State and Government (Khartoum, 23 November 2000): IGAD/SUM-8/2000-DECLARATION (Khartoum Declaration); Khartoum Declaration at annex I: IGAD/SUM-8/2000-PROC.

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prevention, associations of professional unions, parliamentary unions and associations among civil society institutions at the sub-regional and national levels, with the aim of enhancing their contribution to promoting participatory democracy across the sub-region. Since the Khartoum Declaration, the innovation of IGAD as a political organization for the Horn of Africa sub-region has pushed ahead and its subsequent development has become a crucial step forward for IGAD, particularly in political fields. Certain IGAD specialized institutions and projects were created.[58] Amongst these are: IGAD Women's Desk; CEWARN for IGAD; IGAD Climate Prediction and Application Centre for Monitoring and Forecasting; IGAD Capacity Building Programme Against Terrorism; and the IGAD Inter-Parliamentary Union.[59] The establishment of these IGAD specialized bodies demonstrates IGAD's institutional and functional progress as an international organization. IGAD also established the IGAD Business Forum and IGAD-Civil Society Organizations and Non-Governmental Organizations Forum as well as the Eastern African Standby Brigade (EASBRIG). However, the latter three entities are not yet fully and effectively operational, mainly due to the lack of confidence building and good relationships between member states. This article will now describe IGAD's specialized bodies and projects.

The IGAD Women's Desk

IGAD acknowledged the participation of women in IGAD's priority areas of cooperation, particularly in its social, economic and political agenda.[60] Although the 18th ordinary session of the Council, convened in Djibouti in February 1999, approved the establishment of the IGAD Women's Desk (IWD), the Khartoum Declaration approved the ministerial deliberation to establish a women's desk within the Secretariat in order to ensure the mainstreaming of gender into IGAD priority projects and programmes,[61] and the 21st ordinary session of the Council decided to institutionalize the IWD at the IGAD Secretariat.[62] It has its own IGAD ministers in charge of

58 COMAI Declaration, above at note 47 at 7.

59 AH Bashir (IGAD executive secretary) IGAD annual report 2007 (31 January 2008).

60 S Abukashwa "Integrating gender awareness and the participation of women in IGAD issues on conflict prevention, management and resolution" in IGAD *Proceedings: Placing Gender in the Mainstream, IGAD Policy Seminars on Peace Building and Conflict Resolution, Khartoum, Sudan, 15 – 16 October 2001* (2002, IGAD in Co-operation with UNIFEM); ACCORD "Report on advanced negotiations and mediation training for women in peacemaking, leadership and development" (paper presented at the 2nd regular meeting of ministers in charge of women's affairs in IGAD member states, facilitated by IWD, Addis Ababa, 1–5 July 2002).

61 Khartoum Declaration, above at note 57 at annex II, no 3.3.

62 Proceedings of the ninth Summit of the Assembly of the Heads of State and Government of IGAD (Khartoum, 10 – 11 January 2002) at para 6. See also proceedings of the 21st ordinary session of the IGAD Council of Ministers (Nairobi, January 2001); in Nairobi, the first regular meeting of ministers in charge of women's affairs recommendation was endorsed by the IGAD Council and Summit.

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gender/women affairs. The IWD, with the support of the UN Development Fund for Women, works closely with the IGAD ministers in charge of women's affairs in the IGAD member states, and strives to promote the rights of women and enable their meaningful participation in governance.[63] The IWD reports directly to IGAD's executive secretary, and works with and contributes to the three divisions of the IGAD Secretariat. In 2006, in its 25th ordinary session, the Council endorsed the establishment of a mechanism for monitoring the implementation of IGAD's gender policy and the operationalization of an annual gender peer review mechanism.[64] The establishment of the IWD was in line with the Millennium Development Goals declaration adopted by the UN General Assembly in 2000 to achieve eight goals in pursuit of the sustainable human development agenda.[65] However, the desk has not functioned according to its mandate due to the lack of staff, funds and capacity.

The CEWARN for IGAD

Pursuant to the eighth IGAD Summit in 2000, which endorsed a particular resolution for the establishment of a mechanism in the IGAD sub-region for the prevention, management and resolution of inter-state and intra-state conflicts,[66] IGAD established CEWARN.[67] Established by The Protocol on the Establishment of a Conflict Early Warning and Response Mechanism for IGAD Member States, which was signed on 9 January 2002 and entered into force in 2003, after being ratified by the required majority of IGAD member states, the CEWARN unit is part of the Peace and Security Division governed by the IGAD service regulations.[68] The whole legal framework to institutionalize the CEWARN mechanism centres on the IGAD Agreement.

With a mandate to collect, receive and share information concerning potential violent conflicts as well as their outbreak and escalation in the IGAD sub-region, the CEWARN mechanism was institutionalized as the operational framework on conflict early warning and response for IGAD.

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63 Draft proceedings of the IGAD gender policy strategy and the third regular meeting of the ministers in-charge of women/gender affairs: Terms of reference for the IGAD-Gender Peace and Development Forum (Nairobi, 15 July 2004).

64 Declaration of the fourth regular meeting of IGAD ministers in charge of gender/women affairs (Nairobi, 21–22 February 2006).

65 The UN General Assembly adopted the Millennium Declaration committing member states to achieving the following goals: (1) eradicate extreme hunger and poverty; (2) achieve universal primary education; (3) promote gender equality and empower women by eliminating gender disparity in schooling, preferably by 2005 and not later than 2015; (4) reduce child mortality; (5) reduce maternal mortality by 75%; (6) combat HIV/AIDS, malaria and other diseases; (7) ensure environmental stability; and (8) develop a global partnership for development, referring aid and trade with special treatment for the poorest countries: see: <http://www.undp.org/mdg/basics.shtml> (last accessed 12 December 2010).

66 Khartoum Declaration, above at note 57 at para 3.2.

67 CEWARN Protocol, above at note 44.

68 Id, art 2(2); art 17(b) of the IGAD Agreement, above at note 1.

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The CEWARN Protocol set out structures of cooperation among the member states as well as duties and functions through the creation of the Technical Committee on Early Warning with a coordination duty and its own policy organ, the CPS.[69] By establishing an institutionalized and integrated (involving state and non-state actors) conflict prevention mechanism through CEWARN,[70] IGAD translated article 7(g) and to a certain extent article 18A(b) of the IGAD Agreement into operational practice. However, despite the establishment of CEWARN, the integration, contact and harmonization between CEWARN and the nationally established Conflict Early Warning and Early Response Units (CEWERUs), and through the latter (or directly) the IGAD-Civil Society Organizations and Non-Governmental Organizations Forum, represent an obvious challenge to CEWARN's functioning. The expected involvement of and cooperation between CEWERUs in all IGAD member states, as well as the management of the CEWARN structure, have also been conditioned by the antagonistic character between most neighbouring member states. Thus, despite CEWARN, in principle, being mandated to address any kind of conflict which arises in and between member states, it has only been monitoring and tracking a narrow selection of cross-border pastoral conflicts known as the Karamoja Cluster, which covers Kenya-Uganda-Ethiopia-Sudan border areas.[71]

The IGAD Capacity Building Programme Against Terrorism

At their ninth summit in January 2002, the heads of IGAD member states reiterated among other things the purpose and principles on which IGAD was founded: to realize peace, security and development and the purposes and principles enshrined in the UN and AU charters, particularly those related to peace, security and the enhancement of friendly relations and cooperation among states.[72] They also called for an elaboration of the African Convention on the Prevention and Combating of Terrorism adopted on 14 July 1999 in Algiers[73] as the core basis for fighting terrorism and trans-national organized crime, as well as Security Council resolutions 1373 (2001) and 1377 (2001)

69 Report of the inaugural meeting of the Committee of Permanent Secretaries of CEWARN (Entebbe, Uganda, 6–7 June 2002) at 23.

70 M Mwagiru "The legal framework for CEWARN" in *Protocol on the Establishment of a Conflict Early Warning and Response Mechanism for IGAD Member States* (2002, IGAD with the assistance of GTZ) at 6–17.

71 "Strategy workshop makes key recommendations" (June – September 2006) no 22/23 *IGAD News* (Djibouti) at 14; "Tackling the conflict challenges in the Horn of Africa" (June – September 2006) no 22/23 *IGAD News* (Djibouti) at 10.

72 Declarations of principles of international law concerning friendly relations and cooperation among states in accordance with the Charter of the United Nations (24 October 1970): UN General Assembly res 2625 (XXV).

73 Convention on the Prevention and Combating of Terrorism by the 35th Assembly of Heads of State and Government of the OAU (Algiers, 12–14 July 1999): AHG/Decl 1–2 (XXXV).

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concerning measures to eliminate international terrorism.[74] Following this decision, the IGAD Peace and Security Division organized two sub-regional conferences: the first on the prevention and combating of terrorism[75] and the second on combating terrorism and trans-national organized crime.[76]

IGAD adopted an implementation plan including the establishment of a sub-regional database and terrorism centre and instituted workshops to enhance the operational capacities of member states' security along their long and porous borders, among other things.[77] The IGAD Summit, in its tenth ordinary session, endorsed the implementation plan.[78] Subsequently, on 24 December 2004, the IGAD Secretariat and the Institute for Security Studies, a non-governmental organization with headquarters in Pretoria, South Africa, concluded an agreement of collaboration on the implementation of the IGAD counter-terrorism project.[79] As a result, IGAD's Capacity Building Programme Against Terrorism (ICPAT) was established in 2006 with its office in Addis Ababa, Ethiopia.[80] The ICPAT programme operates, with the technical assistance of the Institute for Security Studies, in five areas: enhancement of judicial measures; optimization of inter-departmental cooperation; enhancement of border control; training and sharing of information and best practice; and promotion of strategic cooperation (project management, collaboration and coordination).[81] The four year ICPAT programme (2006–10), which currently operates in four countries (Ethiopia, Kenya, Sudan and Uganda) was funded by contributions from some IPF members, including Canada, Denmark, Italy, the Netherlands, Spain and Sweden.[82] Joint border control initiatives were implemented taking advantage of the good relationships between Djibouti and Ethiopia, and Kenya and Uganda.[83]

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74 Resolution on regional cooperation to combat terrorism by the ninth IGAD Summit of the Assembly of Heads of State and Government (Khartoum, 10–11 January 2002) at annex 3.

75 Report on IGAD conference on the prevention and combating of terrorism (Addis Ababa, 24–27 June 2003).

76 Khartoum declaration on combating terrorism and transactional organized crime (Khartoum, 17–19 January 2004).

77 Implementation plan of action for combating and preventing terrorism (24–27 June 2003, IGAD) at 3, para 2:1.

78 Communiqué by the tenth ordinary IGAD Summit of Heads of State and Government (Kampala, 24 October 2003) (Kampala Communiqué) at no 16.

79 Available at: <http://www.iss.co.za/index.php?link_id=32&slink_id=270&link_type=12&slink_type=12&tmpl_id=3>, (last accessed 23 September 2008).

80 Statement on the launching of the IGAD Capacity Building Programme Against Terrorism and the opening of the office in Addis Ababa, Ethiopia (Addis Ababa, 13 June 2006), available at: <http://www.issafrica.org/index.php?link_id=21&slink_id=2507&link_type=12&slink_type=12&tmpl_id=3> (last accessed 23 September 2008).

81 "IGAD Capacity Building Programme Against Terrorism" (24 October – November 2006) *IGAD News* (Djibouti) at 3; IGAD annual report 2007, above at note 59 at 50–55.

82 Ibid; see: <http://www.igad.org/index.php?option=com_content&task=view&id=111&Itemid=65> (last accessed 23 September 2008).

83 IGAD annual report 2007, above at note 59 at 50–55.

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IGAD is the only African body that has succeeded, with ICPAT, in establishing a counter-terrorism programme. Indeed, the ideas behind the conceptualization and establishment of ICPAT were a mix of sub-regional and global necessity, including 11 September 2001, Somalia's ineffective control over its state for decades, and the US threat to list Sudan as a "state sponsor of terrorism".[84] The Sudanese government held the IGAD chair in January 2002; during that time, Sudan, with massive cooperation from Ethiopia, played a significant role in establishing ICPAT and took the opportunity to improve its image in the eyes of the Bush administration in the USA.[85] However, the contentious issue of defining terrorism was omitted and it simply continued efforts to combat terrorism in all its forms and manifestations.

The IGAD Climate Prediction and Application Centre

In an effort to minimize the negative impacts of extreme climatic events, 24 countries in the Greater Horn of Africa sub-region, under the auspices of World Meteorological Organization and UN Development Programme (UNDP), established a drought monitoring centre in Nairobi, Kenya and a sub-centre in Harare, Zimbabwe in 1989. The increased demand for climate information and prediction services means that the Nairobi and Harare components now operate independently and are referred to as the Drought Monitoring Centre, Nairobi (DMC-N) and the Drought Monitoring Centre, Harare (DMC-H). DMC-N caters for countries in IGAD and other countries in the sub-region like Burundi, Rwanda and Tanzania, while DMC-H is responsible for countries in southern Africa.[86]

The decision of the eighth IGAD Summit to absorb DMC-N as an autonomous specialized IGAD institution was endorsed by the tenth Summit, held in Kampala, Uganda in October 2003.[87] The science and implementation plans for DMC-N were completed in June 2003 through the US Aid for International Development (USAID) Regional Economic Development Service Office. On 9 June 2005, an initial agreement was concluded by the IGAD executive secretary with DMC-N in order to implement the previous IGAD Summit decisions and Council resolution on the full integration of DMC-N into IGAD and concluded a hosting agreement with Kenya for the IGAD specialized agency.[88] The name DMC-N changed to the IGAD Climate Prediction and

84 Centre for Strategic and International Studies, Washington (5 September 2002); International Crisis Group "Sudan's best chance for peace: How not to lose it" (17 September 2002) *Africa Report No 51* (Nairobi/Brussels) at note 123.

85 M Tadesse "New security frontiers in the Horn of Africa" (briefing paper as part of the Security in a Globalised World programme of the Friedrich Elbert Foundation, Addis Ababa, Ethiopia, June 2004) at para 4, available at: <http://mocambique.fes-international.de/downloads/SecurityHorn.pdf> (last accessed 12 December 2010).

86 IGAD "Report on the integration of the drought monitoring centre (DMCN) into IGAD" at 1–13; IGAD annual report 2007, above at note 59 at 13 and 33–35.

87 Kampala Communiqué, above at note 78.

88 "IGAD executive secretary visits ICPAC" (June – July 2005) issue no 18 *IGAD News* (Djibouti) at 8.

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Application Centre (ICPAC) in order to reflect its new mandate and objectives within the IGAD system. On 13 April 2007, IGAD ministers formally signed the protocol establishing ICPAC.[89] Major goals of the Nairobi based ICPAC include "improved and enhanced sub-regional and national capacities for the use of climate knowledge towards providing Climate Information, Prediction Products and Services, Early Warning and related applications as well as contributing to sustainable development in the IGAD sub-region".[90]

The IGAD Inter-Parliamentary Union

The most important political forum to emerge from the declaration of the eighth IGAD Summit was the IGAD Inter-Parliamentary Union (IPU). The idea and principle behind the establishment of an inter-parliamentary union of IGAD member states was to introduce the context of popular participation in decision making and to advance cooperation and better commitment in favour of IGAD's goals of peace and conflict resolution and building more friendly relations and co-operation among member states, not least the promotion of democratic governance in the sub-region.[91]

The constituent conference of the IPU was held in Djibouti on 11 June 2002; however, the absence of some member states hampered efforts to establish the union. An additional meeting of legal experts took place at the Secretariat in Djibouti from 29 September to 1 October 2003 to consider a protocol to establish the IPU, and it produced a draft protocol for the union in May 2003.[92] Ethiopia was chosen as the preliminary seat for the IPU's assembly. However, this issue became a sensitive one as Eritrea in particular did not want the IPU seat to be in Addis Ababa. Since then, the process of establishing the IPU was put on hold. The protocol establishing the IPU came into force only on 28 November 2007 after being ratified by four IGAD member states and in the interim period when Eritrea withdrew from IGAD membership.[93] The structure and budget of the IPU as well as the terms of reference for its secretary general are still in the process of being set up and operationalized.[94]

The IPU will be a consultative organ; it will not have legislative power at least at this time but it will have a significant role in fostering the founding and structuring of a sub-regional legal community and common parliamentary practices in the long term.[95] The IPU will be composed of 28 members of

89 "Report on the integration of the DMCN", above at note 86 at 1–13; "Updates from satellites centre" (March – April 2007) issue no 26 *IGAD News* (Djibouti) at 8. See also the ICPAC website at: <http://www.icpac.net/> (last accessed 12 December 2010).

90 See the ICPAC website, ibid.

91 Khartoum Declaration, above at note 57 at paras 2–3.

92 Draft Protocol for the Establishment of Inter-Parliamentary Union Within IGAD Member States (2004).

93 IGAD annual report 2007, above at note 59 at 13 and 55.

94 Ibid; see: <http://www.igad.org/index.php?option=com_content&task=view&id=43&Itemid=53> (last accessed 23 September 2008).

95 Arts 2(2) and 3(2) of the Draft Protocol, above at note 92.

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Parliament, with four members per country to be nominated by the national speakers.[96] The Conference of the Speakers of Parliaments of IGAD member states is the IPU's highest organ. The Executive Council is its second highest organ. It will also have a secretary general. Accordingly, the IPU is expected to play a significant role in the political life of IGAD member states and is likely to become a future IGAD Parliament.[97] Herein lies the basis for the sensitivity surrounding the seat of the IPU's assembly or conference, particularly in the eyes of Ethiopia's current main rival, Eritrea.

The Eastern Africa Standby Brigade

IGAD is recognized as one of the RECs and corresponding organizations to be one of the five sub-regional African organizations, and represent the eastern part of the continent. Article 4(d) of the Constitutive Act of the AU calls for "the establishment of a common defence policy for the African continent". The AU Summit held in Maputo, Mozambique in July 2003, took note, inter alia, of the policy framework for the establishment of the African Standby Force that will be made up of five sub-regional standby brigades with one in each of its five designated sub-regions.[98]

In eastern Africa, IGAD was mandated on an interim basis to coordinate the efforts of the sub-region towards the establishment of the Eastern African Standby Brigade (EASBRIG), one of the five sub-regional brigades designated by the AU. IGAD convened a meeting of the eastern African chiefs of defence staff in Jinja, Uganda, from 16–17 February 2004, to discuss the establishment of EASBRIG within the framework of the AU's planned African Standby Force.[99] However, EASBRIG was only officially launched on 11 April 2005, at the first Summit of Heads of State and Government of EASBRIG, in Addis Ababa, Ethiopia, where it also adopted three key documents: the policy framework for the establishment of EASBRIG; the memorandum of understanding establishing EASBRIG; and the budget for the establishment of EASBRIG.[100]

EASBRIG will operate on the basis of a memorandum of understanding. This is because EASBRIG will most probably have as many non-IGAD members as

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96 Id, art 5(3).

97 See IGAD website at: <http://www.igad.org/index.php?option=com_content&task=view&id=43&Itemid=53> (last accessed 23 September 2008).

98 AU Assembly, second ordinary session (Maputo, 10–12 July 2003): AU/Dec.6-31-II (Dec no 15-II); Decisions on the moratorium on the recognition of RECs, above at note 48.

99 Proceedings of the meeting of the eastern Africa chiefs of defence staff on the establishment of EASBRIG (Jinja, 16–17 February 2004), available at: <http://www.easbrig.org/docs/EACDS%20Jinja%202004.pdf> (last accessed 23 September 2008); N Alusala "African Standby Force: East Africa moves on" (2004) 13(2) *African Security Review* (Pretoria) 113 at 113–21.

100 First EASBRIG Assembly of Heads of State and Government (Addis Ababa, 11 April 2005): decision, doc EASBRIG/AHS/1/05; Report of the Summit of the Eastern Africa Heads of State and Government on the establishment of EASBRIG (Addis Ababa, 11 April 2005) at 3, available at: < http://www.reliefweb.int/library/documents/2005/igad-afr-11apr.pdf> (last accessed 20 December 2010).

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IGAD members. The EASBRIG countries are: the seven IGAD members; and Comoros, Madagascar, Mauritius, Rwanda, Seychelles and Tanzania, although Tanzania and Mauritius went to the southern Africa sub-region and Burundi later applied to join EASBRIG.[101] However, the initial memorandum of understanding could eventually be transformed into a higher legal framework such as a protocol, treaty or defence pact when EASBRIG becomes fully operational.[102] EASBRIG has a Standby Brigade Headquarters, a Planning Element that would serve as the Secretariat to the Committee of Eastern African Chiefs of Defence Staff and a Logistic Base. The Standby Brigade Headquarters and the Logistic Base are situated in Ethiopia, while the Planning Element, as a separate entity, is situated in Kenya. The Logistic Base will have outposts in member states as and when required.[103]

In order to act as a political body of EASBRIG, the EASBRIG Coordination Mechanism was established as a new independent coordination secretariat for EASBRIG on 30 March 2007. This new independent body replaced IGAD which had previously served in this function. The Coordination Mechanism is co-located with EASBRIG's Planning Element in Nairobi. The Coordination Mechanism command structure will be the Assembly of Heads of State and Government, the highest organ, the Council of Ministers of Defence and Security as the second highest organ, and the Committee of the Eastern Africa Chiefs of Defence Staff, which receives reports from EASBRIG's Headquarters, Logistic Base and Planning Element. This will be chaired on a rotating basis.[104] Moreover, an experts' meeting in 2007 identified a number of elements of duplication between the existing Planning Element and Headquarters structures.[105]

IGAD institutional shortcomings

Although IGAD possesses international legal personality and has established certain specialized bodies and mechanisms, it exercises extremely limited capacities and powers and all the newly created agencies are still in their infancy; some of them, like the IGAD Business Forum, IGAD-Civil Society Organizations and Non-Governmental Organizations Forum and IPU, are not even operational yet. EASBRIG presents its own sub-regional (IGAD) and regional (AU) complexities. This is mainly due: on the one hand, to the lack of vital political integration and cooperation, and the prevalence of hostile

101 Roadmap for the operationalization of the African Standby Force: Experts' meeting on the relationship between the AU and the regional mechanisms for conflict prevention, management and resolution (Addis Ababa, 22–23 March 2005): EXP/AU-RECs/ASF/4(I). See also: <http://www.easbrig.org/members.php> (last accessed 12 December 2010).

102 Alusala "African Standby Force", above at note 99 at 120.

103 Report of the Summit, above at note 100 at paras 9–10.

104 See: <http://www.easbrig.org/about.php> (last accessed 12 December 2010).

105 East African Brigade Coordination Mechanism: Regional experts workshop on the concept of cooperation in peace and security in the eastern Africa region (Seychelles, 24–26 September 2007).

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relationships amongst its member states, particularly the hostility between Eritrea and Ethiopia, hence the concession of seats of these specialized agencies among members; and, on the other hand, to the extremely limited resources and operational capacities (human/leadership, financial and technical) that challenge IGAD's day-to-day activities. This article now examines the shortcoming of the IGAD specialized agencies and programmes which have already started functioning.

The IGAD Women's Desk

The IWD was established and institutionalized in order to legitimize and consolidate the gains made in strengthening the role of women in IGAD's priority area: sustainable peace and development. However, women's central role in development and peace building, conflict prevention and peacemaking, peace negotiation and decision-making with IGAD member states has not made progress. The reasons for this are multifaceted. First, because of socio-economic, political, cultural and legal constraints and barriers, and lack of access to the material, human and social resources necessary for making strategic choices within the member states at different levels, women are sill marginalized at social and political decision-making levels of society within IGAD. There is still no human security and no freedom from fear. Although women experience the full impact of violent conflicts, as civilians and, increasingly, as combatants or in direct support roles to combatants, they are often excluded from the decisions that start wars and the agreements that end them.[106] The lack of good governance and human rights abuse practices are the current situations that discourage women from participating in political and economic development. The role of women as victims of insecurity and as fully fledged partners in creating peace is too often ignored.[107] Particularly, women in the pastoralist community, which occupies large areas of the Horn of Africa, are still becoming the victim.[108]

Secondly, in most cases, IWD's action plan is totally dependent on outside donor partners, such as the UN Development Fund for Women and USAID. Its programmes were planned with the hope that such donors would provide the necessary funds. Recently, it has become clear that adequate donor funds were neither forthcoming in sufficient quantities nor in time. This led to the shelving of important IWD projects and programs. The IGAD member states have not yet been leveraging national resources for the implementation of such projects. The desk, sometimes called the Gender Affairs Office, only has a gender project officer. The IWD is still unable to develop its operational

106 J Siebert "Human security: Setting the agenda for the Horn of Africa" (Summer 2009) 30/2 *The Ploughshares Monitor* 4 at 4.

107 See: <http://www.ploughshares.ca/libraries/monitor/monj09g.pdf> (last accessed on 2 September 2009).

108 "Pastoral conflict situational reports" (June – September 2006) no 22/23 *IGAD News* (Djibouti) at 7 and 18.

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capacity and enhance its cooperation with CEWARN and other IGAD institutions and mechanisms as had been expected.

The CEWARN for IGAD

As a new concept in the IGAD sub-region, the CEWARN mechanism is politically astute. Too little success has been achieved in fully addressing the cross-border pastoral conflict situation and coming up with a long lasting solution and the situation is actually worsening.[109] CEWARN still has unanswered questions, including: how do you put a mechanism in place and how can you collect and manage data where member states mistrust each other; and how do you ensure the political will of member states. Other shortcomings are the lack of coordination and regular communication between CEWARN and CEWERUs, as well as financial problems. Timeliness, transparency, cooperation and the free flow of information in conflict resolution and other relevant serious issues among member states are principles that CEWARN has set as a goal; however the existing political climate is not favourable, rendering implementation only partial. In addition, by way of practical testimony, there is the fact that each member state can only have access to its own CEWERU monitored information, and nothing more. It is also difficult to see how the mechanism can operate in the longer term without the co-location of the CEWARN office in Addis Ababa and the IGAD Secretariat in Djibouti. Aside from its complex process, the mechanism remains vague with regard to precise measures of early action or preventive response in general. At IGAD level, the CPS is a very generic body; this structure might increase the levels of hierarchy and impact negatively on the taking of speedy decisions on preventive action required. At national level, the early response mechanism that resides in the hands of IGAD member states is optional as it is at the discretion of the member states.[110]

Apart from its temporary limitation to cross-border pastoral conflict, the CEWARN mechanism still has an essentially short-term objective in the sense that it aims at finding out when and where conflicts may erupt and at preventing their occurrence by making a response. It has not yet developed a long-term objective: tackling the broader dimension of security within a conflict prevention strategy which focuses on addressing the root causes of the conflict (such as democratization and the protection of human rights).[111]

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109 As *IGAD News* put it, the human toll in pastoral conflicts in the Horn of African sub-region is horrifying, with a death count in the same area of well over five hundred per year: "Shortcomings costing the Horn lives and untold losses" (June – September 2006) no 22/23 *IGAD News* (Djibouti) at 7.

110 Report of the inaugural meeting of the Committee of Permanent Secretaries of CEWARN (presentation by M Mwagiru, Entebbe, Kampala, Uganda, 6–7 June 2002) at para 7.

111 For example, the Organization for Security and Co-operation in Europe (OSCE) participates in the democratization process by providing a variety of assistance and mechanisms. It created the Office for Democratic Institutions and Human Rights, and the high commissioner for national minorities lends credence to the notion of conflict

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The dissemination of peace information, reports, brochures and documents at the communal and cross-border level, translated into local languages, is important and is still lacking on the ground. It is hard to work on conflict prevention, enhancing cooperation and joint activities (such as disarmament and cross-border peace initiatives) when there are great tensions, a lack of confidence and unresolved conflicts between member states, such as Ethiopia and Eritrea.

The IGAD Capacity Building Programme Against Terrorism

The decision to pass a resolution on combating terrorism was implied from the IGAD Agreement, in particular from the provisions of articles 6A(d), 7(g), 10(h) and (k) and 18A. Yet, the eight person ICPAT Secretariat, run by IGAD and the Institute for Security Studies and financed by IPF, raises more questions than answers. First, the public and state perception of counter-terrorism as a US-driven agenda, the lack of a clearly defined concept of terrorism and the huge US military presence across the Horn of Africa sub-region vis-à-vis the democratization process are among the main tough challenges faced by these cross-border security efforts.[112] This has served and would almost certainly continue to serve as a flash-point for Islamist and nationalist groups looking to undermine existing governments.[113] Secondly, applying the principles of post-9/11 requires prudent judgment. ICPAT has a narrow preventive law enforcement focus and no mechanism to monitor implementation by member states; it does not yet have the ability to address the fundamental shortcomings in institutional capacity and conditions conductive to the spread of terrorism. IPCAT placed the global (and continental) counter-terrorism norms into a sub-regional context. Yet, IGAD's neglect of the issues of democratization and rule of law in member states underlines the weakness and limitation of the organization's conflict resolution and prevention potential. Thirdly, with an anti-terrorism strategy evidenced by ICPAT, there is a risk of conceptualizing IGAD as the instrument of powerful western states. This is true even with the UN and AU, let alone IGAD, which was formed by seven poor states and is mostly run by international donors, such as the US.[114] In fact, on the one hand, for their own narrow ends, weak governments of the

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prevention through early involvement in potential ethnic conflicts. For more information about OSCE, see: <http://www.osce.org/> (last accessed 12 December 2010). Some documents can also be found at: <http://www.mzz.gov.si/index.php?id=500&L=2> (last accessed 12 December 2010).

112 W Biriggwa "The challenges of international terrorism to African diplomacy in the 21st century" vol 7/Par-I, series no 21; "Diplomacy vs terrorism" (proceedings of the EIIPD conference on the challenges of African diplomacy in the 21st Century, Addis Ababa, February 2005) at 14; A Aust *Handbook of International Law* (2005, Cambridge University Press) at 284.

113 Tadesse "New security frontiers", above at note 85 at para 4.

114 T Lyons "The centre for preventive action: Avoiding conflict in the Horn of Africa: US policy toward Ethiopia and Eritrea" (a paper prepared for the Council on Foreign Relations,

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IGAD sub-region have organized themselves in such a way that they promote the interests of powerful state(s), utilizing terrorism to breathe new life into old security paradigms that prioritize their regimes' survival and state security rather than sustainable peace and human security. On the other hand, they have military-heavy counter-terrorist strategies, and have the imperative of counter-terrorism as an excuse to crack down on political opponents and restive populations at home. The point is that ideologically-charged counter-terrorism is becoming a sword that cuts both ways: catalysing and supporting peace processes, while undermining democracy and stability in many IGAD states in terms of political institutional capacity.

Indeed, the Horn of Africa was the playground for proxy fights during the Cold War and more recently in the "global war on terror". An emerging international competition for natural resources, such as oil in Sudan, the strategic waterway of the Gulf of Aden and the Red Sea, and the Nile River, promises a continued strategic interest and challenge from powers external to the IGAD states.[115] ICPAT can only be useful if its strategy focuses on the national and sub-regional coordinated agenda for action and the promotion of confidence-building, a culture of peace, and education and training programmes to enhance public support and study the root cause of terrorism, including the role of socio-economic conditions, historical injustices, democratization and freedom under the law, and not war as the preferable way to peace and security.

The IGAD Climate Prediction and Application Centre

The Greater Horn of Africa is prone to extreme climatic events such as draughts and floods which have severe negative impacts on key socio-economic sectors of all the countries in the sub-region.[116] ICPAC is responsible for IGAD members and three non-IGAD member countries (Burundi, Rwanda and Tanzania) all of which form the Greater Horn of Africa. However, it has links to only few member states: Ethiopia, Kenya, Sudan, Tanzania and Uganda. Moreover, the climate prediction and applications for climate modelling methods, risk management and environmental management require enormous computing power and skilled human capacity. The centre lacks these human resources, national computing capacity and the development of new prediction tools. For example, at the moment only Kenya is installing Doppler radars in the quest to improve rainfall monitoring. Harmonization of these data types for the sub-region is very poor. ICPAC is also financially

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CSR no 21, December 2006); M Nicholson *International Relations: A Concise Introduction* (1998, Macmillan) at 97.

115 J Siebert "Human security", above at note 106 at 3–4.

116 "United Nations climate change conference 7–18 December 2009" (August – September 2009) *Ethiopian News* (the monthly publication of the Ethiopian Embassy in London) 1 at 2.

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dependent on, or operates jointly with, partners, such as the Institute for Climate Prediction, UNDP and the UN Economic Commission for Africa.

The Eastern Africa Standby Brigade

EASBRIG, which orients towards UN's chapter VI peacekeeping and monitoring roles along the lines proposed by the AU, is a new peace keeping operation that has been undertaking operational capacity building since November 2009 to pursue the African security agenda.[117] This new peace and security architecture seems, however, quite complex and complicated. First, while there will be centres of excellence in the eastern Africa sub-region, with capacity to train the three levels for peace support operation (tactical, operational and strategic), the AU's Peace and Security Council (the political decision making body) will coordinate and mandate EASBRIG's mission and initiatives to build an African peacekeeping capacity. There is a problem though that the deployment of EASBRIG would eventually require agreement by participating heads of states, thus creating an impetus for the establishment of a hierarchy for EASBRIG purposes. EASBRIG's harmonious coordination and effective management within such self-centred and militaristic states are also doubtful. Secondly, the EASBRIG member states are not all signatories of the IGAD Agreement but some are also members of other RCEs: COMESA as well as the Southern African Development Community.[118] EASBRIG includes three non-IGAD member countries (Madagascar, Rwanda and Seychelles) and so EASBRIG operates under its memorandum of understanding.[119] Despite this, EASBRIG returns to where it started: the limited geographic scope (and nature) of IGAD. There is no such clarity or consistency in the policymaking sphere of intergovernmental relationships of IGAD members, let alone the EASBRIG members. This seems quite difficult and could be complicated in practice. The question here is how can these countries be simultaneously empowered to play a greater, positive role, while exercising hegemony to handle their narrow political interests in the sub-region? There remains a huge gap between these ambitions and IGAD's political reality. Eritrea is excluded from being a part of EASBRIG for the time being. Moreover, there should be a careful examination of the nexus of powers, and hence the role, responsibility and coherence the parties (IGAD, EASBBRIG and AU) have.

The African Peace and Security Architecture is composed of various sub-regional elements and structures. The future potential for this is that African partners may get ground to act effectively in peace and security both geographically and functionally. Establishing EASBRIG is seen as phase

117 Alusala "African Standby Force", above at note 99 at 115–16; "EASBRIG launches logistics map exercise", available at: <http://www.africa-confidential.com/article-preview/id/3359/No-Title> (last accessed 20 December 2010).

118 See: <http://www.easbrig.org/members.php> (last accessed 12 December 2010).

119 Memorandum of Understanding on the Establishment of an East African Standby Brigade, available at: <http://www.easbrig.org/docs/mouapr05.pdf> (last accessed 12 December 2010).

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one; making EASBRIG operational and building the necessary capacity for it to achieve the final scenario capacities, involving AU/regional peacekeeping forces is another matter. In this regard, one of the priorities for peace and security in the IGAD sub-region in particular, and in Africa in general, is creating synergy between these existing organizations, enabling them to complement and support one another.

COOPERATION BETWEEN THE MEMBER STATES: A ZERO SUM GAME?

By the time IGAD was revitalized in 1996, member states' optimism, desire and determination to cooperate in the stated fields of the IGAD Agreement was high, as were the international community's recognition of and hopes for IGAD.[120] The optimism with which IGAD was mandated was however rapidly eroded by the outbreak of "border" war in May 1998 between Eritrea and Ethiopia, which had been the promoters of IGAD's revitalization process since the early 1990s. IGAD's attempt to bring peace negotiations to Eritrea and Ethiopia failed.[121] Rather, as the war between the two former "hope bearer" member governments of the sub-region with whom other members had intimate relations provoked other cross-border tensions in the sub-region and diplomatic rows with one or other IGAD member states, IGAD lost the revitalization momentum and faced a serious setback of building trust among member states: problems that had not been envisioned at the time of the revitalization.[122] In a grouping as small as IGAD, disagreement between member states has tended to undermine the organization's ability to execute its mandate effectively.

Eritrea and Ethiopia failed to settle their border dispute via diplomatic methods, through the IGAD and AU/UN mediation and, after a two year bitter war (1998–2000), the two countries agreed to submit their case to international arbitration.[123] The International Boundary Commission gave its verdict on the border case but it still remains unimplemented, due to disagreement of the two countries with the commission's decision.[124] It remains impossible for them to have "face-to-face negotiations" and normalize their relations.

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120 Proceedings of the Summit of Heads of State and Government, above at note 15.

121 "IGAD sparing no efforts to prevent a full-scale conflict between Eritrea and Ethiopia" (Djibouti, 1998); Declaration of the seventh Summit of IGAD Assembly of the Heads of State and Government (Djibouti, 26 November 1999).

122 IRIN interview of Kenyan Foreign Minister Bonaya Godana (23 April 1999).

123 The Algiers Peace Agreement between Eritrea and Ethiopia, signed on 12 December 2000, at Algiers, Algeria.

124 The Eritrea-Ethiopia Boundary Commission delivered its decision on delimitation of the border between Eritrea and Ethiopia, available at: <http://www.pca-cpa.org/showpage.asp?pag_id=1150> (last accessed 12 December 2010).

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The post-1998 relationship between Eritrea and Ethiopia has shifted to continuous confrontation and a proxy war in Somalia and elsewhere in the sub-region; the two governments find themselves locked in a war of "it is either me or you", and mutual aid to dissident or rebels is amplified.[125] Since then, their power hegemony struggle took form beyond their common border, whether in Somalia, Sudan or Djibouti.[126] The IGAD sub-regional approach has become a ground for the power struggle between Eritrea and Ethiopia, a game of how to grab the Horn of Africa. Particularly, since mid-2005 when Ethiopia put conditions on the demarcation of the disputed border of the two countries, Eritrea has been fully involved in harbouring and arming Ethiopian rebels and Somali Islamists.[127] Ethiopia, supported by Kenya and the US, all of which have similar concerns regarding the Islamists, intervened in Somalia against the Islamists in December 2006. The source of the conflict between Somalia and Ethiopia in particular and between Somalia and its neighbours in general is also linked to the doctrine of "Greater Somalia", a doctrine proposed by the then British foreign secretary, Ernest Bevin, to the Four Power Commission in 1946 which aimed to unify all Somali territories and people in a single Greater Somalia.[128] However, bilateral relations between the other IGAD member states, particularly between Sudan and Ethiopia, have improved significantly during the last decade.

It is a well established principle that democracies prefer to cooperate, have international interdependence and can best promote stability and economic growth.[129] Eritrea has been suffering from the rule of a monolithic regime. The national constitution adopted in May 1997 still remains unimplemented. The military regime in the Sudan and ethnic politics in the other member states represent similarly inadequate systems. However, though institutionally still weak and with tribal and provincial roots, the governments of Djibouti, Ethiopia, Kenya and Uganda are already applying parliamentary democratic (or pseudo-democratic) processes. Eritrea withdrew from membership of

125 B Schiemsky et al "Report of the monitoring group on Somalia pursuant to Security Council resolution 1630 (2005)" (New York, 5 April 2006): UNSC (S/2006/229).

126 B Mesfin "The Eritrea-Djibouti border dispute" (15 September 2008) *Institute for Security Studies: Report Situation* 1–19 at 6–9. See also: <http://www.nytimes.com/2008/05/25/world/africa/25iht-eritrea.4.13193224.html> (last accessed 21 December 2010).

127 Schiemsky et al "Report of the monitoring group on Somalia", above at note 125; alleged military support to the Islamic Courts Union, see: <http://en.wikipedia.org/wiki/Islamic_Courts_Union> (last accessed 12 December 2010).

128 The "Greater Somalia" claim includes the territory of the Ogaden and the Haud in Ethiopia, the Northern Frontier District in Kenya, British Somaliland and French Somaliland, which is the current Djibouti. See A Thomson *An Introduction to African Politics* (2nd ed, 2000, Routledge) at 23. Also listen again to Shabelle Radio broadcast on 19 November 2006, available at: <http://www.shabelle.net/index.php?archive=1> (last accessed 21 December 2010).

129 JC Pevehous "Democracy from the out-side-in? International organizations and democratization" in (2002) 56(3) *International Organization* 515 at 523.

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IGAD in April 2007 in protest at the refusal by member states to condemn and take action against Ethiopia for sending troops to Somalia.[130] During the launch of the revitalized IGAD, the Eritrean president called upon the IGAD Summit to consider establishing a "rapid humanitarian intervention force" to coordinate sub-regional emergency resources during crises and disasters, and the geographical expansion of IGAD to include Burundi, Rwanda and Tanzania,[131] now that Eritrea had withdrawn from IGAD. Again the Eritrea-Sudan relationship remains asymmetrical: mutual accusations and proxy wars have characterized it since 1994.[132] In May 2008, Eritrean engaged in "border" war with Djibouti and tensions continue.

At their eighth Summit, the IGAD Heads of State and Government addressed for the first time the issue of building trust and democratization amongst member states as well as the establishment of the IGAD-Civil Society/Non-Governmental Organizations Forum.[133] However, no progress was made in either concern. With the IPU in place, IGAD may have a better chance to encourage cohesive and cooperative governments. The lack of the establishment of constitutional, civil and democratic governance within IGAD member states contributes to the unfortunate situation prevailing in the IGAD sub-region. The variable political environment and heavily differing forms of governments in the member states have in many instances been a barrier to sub-regional integration and to the organizations of civil society. As a result, despite its recognition as one of Africa's building blocks, IGAD lags significantly behind other African RECs with respect to the development of the private sector, integration, as well as common normative and political convictions.

Other issues that weaken and complicate IGAD as an organization are the duplicating mandates and heterogeneous nature of membership.[134] For instance, Kenya and Uganda are members of the East African Community, all IGAD members are also members of COMESA, and Djibouti, Eritrea and Sudan are members of the Community of Sahel-Saharan States.[135] Furthermore, apart from the regional organization (the AU), and the global bodies, there is the States of the Arab League, of which Djibouti, Sudan and

130 "Report of the monitoring group on Somalia pursuant to Security Council resolution 1676 (2006)" at 43, available at: <http://www.cfr.org/content/publications/attachments/Somalia.doc> (last accessed 12 December 2010). See also Schiemsky et al "Report of the monitoring group on Somalia", above at note 125.

131 Proceedings of the Summit of Heads of State and Government, above at note 15 at annex C3 at 31–32.

132 Berghof Foundation for Peace and Support "Sudan: Conflict analysis and oppositions for systematic conflict transformation" (January 2006); UN panel on resolution 1556/2004.

133 Khartoum Declaration, above at note 57 at paras 2–3.

134 See RECs: <http://www.africa-union.org/root/au/RECs/IGAD.htm> (last accessed 12 December 2010).

135 The East African Community has three members, including Tanzania; COMESA has 20 members; and the Community of Sahel-Saharan States has 23 members.

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Somalia are members. Ethiopia seems to be the only state with much less of an alternative to IGAD, and it focuses more on IGAD. In most cases, IGAD countries that belong to more than two RECs find it very difficult to honour their contributions and obligations as well as promote synergy. Indeed, the AU looks more to IGAD as a sub-regional organization that represents the eastern part of the continent.[136]

IGAD is also characterized by the lack of a lead nation, which has caused a decade of power struggles. The US policy makers chose Ethiopia as the focus country in the IGAD sub-region where the US is involved.[137] Active diplomatic and military involvement of Ethiopia in the Horn of Africa, in particular in Somalia, was wanted and recognized by the west, particularly by the US in the aftermath of 11 September 2001. Ethiopia receives roughly $1.9 billion in assistance each year.[138] As a result, the Eritrean regime's attitude towards Ethiopia and the US has worsened. Eritrea has built a close alliance with the Islamic Courts Union in Somalia.[139] Nevertheless, except Eritrea, the majority of the other IGAD member states have good political relations with Ethiopia; hence (with their tacit approval) there seemed to be a consensus supporting Ethiopia's ambition to be the central state of the sub-region. Indeed, Ethiopia, with the largest population and a strategic ally of the US in the sub-region, may have the lead in the future. Currently however, Ethiopia lacks economic and military foundations as well as stable and strong democratic institutions. For instance, in ECOWAS, Nigeria acts as a lead nation and, unlike Ethiopia, Nigeria has the military and economic power to act as a lead nation; in fact, it successfully managed and provided nearly 70 per cent of the resources for the Economic Community of West African States Monitoring Group missions in Liberia in 1990 and in Sierra Leone in 1998.[140] Paradoxically, the lead nation or hegemonic stability theory itself has come under intense criticism recently. The rationale for this is that, since the lead nation perspective would first lead to self-interest, it is neither necessary nor sufficient for cooperation.[141]

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136 COMAI Declaration, above at note 47 at 7–8. See also art 1(d) and (e) of the Abuja Treaty, above at note 4; Decisions on the moratorium on the recognition of RECs, above at note 48.

137 "Thinking regionally: Priorities for US policy toward Africa" (paper presented by S Booker, Africa Policy Information Centre, July 1996).

138 A Ghebermeskel "Regional approach to conflict management revisited: The Somali experience" (2002) 4 *Online Journal of Peace and Conflict Resolution* 2 at 9–29.

139 Mesfin "The Eritrea-Djibouti border dispute", above at note 126 at 8–9.

140 "Capacity, achievements and constraints of sub-regional organisations in conflict prevention and resolution: The case of ECOWAS" (paper presented by L Kouyate, ECOWAS executive secretary, at an international symposium on the role of sub-regional and non-governmental organisations in conflict prevention and peace initiatives in sub-Saharan Africa, Tokyo, 28–29 March 2000).

141 PF Diehl et al "The dynamic of international law: The interaction of normative and operating system" (2003) 57 *International Organization* 43 at 58–62.

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CONCLUDING REMARKS

IGAD, established by seven east African states by the IGAD Agreement, associates with both operating an institutional mechanism for cross-border interaction amongst member states and operational rules that would shape the values, norms and goals the IGAD member states pursue, as well as the sources of law for the creation of other IGAD institutions. Although the IGAD Agreement does not contain express provision on IGAD's international legal personality, the expressly granted treaty-making power as well as immunities[142] and the explicit recognition to cooperate with other subjects of international law make the possession of international legal personality by IGAD clear. In addition, in order to execute its objectives, IGAD adopted and performed relevant institutional acts, including producing declarations and resolutions, concluding treaties with third parties and establishing specialized agencies and mechanisms which comply with the rule of its constitution and applicable international law. Moreover, the creation of CEWARN, its own policy institutions of the CPS, ICPAC, ICPAT and IPU, among others, are innovative features bringing the IGAD Agreement into operational practice. These subsequent functional and institutional progressives are also evidence of IGAD's possession of international legal personality, hence its status as an international organization under the framework of international law.[143]

Nevertheless, IGAD possesses and actually exercises extremely limited capacities and powers; it also lacks its own law-making body that would ensure, internally and externally, a sound legal basis for drafting legal documents. The IGAD Secretariat is characterized by constant dependence on member states' cooperation and dedication to external donations. For instance, none of the member states paid their assessed contribution for 2005.[144] If article 14 of the IGAD Agreement in respect to sanctions were applied, all member states would be under sanctions each year. Almost all the functions of the IGAD Secretariat and its specialized agencies are highly dependent upon international aid and international partners,[145] particularly USAID, the German Society for Technical Cooperation (GTZ) and the EU. Of course, financial support does not come in a simple way. Donors certainly have influence; since poverty constrains freedom, donors can be politically expensive and costly in terms of credibility.[146] These features characterize IGAD as an extremely weak and loose organization. The dangerous

142 White *The Law of International Organizations*, above at note 22 at 28; Brownlie *The Rule of Law*, above at note 30 at 35–36; A Aust *Modern Treaty Law and Practice* (2000, Cambridge University Press) at 47.

143 White, id at 41 and 106; KW Abbott and D Snidal "Hard and soft law in international governance" in (2000) 54 *International Organization* 421–55.

144 "Reviewing the year before the 20th Anniversary, Dr Attalla" (April – May 2006) no 21 *IGAD News* at 4.

145 "Closing of the Dr Attalla H Bashir interview" (March – June 2004) no 12 *IGAD News* at 10.

146 Ibid.

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phenomenon for a weak IGAD is that, through donations, IGAD has a tendency to extend itself as an instrument to super-power and donor countries: a risk that questions its true ownership.

The paradox is that IGAD's problem is poverty in a land very rich in resources. The key for this is with IGAD member governments, not with the donors or the IPF. No country has ever developed from donor handouts. Development requires radical thinking and a certain amount of activation energy sufficient to reach the critical point where development is the observable phenomenon, while wealth and national stability prevail. Investment and self-reliance for sustainable development are the way out from poverty and dependence. The IPF has its own policy and interests in the sub-region.

It must be recognized that, despite its weakness and although its efforts in economic cooperation and integration remain unsuccessful, there is no reason to lose faith in IGAD's usefulness because, without it, the sub-region could simply become a far worse place. As a type of bounded political community, IGAD facilitates discussion and debate simply and most importantly as an indispensable political forum where international politics is conducted.[147] The initiative on conflict management, its performance on efforts to achieve lasting peace in the Sudan and the establishment of specialized bodies are greater than ever before and this adds value to the AU and the UN mission.

147 J Klabbers "The life & times of the law of international organisations" (2001) 70 *Nordic Journal of International Law* 287 at 315–17.

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