Protocol of the Establishment of a Conflict Early Warning and Response Mechanism for IGAD Member States
Protocol of the Establishment of a Conflict
Early Warning and Response Mechanism
for IGAD Member States

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PREFACE

The IGAD revitalisation process of 1996 was the recognition that the sub-region's economic development depends on peace and security. Indeed, the absence of these conditions severely constrain and often nullify the practical efforts made to tackle basic economic, social, humanitarian, and environmental problems in the sub-region. Ultimately, the sustainability of development initiatives will always be directly related to and affected by the incidence of violent conflict.

This booklet was produced within the context of developing a Conflict Early Warning and Response Mechanism (CEWARN) for IGAD. Preparation of the mechanism's conceptual and operational framework took place over a period of two years from the year 2000-2002. It's centre-piece is the development of a legal protocol, which has been approved and signed by all IGAD member states on January 9, 2002, in Khartoum, and is presently under ratification by the individual countries.

The protocol lays down the principles that will govern CEWARN'S operations. These principles were first set out in a draft protocol and presented to a team of experts from the IGAD member states in Asmara, Eritrea, for the first reading. It was an important step in the process of IGAD member states taking ownership of CEWARN. The protocol went through a second reading the following year in Addis Ababa, with major changes proposed by the member states in order to accommodate national interests and concerns on information sharing and decision making in the context of conflict prevention, management and resolution.

We are grateful to the two donor agencies - the Deutsche Gesellschaft fuer Technische Zusammenarbeit (GTZ), and the United States Agency for International Development (USAID) for providing financial support for the development and implementation of CEWARN.

Dr. Attalla Hamad Bashir
Executive Secretary, IGAD
Djibouti, November 2002
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The Legal Framework for CEWARN

*by Makumi Mwagiru*

This booklet focuses on the institutionalization of IGAD's Conflict Early Warning and Response mechanism (CEWARN). CEWARN was conceived as a mechanism that would enable the region to systematically anticipate and respond to various conflicts that currently disturb the Horn of Africa. A crucial task for institutionalizing CEWARN is the creation of a framework that draws on existing efforts, mechanisms, and skills. This ensures proper reflection of its regional character and establishes its regional credentials. It is therefore important to take into account various realities in the region, such as the fact that the IGAD region has a conflict system. It is the needs of this system that a fully functional CEWARN mechanism will essentially serve, while at the same time cooperating with other similar mechanisms, whether at the global level (UN) or regional level (AU).

The rationale for institutionalizing regional conflict management mechanisms is that such mechanisms cannot function optimally on an ad hoc basis. In order for such mechanisms to work properly, they must have a clear institutional basis. This goes beyond merely housing the mechanism under the auspices of a sub-regional organization such as IGAD, but also entails giving the mechanism a distinct face and identity. Primarily, this involves giving CEWARN a clearly discernible legal identity, structures for decision-making, and cooperation in information sharing among member states.

There are already various in-state mechanisms concerned with conflict management and famine early warning, and it is on these that CEWARN will build. Yet existing mechanisms have not been concerned primarily - or at all - with conflict early warning. Thus, part of the harmonization process entails giving these in-state mechanisms a conflict early warning mandate. This requires identifying their strengths and harness them to bear on a fully functional IGAD early warning and response mechanism. The region also has various bilateral frameworks for conflict management. Currently, these operate with little, if any cooperation and contact between them. The most developed of these bilateral frameworks are the Joint Border Commissions between Member States, which exist already for several years. A Joint Border Commission, which is chaired by provincial commissioners from neighbouring provinces, operates at the official level. The challenge here lies in identifying ways in which such a commission
can feed into CEWARN and designing ways in which other actors (especially civil society) can be involved in its deliberations and decision-making.

However, institutionalizing CEWARN also required addressing the IGAD decision-making apparatus, which did not have a clear mandate to accommodate CEWARN. Before the process of institutionalizing CEWARN began, the IGAD decision-making apparatus reflected purely on diplomatic and political concerns of IGAD but not the peculiar needs of a conflict early warning and response mechanism or IGAD’s peace and security mandate. In addition, there are crucial decision-making structures of IGAD countries for establishing CEWARN and IGAD’s peace and security mandate - such as permanent secretaries. At this point, they have not been properly integrated into IGAD’s decision-making structures. The protocol establishing CEWARN will essentially fill this gap. Hence, in outlining an adequate decision-making structure, CEWARN addresses a wider institutional problem: the absence of structures to facilitate the revitalized IGAD mandate.

The Regional Framework for Institutionalization
Given that the IGAD region is clearly defined and agreed upon by its membership (partially through geography), there is a clear regional (or sub-regional) framework within which CEWARN can be institutionalized and operate. Membership in the IGAD region is defined by the fact that all IGAD member countries are part of the Horn of Africa.

The IGAD region is further identified by the character of conflicts that typify the region. Many of IGAD’s regional conflicts occur in border regions. This not only creates a relationship between the borders but also links the region’s frontiers. Most prominent of these are conflicts in pastoral areas - particularly livestock rustling, which cuts across borders in the region. The problem of small arms is also a regional cross-border reality that triggers and exacerbates regional conflicts. It is therefore important to have conflict management mechanisms that specifically address the nature of these conflicts, including a regional conflict early warning and response mechanism aimed at anticipating and preventing a further spreading of new conflicts.

The Importance of Institutionalization
In the context of CEWARN, institutionalization means giving the mechanism a sound legal and decision-making base from which it can operate. It also means enshrining consultative processes for CEWARN and defining precisely how conflict early warning and response mechanisms, operating at the state level, fit into CEWARN. These
in-state mechanisms are called Conflict Early Warning Response Units (CEWERUs). In addition, it is also important to create an entree for civil society in its various operations, including its decision-making processes and thus mainstream the role of civil society in the CEWARN process.

Establishment of such a legal and institutional base is important, as it addresses and clarifies various operational issues, such as the fundamental role of IGAD as a facilitator in the CEWARN process. It is important to understand that CEWARN is an open model that involves actors other than states in information gathering, thus confining IGAD’s role to facilitating this process as well as processing and analysis of information gathered. At another level, IGAD will similarly facilitate the process of early response to the conflicts in question.

The CEWARN legal foundation will also help rationalize its relationship with other regional and sub-regional organizations and mechanisms. This is an important function, as early warning is best understood as a cooperative process, not just within but also across regions and in the international arena. For example, there is already an AU conflict early warning mechanism. Given the continental role and concerns of the AU, it is necessary for CEWARN to have some sort of cooperative relationship with this mechanism. Part of the rationale for this is that IGAD members are also AU members. Hence such cooperative relationships cannot be avoided in any case. However, without a sound institutional basis, structures for such cooperation can neither be understood nor function.

Modalities for cooperating with the AU on information sharing and conflict management, and with the United Nations (and other international organizations) on disseminating early warning information and analysis (for example, through IRIN) will be contained in a memorandum of understanding to be formalized once CEWARN is fully functional. Similarly, cooperation with other sub-regional organizations that are developing or may develop conflict, peace, and security concerns such as COMESA’s evolving peace and security mandate will be necessary. The COMESA experience of developing structures to link with civil society in its peace and security framework will be particularly relevant.

It has to be emphasized that a conflict early warning mechanism which is not properly linked to an early response component is of little benefit. Thus, in order for CEWARN to be successful, it needs to integrate a response mechanism into the decision-making
process of IGAD and its member states that can be adequately accessed by the early warning system.

**How CEWARN Functions**

There are various levels of process that figure into institutionalizing regional conflict early warning mechanisms. In order to capture the diversity and linkages of the regional actors in conflict, CEWARN has to operate at three levels: sub-national, national, and regional. While the latter level provides the necessary foundation for any regional conflict early warning mechanism, cooperation is essential with other mechanisms at lower levels for the entire system to function properly. The national level involves essentially in-state mechanisms (CEWERUs), while sub-national ones range from the provincial or district level to the locality. The challenge is proper integration of these national and sub-national mechanisms into the larger regional CEWARN framework, especially as each level involves both official actors (government representatives) and civil society.

**Civil Society Role**

The importance of civil society's participation in CEWARN's functioning has already been mentioned. The rationale for this is that civil society organizations are close to the grassroots, where the most effective early warning for conflict can be discerned. Involving such organizations requires creating institutional structures that would enhance the whole CEWARN operation. Moreover, IGAD member states and civil society share similar areas of concern and have worked together, albeit only on an ad hoc basis. By having links with civil society, member states would enjoy greater levels of access to the grassroots and thus enhance their presence considerably. However, so far, there have been no direct communications between IGAD and civil society.

For civil society to bring its potential to bear in CEWARN operations, there must be a solid cooperative relationship between society and the CEWERUs. So far, the intelligence model has influenced government's views about early warning systems. Such information is treated as secret, and the analyzed information is not available to civil society. For CEWARN to function properly however, some form of cooperative relationship between the state and civil society is necessary. To a large extent, this depends on the political will of member state governments and their willingness to involve civil society in this process at the national level. In some countries such as Kenya, such relationships exist for example, in Wajir. However, cooperative structures
need to be institutionalized, so that the whole regional structure is not held hostage to *ad hoc* or individual goodwill. The protocol establishes these links by requiring civil society membership in the CEWERUs and by emphasizing that civil society must be an integral part of CEWARN's decision-making structure. In this way, IGAD fills an important niche, promoting two-way communication between governments and civil society in the IGAD region, by formalizing the right of civil society to have access to information and analysis.

**The Relationship between CEWERUs**

An important political consideration in institutionalizing CEWARN was the relationship between the various in-state mechanisms that are to become part of the CEWERUs. Previously, there was little if any formal relationship between them. Given the prickly and even conflicting relationships among IGAD member states at times, this was a structure (and issue) that needed early attention. The problem is that while some CEWERUs might cooperate without difficulty, others may fail for political and other reasons to achieve such cooperation. Ideally, however, all CEWERUs should work in harmony, and the synergy created should eventually determine whether CEWARN can survive as a useful regional conflict early warning and response mechanism.

In addition, functional institutionalization requires that conflict early warning mechanisms at the sub-national levels feed into the larger CEWERUs and CEWARN. This need responds to the philosophy of cooperation at all levels for any functioning conflict early warning, prevention and management mechanism. A possible model for this sort of institutionalization is a project in the POKATUSA districts of Kenya and Uganda in which peace monitors are stationed in the neighbouring conflict-prone districts of both countries. The function of these peace monitors is *inter alia* to report on conflict early warnings for the districts in which they operate.\(^8\) It is critical that this kind of information, collected at the local and district level, is fed into national units and eventually into CEWARN.

**The Legal Foundation for Institutionalization**

The legal edifice of the IGAD regional early warning mechanism involves creating a relationship between various existing legal structures such as the agreement establishing IGAD. In addition, it entails creating a series of surrounding legal structures such as protocols governing the various CEWARN concerns.\(^9\) In addition to this basic framework, there are other legal documents that will inform the CEWARN legal apparatus. These include various memoranda of understanding to be signed by
CEWARN and other conflict early warning mechanisms as well as statutes of IGAD member states on issues such as information.

The IGAD Establishment Agreement
The whole legal structure to institutionalize the IGAD regional early warning and response mechanism centers around the IGAD establishment agreement. This is the basic legal authority for creating CEWARN and helps establish the linkage between CEWARN and IGAD. Indeed, the decision to create a legal identity for CEWARN through a protocol is based on the authority derived from the establishing agreement, which permits negotiation and conclusion of the protocol.10 After conclusion, the Protocol becomes part of the establishing agreement.

The Khartoum Declaration
The Khartoum Declaration of the IGAD heads of state and government of November 2000 is an important part of the CEWARN legal structure as a regional mechanism for conflict early warning and response, as it contains formal approval by heads of state of IGAD member states to create CEWARN. The declaration that is both a political and legal document embodies political support for CEWARN, which would not have proceeded without it. Further, it provides the basis for formal cooperation between member states and civil society which is a critical element for the success of CEWARN.

The Khartoum Declaration fits well into the legal structure for CEWARN, because it is legally binding, unlike the case with general resolutions.11 As a declaration, it contains an authoritative decision by the heads of state, whose legal status is derived from it. It is clearly an important component of the whole CEWARN legal edifice.

The Khartoum Declaration is also an important document because it supports the process of institutionalizing CEWARN. This process entails making some internal administrative adjustments in member states regarding in-state early warning mechanisms. This would have been difficult to do without the authority and backing of the IGAD heads of state and governments.

The Protocol Establishing CEWARN
The protocol went through a first reading by the member states' legal experts in October 2000. It deals with general principles of a CEWARN mechanism within IGAD. This protocol is intended to strengthen the Khartoum Declaration and give substance to establishing the CEWARN mechanism, requiring that only those member
states of IGAD that have ratified the protocol participate in CEWARN. It confers a legal identity on CEWARN through Article 3 and sets out its functions. These include promoting exchange of information and collaboration on conflict early warning and response among IGAD member states; collecting and analyzing information about conflicts in the region; establishing networks of cooperation in these areas; creating, managing, and disseminating information data bases on conflict early warning in the region; and developing cooperation between CEWERUs. The protocol requires that IGAD establish collaborative relationships with other similar mechanisms, develop conflict early warning mechanisms in member states (including human and institutional capacity building), and harmonize information policies and conflict early warning systems in member states. CEWARN’s central role is emphasized through the requirement that it (1) designs mechanisms for regional response to cross-border conflicts, (2) collects and verifies information relevant to early response, and (3) communicates such information and analysis to decision makers in IGAD.

Article 5, which provides that CEWARN rely on information available in the public domain, is an important part of the protocol. So is requirement that information shall only be collected through overt means. This provision also gives member states a stake in the whole process, by determining where and how states approve types of information to be disseminated.

While providing that CEWARN will use existing IGAD secretariat documentation facilities, Article 8 emphasizes the right of member states to access CEWARN documentation facilities. The protocol also addresses the issue of CEWARN’s source of funding which is to be derived from member state contributions, grants, donations, and contributions from other sources that the assembly may approve.

The protocol further addresses the administratively difficult problem of the relationship between CEWARN and the IGAD secretariat. This issue is important because, whereas CEWARN will have operational autonomy, it will be part and parcel of the IGAD headquarters.

The issue of information sharing among CEWERUs was identified as a preliminary structural issue that could affect CEWARN’s functioning and integrity. The problem of sharing information arose because the CEWERUs operate on the basis of sovereignty, viewing it as the supreme consideration. These CEWERUs deal with information. In the context of conflict early warning and response, the states consider these matters to be issues of high-level policy.
Given this conceptual (and structural) reality, the ability or willingness of the CEWERUs to share information among themselves cannot be taken for granted. While it is true that some states already have mechanisms through which they share information (including intelligence information), not all IGAD states have this kind of cooperative relationship. It is possible to make the best of a difficult situation by arguing that those who can cooperate with CEWARN should do so. But it is also true that a fully operational and effective CEWARN requires full cooperation between all CEWERUs. Patchy or even intermittent cooperation will not strengthen CEWARN, and strategies are needed to close off this possibility.

The problem is to distinguish between complete and selective sharing of information. The bottom line is that CEWARN is grounded on state activities and depends on their goodwill. This is likely to be seen against the background of member state national interests. And these are what they define them to be at any moment. The diplomatic and political challenge that this poses is to ensure that states share the best information available. But the best information available is a matter left entirely to the individual states to decide.

The protocol creates the legal basis for sharing information, including how it will be shared and with whom. This part of the protocol concerns both raw information (i.e. unprocessed data) and analysis (i.e. processed data). Importantly, it intends to respond to the member states’ need to know where information about their territory will end up and how it will be used. This section also concerns how such information will be shared among member states participating in CEWARN.

The protocol rationalizes CEWERUs’ operations by specifying their composition (particularly to include civil society), while allowing governments to decide on wider representation. It clearly defines their specific role. An important element of institutionalization is the requirement that ministries of foreign affairs serve as communication links between the CEWERUs and CEWARN. It also spells out the functions of both CEWARN and the IGAD secretariat in information sharing, thereby reducing areas of operational conflict between the two.

The protocol creates a committee on information sharing composed of permanent secretaries that will meet twice a year. Civil society representatives will sit on this committee. This establishes the right of civil society to access information and analysis on matters like livestock rustling, conflicts over grazing and water points, smuggling and illegal trade, nomadic movements, refugees, land mines, and banditry.
Its functions also include promoting cooperation between CEWERUs and between CEWERUs and CEWARN.

**Enhancing the IGAD's Analytical Capacity**

One of IGAD's clearest discernible realities currently - at least in its conflict management capacity - is that it lacks the analytical capacity necessary to enable it to play the sort of coordinating role it is envisaged to play in CEWARN. This lack of capacity not only applies to the level and numbers of personnel it commands, but also covers the analytical capacity of the personnel at hand to handle IGAD tasks envisaged for CEWARN.

In the CEWARN context, while IGAD and its officials will play essentially a facilitative and coordinating role, IGAD needs the capacity to handle information that will emanate from the member states. The CEWARN concept raises the important question of how other actors such as international and regional organizations relate to one another. Although deciding on the identity of actors and the rules under which they will operate will be determined at IGAD decision-making levels, their daily operations will be left to IGAD officials. Evidently, in order to perform these tasks efficiently, more capacity is needed. In particular, officials with information management skills will enhance this facilitative role considerably.

**The Decision-Making Process**

The political structure for institutionalizing CEWARN is a crucial element in the whole process. This aspect involves ways in which CEWARN structures will merge and work together. Institutionalizing in this respect involved synchronizing the political and decision-making aspects of CEWARN operations. The political structures for institutionalizing are essentially concerned with those aspects of CEWARN that cannot be contained in the legal structures. Nevertheless, they are crucial to its effective and efficient functioning as a conflict early warning and early response mechanism.

The basic understanding is that IGAD, as the organization hosting CEWARN and giving it its regional flavor, should ideally act only to coordinate CEWARN activities rather than to perform them. This underscores the sovereignty basis of the whole regional framework, since member states in this setting must remain the repositories of decision-making for CEWARN and its activities. In addition, CEWARN must work within national jurisdictions as well as administrative and decision-making structures. As such, it is envisaged that member states will retain decision-making powers with
respect to CEWARN operations, while the IGAD secretariat will provide coordinative backing for CEWARN functions.

Institutionalizing regional conflict early warning mechanisms essentially involves building on existing national mechanisms and frameworks. Where necessary, it also involves recreating such national mechanisms. In the CEWARN context, this will entail creation of local early warning mechanisms. Part of establishing such mechanisms involves a training component. This is essential, because as matters stand now, there is insufficient appreciation of how local mechanisms will fit into in-state mechanisms, and how these in turn will fit into the regional structure being created. In addition, the training component will be valuable, because it will involve training at the different levels as to what the sub-national mechanisms will precisely do, what sort of information they will collect, the mode of reporting on such information, and the content of reports.

**Focal Points for CEWARN**

A major concern in institutionalizing CEWARN is the need for clear coordination between the different departments of governments. Because different departments of the governments of member states will be involved in the process of collecting, collating, and analyzing information at the national level, there is a need for clearly identified focal points for CEWARN. Apart from the need for internal coordination, the focal points are necessary as points of contact between members states and the IGAD secretariat in its role of facilitating and coordinating CEWARN’s activities. The protocol specifies a focal point in each member state. The ministries of foreign affairs of other operational ministries to be specified by individual member states could be effective focal points.

Creating the regional mechanism will also entail restructuring IGAD decision-making structures. As noted earlier, the current IGAD decision-making apparatus were not conceived to operate in the context of an early warning and response mechanism. Making IGAD’s decision-making structures responsive to CEWARN’s needs may require supplementing them with more functional structures. The need for this is self-evident: unless regional decision-making structures are responsive and functional, there can be no effective early response mechanism.

Provisions of the decision-making structures are an important aspect of institutionalizing CEWARN as a regional mechanism. This component is important, because without clearly defined decision-making structures, the early response part of
CEWARN cannot be effective. Besides, decision-making is at the heart of the whole CEWARN operation. Had it not been provided for in a legal framework, it would have impeded the function of the regional mechanism.

One part of the protocol establishes regular consultation mechanisms and deals with the issue of who consults whom, who should be involved in the consultation process, when, and how regularly. It enshrines a central role for governments in this process, and, most importantly, establishes a committee of permanent secretaries.

The current decision-making structures of IGAD are heavily weighted towards the political leadership component of decision-making. These decision-making structures involve heads of state and government as well as ministers. However, for CEWARN to be effective and efficient, this decision-making structure needs to include more technocrats. In addition, the consultative structure of IGAD decision making needs to be made more frequent, so that high-level officials meet regularly to exchange views and information.

Regular Consultations of Permanent Secretaries
The high-level IGAD CEWARN meeting in Nairobi in May 2001 suggested ways in which the structure of IGAD decision-making could be expanded to make it more effective at this level. The meeting brought member states’ permanent secretaries together. This meeting effectively prompted the suggestion to institutionalize regular meetings of permanent secretaries.

Previously, IGAD decision-making organs contained no structure for high-level officials at the level of permanent secretaries to consult regularly. Although officials had a role to play in the form of the committee of ambassadors, there was a gap between this level and the foreign ministers. Between ambassadors and foreign ministers, there are permanent secretaries, who are extremely crucial components in national (foreign policy) decision-making. The protocol is innovative in that, it provides for regular and institutionalized talks involving permanent secretaries. This innovation closes the IGAD decision-making gap between ambassadors and ministers of foreign affairs and represents a key contribution to regional diplomacy.

The crucial aspect of this decision-making process also revolves around the role and content of civil society in this process. Two principles are involved here. The first calls for IGAD's existing official decision-making structures being refined and molded to
accommodate the peculiar needs of a functional CEWARN. The second is the extent of civilian involvement in this framework. The draft protocol makes it clear that civil society involvement is an integral part of CEWARN’s decision-making structures and that civil society should be involved in the process of analyzing information. Involving civilians at the decision-making level in this way revolutionizes the whole spirit of official bricolage in IGAD’s decision-making processes.

**Coordinating Existing Mechanisms**

So far existing in-state mechanisms have been acknowledged and the need to focus them on conflict early warning issues has been recognized. However, given that these are extremely crucial to CEWARN’s ability to function as a regional mechanism, these mechanisms will need to be coordinated, so that their operating procedures are orchestrated in regard to conflict early warning.

The task of coordinating existing in-state mechanisms is part of the whole development of the CEWARN structure. However, this structure cannot stand effectively if the CEWERUs do not work together or even share the CEWARN philosophy. This task is essentially one of training, although it contains an important diplomatic element because in-state mechanisms might need to be convinced that they will not surrender their identity but strengthen CEWARN. The protocol gives the task of harmonizing coordination between CEWARN and the CEWERUs to the committee of permanent secretaries. One function of the focal points is to create linkages between CEWARN and individual CEWERUs.

**National Laws on Information**

National laws on information and security will largely inform the functioning of CEWARN. Indeed, CEWARN’s legal framework builds on existing national laws; this is the basis for a requirement specified in the draft protocol on cooperation in information sharing, that national laws be reviewed where necessary to conform to CEWARN requirements. The national laws involved include those dealing with information and sources of information as well as its dissemination. For example, the Official Secrets Acts of various countries could affect the potential of sharing information between states as well as between in-state mechanisms and CEWARN.

In addition, countries’ information classifying systems might adversely affect the quality of information shared between and among member states. If a state, for example, has very stringent information classifying systems, this might mean that CEWARN’s most useful information would not be shared on grounds that it is officially classified as
secret or confidential. This problem can be countered by arguing that information in
the CEWARN mechanism is largely in the public domain. However, the public domain
rationale ceases after the information in question has been processed or analyzed, no
matter how cursorily. To address this problem, the protocol requires that member
states adjust their national laws to accommodate their obligations to CEWARN.

Future Supporting Legal Frameworks
While this protocol and existing national laws constitute the legal framework that will
usher CEWARN into life, some other legal structures will be created once it becomes
functional. These will essentially take the form of memoranda of understanding that
will be concluded with other mechanisms and institutions.

Memoranda of Understanding with Other Organizations
It is accepted that, CEWARN will not exist in a vacuum. It will need to cooperate
with international, regional, and sub-regional organizations involved in the conflict
early warning and response field. The sort of cooperation with other organizations
envisaged involves sharing especially processed (i.e., analyzed) information. It also
involves the problem of access to CEWARN’s information and data banks and the
basis and conditions under which these other actors will access such information.
Thus, such memoranda will form an important part of the legal structure supporting
CEWARN. Issues to be considered in such documents include regularity of access,
reciprocity (i.e., whether CEWARN will have reciprocal access to information gathered
and processed by other actors), and the identity of actors.

In particular, there will be memorandum of understanding concluded with the AU
with which it has clearly been determined CEWARN should cooperate in the area of
eyear early warning and response. In addition, memorandum of understanding will be with
UN agencies and other organizations and their agencies so that CEWARN taps their
experience, especially in the areas of capacity building, training, and information.
Conclusion

This is a broad overview of the challenges, context, and content of institutionalizing regional conflict early warning mechanisms. This problem has been examined in the context of the IGAD conflict early warning and response mechanism whose formal institutionalization is underway. The regional framework for CEWARN has been identified and its legal and political institutional structures examined. Far from existing in a vacuum, CEWARN's success is dependant on the various supporting structures that have been identified.

However, a regional conflict early warning and response mechanism such as the one under discussion is a creature of states and state structures, and as such is subject to the vicissitudes of the region's political and geo-political realities. Thus a pragmatic institutionalizing program requires that the obstacles that could come in the way of the process be recognized at the outset and strategies to address them be designed early. Appreciation of challenges in the process of institutionalizing CEWARN is not a mere surrender to pessimism and cynicism, but a response to regional realities and contexts. Nested within this perception however, is the hope that CEWARN, from its inception, will reach beyond its grasp.
Notes

1. Professor MAKUMI MWAGIRU was the legal consultant commissioned to draft the Protocol.

2. Note that traditionally, the Horn of Africa only includes Somalia, Sudan, Ethiopia, Eritrea, and Djibouti.


6. This is in the context of current Kenyan administrative divisions. Other IGAD states may use different terminologies, but the basic administrative scheme is the same.


8. This is a project currently being undertaken by World Vision, Kenya, and Uganda. The training component is being carried out by the Centre for Conflict Research (CCR). See M. Mwagiru and N. Karuru, *Conflict: Skills and Strategies for Management* (Nairobi: forthcoming, 2001).


10. See article 17(1).


12. The areas of access were identified in a questionnaire given to member states during a high-level meeting in Nairobi in May 2001.
Protocol on the Establishment of a Conflict Early Warning and Response Mechanism (CEWARN) for IGAD Member States

We, the Member states of the Inter-governmental Authority on Development,

The Republic of Djibouti
The State of Eritrea
The Federal Democratic Republic of Ethiopia
The Republic of Kenya
The Republic of Somalia
The Republic of the Sudan
The Republic of Uganda

Recalling the principles and objectives enshrined in the Agreement Establishing the Inter-governmental Authority on Development (IGAD);

Reaffirming the objectives of promoting regional peace, security and stability and creating mechanisms for the prevention, management and resolution of inter- and intra-state conflicts through dialogue;

Determined to act collectively to preserve peace, security and stability in the region, to enhance regional co-operation and to eliminate all forms of threat thereto;

Inspired by the need to establish an effective mechanism of consultation and cooperation for the peaceful settlement of disputes;

Convinced of the need to respond early to conflicts in the region;

Taking note of the Khartoum Declaration of the Eighth IGAD Summit that took place on the 23rd November, 2000, and particularly the resolution for the establishment of a Conflict Early Warning and Response Mechanism (CEWARN) for IGAD Member States
HAVE AGREED AS follows:

Article 1
Definitions

In this Protocol:

“Protocol” means the Protocol Establishing a Conflict Early Warning and Response Mechanism for IGAD member states;

“Establishing Agreement” means the Agreement Establishing the Inter-governmental Authority on Development (IGAD);

“Khartoum Declaration” means the Khartoum Declaration of the 8th IGAD Summit of 23 November 2000;

“Member state” means a member of CEWARN;

“Assembly” means the Assembly of Heads of State and Government of IGAD;

“Council” means the Council of Ministers of IGAD;

“Committee” means the Committee of Ambassadors of IGAD

“Chairman of the Council” means the Chairman of the Council of Ministers of IGAD;

“Executive Secretary “ means the Chief Executive Officer of IGAD;

“Secretariat” means the executive body of the Assembly (article 12, Establishing Agreement);

“CEWARN” means the Conflict Early Warning and Response Mechanism established by this Protocol;

“CEWARN Unit” means the IGAD Secretariat’s technical arm of CEWARN;

“CEWERU” means national conflict early warning and response mechanism;

“Early warning” is the process of collecting, verifying and analysing information and communicating the results to decision-makers;
“Information” means raw data that has not been analysed;

“Analysis” means the interpretation of data in a specific context;

“Response” means actions to prevent, mitigate and manage conflict.

**Article 2**

**Establishment of CEWARN**

1) A Conflict Early Warning and Response Mechanism (CEWARN) is hereby established.

2) CEWARN shall become an integral part of the Inter-governmental Authority on Development.

3) Only Member states which have ratified this protocol are entitled to participate in the activities of CEWARN.

**Article 3**

**The Legal Foundation of CEWARN**

1) In addition to the Establishing Agreement and the Khartoum Declaration, the following shall form the legal foundation of CEWARN:

   a) The Protocol establishing CEWARN;
   
   b) Agreements which may be concluded between CEWARN and international, regional and sub-regional organisations;
   
   c) National laws on information and security subject to the provisions of this Protocol and the guidelines provided in the Annex.

2) Member states are encouraged to adjust their relevant national laws in order to accommodate their obligations under this Protocol.

**Article 4**

**Structure of CEWARN**

1) The decision-making structures for CEWARN established under this Protocol are complementary to those already existing in IGAD.

2) The structure of CEWARN is established as follows:

   a) The policy arm consisting of the Assembly, Council and Committee;
   
   b) The administrative arm consisting of the Secretariat;
c) The technical arm consisting of:
   (i) CEWARN Unit;
   (ii) CEWERUs.

d) The co-operating arms consist of:
   (i) optional inter-state structures;
   (ii) optional sub-regional councils.

e) The coordinating arms consist of:
   (i) The Committee of Permanent Secretaries established under Article 9
       of this Protocol;
   (ii) The Technical Committee on Early Warning (TCEW).

Article 5
Functions of CEWARN

1) The functions of CEWARN cover both early warning and response and shall
   include the following:

a) Promote the exchange of information and collaboration among member
   states on early warning and response on the basis of the following principles:

   i) timeliness
   ii) transparency
   iii) cooperation
   iv) free flow of information

b) Gather, verify, process and analyse information about conflicts in the region
   according to the guidelines provided in the Annex.

c) Communicate all such information and analysis to decision makers of
   IGAD policy organs and the national governments of Member States

d) More specifically, the early warning functions of CEWARN shall include:

   i) receiving information and reports from CEWERUs;
   ii) processing and analysing such information;
   iii) bringing that information to the attention of the secretariat;
   iv) providing the necessary feedback to the CEWERUs;
   v) disseminating such information as it is authorised, to those who are
      authorised, and in a manner that member states prescribe;
   vi) updating and synthesising information;
vii) setting standards;
viii) monitoring and coordinating information collection and reporting;
ix) promoting dialogue on information and analysis;
x) networking among information gathering organisations;
xi) verifying information received from the CEWERUs.

Article 6
The CEWARN Unit

1) The CEWARN unit shall be part of the Directorate of Political and Humanitarian Affairs and will be governed by the IGAD service regulations.

2) The CEWARN unit shall have financial autonomy to the extent necessary for the performance of its functions.

3) The CEWARN Unit may initiate cooperative arrangements with international, regional and sub-regional organisations.

4) The terms, conditions and modalities governing such arrangements shall be governed by agreements concluded between IGAD and such other organisations.

5) The terms and conditions will be decided by the Executive Secretary in consultation with the Committee of Permanent Secretaries.

Article 7
Functions of the CEWARN Unit

The functions of the CEWARN Unit shall be to:

1) Assist the Secretariat to administer IGAD’s Documentation Centre.

2) Identify users of the information processed by CEWARN, and their needs.

3) Establish networks of cooperation in early warning and response among member states.

4) Serve users by:
   a) acting as a clearing house for information;
   b) creating and managing databases on information for early warning and response;
   c) providing a shared internet communication centre for CEWERUs;
   d) developing guidelines for information users in consultation with the
Committee on Early Warning:

e) setting standards and developing common practices for information collection, reporting and documentation, and establishing common formats for reporting on conflict early warning;

f) harmonising common information policies and systems for early warning in member states.

5) Support the development of CEWERUs and provide technical assistance for their establishment.

6) Develop close cooperation among CEWERUs.

7) Establish collaborative relationships, including information sharing, with similar international, regional and sub-regional mechanisms in Africa.

8) Train CEWERU personnel and generally promote human and institutional capacity building in the area of early warning and response.

9) Recommend mechanisms for regional responses to cross-border and trans-border conflicts.

Article 8
Structures of Co-operation

1) Member states may establish inter-state structures for cooperation in addition to the national and regional structures for co-operation in early warning provided for in this Protocol.

2) Such inter-state structures of cooperation may be established through bilateral agreements, memoranda of understanding, or through any other means that the cooperating members may decide.

3) While the right of member states to establish inter-state structures of cooperation in early warning and response is preserved, such structures should complement and strengthen the integrity and sustainability of CEWARN.

4) Individual clusters of member states experiencing common security problems, such as livestock rustling, may form Sub-regional Peace Councils, or refer such problems to existing bilateral arrangements.

5) Sub-regional Peace Councils shall meet as often as their members may decide for the purposes of sharing information on specific peace and security related issues in the sub-regions.
6) The Executive Secretary shall facilitate administratively periodic reports of the sub-regional peace councils to the Committee on Early Warning.

7) Any agreement concluded by sub-regional member states shall promote the objectives, functioning and sustainability of CEWARN.

Article 9
Co-ordinating Structures

1) The regional structure of early warning shall consist of CEWARN, the Secretariat, the Committee on Early Warning, the Committee of Ambassadors, the Council of Ministers and the Assembly.

2) There shall be a Committee of Permanent Secretaries. This committee shall be composed of:
   a) Permanent Secretaries or equivalent ranks of the Ministries for Foreign Affairs
   b) The Executive Secretary, the Director of Political and Humanitarian Affairs and Coordinator of the CEWARN Unit as ex officio members

3) The Committee of Permanent Secretaries shall report directly to the Council.

4) The Committee of Permanent Secretaries shall meet at least twice a year.

5) There shall be a Technical Committee on Early Warning composed of:
   a) the Heads of CEWERU
   b) one representative from civil society or one representative from an independent research institution of each member state
   c) the coordinator of the CEWARN Unit

6) The Technical Committee on Early Warning will report to the Committee of Permanent Secretaries

7) The Technical Committee on Early Warning shall meet at least twice a year.

Article 10
Co-ordinating Functions

1) The functions of the Committee of Permanent Secretaries are to:
   a) exchange information on conflict and early warning;
   b) be a link between the Assembly, the Council, the Committee and the Secretariat;
c) harmonise coordination between CEWARN and CEWERUs;
d) report and make recommendations to the Council on the following areas:
   i) conflict in the IGAD region;
   ii) coordination between CEWARN and CEWERUs;
   iii) cooperation between governments and civil society in early warning and conflict management;
   iv) recommendations for preventive action.
e) review periodically the functioning of CEWARN;
f) approve users of information suggested by the secretariat;
g) link and coordinate the policy, administrative and technical functions.

3) The functions of the Early Warning Committee shall be to:
a) promote cooperation between CEWERUs of member states;
b) promote cooperation between CEWERUs and CEWARN Unit;
c) review periodically the Protocol on information sharing and recommend amendments whenever necessary;
d) review the reports of the following consultative mechanisms:
   i) consultations between representatives of CEWARN and CEWERUs held at least twice a year;
   ii) consultations between CEWERUs and local units which will be held quarterly or at such more frequent intervals as each member state may determine.

e) liaise between civil society and the Secretariat;

**Article 11**

**Structure of CEWERUs**

1) A CEWERU shall be established in the most suitable location as member states decide taking into account their logistical and administrative arrangements.

2) A CEWERU will consist of:
   a) an optional steering committee;
   b) a focal point;
   c) local committees.

3) The CEWERU steering committee shall include:
   a) representatives of the central government;
   b) representatives from parliament;
c) representatives of the provincial administration;
d) police;
e) military;
f) representatives of civil society, including religious organisations;
g) academic institutions;
h) research institutions;
i) such other representatives as individual governments may designate.

4) The steering committee shall report to the Committee of Permanent Secretaries.

5) CEWERUs shall be linked to IGAD through the CEWARN Unit and the Ministry of Foreign Affairs in each member state and shall serve as the focal point for communications between CEWERUs and CEWARN.

**Article 12**

**Function of CEWERUs**

1) The functions of CEWERUs shall include:
   a) collecting information relevant to early warning and response;
   b) liaising with civil society groups involved in collecting information at the grassroots and other levels;
   c) undertaking preliminary analysis of collected information;
   d) reviewing analyses received;
   e) formulating response strategies;
   f) preparing periodic conflict early warning reports;
   g) communicating information and analysis gathered to the CEWARN Unit;

**Article 13**

**Privileges and Immunities**

Member states shall accord designated experts and officials on special mission for CEWARN privileges and immunities necessary for the performance of their activities.

Such privileges and immunities shall not be lesser than those accorded to officials of the Secretariat of comparable status.
Article 14
Resources of the Mechanism

1) CEWARN, through the IGAD Secretariat, shall have the power to solicit and receive grants and donations related to the performance of its functions.

2) The resources of CEWARN shall come from:
   a) contributions from member states;
   b) grants, donations and contributions from other sources approved by the Council.

Article 15
Amendments

1) An amendment to this Protocol may be initiated by the request of a member of CEWARN by giving ninety days notice in writing to the Chairman of the Council.

2) On receipt of a proposal for amendment the Chairman of the Council shall transmit it to other member states within thirty days of its receipt.

3) Amendments to this Protocol shall take effect by consensus, or failing that, by a vote of two third majority of Member States.

Article 16
Signature, Ratification and Accession

1) This Protocol shall be signed by the duly authorised representatives of the member states;

2) This Protocol shall be subject to ratification in accordance with the Constitutional requirements and practices of member states;

3) The Protocol shall remain open for accession after its entry into force.

Article 17
Entry into Force

1) This Protocol shall enter into force thirty days after the receipt of the fourth ratification of a member state;

2) On its entry into force, this protocol shall become an integral part of the Establishing Agreement.
Article 18
Withdrawal

1) Any member state may withdraw from this Protocol by giving twelve (12) months written notice to the Chairman of the Assembly;

2) During the period of 12 months, referred to in paragraph 1 of this article a member state wishing to withdraw shall comply with provisions of this protocol and shall be bound to discharge its obligations up to the date of its withdrawal.

Article 19
Settlement of Disputes

Any dispute arising from the interpretation and implementation of this Protocol shall be settled amicably. Failing this, the dispute shall be referred to the Council.

Article 20
Supplementary Protocols

Member states may conclude such other Protocols as may be necessary to accomplish the aims and objectives of this Protocol.

Done At KHARTOUM on the 9th January, 2002, in two original texts in English and French both being equally authentic.

IN WITNESS WHEREOF, the following, duly authorized by the Member States, HEREBY sign this protocol:

H.E. Mr. Ali Abdi Farah
For
The Government of Djibouti
H.E. Mr. Arefaine Berhe
For
The Government of Eritrea

H.E. Dr. Tekeda Alemu
For
The Government of Ethiopia

H.E. Hon. Major (rtd) Marsden Madoka EGH MP
For
The Government of Kenya

H.E. Mr. Zakariya Mohamoud
For
The Government of Somalia

H.E. Dr. Karameldin Abdelhoula Salih
For
The Government of Sudan

H.E. Hon. Col Kahinda Otafir
For
The Government of Uganda
Annex
Operating Guidelines for CEWARN

Part I: Mandate

1) CEWARN is mandated to:
   a) receive and share information concerning potentially violent conflicts as well as their outbreak and escalation in the IGAD region;
   b) undertake and share analyses of that information;
   c) develop case scenarios and formulate options for response;
   d) share and communicate information, analyses and response options;
   e) carry out studies on specific types and areas of conflict in the IGAD region.

2) This mandate shall be carried out with the authority of the Executive Secretary in consultation with the Committee of Permanent Secretaries.

3) On receiving information under section 1 of this article, the Executive Secretary shall immediately bring that information to the attention of the Committee of Permanent Secretaries.

4) On receiving such information from the Executive Secretary, the Committee of Permanent Secretaries shall:
   a) review the options, and make immediate recommendations to the Council;
   b) decide what parts of this information or analysis should be made available in the public domain.

5) In performing this mandate, CEWARN may:
   a) review existing public domain information;
   b) conduct or commission in-depth studies;
   c) conduct critical evaluations;
   d) carry out risk assessments.

6) CEWARN may, under guidelines approved by the Committee of Permanent Secretaries, share the results of its activities with experts within and outside IGAD who are highly qualified to undertake critical analysis.

7) In performing this mandate and the duties specified in this article, due regard shall be given to the promotion of the principle of transparency.
Part II: Information

1) CEWARN shall rely for its operations on information that is collected from the public domain, particularly in the following areas:
   a) livestock rustling;
   b) conflicts over grazing and water points;
   c) smuggling and illegal trade;
   d) nomadic movements;
   e) refugees;
   f) landmines;
   g) banditry.

2) CEWARN shall utilise existing documentation facilities of the Secretariat.

3) National and local levels shall be the primary sources of data collection.

4) Member states shall promote the involvement of the following partners as sources of information:
   a) other governments;
   b) humanitarian agencies;
   c) non-governmental organisations;
   d) individuals;
   e) the media;
   f) the academic community;
   g) community based groups.

Part III: Verification and Analysis

1) CEWARN and its officials shall verify information within member states only through overt means.

2) Member states shall facilitate the verification and analysis of information within their territories by officials of CEWARN.

3) The request for permission to verify and analyse information shall be forwarded to the member states by the Executive Secretary.
4) Officials of CEWARN shall observe the laws and regulations of member states during the verification and analysis of information; in particular, they shall respect the confidentiality of information and its sources as required by member states.

5) CEWARN shall commission academic and research institutions to undertake analysis of information received by the CEWARN Unit.

6) The optional Steering Committee of each CEWERU shall be responsible for reviewing such reports and reporting the outcome of its review to CEWARN.

7) On receipt of the reports from the Steering Committees, CEWARN shall immediately forward them to the Committee of Permanent Secretaries.

8) The role of CEWARN in facilitating analysis of information shall be to:
   a) identify the relevant research institutions;
   b) train staff of research institutions in analysis;
   c) facilitate and coordinate the access of CEWERUs to analysis.

9) The analysis of information and data gathered by the CEWERUs will be carried out:
   a) in-house by academic research institutions which form part of the CEWERUs;
   b) by independent academic research institutions identified by CEWARN.

10) Existing analytical capacities in the IGAD region will be used to the greatest extent possible.

11) The analysis of information shall be carried out in the following intervals:
   a) at least four times a year during normal conditions;
   b) at least weekly during crisis situations.

**Part IV: Dissemination**

1) Member states shall have the right of access to the documentation facilities.

2) Information shall be shared and disseminated in such a manner, and in such places, as the member states will approve; member states should however not impose undue restrictions on the dissemination of information to authorised networks.
3) The use of networking shall be promoted as much as possible.

4) Member states may place restrictions on free access to analysis only on compelling grounds of national security.

5) The analyses carried out shall be made available to CEWARN, CEWERUs and, to the greatest extent possible, to civil society.

6) Member states may involve the following sectors in early warning and response:
   a) national and regional parliaments;
   b) academic and research institutions;
   c) religious organisations;
   d) local non-governmental organisations;
   e) the media.

7) Cooperation with these sectors will be based on their ability to contribute to the following areas:
   a) research on conflict and early warning;
   b) raising awareness;
   c) alerting the wider society;
   d) conflict management and resolution at the grassroots levels.

8) Member states, in collaboration with the Secretariat, shall promote the exchange of information through all practical means, including:
   a) electronic means;
   b) mail;
   c) conferences, seminars and workshops;
   d) regional information networking;
   e) field studies.
IGAD’s CONFLICT EARLY WARNING AND RESPONSE MECHANISIM

P.O. Box 58652,
Addis Ababa, Ethiopia
Telephone: + 251 (116) 614488/184050
Fax: + 251 (116) 614489
Email: cewarn@cewarn.org

Like us on Facebook; https://www.facebook.com/cewarn
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