

# The East African Community (EAC)

– Community effort is required to manage the risk of crime

A number of efforts have been undertaken in 2009 and are planned to continue in 2010 to bring East Africa economically closer together. In November 2009 the members of the East African Community<sup>1</sup> took a step in signing the law for the establishment of the East African Community Common Market. The law will become active in July 2010 and results in the free movement of labor, goods and services across the EAC's five member countries: Kenya, Uganda, Tanzania, Rwanda and Burundi. The economic union, which is being fostered in Eastern Africa, is a very positive development and presents great opportunities for the EAC's members and their long-term growth and development.

## EAC peace and security

According to the EAC web site, the community has underscored the importance of peace and security in order to ensure a successful process of regional integration in regarding the control of cross-border crime. For this purpose, a Council on Interstate Security has been established in order to enhance cooperation. Key areas of focus include:

- Implementation of the Protocol on Illicit Drug Trafficking
- Small Arms and Light Weapons (SALW) Management Programs
- Cooperation in Police Matters

In December 2009, the United Nations Security Council called on the international community to strengthen cooperation with the UN and regional organizations in fighting the threat to

global security by drug trafficking, particularly in Africa. The statement also mentioned the growing concern attached to the link between drug trafficking and the financing of terrorism. The council also stressed the need to allocate resources in order to assist the East African countries in combating the threats faced by crime.

## UNODC Report

In November the UN Office on Drugs & Crime (UNODC) published a report on *Organized Crime and Trafficking in Eastern Africa*<sup>2</sup>. The background to the research was based on whether there are growing crime trends which are of concern and whether they pose a significant threat to the stability and societies of Eastern Africa<sup>3</sup>. The report aims to highlight trends and identify issues, which require a regional response, but leave room for individual national approaches.

The report summarizes its results as follows: *"Eastern Africa has experienced considerable progress toward sustainable development over the last years, but at the same time, the economic crisis, ongoing extreme poverty and inequality, climate change and a continuous threat of escalating violence and conflict in the region have continued to threaten Eastern Africa's progress, and provide a fertile ground for the twin threats of organized crime and trafficking to flourish. Governments in the region have made efforts to develop and implement policies to turn the tide, but it is often the case that corruption, weak governance and rule of law have undermined those efforts."*

## Regional and political risk scenarios

Although the UNODC report highlights the considerable progress toward sustainable economic and human development in Eastern Africa, it underlines that Eastern Africa (see footnote 3) remains a conflict-prone region with the threat of new violent conflicts remaining high.

After many years of political tumult the EAC region is experiencing relative stability; however, political instability remains a risk. Eastern Africa borders three conflict zones: southern Sudan, Eastern Congo and Somalia, which given the wide spread trafficking of firearms, high influx of refugees and the general spill-over effects, increase the vulnerability of the EAC. Furthermore, conflicts taking place in the border region of Ethiopia are, according to the UNODC report, not diminishing significantly and therefore posing a long-term threat to the stability of the region.

The UNODC report claims that a persistent threat remains which could see Eastern Africa spiral into a vicious cycle of underdevelopment which is exacerbated by weak governance, weak rule of law structures and high level of inequality. It also notes that there is a significant amount of anecdotal evidence to suggest that the region is becoming an important transit location for illicit drugs and trafficked persons heading to the Middle East, Europe and elsewhere.

The risks highlighted by the UNODC are also reflected in a follow-up report published by the Security Council in November 2009.<sup>4</sup> The report states that, according to the Secretary-General's Special Envoy for

<sup>1</sup>The East African Community ("EAC") is a regional intergovernmental organisation of the Republics of Kenya, Uganda, the United Republic of Tanzania, Republic of Rwanda and Republic of Burundi, and is headquartered in Arusha, Tanzania. The EAC was initially founded by Kenya, Tanzania and Uganda in 1967. It collapsed in 1977 and was not revived again until 1999. In 2007 Burundi and Rwanda joined the East African Community.

<sup>2</sup>[http://www.unodc.org/.../easternafrika/.../Organised\\_Crime\\_and\\_Trafficking\\_in\\_Eastern\\_Africa\\_Discussion\\_Paper.pdf](http://www.unodc.org/.../easternafrika/.../Organised_Crime_and_Trafficking_in_Eastern_Africa_Discussion_Paper.pdf)

<sup>3</sup>The report subsumes 13 countries in East Africa; Kenya, Tanzania, Uganda, Burundi, Rwanda, Djibouti, Eritrea, Ethiopia, Somalia, Seychelles, Comoros, Mauritius & Madagascar.

<sup>4</sup>[http://www.securitycouncilreport.org/site/c.g1KWLeMTIsG/b.5604085/k.DF30/Update\\_Report\\_No\\_1brNorthern\\_Uganda\\_and\\_LRAAffected\\_Areasbr13\\_November\\_2009.htm](http://www.securitycouncilreport.org/site/c.g1KWLeMTIsG/b.5604085/k.DF30/Update_Report_No_1brNorthern_Uganda_and_LRAAffected_Areasbr13_November_2009.htm)



community



the Lords Resistance Army-affected areas, Joaquim Chissano, the LRA attacks on civilians have increased in eastern Congo, Central African Republic and southern Sudan. These have led to an increased number of 'internally displaced persons' and refugees.

The report of the Secretary-General on children and armed conflict in Uganda published on 15 September stated that the LRA remains active in the region, as violence against civilians including killing, maiming of children, abductions, recruitment and sexual violence continues in the DRC, CAR and in southern Sudan. The report questioned whether the Security Council should take a more decisive stance on the issue.

### AML legislation

In the lead up to establishing the common market, 2009 also saw various initiatives to meet international regulatory standards to combat crime pushed forward. In the field of anti-money laundering, Kenya saw the introduction of AML legislation, and in Uganda, a bill was presented to parliament in November and should reportedly be passed by parliament in early 2010. Kenya, Tanzania and Uganda are also members of the FATF's Eastern and Southern Africa Anti-Money Laundering Group (ESAAMLG)<sup>5</sup>, which offers technical assistance and training. Tanzania, Burundi and Rwanda passed AML legislation between 2006 and 2008.

Newly enacted legislation and legislation, which has yet to be effectively implemented to combat financial crime, continue to leave ample room for criminals to benefit from the common market.<sup>6</sup>

Therefore, until strong institutions and enforcement have been installed, crime remains a serious risk within the EAC and Eastern Africa as a whole. A number of projects are underway and supported by the international community to provide assistance in implementing legislation and in setting up relevant institutions<sup>7</sup>.

The UNODC report also addresses the problem of combating money laundering in Eastern Africa. High costs and limited resources make enforcement nearly impossible. It also notes that addressing money laundering is complicated, as it requires excellent cooperation between a range of partners, national and international, and long-term resources that need to commit to lengthy, complex investigations. At the same time however, the report notes that it is not only the costs, but also the lack of political will and public pressure, as well as systemic corruption, which impedes the development and implementation of viable anti-money laundering regimes.

Money laundering is on the rise in Eastern Africa, despite international and regional initiatives and protocols. According to the UNODC report, money laundering methods include: securities trading, tax evasion, property purchase, cash and bogus sales transactions, as well as the embezzlement of public funds and a lack of prudence in the investment of public funds.


In Tanzania, for example, the equivalent of US \$16 billion was embezzled from the Bank of Tanzania's External Payment Arrears account in 2005.

In recent years, Kenya has seen several major corruption investigations, all of them relating to the former government, which allegedly stole millions of Kenyan

Shillings. Authorities in the UK have identified several people, who possessed fake diplomatic passports from the Ugandan Department of Finance, laundering funds in the UK.

Despite the concerns voiced by these more sophisticated financial crimes, it is worth mentioning, that according to the US 2009 *International Narcotics Report*<sup>8</sup>, the formal cooperation between counter-narcotics police in Kenya, Uganda, Rwanda and Tanzania is well established. Furthermore, the cooperation resulted in significant increases in effectiveness in each nation's narcotics control efforts. In 2008, Tanzania's judiciary reportedly convicted 467 individuals for narcotic offenses involving 'hard drugs' like cocaine and heroin, and 6,033 individuals for minor offenses involving drugs like marijuana.

The UNDOC report underlined that if money laundering is allowed to continue unopposed, that large sectors of a country's economy could end up under the control of organized crime. As a result, those same criminal organizations that control a country's economy would be in a position to undermine that country's democratic systems.

The following table published in the 2009 *International Narcotics Report* outlines which international instruments and standards on money laundering have been introduced into national legislation within the EAC. 

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<sup>5</sup>See web site for further details: <http://www.esaamlg.org/>

<sup>6</sup>It is also worth noting at this stage that none of the EAC members have established Financial Intelligence Units, which are members of the Egmont Group (<http://www.egmontgroup.org/>).

<sup>7</sup>UNODC Project (2008-2009): *Measures to Combat Money Laundering and Financing of Terrorism in Three Eastern Africa States*. See following link for further details: <http://www.unodc.org/easternafrika/en/ongoing-projects/measures-to-combat-money-laundering-and-financing-of-terrorism-in-three-eastern-africa-states.html>. Regional Programme for Eastern Africa(2009-12) : *Promoting the Rule of Law and Human Security*. See following link for further details: [http://www.unodc.org/.../Eastern\\_Africa\\_Regional\\_Programme\\_Final\\_Draft.pdf](http://www.unodc.org/.../Eastern_Africa_Regional_Programme_Final_Draft.pdf)

<sup>8</sup><http://www.state.gov/p/inl/rls/nrcrpt/2009/vol1/116525.htm>

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	Burundi	Kenya	Rwanda	Tanzania	Uganda
Criminalized drug money laundering	N	Y	N	Y	Y
Criminalized beyond drugs	N	N	N	Y	N
Record large transactions	N	Y	N	Y	N
Maintain records over time	Y	Y	N	Y	N
Report suspicious transactions ("NMP")	N	P	P	M	M
Egmont financial intelligence Units	N	N	N	N	N
System for identifying assets	Y	N	N	Y	N
Arrangements for asset sharing	N	N	N	N	N
Corporates with international law enforcers	Y	Y	Y	Y	Y
International transportation of currency	Y	Y	N	Y	N
Mutual legal assistance	N	Y	N	Y	N
Non-bank financial institutions	N	N	N	Y	N
Disclosure protection "safe harbor"	N	N	N	Y	Y
Criminalized financing of terrorism	N	N	N	Y	Y
States party to 1988 UN convention	Y	Y	Y	Y	Y
Intl. Terrorism financing convention	N	Y	Y	Y	Y

Y= Yes, N=No, M=mandatory reporting, P=permissible reporting