



**COMMON MARKET FOR
EASTERN AND SOUTHERN AFRICA**

**PROTOCOL ON THE FREE MOVEMENT OF PERSONS, LABOUR, SERVICES,
RIGHT OF ESTABLISHMENT AND RESIDENCE**

THE HIGH CONTRACTING PARTIES:

HAVING REGARD to the provisions of Article 164 of the Treaty;

CONVINCED that a genuine Common Market shall be achieved only when the citizens of the Member States can move freely within the common Market; are free to take up offers of employment in any of the member States; are free to render services in any of the member States; are free to pursue activities of self-employment; set up and manage undertakings in any of the member States; in particular, companies and firms under conditions similar to those application to citizens of the country of establishment;

DETERMINED to adopt measures that shall gradually and on a step-by-step basis remove restrictions to the free movement of persons, labour, services, right of establishment and residence;

NOW THEREFORE IT IS HEREBY AGREED AS FOLLOWS:

PREAMBLE

PART I

GENERAL

Article 1

Interpretation

In this Protocol:

“Authority” means the Authority of the Common Market established by Article 7 of the Treaty;

“Citizen” means a citizen of a Member State;

“Common Market” means the Common Market for Eastern and southern Africa;

“Companies” or “Firms” means companies or firms constituted or registered under the laws of Member States regulating such companies or firms;

“Council” means the Council of the common market established by Article 7 of the Treaty;

“Employment” means business, calling, craft, art, employ, job, line, occupation, profession, pursuit, services, trade, vocation or work;

“IC” means the Intergovernmental Committee of the Common market established by Article 7 of the Treaty;

“Labour” until otherwise as amended by the council of Ministers, labour shall mean and include only skilled labour of persons with specialized skills that are not available in a Member States;

“Member State” means a Member State of the Common market;

“Protocol” means the protocol on the Free movement of People, Labour, Services, Right or Establishment and Residence;

“Right of Residence” means the right of residence for citizens of Member States provided for in Article 12 of this Protocol;

“Services” includes any services provided for remuneration, in so far as they are governed by the provisions relating to freedom of movement of goods, capital and persons;

“Staff Member” means a person employed by the common Market including a person employed under a project the Common Market Staff Rules and Regulations;

“Treaty” means the Treaty Establishing the common Market for Eastern and southern Africa;

“Valid travel document” means a passport or any other valid travel document establishing the identity of the holder issued by or on behalf of the member State of which a person is a citizen and shall include a Laissez Passer issued by the Common Market for a staff member including a certificate issued to a Common market expert on mission establishing the identity of the holder.

Article 2

Scope of Co-operation

1. Member States agree that the Common market shall establish mechanisms which their citizens can move freely, are free to take up offer of employment in any member State under similar conditions as national workers, pursue activities as self-employed persons in any Member State, manage undertakings, in particular, companies and firms on similar conditions as nationals or provide services encompassing the self-employed activities for which only a temporary stay in another member State is necessary, or free to reside in any Member State.
2. In this regard, member States agree to gradually and, in accordance with the provisions of this protocol, remove all restrictions to the free movement of persons, and services and right of establishment and residence.

PART II

FREE MOVEMENT OF PERSONS

Article 3

Relaxation of Visa Requirement

1. Member States agree that, as a first step towards the gradual relaxation and eventual elimination of visa requirements within the Common Market, citizens of the Member States holding valid travel documents shall, upon entry into force of this protocol, not be required to obtain visas before travelling to the territory of other Member States and may be granted visas to enter such territory upon the presentation of valid travel documents at official entry points of such member States.

2. Two or more member States may agree to grant each other's citizens one-year multiple entry visas.

Article 4

Entry without Visa Requirement for up to Ninety Days

1. Member States agree that, within two years from the entry into force of this Protocol, citizens of a Member State holding valid travel documents shall be free to enter into the territory of another Member State through an official entry point without the requirement of visa for up to ninety days as a time:

Provided that the Council may upon recommendation from the IC, reduce the period of two years.

2. The extension of the period of stay provided for in paragraph 1 of this Article shall be subject to permission obtained from the appropriate authorities.
3. Citizens of a member State in the territory of another member State shall comply with the laws and regulations of such a Member State provided that no such laws and regulations shall discriminate against citizens of a Member State in the territory of another member State on the grounds of nationality, gender or religion no infringe the rights provided for in this Protocol.
4. Each Member State shall ensure that its citizens who travel to the territory of another member State possess valid travel documents.
5. In order to facilitate the movement of persons, private vehicles registered in the territory of a member State may enter the territory of another member State and remain there for up to ninety days upon presentation of valid driving licences, ownership cards or logbooks and insurance policies.
6. Extension of the period prescribed in paragraph 5 of this Article shall be subject to permission granted by the appropriate authorities.

Article 5

Elimination of Visa Requirement

Member States agree, within six years from the entry into force of this Protocol and on the basis of experience gained and progress made in the implementation of Articles 3 and 4 of this protocol, to remove all restrictions to the movement of their citizens within the common Market:

Provided that the Council may reduce the period of six years.

Article 6

Refusal on Entry and Expulsion

1. Each Member State reserves the right of refusal of permission to enter or remain in its territory to any citizen or citizens of another Member State where it considers the entry or presence of such citizen or citizens to be detrimental to its national security or public health. For the purposes of this paragraph the entry of a person is detrimental to public health if the person carried a disease that is categorised as contagious in the States concerned and for which the laws of that State require that such person to be quarantined.
2. A Member State expelling a citizen or citizens of another Member State in pursuance of the provisions of paragraph 1 of this Article shall take measures to safeguard the property and interests of such citizen or citizens.
3. A citizen or citizens of a Member State expelled from the territory of another member State under the provisions of this Article shall be entitled to his/her of their property assets and other interests and shall, where such property assets and other interests are confiscated by the appropriate authorities, be entitled to prompt, effective and adequate compensation in accordance with international law.

Article 7

Temporary Suspension

1. A Member State may, on the grounds of public security or influx of persons as refugees arising from disturbances in the territory of another member State suspend, temporarily, the provisions of Articles 3 and 4 of this Protocol and such suspension shall be immediately notified of the Secretary General who shall forthwith inform the other member States.
2. Temporary suspension under the provisions of paragraph 1 of this Article shall remain in force for the temporary period considered necessary by the member State but shall, in the case of suspension on grounds of public security, not exceed one year unless extended by council provided that the Member State concerned shall furnish to council proof that the grounds on which the temporary suspension was made still exist.

3. Member States undertake to cooperate among themselves and with relevant non-governmental and intergovernmental organisations on assistance and management of refugees in their territories.

Article 8

Cooperation in the prevention and the fight against Crime

1. Member States agree to co-operate among themselves in the prevention and fight against crime and to prevent criminals from abusing the freedom to move freely within the Common Market by taking refuge in any Member State.
2. The Council shall adopt guidelines for the exchange of information on suspected criminals and for extradition arrangements among the Member States in line with international practice.

PART III

FREE MOVEMENT OF LABOUR

Article 9

Free Movement of Labour

1. The Member States agrees to progressively remove, within six years, all restrictions to the movement of labour within the Common Market which shall entail the abolition of any discrimination based on the nationality between workers of the Member States as regards employment, remuneration and other conditions of work employment.
2. The freedom of movement of labour shall entail the right to, subject to limitations justified on grounds of public policy, public security of public health:
 - a) Accept offers of employment made;
 - b) Move freely within the territories of Member States for this purpose; and
 - c) Stay in the territories of Member State for the purpose of such employment in accordance with the provisions governing the employment of nations of such Member States laid down by law, regulations or administrative action.
3. The provisions of the Article shall not apply to employment in the public service.

4. The Council shall, one year after entry into force of this Protocol, adopt such measures to be implemented progressively and in stages in the field of social security, labour laws including laws on collective bargaining and pension and other working conditions as are necessary to provide for the freedom of movement of labour.

PART IV

FREE MOVEMENT OF SERVICES

Article 10

Free Movement of Services

1. Member States agree, in accordance with a programme to be adopted by the Council, to remove restrictions on the freedom to provide services within the Common Market by the year 2004.
2. The programme shall set out the general conditions under which and the stages by which each type of service is to be liberalised. As regards the programme, the conditions and stages referred to in this paragraph, priority shall be given to those services which directly affect production costs or the liberalisation of which promotes trade in goods.
3. Without prejudice to the provisions of this Protocol, the person providing services may, in order to do so, temporarily pursue his/her activity in the member State where the service is provided under the same conditions are imposed by that Member States on its own citizens.
4. Save as otherwise provided in the Treaty, member States shall not, from the date of the entry into force of this Protocol, introduce any new restrictions on the freedom to provide services.

PART V

RIGHT OF ESTABLISHMENT

Article 11

Gradual Removal of Restrictions

1. Member States agree to abolish, by progressive stages, within a period to be determined by council and in accordance with a programme to be adopted by Council,

all restrictions on the freedom of establishment of citizens of a member State in the territories of other Member States.

2. The Council shall, within two years after the adoption of this protocol, draw up a general programme for the abolition of existing restrictions on freedom of establishment within the Common Market. The programme shall set out the general conditions under which the right of establishment is to be attained in the case of each type of activity and, in particular, the stages by which it is to be attained.
3. The council shall issue directives for the implementation of the general programme referred to in paragraph 2 of this Article and, in particular:

1.

2. This Protocol shall enter into force on the date it shall be signed and ratified by at least seven Member States.
3. For each Member States ratifying or acceding t this Protocol after the deposit of the seventh Instrument of Ratification or Accession, the Protocol shall enter into force on the date of deposit by that Member State of its instrument of Ratification or Accession.

ADOPTED at Cairo in the Arab Republic of Egypt on the 23rd May in the year Two thousand and One in the English and French languages, the two texts being equally authentic.

IN FAITH WHEREOF the Undersigned have placed their signatures at the end of the Treaty.

The President of the Republic of Angola

The President of the Republic of Burundi

The President of the Union des Comores

The President of the Democratic Republic of Congo

The president of the Republic of Djibouti

The President of the Arab Republic of Egypt

The President of the State of Eritrea

The Prime Minister of the Federal Democratic Republic of Ethiopia

The President of the Republic of Kenya

The President of the Republic of Madagascar

The President of the Republic of Malawi

The Prime Minister of the Republic of Mauritius

The President of the Republic of Rwanda

The President of the Republic of Seychelles

The President of the Republic of Sudan

His Majesty the King of the Kingdom of Swaziland

The President of the Republic of Uganda

The President of the Republic of Zambia

The President of the Republic of Zimbabwe