

ACTING TOGETHER FOR KENYA

AGREEMENT ON THE PRINCIPLES OF PARTNERSHIP OF THE COALITION GOVERNMENT

Preamble:

The crisis triggered by the 2007 disputed presidential elections has brought to the surface deep-seated and long-standing divisions within Kenyan society. If left unaddressed, these divisions threaten the very existence of Kenya as a unified country. The Kenyan people are now looking to their leaders to ensure that their country will not be lost.

Given the current situation, neither side can realistically govern the country without the other. There must be real power-sharing to move the country forward and begin the healing and reconciliation process.

With this agreement, we are stepping forwarding together, as political leaders, to overcome the current crisis and to set the country on a new path. As partners in a coalition government, we commit ourselves to work together in good faith as true partners, through constant consultation and willingness to compromise.

This agreement is designed to create an environment conducive to such a partnership and to build mutual trust and confidence. It is not about creating positions that reward individuals. It seeks to enable Kenya's political leaders to look beyond partisan considerations with a view to promoting the greater interests of the nation as a whole. It provides the means to implement a coherent and far-reaching reform agenda, to address the fundamental root causes of recurrent conflict, and to create a better, more secure, more prosperous Kenya for all.

To resolve the political crisis, and in the spirit of coalition and partnership, we have agreed to enact the National Accord and Reconciliation Act 2008, whose provisions have been agreed upon in their entirety by the parties hereto and a draft copy thereof is appended hereto.

Its key points are:

- There will be a Prime Minister of the Government of Kenya, with authority to coordinate and supervise the execution of the functions and affairs of the Government of Kenya.
- The Prime Minister will be an elected member of the National Assembly and the parliamentary leader of the largest party in the National Assembly, or of a coalition, if the largest party does not command a majority.
- Each member of the coalition shall nominate one person from the National Assembly to be appointed a Deputy Prime Minister.
- The Cabinet will consist of the President, the Vice-President, the Prime Minister, the two Deputy Prime Ministers and the other Ministers. The removal of any Minister of the coalition will be subject to consultation and concurrence in writing by the leaders.

- The Prime Minister and Deputy Prime Ministers can only be removed if the National Assembly passes a motion of no confidence with a majority vote.
- The composition of the coalition government will at all times take into account the principle of portfolio balance and will reflect their relative parliamentary strength.
- The coalition will be dissolved if the Tenth Parliament is dissolved; or if the parties agree in writing; or if one coalition partner withdraws from the coalition.
- The National Accord and Reconciliation Act shall be entrenched in the Constitution.

Having agreed on the critical issues above, we will now take this process to Parliament. It will be convened at the earliest moment to enact these agreements. This will be in the form of an Act of Parliament and the necessary amendment to the Constitution.

We believe by these steps we can together in the spirit of partnership bring peace and prosperity back to the people of Kenya who so richly deserve it.

Agreed this date 28 February 2008

*Hon. Raila Odinga
Orange Democratic Movement*

*H.E. President Mwai Kibaki
Government/Party of National Unity*

Witnessed By:

*H.E. Kofi A. Annan
Chairman of the Panel
of Eminent African Personalities*

*H.E. President Jakaya Kikwete
President of the United Republic of
Tanzania
and Chairman of the African Union*

The National Accord and Reconciliation Act 2008

Preamble:

There is a crisis in this country. The Parties have come together in recognition of this crisis, and agree that a political solution is required.

Given the disputed elections and the divisions in the Parliament and the country, neither side is able to govern without the other. There needs to be real power sharing to move the country forward.

A coalition must be a partnership with commitment on both sides to govern together and push through a reform agenda for the benefit of all Kenyans.

Description of the Act:

An Act of Parliament to provide for the settlement of the disputes arising from the presidential elections of 2007, formation of a Coalition Government and Establishment of the Offices of Prime Minister, Deputy Prime Ministers and Ministers of the Government of Kenya, their functions and various matters connected with and incidental to the foregoing.

1. This Act may be cited as the National Accord and Reconciliation Act 2008.
2. This Act shall come into force upon its publication in the Kenya Gazette which shall not be later than 14 days from the date of Assent.
3. (1) There shall be a Prime Minister of the Government of Kenya and two Deputy Prime Ministers who shall be appointed by the President in accordance with this section.

(2) The person to be appointed as Prime Minister shall be an elected member of the National Assembly who is the parliamentary leader of -
 - (a) the political party that has the largest number of members in the National Assembly; or
 - (b) a coalition of political parties in the event that the leader of the political party that has the largest number of members of the National Assembly does not command the majority in the National Assembly.
(3) Each member of the coalition shall nominate one person from the elected members of the National Assembly to be appointed a Deputy Prime Minister.
- 4.(1) The Prime Minister:
 - a) shall have authority to coordinate and supervise the execution of the functions and affairs of the Government of Kenya including those of Ministries;
 - b) may assign any of the coordination responsibilities of his office to the Deputy Prime Ministers, as well as one of them to deputise for him;
 - c) shall perform such other duties as may be assigned to him by the President or under any written law.
(2) In the formation of the coalition government, the persons to be appointed as Ministers and Assistant Ministers from the political parties that are partners in the coalition other than the

President's party, shall be nominated by the parliamentary leader of the party in the coalition. Thereafter there shall be full consultation with the President on the appointment of all Ministers.

(3) The composition of the coalition government shall at all times reflect the relative parliamentary strengths of the respective parties and shall at all times take into account the principle of portfolio balance.

(4) The office of the Prime Minister and Deputy Prime Minister shall become vacant only if -

- (a) the holder of the office dies, resigns or ceases to be a member of the National Assembly otherwise than by reason of the dissolution of Parliament; or
- (b) the National Assembly passes a resolution which is supported by a majority of all the members of the National Assembly excluding the *ex-officio* members and of which not less than seven days notice has been given declaring that the National Assembly has no confidence in the Prime Minister or Deputy Prime Minister, as the case may be; or
- (c) the coalition is dissolved.

(5) The removal of any Minister nominated by a parliamentary party of the coalition shall be made only after prior consultation and concurrence in writing with the leader of that party.

5. The Cabinet shall consist of the President, the Vice-President, the Prime Minister, the two Deputy Prime Ministers and the other Ministers.

6. The coalition shall stand dissolved if:

- (a) the Tenth Parliament is dissolved; or
- (b) the coalition parties agree in writing; or
- (c) one coalition partner withdraws from the coalition by a resolution of the highest decision-making organ of that party in writing.

7. The prime minister and deputy prime ministers shall be entitled to such salaries, allowances, benefits, privileges and emoluments as may be approved by Parliament from time to time.

8. This Act shall cease to apply upon dissolution of the tenth Parliament, if the coalition is dissolved, or a new constitution is enacted, whichever is earlier.