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Wangari

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REPUBLIC OF KENYA



THE NATIONAL ASSEMBLY

THIRTEENTH PARLIAMENT – FIFTH SESSION – 2026

DEPARTMENTAL COMMITTEE ON DEFENCE,
INTELLIGENCE AND FOREIGN RELATIONS

REPORT ON THE CONSIDERATION OF THE CONVENTION ON THE ESTABLISHMENT
OF THE INTERNATIONAL ORGANIZATION FOR MEDIATION (IOMed).



CLERK'S CHAMBERS
DIRECTORATE OF DEPARTMENTAL COMMITTEES
PARLIAMENT BUILDINGS
NAIROBI

AUGUST, 2026

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 27 AUG 2026	
DAY: Thursday	
TABLED BY:	Hon. Bashir Abdullahi, MP (Vice Chairperson)
CLERK-AT-THE-TABLE:	hemale

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LIST OF ABBREVIATIONS AND ACRONYMS

ADR	-	Alternative Dispute Resolution
ANC	-	Amani National Congress
AU	-	African Union
EAC	-	East African Community
ICJ	-	International Court of Justice
ICSID	-	International Centre for Settlement of Investment Disputes
IOMed	-	International Organization for Mediation
CAJ	-	Commission on Administrative Justice (Office of the Ombudsman)
MDAs	-	Ministries, Departments and Agencies
MFDA	-	Ministry of Foreign and Diaspora Affairs
MUPLA	-	Muslim Professionals League Africa
ICMC	-	Institute of Chartered Mediators and Conciliators
NCIA	-	Nairobi Centre for International Arbitration
ODM	-	Orange Democratic Movement
PCA	-	Permanent Court of Arbitration
UDA	-	United Democratic Alliance
UDM	-	United Democratic Movement
UN	-	United Nations
UNCITRAL	-	United Nations Commission on International Trade Law
USD	-	United States Dollar
WDM-K	-	Wiper Democratic Movement-Kenya

LIST OF ANNEXURES

Annexure 1: Signed list of Members who attended the sitting which considered and adopted the Report

Annexure 2: Minutes of the sittings of the Committee on consideration of the Convention

Annexure 3: Copy of newspaper advertisement on public participation and submission of memoranda

Annexure 4: Copy of the Convention on the Establishment of the International Organization for Mediation

Annexure 5: Copy of the Memorandum on the Convention submitted by the Cabinet Secretary for Foreign and Diaspora Affairs

Annexure 6: Copies of memoranda received from stakeholders

CHAIRPERSON'S FOREWORD

This report details the consideration by the Departmental Committee on Defence, Intelligence and Foreign Relations of the Convention on the Establishment of the International Organization for Mediation (IOMed).

The Convention establishes the International Organization for Mediation as the first intergovernmental legal organization dedicated exclusively to the settlement of international disputes through mediation. It gives institutional form to the obligation in Article 33 of the Charter of the United Nations, under which parties to a dispute are called upon to seek a solution first of all by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement or other peaceful means of their own choice.

The Organization offers mediation services in three categories of international disputes, namely disputes between States, commercial or investment disputes between a State and a national of another State, and disputes arising out of international commercial relationships between private parties. In each case, mediation is available only where the parties consent to it, and that consent may ordinarily be withdrawn.

The Convention offers Kenya an opportunity to strengthen its standing as a centre for the peaceful settlement of disputes, to deepen its role in international diplomacy and preventive mediation on the continent, and to give Kenyan businesses and investors access to a faster and less costly alternative to litigation and arbitration in cross-border disputes.

Pursuant to Article 118(1)(b) of the Constitution and section 8(3) of the Treaty Making and Ratification Act, Cap 4D, the Committee placed advertisements in two local dailies calling for the submission of memoranda on the subject matter. The Committee received memoranda from the Ministry of Foreign and Diaspora Affairs, the Kenya Law Reform Commission, the Office of the Attorney General, the Commission on Administrative Justice (Office of the Ombudsman), the Institute of Chartered Mediators and Conciliators (ICMC), the Muslim Professionals League Africa (MUPLA) and other individual submissions, which are summarised in Part III of this report. All submissions supported ratification in principle, subject to safeguards and implementation arrangements which the Committee has reflected in its observations and recommendation.

In considering the Convention, the Committee held stakeholder consultation sittings on 14th August, 2026 in which it received submissions from various stakeholders who had responded to the call for public participation. The final sitting was to consider and adopt this report.

Having reviewed the Convention and considered the submissions made, the Committee recommends that pursuant to Section 8 of the Treaty Making and Ratification Act, Cap 4D, the House **APPROVES** the ratification of the Convention on the Establishment of the International Organization for Mediation, and makes further incidental recommendations to the House.

Pursuant to Standing Orders 199(6) and 170A (4), it is my pleasant duty to present to the House the Report of the Departmental Committee on Defence, Intelligence and Foreign Relations on its consideration of the Convention on the Establishment of the International Organization for Mediation.



Hon. Nelson Koech, CBS, M.P.

Chairperson, Departmental Committee on Defence, Intelligence and Foreign Relations

PART I

1.0 PREFACE

1.1 Introduction

1. This report details the consideration by the Departmental Committee on Defence, Intelligence and Foreign Relations of the Convention on the Establishment of the International Organization for Mediation (IOMed).
2. Kenya has consistently supported the peaceful settlement of international disputes and has, over the years, played an active role in mediation and preventive diplomacy in the Horn of Africa and the wider region. Participation in the IOMed builds on that record and on the domestic framework for alternative dispute resolution recognised under Article 159(2)(c) of the Constitution.

1.2 Mandate of the Committee

3. The Committee is established under the National Assembly Standing Order No. 216. The functions and mandate of the Committee include, among others, *"to examine treaties, agreements and conventions"*.
4. The Committee's subject matters are stated in the Second Schedule of the National Assembly Standing Orders and are as follows: Defence, intelligence, foreign relations, diplomatic and consular services, international boundaries including territorial waters, international relations, and veteran affairs.

1.3 Oversight

5. In executing its mandate, the Committee oversees the following MDAs: the Ministry of Defence, the Ministry of Foreign and Diaspora Affairs, the State Department for East African Community (EAC) Affairs, and the National Intelligence Service (NIS).

1.4 Committee Membership

6. The Committee was initially constituted by the House on **27th October 2022** and further reconstituted on **6th March 2025** comprising the following Members:

Chairperson

Hon. Koech Nelson, CBS, M.P.

Belgut Constituency

UDA Party

Vice-Chairperson

Hon. Maj. (Rtd.) Sheikh Abdullahi Bashir, CBS, M.P.

Mandera North Constituency

UDM Party

Members

Hon. Wanjira Martha Wangari, CBS, M.P.
Gilgil Constituency
UDA Party

Hon. Yusuf Hassan Abdi, CBS, M.P.
Kamukunji Constituency
Jubilee Party

Hon. Odhiambo Millie G. Akoth, CBS, M.P.
Suba North Constituency
ODM Party

Hon. Kanchory Elijah Memusi, M.P.
Kajiado Central Constituency
ODM Party

Hon. (Dr.) Kasalu Irene Muthoni, M.P.
Kitui County
WDM-K

Hon. Kirima Moses Nguchine, M.P.
Imenti Central Constituency
UDA Party

Hon. Luyai Caleb Amisi, M.P.
Saboti Constituency
ODM Party

Hon. Chepyegon Joshua Kandie, M.P.
Baringo Central Constituency
UDA Party

Hon. Kwenya Thuku Zachary, M.P.
Kinangop Constituency
Jubilee Party

Hon. Logova Sloya Clement, M.P.
Sabatia Constituency
UDA Party

Hon. Ikana Fredrick Lusuli, M.P.
Shinyalu Constituency
ANC Party

Hon. Mohamed A. Hussein, M.P.
Lagdera Constituency
ODM Party

Hon. Anne Wanjiku Muratha, M.P.
Kiambu County
UDA Party

1.5 Committee Secretariat

4. The Committee Secretariat comprises the following technical staff:

Mr. Muyodi Emmanuel
Clerk Assistant I/Head of Secretariat

Mr. Bernard Njeru
Clerk Assistant III

Mr. Lenny Muchangi
Legal Counsel I

Ms. Fridah Ngari
Media Relations Officer III

Mr. Edwin Machuki
Fiscal Analyst II

Mr. Salat Ali
Principal Serjeant-at-Arms II

Mr. Mark Mbuthia
Audio Recording Officer

Mr. Martin Sigei
Research Officer III

Mr. Alex Namwada
Hansard Officer II

Ms. Mary Kamande
Public Communications Officer III

PART II

2.0 BACKGROUND

2.1 The International Organization for Mediation (IOMed)

1. Mediation is a voluntary process in which a neutral third party assists disputing parties to reach a settlement of their own making. Unlike litigation and arbitration, mediation does not impose a determination on the parties; the outcome is one which the parties themselves have agreed to.
2. Although mediation has long been recognised in international law, and is expressly named in Article 33 of the Charter of the United Nations as a means of peaceful settlement, it has historically lacked a dedicated permanent institution of the kind that arbitration and adjudication enjoy through bodies such as the International Court of Justice, the Permanent Court of Arbitration and the International Centre for Settlement of Investment Disputes.
3. The Convention on the Establishment of the International Organization for Mediation was concluded to fill that institutional gap. Negotiations on the Convention commenced in 2023 and were concluded in October, 2024. The Convention was signed on 30th May, 2025 in Hong Kong, People's Republic of China, at a ceremony attended by representatives of a large number of States and international organizations, including the United Nations.
4. The Convention entered into force on 29th August, 2025, in accordance with its terms, on the thirtieth day following the deposit of the third instrument of ratification, acceptance, approval or accession. The Organization was inaugurated on 20th October, 2025 and its Governing Council authorised the commencement of operations with effect from the same date.
5. The headquarters of the Organization are situated in the Hong Kong Special Administrative Region of the People's Republic of China, and the Organization may establish regional offices elsewhere. The People's Republic of China acts as the depositary of the Convention.
6. The Organization is open to membership by all States and by regional integration organizations. The number of signatory States has continued to grow since the signing ceremony, with a substantial proportion drawn from the global south regions of Africa, Asia, Latin America and the Caribbean.

2.2 International Practice - Mediation as a Means of Dispute Settlement

7. State practice on the peaceful settlement of disputes has developed along two broad lines. The first is adjudicatory, comprising judicial settlement and arbitration, in which a binding determination is made by a court or tribunal. The second is non-adjudicatory or consensual, comprising negotiation, good offices, mediation and conciliation, in which the parties retain control over the outcome.
8. The adjudicatory route is well served institutionally. The non-adjudicatory route, by contrast, has depended largely on ad hoc arrangements, the good offices of individual States or regional bodies, and the standing mechanisms of organisations such as the African Union and the East African Community.
9. In the commercial sphere, the United Nations Convention on International Settlement Agreements Resulting from Mediation, commonly known as the Singapore Convention on Mediation, was adopted in 2018 and entered into force on 12th September, 2020. That instrument provides a framework for the recognition and enforcement of mediated settlement agreements, but it does not establish an institution to administer mediation proceedings. Kenya is, however, not a party to the Singapore Convention.
10. The IOMed Convention is therefore complementary in character. Whereas the Singapore Convention addresses the enforcement of settlements arising from mediation, the IOMed Convention addresses the institutional and procedural framework within which mediation is conducted. The two instruments are capable of operating alongside each other.

11. Domestically, Kenya has developed a supportive framework for alternative dispute resolution. Article 159(2)(c) of the Constitution requires the courts and tribunals to promote alternative forms of dispute resolution, including reconciliation, mediation, arbitration and traditional dispute resolution mechanisms. The Nairobi Centre for International Arbitration was established to promote arbitration and mediation as means of settling commercial disputes, and court-annexed mediation is now an established feature of the Judiciary's practice.

2.3 Background to Kenya's Participation in the IOMed

12. Kenya signed the Convention on the Establishment of the International Organization for Mediation on 30th May, 2025 in Hong Kong. Kenya is among the states that have signed the Convention since it was opened for signature.
13. The Prime Cabinet Secretary and Cabinet Secretary for Foreign and Diaspora Affairs, Hon. Musalia Mudavadi, submitted a copy of the Convention together with a Memorandum dated 28th April, 2026 to the National Assembly. The purpose of the Memorandum was to apprise the National Assembly of the Convention and to seek approval for its ratification in accordance with the Treaty Making and Ratification Act.
14. The Memorandum states that the Organization is founded on the recognition of mediation as an effective, non-adversarial and practical mechanism for the resolution of disputes in the international arena, and that the Organization would be a useful complement to existing international dispute settlement mechanisms by filling a critical gap in the settlement of international disputes through mediation.
15. The rationale advanced for ratification is that participation in the Organization would strengthen Kenya's commitment to the peaceful settlement of disputes, enhance the country's role in international diplomacy, and align Kenya with emerging global frameworks that encourage mediation as a cost-effective and cooperative alternative to litigation and arbitration.
16. Upon ratification, Kenya would be bound by the provisions of the Convention as a matter of international law, and would not be entitled to invoke the provisions of its domestic law as justification for a failure to perform obligations arising under the Convention.

2.4 Outline of the Convention

17. The salient provisions of the Convention are outlined below:
18. The **Preamble** records the commitment of the Parties to the purposes and principles of the Charter of the United Nations and to the settlement of international disputes by peaceful means, and recognises mediation as a flexible, cost-effective and efficient means of dispute settlement;
19. **Article 1** establishes the International Organization for Mediation.
20. **Article 2** provides for definitions including the definition of mediation as a process, whether referred to by the term mediation, conciliation or other similar expressions, whereby the parties attempt to reach a mutually acceptable and amicable settlement of their dispute on a voluntary basis with the assistance of a third person or persons (the mediator) who may facilitate a solution between the parties to the dispute and lack the power to impose it upon the parties.
21. **Article 3** provides that the purposes and objectives of the organizations is to promote and facilitate peaceful settlement of international disputes and to develop friendly relations and cooperation among States through mediation.
22. **Article 4** obliges the Organization and its contracting states to act in accordance with the principles on respect for sovereignty and territorial integrity, party autonomy and free choice of means in dispute settlement, good faith and spirit of cooperation, and impartiality.
23. **Article 5** mandates the organization to—

- a) provide mediation services for the resolution of international disputes;
 - b) promote the use of mediation in dispute resolution, to develop the culture of mediation, and to explore and promote best practices of mediation;
 - c) to organize international, regional, national and local forums and conferences on mediation, building a platform for communication and information sharing;
 - d) to promote cooperation for capacity building in the area of mediation, recognizing and giving priority to the needs of developing countries; and
 - e) cooperate and communicate with other international organizations and dispute resolution agencies.
24. **Article 6** grants the Organization legal personality and full legal capacity.
25. **Article 7** provides that the Organization is open and inclusive for membership for all States and regional international organizations.
26. **Article 8** provides that Hong Kong Special Administrative Region of the People's Republic of China is the headquarters of the Organization.
27. **Article 9** provides for the structure of the Organization to include, a Governing Council, Secretariat and Panel of Mediators.
28. **Articles 10-14** establish the Governing Council which is the decision-making body which shall make policy decisions and set the overall strategy of the Organization.
29. The Governing Council is composed of one representative of each Contracting State and shall, at each of its annual meetings, elect a chairperson and one or more vice chairpersons.
30. The Governing Council is mandated to—
- a) adopt its own rules of procedure;
 - b) adopt the administrative and financial regulations of the Organization;
 - c) adopt the selection and appointment procedure of the Secretary-General and Deputy Secretaries-General;
 - d) adopt the annual budget of revenues and expenditures of the Organization;
 - e) adopt the rules of procedure for the institution of mediation proceedings;
 - f) adopt the rules of procedure for mediation proceedings;
 - g) adopt the code of conduct for mediators;
 - h) review and approve the annual report on the operation of the Organization;
 - i) appoint the Secretaries-General; Secretary-General and Deputy
 - j) determine the conditions of service of the Secretary-General and Deputy Secretaries-General; and
 - k) establish subsidiary institutions or advisory bodies of the Organization.
31. **Articles 15-18** establish the Secretariat which consists of the Secretary-General, one or more Deputy Secretaries-General and such other officials and staff as may be considered necessary. The Secretariat is primarily responsible for implementing the decisions of the Governing Council.
32. The Secretary-General shall be appointed by the Governing Council, from among the nationals of the Contracting States. The Secretary General is appointed for a term of five years and shall perform the function of Registrar and shall have the power to authenticate mediation reports made or settlement agreements concluded pursuant to this Convention.
33. **Articles 19-23** provide for two Panels of Mediators, maintained by the Organization, one for mediating disputes between states and the other disputes.

34. Contracting State may designate up to five persons from among its nationals to the Panel of State-to-State Mediators, and designate up to twenty persons from among its nationals to the General Panel of Mediators.
35. Persons designated to the Panels of Mediators shall be persons of high moral character and recognized competence in specialized fields such as law, commerce, industry or finance, who may be relied upon to conduct mediation. In addition, persons designated to the Panel of State-to-State Mediators shall also be persons of known competency in questions of international law, diplomacy, international relations or international political and economic affairs and with extensive political skill and judgment.
36. The Governing Council may designate up to ten persons to the Panel of State-to-State Mediators and up to twenty persons to the General Panel of Mediators. Designation to a panel is for renewable period of five years.
37. **Articles 24-29** provide for the scope of cases, where the Organization may provide mediation services to include (subject to mutual consent by parties)—
 - a) disputes between States;
 - b) disputes between a State and a national of another State; and
 - c) international commercial disputes between private parties.
38. The Organization shall not provide mediation services to a State with respect to disputes such as disputes concerning territorial sovereignty, maritime delimitation, maritime interests or other issues as deemed by that State unsuitable to resort to mediation.
39. In case of a dispute submitted by States involving a third State, the Organization shall not provide mediation services with respect to such dispute unless prior consent is given by the third State concerned.
40. Any State may, at the time of ratification, acceptance, approval of or accession to this Convention or at any time thereafter, notify the depositary of the type or types of disputes which it would not consider submitting to the Organization. The depositary shall forthwith transmit such notification to all Contracting States.
41. **Articles 30-38** provide for the mediation procedure which begins with parties to a dispute submitting a request to the Secretary-General in accordance with the rules of procedure for the institution of mediation proceedings and the Secretary General registering the request, unless it is outside the scope.
42. All information relating to the mediation proceedings conducted under the Convention, and all documents generated in or obtained during the mediation proceedings, shall be confidential, unless the parties agree otherwise, the information or document is already publicly available, or disclosure of information is required by law.
43. The mediation shall be terminated—
 - a) by the conclusion of a settlement agreement by the parties covering any or all of the issues in dispute between the parties;
 - b) by a written declaration of a party at any time; or
 - c) by any other method or under some circumstances agreed by the parties or specified in applicable rules.
44. The charges payable by the parties for the use of the mediation services and facilities of the Organization shall be determined by the Secretary-General in accordance with the rules and regulations adopted by the Governing Council. The fees and expenses of mediators as well as the charges for the use of the mediation services and facilities of the Organization shall be borne equally by the parties unless otherwise agreed. Each party shall bear any other expenses it incurs in connection with the proceedings.

45. **Articles 39-41** provides for rules for the settlement agreements which include signing of a settlement agreement in writing by the parties upon reaching an agreement resulting from mediation, and authenticated by the Secretary General.
46. A settlement agreement concluded by the parties to resolve an international commercial dispute may be enforced by a Contracting State in accordance with its applicable law.
47. Further, a Protocol to this Convention should be negotiated by the Contracting States to specify the conditions under which a Contracting State shall enforce the said settlement agreements in paragraph 1.
48. **Articles 42-44** obligate the Organization to undertake capacity building activities with governments, international organizations and other entities; and include the establishment of a capacity building committee and a mediation fund composed of donations received by the Governing Council.
49. **Articles 45-47** expound on financial provisions and provide that the basic financial resources of the Organization shall include annual contributions from Contracting States and the income of the Organization.
50. **Articles 48-54** provide for privileges and immunities for the Organization, representatives of Contracting States, officials of the Organization and mediators/participants in mediation proceedings.
51. **Article 55** provides that any difference concerning the interpretation or application of this Convention which is not resolved by negotiation shall, at the request of the Contracting State concerned, be referred to the Governing Council for recommendation.
52. **Article 59** provides that this Convention is open for signature by all States and regional integration organizations in the Hong Kong Special Administrative Region of the People's Republic of China from 1 January 2025 to 31 December 2025. Thereafter, it shall remain open for signature in Beijing at the Ministry of Foreign Affairs of the People's Republic of China until three years after the entry into force of this Convention.

2.5 Policy Aspects and Implications

53. The Convention is consistent with the Constitution and promotes constitutional values and objectives, in particular the promotion of alternative forms of dispute resolution under Article 159(2)(c) of the Constitution.
54. The Convention does not require an amendment of the Constitution. Its implementation may, however, require a review of the existing policy and legislative framework on alternative dispute resolution, and consideration of the terms of the protocol on the enforcement of settlement agreements once negotiated.
55. The obligations arising under the Convention fall within the functions of the National Government under the Fourth Schedule to the Constitution, in particular foreign affairs and foreign policy.
56. The financial requirements for the implementation of the Convention, including any assessed contributions to the Organization, will be provided for under the normal budgetary estimates of the relevant institutions.
57. The implementation of the Convention will be under the responsibility of the Ministry of Foreign and Diaspora Affairs, working with the Office of the Attorney-General and Department of Justice and, in respect of commercial and investment disputes, with the National Treasury and the relevant sector agencies.
58. Pursuant to the Treaty Making and Ratification Act, the Office of the Attorney-General and Department of Justice and the Ministry of Foreign and Diaspora Affairs will coordinate the reporting process on the State's obligations.

PART III

3.0 PUBLIC PARTICIPATION/STAKEHOLDER CONSULTATION

3.1 Call for Memoranda from the Public

59. Pursuant to Article 118(1)(b) of the Constitution and section 8(3) of the Treaty Making and Ratification Act, Cap 4D, the Committee placed advertisements in two local dailies on 1st July, 2026 calling for the submission of memoranda on the subject matter.
60. The Committee further invited identified stakeholders to submit written views by letters of invitation dated 30th July, 2026. Stakeholders were requested to present their views in a matrix setting out the specific clause or Article, the proposed amendment or position, and the justification for it, and to supply both hard and soft copies of their submissions.
61. The Committee met various stakeholders on 14th August, 2026 and their submissions are summarized as follows:

3.2.1 The Office of the Attorney-General

62. The Office of the Attorney-General and Department of Justice made a written submission to the Committee through a letter dated 14th August, 2026, Ref. AG/CONF/6/B/18/1 VOL IV (17), signed by the Solicitor-General, Hon. Shadrack J. Mose, EBS and noted as follows:
63. The Office noted that the Committee was considering the Convention pursuant to Section 8(1) of the Treaty Making and Ratification Act with a view to facilitating the ratification process and accordingly provided its position on the purpose, status and proposed ratification of the Convention.
64. With respect to the Convention on the Establishment of the International Organization for Mediation, the Office noted that Article 3 provides that the purposes and objectives of the Organization include promoting and facilitating the peaceful settlement of international disputes and developing friendly relations and cooperation among States through mediation.
65. The Office further informed the Committee that the Convention entered into force in August 2025, following ratification by China, Nicaragua and Venezuela, and that Kenya signed the Convention on 30th May, 2025.
66. The Office stated that it subsequently received a letter from the Ministry of Foreign and Diaspora Affairs, Ref. MFDA/SDFA/CONF/ADM/4/VOL.XX/(26), dated 13th November, 2025, conveying a Cabinet Memorandum on the ratification of the Convention. The Office considered the Memorandum and endorsed it on 3rd December, 2025.
67. Having considered the Convention and the Cabinet Memorandum relating to its ratification, the Office of the Attorney-General and Department of Justice informed the Committee that it had no objection to the ratification of the Convention by the National Assembly.

3.2.2 The Commission on Administrative Justice (Office of the Ombudsman).

68. The Commission on Administrative Justice (Office of the Ombudsman) submitted a memorandum dated 11th August, 2026, signed by Ms. Naisiae P. Tobiko, Commission Secretary/Chief Executive Officer and noted as follows:
69. The Commission stated that it is an independent constitutional Commission established under Article 59(4) of the Constitution and operationalised under the Commission on Administrative Justice Act,

2011. Its mandate includes investigating complaints of maladministration by public institutions, promoting alternative dispute resolution mechanisms including conciliation, negotiation and mediation, and overseeing the right of access to information under Article 35 of the Constitution and the Access to Information Act. It therefore approached the Convention from the practical experience of an institution that uses mediation to resolve disputes involving public bodies and members of the public.
70. The Commission welcomed the establishment of the Organization as a potentially significant development in the international dispute resolution architecture, noting that a dedicated intergovernmental body with a permanent structure, panels of mediators, rules of procedure and capacity-building functions has the potential to give international mediation greater visibility, predictability and institutional credibility.
71. The Commission was, however, of the view that the effectiveness and legitimacy of the Organization will depend substantially on the extent to which its institutional and procedural arrangements reflect the principles of fairness, equality of parties, informed participation, independence, impartiality, transparency, accountability, accessibility and inclusivity.
72. The Commission submitted a matrix of twenty-six (26) proposed amendments and observations. The principal proposals were that:
- a) The Preamble be amended to recognise the role of mediation in promoting access to justice, good governance, accountability and the peaceful resolution of disputes at the international level;
 - b) Article 3 on purposes and objectives be amended to incorporate the fair, accessible and effective settlement of disputes and the promotion of good governance among States;
 - c) Article 4 on principles be amended to provide for informed participation and equality of parties, and for an impartial, independent, neutral, equitable, accessible and inclusive environment;
 - d) Article 5 on functions be amended to require accessible, impartial, independent and effective mediation services; to insert a new function establishing a mechanism for receiving and responding to complaints concerning the administration and delivery of the Organization's services; and to extend cooperation expressly to regional and national dispute resolution, Ombudsman and administrative justice institutions;
 - e) Article 8(2) on regional offices be amended to require due regard to equitable geographical representation and accessibility, including the establishment of an appropriate regional presence in Africa within a reasonable period after entry into force;
 - f) Article 12 on the Governing Council be amended to require the adoption and periodic review of a code of conduct for mediators covering independence, impartiality, confidentiality, conflicts of interest, integrity, accountability, professional competence and non-discrimination, and the adoption of standards on accessibility, inclusion, complaints handling, monitoring and evaluation;
 - g) Article 17 be amended to require the Secretary-General to promote transparency, accountability, access to information and effective complaints handling in the administration of the Organization;
 - h) Articles 20 and 21 on designation and qualification of mediators be amended to promote gender balance, geographical diversity and diversity of professional experience, and to recognise competence in public administration, administrative justice, human rights and governance alongside law, commerce, industry and finance;
 - i) Article 30 on the principles of mediation be amended to include informed consent, neutrality, equality of parties, fairness, accessibility, inclusivity and accountability;

- j) Article 32 on the conduct of mediation be amended to require disclosure of any actual, potential or perceived conflict of interest at the earliest opportunity and throughout the proceedings, and to require the mediator to ensure that parties have a reasonable opportunity to participate effectively and to appreciate the consequences of any proposed settlement;
 - k) Article 33 on confidentiality be clarified so that it does not prevent disclosure required by applicable constitutional or statutory obligations, including legitimate access-to-information requirements applicable to a public body, and be amended to permit publication of anonymised and aggregated information on the number, nature, duration and outcomes of proceedings;
 - l) Article 37 on costs be amended to require due regard to the financial capacity of parties and the need to ensure equitable access, particularly for developing countries;
 - m) Articles 42 and 43 on capacity building be amended to require partnership with national and regional Ombudsman, mediation, human rights and administrative justice institutions, and to permit such networks to participate in the Capacity Building Committee in an advisory capacity; and
 - n) Article 47 be amended to provide that the economic development level and capacity to pay of Contracting States **shall** be taken into account in determining contributions, rather than being merely a discretionary consideration.
73. The Commission also drew the Committee's attention to five cross-cutting issues, namely the compatibility of the Convention with Kenya's constitutional framework under Articles 10, 35, 47 and 249 of the Constitution; the relationship between the Organization and existing domestic dispute resolution mechanisms, which should be governed by the principles of subsidiarity and complementarity so that international mediation does not circumvent domestic administrative justice or Ombudsman mechanisms; the independence and impartiality of mediators; accessibility and inclusivity for parties from developing countries; and the balance between confidentiality and institutional accountability.
74. In conclusion, the Commission stated that it is broadly supportive of the objectives of the Convention and considers that Kenya's participation in the Organization would be beneficial, particularly given Kenya's growing experience and institutional capacity in alternative dispute resolution.

3.2.3 The Institute of Chartered Mediators and Conciliators (ICMC).

The Institute of Chartered Mediators and Conciliators (ICMC) made a written submission and a presentation to the Committee by Mr. James Mangerere, Advocate, as noted hereunder:

75. ICMC presented its views in a matrix of clause, proposed amendment and justification. Its submissions were that:
- a) The Preamble and Article 3 on objectives and principles should be adopted as drafted, without amendment to substance, as the guiding principles of sovereignty, equality, non-interference, party autonomy, good faith and impartiality align with Kenya's constitutional and foreign policy commitments to peaceful dispute resolution;
 - b) Kenya's representative to the Governing Council should be required to be a professional mediator of international repute and standing, and not merely a government or diplomatic appointee, since Council decisions on regulations, budgets and leadership require technical mediation expertise and a purely diplomatic appointee would weaken Kenya's substantive influence;

- c) Preference should be given to local or national mediators for appointment in disputes arising within their local jurisdiction, and a register of professionally trained, certified and accredited mediators should be compiled and deposited with the regional office serving Kenya, so as to build domestic capacity, ensure cultural and contextual competence, and create opportunity for Kenya's growing pool of accredited mediators;
 - d) Kenya should, before depositing its instrument of ratification, conduct an inter-agency assessment and lodge a narrowly and clearly defined declaration under Article 29 identifying categories of disputes it will not submit to the Organization, such as those touching on territorial sovereignty, maritime delimitation and national security, so as to protect sensitive interests while preserving the broadest possible use of the Organization for commercial and other appropriate disputes;
 - e) Kenya should actively participate in drafting the Protocol contemplated under Article 41 and advocate for a clear, predictable and expeditious enforcement framework harmonised with the Singapore Convention on Mediation and consistent with Kenya's domestic mediation rules, specifying the competent enforcement authority and the permissible grounds for refusal of enforcement, since without such a framework settlement agreements risk being unenforceable in practice;
 - f) Express recognition of digital or virtual mediation should be inserted in the rules of procedure, together with minimum standards for secure, consent-based virtual mediation, the Convention being presently silent on the matter while its headquarters and future regional offices are geographically distant from many African disputing parties;
 - g) Kenya should formally express interest in, and negotiate to host, the African Regional Office of the Organization, which would cement Kenya's position as a continental hub for international mediation and generate economic and capacity-building spill-overs;
 - h) The Ministry of Foreign and Diaspora Affairs should provide for the annual subscription fee, estimated at approximately USD 60,000, and related participation costs in its budget before ratification takes effect, since ratification without corresponding budgetary provision risks Kenya defaulting on its financial obligations and compromising its standing and voting rights; and
 - i) Should Kenya host the regional office, the Ministry of Foreign and Diaspora Affairs, the National Treasury, the State Law Office and the Department of Immigration should jointly negotiate the host country agreement and the associated privileges and immunities, together with terms ensuring that Kenyans are engaged in substantive professional roles and not confined to general service positions, experience with other international organizations hosted in Kenya having shown a tendency for host-nation staff to be concentrated in support roles.
76. ICMC recommended that Parliament approve the ratification of the Convention subject to the provisos set out in its matrix, and that the Cabinet Secretary be directed to prepare the requisite instruments of ratification accordingly. It submitted that Kenya's participation as a founding-era member presents a significant opportunity to strengthen the country's mediation infrastructure, expand professional opportunities for Kenyan mediators, and consolidate Kenya's position as a regional leader in peaceful dispute resolution.

3.2.4 The Kenya Law Reform Commission.

77. The Kenya Law Reform Commission (KLRC) appeared before the Committee and submitted the following:

78. The Commission reviewed the Convention from the perspective of legislative coherence, institutional clarity, transparency, accountability and effective implementation. It identified a number of provisions which, in its view, require greater clarity or amendment. Its principal proposals were that:

- i. Articles 5 and 12 should be clarified to distinguish the general functions of the Organization from the powers and functions of the Governing Council. The Commission noted that the use of the term "functions" in both provisions could create uncertainty in interpretation and application. It proposed renaming Article 5 as "Functions of the Organization" and Article 12 as "Powers and Functions of the Governing Council", together with appropriate clarifying language;
- ii. Article 13(1) should be amended to limit the Secretary-General's role in convening meetings of the Governing Council to a purely administrative or notification function. The Commission was concerned that vesting substantive convening authority in the administrative head of the Secretariat could blur the distinction between administrative and decision-making functions. It proposed that substantive convening authority be vested in the Chairperson upon the request of not less than three members;
- iii. Article 15(3) should be amended to remove the Secretary-General's role in recommending Deputy Secretaries-General for appointment by the Governing Council. The Commission considered that allowing the Secretary-General to recommend his or her own deputies could create a potential conflict of interest and undermine the independence of the appointment process. It proposed that Deputy Secretaries-General be appointed directly by the Governing Council or through an independent selection procedure adopted by the Council;
- iv. Article 17(1) should be clarified by defining the term "officials", whose appointment falls under the administration of the Secretary-General, or by cross-referencing Article 15(1), in order to remove uncertainty regarding the scope of the Secretary-General's appointment authority;
- v. Article 17(4) should be clarified by defining the term "mediation report" and specifying the authentication procedure and its legal effect. The Commission considered that the Convention should make clear what constitutes a mediation report, what authentication legally certifies and, where appropriate, provide for verification of signatures and document integrity followed by issuance of a certificate of authentication;
- vi. Article 17(5) should be amended to address potential conflicts arising from the Secretary-General simultaneously performing administrative, registrar and appointing-authority functions. The Commission proposed that the Secretary-General be required to delegate the appointing-authority function to a Deputy Secretary-General or another designated officer where a conflict of interest arises;
- vii. Article 22 should specify the source from which the Governing Council may designate persons to the Panels of Mediators. The Commission noted that, unlike Article 20, which expressly provides for Contracting States to designate their nationals, Article 22 does not specify the source or pool from which the Council's nominees are to be drawn. It therefore proposed that persons designated by the Governing Council be drawn from nationals of Contracting States and meet the qualifications prescribed under Article 21;
- viii. Article 32 should expressly address the procedure for appointing a mediator in a particular case. The Commission noted a procedural gap between the maintenance of Panels of Mediators under Chapter IV and the actual engagement of a mediator in mediation proceedings. It proposed a cross-reference requiring mediators to be appointed from the Panels maintained under Article 19 in accordance with the applicable rules of procedure;
- ix. Article 33, relating to confidentiality, should be reconsidered to avoid an overly broad exclusion of State-to-State disputes from the exception permitting disclosure where required by law. The Commission proposed a more differentiated or tiered confidentiality regime that would protect

- genuinely sensitive sovereign or security information while distinguishing it from information that may legitimately be subject to disclosure;
- x. Article 34 should be clarified to ensure that the exclusion of mediation communications from evidentiary use does not prevent parties from pursuing other dispute-settlement mechanisms such as litigation or arbitration. The Commission proposed that the provision expressly state that it restricts the evidentiary use of views, statements, admissions and settlement offers made during mediation, without prejudicing a party's right to pursue other dispute-settlement mechanisms consistent with Article 38;
 - xi. Article 36(2) should provide an alternative notification mechanism where the Secretary-General has a personal interest or prior involvement in a mediation. The Commission proposed that, in such circumstances, notification of termination should be made to a Deputy Secretary-General or another designated officer in order to minimise potential conflicts of interest;
 - xii. Article 37(1) should provide a transparent methodology for determining charges payable by parties. The Commission considered that leaving the determination of charges to the Secretary-General under rules adopted by the Governing Council, without a specified methodology, could create inconsistency and undermine transparency. It proposed a published formula or points-based fee schedule comparable to those applied by international mediation and arbitration institutions;
 - xiii. Article 39(2) should clarify the meaning and effect of the phrase "unless otherwise agreed by the parties" in relation to authentication of settlement agreements. In particular, the Commission proposed that the Convention specify any alternative form of proof or verification that parties may adopt where Secretary-General authentication is dispensed with;
 - xiv. Article 43(1) should expressly designate the Capacity Building Committee as a subsidiary body of the Governing Council. The Commission considered that because capacity building is a core function of the Governing Council under Article 12, the institutional status of the Committee should be expressly reflected in the Convention; and
 - xv. Articles 44 and 45 should be expressly linked so that the Mediation Fund established under Article 44 is managed in accordance with the financial regulations or rules adopted under Article 45. The Commission considered that treating fund management and general financial regulation as separate and unlinked provisions could fragment the Convention's public financial management framework.
79. The Commission's submissions were therefore principally directed towards strengthening the institutional architecture, separation of functions, transparency, accountability, conflict-of-interest safeguards, procedural certainty and financial governance of the Organization. In particular, the Commission sought clearer delineation between the Governing Council and Secretariat, greater independence in senior appointments, clearer procedures for the appointment of mediators and authentication of mediation outcomes, and stronger safeguards governing confidentiality and financial administration.

3.2.5 The Muslim Professionals League Africa (MUPLA).

80. The Muslim Professionals League Africa (MUPLA) made a written submission and a presentation to the Committee on 14th August, 2026 by Dr. Hassan Kinyua Omari, Chairman of MUPLA and noted as follows:
81. MUPLA stated its overall position as support for Kenya's participation in peaceful international mediation in principle, subject to safeguards that protect justice, sovereignty, religious freedom,

community institutions, confidentiality, equality and meaningful representation. It summarised its position as support in principle, safeguards in practice and inclusion in implementation.

82. MUPLA submitted twenty (20) proposed points, which it asked the Committee to treat as a package of safeguards rather than as isolated objections. The principal points were that:

- a) Ratification should be supported, but with safeguards, peace being required to be anchored in justice, dignity and lawful process;
- b) Kenyan sovereignty should be preserved, international mediation being intended to assist rather than override the Constitution, lawful institutions and sovereign decision-making;
- c) Free and informed consent should be guaranteed and maintained throughout the process;
- d) Communities should be meaningfully consulted where disputes affect places of worship, educational institutions, endowments, charities, families or faith institutions;
- e) Mediators should possess religious, cultural and linguistic competence, and parties should be able to request a mediator or co-mediator who understands the relevant community or interfaith context;
- f) Religious freedom and the internal governance of faith institutions should be protected, and endowments and charitable institutions safeguarded, having regard to their trustee obligations;
- g) Qualified professionals from the community, including women leaders, youth and grassroots mediators, should be fairly considered for Kenya's nominations and given pathways to training, accreditation and international exposure;
- h) Confidentiality of sensitive matters and the protection of mediation records should be strengthened, with disclosure only under clear law, necessity and consent;
- i) Interpretation and translation support, including in Kiswahili, Arabic and relevant local languages, should be provided so that parties can participate knowledgeably and equally;
- j) Fairness should be assured where an individual or a community institution mediates against a State or other powerful body, through adequate information, advice and procedural protection;
- k) No third State should be prejudiced or effectively bound without notice, informed participation and consent;
- l) Enforcement of any settlement should remain consistent with the Constitution, dignity, equality, religious freedom and Kenya's public policy; and
- m) Kenya should develop ethical, professional and interfaith-capable mediators, and MUPLA should remain engaged as a standing stakeholder in implementation.

83. MUPLA's principal request to Parliament was that Muslim perspectives be recognised as part of Kenya's constitutional diversity and peacebuilding strength, and that qualified Muslim professionals and institutions be included in the national implementation framework if the Convention is ratified.

3.2.6 The State Department for Foreign Affairs, Ministry of Foreign and Diaspora Affairs.

84. The State Department for Foreign Affairs of the Ministry of Foreign and Diaspora Affairs Permanent Secretary Dr. A. Korir Singoei submitted as follows:

85. On the background to the Organization, the State Department submitted that the International Organization for Mediation was officially launched on 20th October, 2025 in the Hong Kong Special Administrative Region of the People's Republic of China, and that its establishment is premised on the recognition of mediation as a preferred, viable and non-adversarial means of resolving disputes in the international arena as provided in Article 33 of the Charter of the United Nations.

86. The State Department further submitted that negotiation of the Convention began in 2023 and that Kenya was among the few countries invited to participate in the process to its completion on 30th May, 2025, when the Convention was opened for signature and thirty-three (33) countries, including Kenya, signed it. Hong Kong was chosen to host the Secretariat given its status as a financial and commercial hub, its legal system based on the English common law, and the wide use of the English language. Ms. Teresa Cheng, Senior Counsel, Arbitrator and Mediator, was appointed the first Secretary-General of the Organization.

87. The State Department informed the Committee that forty-six (46) countries are signatories to the Convention and that fifteen (15) countries are Member States of the Organization.

88. On the legislative context, the State Department submitted that Kenya is one of the founding members of the Organization, having participated in the negotiation process and being among the first countries to sign the Convention on 30th May, 2025; that the Organization has jurisdiction over State-to-State disputes, disputes between a State and a private investor, and investor-to-investor commercial disputes; that the Convention provides for the establishment of a Mediation Fund for capacity building; that the Convention does not prohibit reservations on ratification or accession provided they are compatible with the object and purpose of the Convention; and that the Convention will be applicable in Kenya upon ratification pursuant to Article 2(6) of the Constitution.

89. On the justification and benefits of membership, the State Department submitted that Kenya's Foreign Policy of 2024 underscores peace and security diplomacy premised on the peaceful resolution of disputes, and that membership of the Organization would facilitate the realisation of that aspiration through the following means:

a) **Equal-footed State-to-State dispute resolution.** Mediation under the Organization is collaborative, non-coercive and confidential, ensuring win-win outcomes as opposed to litigation and arbitration which are often adversarial, time consuming and expensive with a winner-takes-all approach. This affords Kenya a more balanced avenue when dealing with States of unequal economic or political weight;

b) **Peaceful management of commercial disputes involving the State and commercial entities.** The deepening of commercial and trade relations between Kenya and China has resulted in a steady increase in the number of Chinese-based companies and nationals doing business in Kenya, often resulting in commercial disputes, and Chinese State-Owned Enterprises have been a major development partner in infrastructure development. The Organization offers an organised and impartial way of resolving both State-to-investor disputes, which have been a challenge under existing Bilateral Investment Treaties, and disputes between private commercial entities;

c) **Alignment with changing geopolitics.** Membership signals Kenya's support for a more inclusive international order based on the sovereign equality of States, and offers Kenya a seat in shaping new global governance tools, the country having participated in the negotiation process, unlike existing dispute resolution bodies which Kenya joined without participating in their creation;

- d) **Harnessing the benefits of mediation and capacity building.** Mediation is generally faster and less expensive than prolonged arbitration or litigation, and the Convention provides for a dedicated Capacity Building Fund from which Kenya, as a country that actively engages in mediation in the region, would benefit;
 - e) **Increase in the global profile of Kenyan mediators.** Kenya would designate up to five (5) persons to the Panel of State-to-State Mediators and up to twenty (20) persons to the General Panel of Mediators, significantly raising the profile of Kenyan mediators globally; and
 - f) **Deepening the status of Nairobi as a regional dispute resolution hub.** The Convention provides for the establishment of regional offices, and membership would enable Kenya to position itself strategically to host the African Regional Office, boosting the status of Nairobi as a regional hub for dispute resolution and complementing the work of the Nairobi International Arbitration Centre.
90. On the financial implications, the State Department submitted that the Government of Kenya is expected to pay USD 60,000 annually as membership subscription to the Secretariat upon ratification, and that benefits would accrue in terms of job creation for Kenyan nationals at the Secretariat and capacity building for Kenyan mediators funded from the Capacity Building Fund.
91. The State Department recommended that, due to increasing Kenya-China trade and investment relations and the increasing South-South membership of the Organization, the Republic of Kenya ratifies the Convention; that membership would ensure that both the Government and Kenyan entrepreneurs benefit from the mediation process; and that membership would assist in the resolution of State-investor disputes involving Kenya through mediation, as opposed to arbitration as provided in most Bilateral Investment Treaties, which is often expensive and protracted.

3.2.7 Musyimi and Company Advocates.

92. Musyimi and Company Advocates submitted a memorandum to the Committee as follows:
93. The firm drew the Committee's attention to nine (9) issues which, in its view, weigh against ratification or require to be resolved before Kenya proceeds. The issues raised were that:
- a) **Perception of alignment with geopolitical aims.** Although Article 4 of the Convention provides for respect for sovereignty, party autonomy, good faith and an impartial and neutral environment, it is possible that the Organization will be seen as an attempt by China to increase its institutional influence over the settlement of international commercial disputes and thereby its power within the international political and economic order. While use of the Organization would provide another option for dispute resolution for Kenya and businesses registered in Kenya, the international community could interpret ratification as Kenya strategically aligning itself with China's geopolitical and economic agenda, which might affect Kenya's image of political neutrality on the international stage;
 - b) **Effectiveness and enforceability of the Organization's processes and outcomes.** Because mediation is consensual and consent must continue throughout the proceedings, a State party which feels that its national interests are not adequately safeguarded may simply refuse to continue. In disputes involving several States, the requirement of concurring consent may mean that a mediation is frustrated at inception by one antagonistic State withholding consent. Further, while settlement agreements in international commercial disputes between private parties may be enforced under Article 41 in accordance with applicable municipal law, there is no provision for the implementation of settlement agreements in inter-State disputes or disputes between a State and a foreign national;

- c) **Potential political pressure in China-related commercial disputes.** Many future investment or commercial disputes involving Kenya, China or their nationals would be strong candidates for mediation before the Organization, including disputes arising from significant Kenyan infrastructure financed by China such as railways, ports, energy and construction; sovereign debt taken from China and other State-to-State commercial arrangements; and private commercial arrangements between Kenyans and Chinese individuals or corporations operating within Kenya. Although the process is voluntary, there may be concerns that Kenya could be subjected to political pressure to choose the Organization as the dispute resolution mechanism instead of other options;
- d) **Soft law influence.** Mediation proceedings are to be conducted in accordance with the rules of procedure adopted by the Governing Council under Article 32, which the Council is yet to develop, leaving uncertainty about the applicable procedures and processes;
- e) **Investment implications.** International investors generally prefer dispute-settlement mechanisms backed by decades of stable jurisprudence and predictable administration, which the Organization will need to develop over time. Investors may consequently be hesitant to invest in Kenya if international commercial contracts involving Kenya, China or both increasingly designate the Organization as the forum for dispute settlement, or if the Government encourages its use as a matter of policy;
- f) **Constitutional issues.** Despite the principles on which mediation under the Convention is anchored, it is not clear how the Organization will apply the values enshrined in the Constitution as Kenyan values, including the rule of law, democracy and participation of the people, human dignity, inclusiveness, equality and human rights;
- g) **Cost inefficiency and opportunity costs.** The annual subscription of USD 60,000, being approximately Kshs. 7,764,000, together with the costs of participating in the annual Governing Council meeting and potential additional State contributions under Article 47, represents expenditure which is not justifiable at a time of economic difficulty and ballooning public debt, particularly given that the process does not deliver binding and enforceable outcomes. Mediation delivers cost savings only where it substitutes for litigation and arbitration; as an addition to existing mechanisms, it adds cost and increases public expenditure. Resources invested in the Organization would also be unavailable for strengthening African Union dispute-resolution mechanisms, the commercial dispute institutions of the African Continental Free Trade Area Secretariat, and East African Community mediation structures;
- h) **Collaboration with like-minded regional organizations.** Although cooperation with other international organizations and dispute resolution agencies is provided for under Article 5(d) and is advanced as a justification for ratification, substantial collaboration between regional organisations and the Organization is unlikely, by reason of duplication of institutional functions and attendant costs; the absence of enforcement mechanisms for mediated settlements as compared with arbitral and judicial decisions; the consensus-based character of mediation, which is problematic for historical geopolitical disputes where entrenched national interests make compromise difficult; and the perceived risk that institutions in which States already participate will be marginalised; and
- i) **Institutional competence.** The Convention employs ambiguous terms in defining the qualification thresholds for appointment to the Panels of Mediators. It is not clear what amounts to “recognised competence” in specialised fields for general mediators, or to “known competency” and “extensive political skill and judgment” for State-to-State mediators, and the Convention does not empower the Governing Council to prescribe regulations further defining those thresholds.

3.2.8 Dr. Nyakundi Onguso Pius, OGW.

94. Dr. Nyakundi Onguso Pius, OGW, a Certified International Professional Mediator, Accredited Court-Annexed Mediator of the Judiciary of Kenya and Certified International Peace Negotiator, submitted a memorandum dated 18th June, 2026 as follows:
95. He submitted that the Convention establishes the first permanent, treaty-based intergovernmental organization dedicated solely to resolving international disputes through mediation, and urged Parliament to ratify it. He stated that Kenya has been elected a Vice-Chairperson of the Governing Council of the Organization, and that ratification would consolidate the country's standing as a leading diplomatic hub in Africa and bridge enforcement gaps in cross-border commercial, investor-State and State-to-State dispute resolution.
96. On the scope and mandate of the Organization, he submitted that it acts as a neutral, flexible and cost-effective framework for disputes which traditional litigation and arbitration do not address efficiently, and that under Article 24 of the Convention it has jurisdiction over State-to-State disputes submitted by mutual consent, investor-State disputes between a member State and a national of another State, and international commercial disputes between private parties.
97. On the justification for ratification, he submitted that:
- a) **Enforceability of mediated settlements.** Mediation has historically lacked an international enforcement backbone, and Articles 40 and 41 of the Convention change this by rendering settlement agreements facilitated by the Organization legally binding and enforceable within the domestic court systems of contracting States;
 - b) **Safeguarding and de-risking foreign investment.** Integrating a predictable, dialogue-driven mechanism into international commerce would significantly de-risk Kenya's investment climate and build investor confidence by assuring global entities that commercial friction can be resolved outside lengthy adversarial court proceedings;
 - c) **Professional capacity building.** Article 44 establishes a dedicated Mediation Fund, and ratification would grant Kenyan alternative dispute resolution professionals and the Judiciary access to capacity building, training programmes and technological resources for global dispute management; and
 - d) **Consensual sovereignty protections.** Unlike international courts, the Organization operates strictly on the principle of voluntariness, and under Article 29 Kenya retains the right to exclude highly sensitive areas, such as territorial sovereignty and maritime boundaries, from the scope of mediation.
98. On alignment with Kenya's legal and foreign policy framework, he submitted that ratification is consistent with Article 159(2)(c) of the Constitution which mandates the promotion of alternative dispute resolution including mediation; that the Convention reinforces Kenya's Court-Annexed Mediation framework and the regional mandate of the Nairobi Centre for International Arbitration; and that it fulfils Article 33 of the Charter of the United Nations.
99. On the financial implications, he submitted that the burden of joining is minimal compared with the costs of international litigation; that Kenya would save substantial sums historically spent on international arbitration firms in London and The Hague; and that institutional costs are shared among member States while targeted programmes are subsidised by voluntary contributions to the Mediation Fund.
100. In his prayer to the House, he recommended that Parliament approves the ratification of the Convention **without reservation**, and enacts complementary legislation to ensure the seamless

enforcement of settlement agreements facilitated by the Organization within Kenya's domestic courts. He submitted that delay in ratification would sideline Kenya from a global architecture the country helped to build.

3.2.9 Mau Mau Children Post-Colonial Elites.

101. The Mau Mau Children Post-Colonial Elites submitted their memorandum and noted that it welcomes the ratification of the Convention, which is consistent with African traditions of conflict resolution, gacaca and kياما councils used by Mau Mau communities.
102. It, however, noted that the Convention should recognize historical injustices, protect vulnerable victims of liberation struggles and ensure grassroots access to mediation.
103. Further, the Convention should recognize community elders as mediators, protect beneficiaries, and build capacity for veterans and descendants.

3.2.10 Mr. Kennedy Odhiambo

104. Mr. Odhiambo submitted that he was an independent mediator of more than 10 years' experience and that the Convention is a great attempt to raise the profile of mediation to the international level as a fast and flexible method of resolving commercial disputes between international parties.
105. However, the Convention suffers a structural defect which is that it does not provide for recognition of domestic courts of the mediation agreement arising from the mediation process concluded between the international parties.
106. Therefore, Mr. Odhiambo submitted that the National Assembly should not ratify the Convention but instead send it back for reconsideration.

PART IV

4.0 COMMITTEE OBSERVATIONS

107. Having considered the Convention and analysed the submissions made, the Committee observed as follows:

- i. The Convention is consistent with the Constitution, in particular with Article 159(2)(c) which requires the courts and tribunals to promote alternative forms of dispute resolution, and with Kenya's established policy of supporting the peaceful settlement of disputes.
- ii. The Convention does not displace existing dispute settlement mechanisms available to Kenya, since the principles of subsidiarity and complementarity guide the interaction between the Organization and domestic institutions, therefore international mediation does not inadvertently circumvent domestic administrative justice or Ombudsman mechanisms where a public body is party to a dispute.
- iii. All stakeholders who submitted memoranda, except for one Mr. Kennedy Odhiambo, supported the ratification of the Convention in principle, but noted several gaps in the Convention and proposed certain amendments to the Convention. However, the Convention is a multilateral treaty whose amendment process is initiated by a Contracting State and involves multiple Contracting States. Therefore, Kenya should first ratify the Convention before proposing amendments.
- iv. Pursuant to Article 29 of the Convention which permits a Contracting State to declare categories of dispute which it would not consider submitting to the Organization, the Republic of Kenya, through the Ministry of Foreign Affairs should conduct an inter-agency assessment and lodge a narrowly and clearly defined declaration before depositing its instrument of ratification, covering matters such as territorial sovereignty, maritime delimitation and national security.
- v. The protocol envisioned under Article 41 which is expected to guide on the enforcement of settlement agreements arising from international commercial mediation is yet to be negotiated therefore Kenya should participate actively in its negotiation and advocate for an enforcement framework harmonised with the Singapore Convention on Mediation which specifies the competent enforcement authority and the permissible grounds for refusal of enforcement.
- vi. The designation of Kenyan nationals to the Panels of Mediators presents a significant opportunity for Kenyan professionals, therefore the Ministry of Foreign and Diaspora Affairs should establish a transparent and merit-based process for designation which promotes gender balance, geographical diversity, diversity of professional experience and the inclusion of qualified professionals from all communities.
- vii. Kenya's representative to the Governing Council should possess demonstrable technical competence in mediation, the Council being responsible for the rules of procedure, the code of conduct for mediators and the budget of the Organization; and
- viii. Kenya should formally express interest in hosting the African Regional Office of the Organization, and that in the event of a successful bid the host country agreement should be negotiated so as to secure substantive professional roles for Kenyans rather than confinement to general service positions.

PART V

5.0 COMMITTEE RECOMMENDATION

108. The Committee, having reviewed the Convention and considered the submissions made, recommends THAT:

1. Pursuant to section 8 of the Treaty Making and Ratification Act, Cap. 4D and Standing Order 170A (4)(c) of the National Assembly Standing Orders, the House APPROVES the ratification of the Convention on the Establishment of the International Organization for Mediation.
2. Prior to the deposit of the instrument of ratification, the Cabinet Secretary for Foreign and Diaspora Affairs undertakes an inter-agency assessment and if necessary, lodges a narrowly and clearly defined declaration under Article 29 of the Convention identifying the categories of dispute which Kenya will not submit to the Organization for mediation.
3. The Cabinet Secretary for Foreign and Diaspora Affairs, in consultation with all relevant stakeholders, proposes amendments to the Convention, within twelve (12) months after ratification, and participates actively in the negotiation of the protocol contemplated under Article 41 of the Convention on the enforcement of settlement agreements.
4. The Cabinet Secretary for Foreign and Diaspora Affairs establishes a transparent and merit-based process for the designation of Kenyan nationals to the Panels of Mediators, having regard to gender balance, geographical diversity, diversity of professional experience and inclusion.
5. The Cabinet Secretary for Foreign and Diaspora Affairs formally expresses Kenya's interest in hosting the African Regional Office of the Organization.

SIGNED:  DATE: 27/08/2026

THE HON. NELSON KOECH, M.P.
CHAIRPERSON, DEPARTMENTAL COMMITTEE ON DEFENCE, INTELLIGENCE AND
FOREIGN RELATIONS

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 27 AUG 2026	
DAY: Thursday	
TABLED BY:	Hon. Bashir Abdullahi, MP (Vice Chairperson)
CLERK OF THE TABLE:	homaie