

AFRICAN LAW HANDBOOK

COLLECTION OF DOCUMENTS



BOOK ONE

Virginia Morris



**“Education is the most powerful weapon
we can use to change the world.”**

Nelson Mandela

The quest for Pan-Africanism culminated in the establishment of the Organization of African Unity by the 32 African States that had achieved independence as of 25 May 1963. The historic decision to establish an organization to promote the goals of African unity and the aspirations of the African peoples was taken in the Africa Hall located at the United Nations Economic Commission for Africa in Addis Ababa, Ethiopia. The photograph on the cover is of the stained glass window in the foyer of the Africa Hall. It was designed by the Ethiopian Artist, Maître Afework Tekle. The artwork is divided into three parts which reflect “Africa Then”, “Africa Then and Now”, and “Africa Now and in the Future”.

Graphic design provided by Sean Bacon.

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The goal of this publication is to promote the teaching and dissemination of African law for the benefit of lawyers in Africa and thereby further the goals of the African Union and the African Institute of International Law. It may be reproduced for academic purposes in Africa.

AFRICAN LAW HANDBOOK

Collection of Documents

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Judge Abdulqawi Ahmed Yusuf
International Court of Justice

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Foreword

Judge Abdulqawi Ahmed Yusuf
International Court of Justice

The publishing of the African Law Handbook is a major academic event, which conforms with and implements the objectives of the African Institute of International Law. It is therefore a pleasure for me to write the foreword for this publication.

The overall objective of the African Institute of International Law is *“the consolidation of the rule of law and rules-based pan-African integration, founded on a common understanding and application of international law, the public law of Africa and African Union law by African States”*. Its strategic goals also include the enhancement of the teaching and research capacities of African law faculties in the field of international law and the law of the African Union, the promotion of scholarly publications and research on international law issues of particular relevance to Africa, and the provision of a platform for the wide dissemination of such publications.

The African Law Handbook constitutes the most comprehensive collection of the legal instruments adopted by the Organization of African Unity and the African Union over a period of more than half a century. It chronicles the historical evolution of a Pan-African legal order in response to the aspirations of the peoples of the continent for freedom, unity, peace and development. It provides a full account of legal developments from the early days of the Organization of African Unity and its subsequent transformation into the African Union. The resulting legal framework for the promotion of Pan-Africanism has led to a system of rules and mechanisms for the protection of the human rights of all Africans, the promotion of good governance and democratic institutions throughout the continent, and the creation of a better legal basis for the political and economic integration of the States of Africa.

The Handbook is a most valuable resource for lawyers, policy makers, legal scholars and lay persons who are interested in researching, studying or teaching the public law of Africa. It consists of two volumes and the legal documents are organized thematically and chronologically to facilitate a better understanding of the historical development of the law on various aspects of Pan-Africanism.

The first volume, which is divided into ten parts, focuses on the constituent instruments and the institutional structure of the Organization of African Unity and its successor, the African Union; the rights and duties of individuals; as well as the legal foundation for promoting accountability, democracy, good governance, peace and security in Africa.

The second volume consists of eight parts and covers the legal framework and institutional structure for regional integration in trade, investment and finance; agriculture, energy, science and technology; transportation and postal services; maritime matters; environmental protection; education, health, culture and sports; and intellectual property rights.

The Handbook is part of the African Law Series prepared by Virginia Morris to promote the teaching, study and dissemination of African law. Her commitment to promoting international law education is well known. She acted for a long time as Secretary of the Advisory Committee on the United Nations Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law and significantly contributed to the opportunities available for international law education for lawyers around the world through the establishment of the United Nations Audiovisual Library of International Law. It was also thanks to her efforts that the United Nations Regional Courses on International Law for Africa, Asia-Pacific, and Latin America and the Caribbean were made permanent and became part of the regular programme of work of the United Nations.

Virginia Morris has collaborated with the African Institute of International Law from its beginnings. She contributed, in particular, to the African Institute’s cooperation with the United Nations under General Assembly

resolution 67/91 and to the joint organization of the first International Law Seminar for African Universities by the Institute and the United Nations in Ghana in 2015.

This publication represents a further joint effort for the promotion of international law education in Africa. Also, by adding the Handbook to the African Institute's website, its contents will be given much wider dissemination in African legal and policy-making circles and will be utilized for the training courses of the Institute on African Union Law and the Public Law of Africa, thus contributing to a more extensive domestication and concrete application of the Organization of African Unity/African Union's legal instruments throughout the continent. This publication will also certainly contribute to a greater dissemination and understanding, outside the African continent, of the law generated by the Pan-African Organization over the past sixty years.

Preface

International law and African law are the essential foundation for achieving the objectives of African unity and the aspirations of the African peoples. The Charter of the Organization of African Unity recognized: the inalienable right of all people to control their own destiny; the fact that freedom, equality, justice and dignity are essential objectives for the achievement of the legitimate aspirations of the African peoples; the responsibility to harness the human resources of the African continent for the total advancement of the African peoples in all spheres of human endeavour; a common determination to promote understanding among African peoples and cooperation among African States in response to the aspirations of the African peoples for brotherhood and solidarity, in a larger unity transcending ethnic and national differences; the need to establish and maintain conditions for peace and security to translate this determination into a dynamic force in the cause of human progress; and that the Charter of the United Nations and the Universal Declaration of Human Rights provide a solid foundation for peaceful and positive cooperation among States.¹

The Constitutive Act of the African Union recognized that the Organization of African Unity had played a determining and invaluable role in the liberation of the continent, the affirmation of a common identity and the process of attainment of the unity of the continent and had provided a unique framework for collective action in Africa and its relations with the rest of the world. The Constitutive Act of the African Union recognizes the need: to build a partnership between governments and all segments of civil society to strengthen solidarity and cohesion among the African peoples guided by the common vision of a united and strong Africa; to promote peace, security and stability as a prerequisite for the implementation of its development and integration agenda; to promote and protect human and peoples' rights, consolidate democratic institutions and culture, and to ensure good governance and the rule of law.²

The Constitutive Act of the African Union sets forth the following objectives to meet the needs of Africa: to achieve greater unity and solidarity between the African countries and the peoples of Africa; to encourage international cooperation, taking due account of the Charter of the United Nations and the Universal Declaration of Human Rights; to promote peace, security and stability on the continent; to promote democratic principles and institutions, popular participation and good governance; to promote and protect human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights and other relevant human rights instruments; to establish the necessary conditions to enable the continent to play its rightful role in the global economy and in international negotiations; to promote sustainable development as well as the integration of African economies; to promote cooperation in all fields of human activity to raise the living standards of the African peoples; and to advance the development of the continent by promoting research in all fields.³ The African Union is guided by the following principles in performing its functions to achieve those objectives: peaceful resolution of conflicts among Member States of the African Union; peaceful coexistence of Member States and their right to live in peace and security; promotion of gender equality; and respect for democratic principles, human rights, the rule of law and good governance.⁴

The African Law Handbook was prepared for academic purposes to promote a better knowledge of African law and thereby further the objectives of African unity and the aspirations of the African peoples. It contains the treaties adopted by the Organization of African Unity and the African Union. It also contains some of the significant documents referred to in the treaties. The legal materials reproduced in this publication contain technical corrections and editorial changes.⁵ The original text of the treaties and most of the documents may be found on the African Union website.⁶ The current status of the treaties may also be found on the same website.

¹ Charter of the Organization of African Unity, preamble.

² Constitutive Act of the African Union, preamble.

³ Article 3.

⁴ Article 4.

⁵ The United Nations editorial guidelines have been used to address minor inconsistencies in the use of the English language such as spelling, capitalization and punctuation. *United Nations Editorial Manual* (Sales No. E.83.I.16),

The author would like to express appreciation for the cooperation and assistance provided by the African Union during the preparation of this publication.

United Nations Editorial Manual online (<http://dd.dgacm.org/editorialmanual>), and the *Oxford Dictionary* online (British and World English) (<https://en.oxforddictionaries.com>). The French versions of the treaties have also been consulted for guidance and clarification as needed. The term “statutes” has been replaced by “statute” when used to refer to a single document in accordance with United Nations editorial standards while recognizing that this term may be used to refer to “a formal rule of an organization or institution” according to Oxford Grammar. References to registering treaties with the Secretary-General of the United Nations pursuant to Article 102 of the United Nations Charter have been maintained. This article requires registration with the Secretariat of the United Nations. The Treaty Section of the Office of Legal Affairs is entrusted with the registration and publication of treaties. The term “depository” is used to refer to the place where items are stored. The term “depository” is used to refer to the person entrusted with duties relating to the treaties. Both terms are used to refer to the individual entrusted with treaty responsibilities in documents contained in these volumes.

⁶ African Union website, <https://au.int/en/treaties>.

PART I

ORGANIZATION OF AFRICAN UNITY

1. OAU CHARTER

1.

CHARTER OF THE ORGANIZATION OF AFRICAN UNITY (OAU CHARTER)

Adopted in Addis Ababa, Ethiopia, on 25 May 1963.

Entered into force on 13 September 1963.

We, the Heads of African States and Governments assembled in the city of Addis Ababa, Ethiopia,

Convinced that it is the inalienable right of all people to control their own destiny,

Conscious of the fact that freedom, equality, justice and dignity are essential objectives for the achievement of the legitimate aspirations of the African peoples,

Conscious of our responsibility to harness the natural and human resources of our continent for the total advancement of our peoples in all spheres of human endeavour,

Inspired by a common determination to promote understanding among our peoples and cooperation among our States in response to the aspirations of our peoples for brotherhood and solidarity, in a larger unity transcending ethnic and national differences,

Convinced that, in order to translate this determination into a dynamic force in the cause of human progress, conditions for peace and security must be established and maintained,

Determined to safeguard and consolidate the hard-won independence as well as the sovereignty and territorial integrity of our States, and to fight against neocolonialism in all its forms,

Dedicated to the general progress of Africa,

Persuaded that the Charter of the United Nations and the Universal Declaration of Human Rights, to the principles of which we reaffirm our adherence, provide a solid foundation for peaceful and positive cooperation among States,

Desirous that all African States should henceforth unite so that the welfare and well-being of their peoples can be assured,

Resolved to reinforce the links between our States by establishing and strengthening common institutions,

Have agreed to the present Charter.

Establishment

Article I

1. The High Contracting Parties do by the present Charter establish an organization to be known as the Organization of African Unity.
2. The Organization shall include the continental African States, Madagascar and other islands surrounding Africa.

Purposes

Article II

I. ORGANIZATION OF AFRICAN UNITY

1. The Organization shall have the following purposes:
 - (a) To promote the unity and solidarity of the African States;
 - (b) To coordinate and intensify their cooperation and efforts to achieve a better life for the peoples of Africa;
 - (c) To defend their sovereignty, their territorial integrity and independence;
 - (d) To eradicate all forms of colonialism from Africa; and
 - (e) To promote international cooperation, having due regard to the Charter of the United Nations and the Universal Declaration of Human Rights.
2. To these ends, the Member States shall coordinate and harmonize their general policies, especially in the following fields:
 - (a) Political and diplomatic cooperation;
 - (b) Economic cooperation, including transport and communications;
 - (c) Educational and cultural cooperation;
 - (d) Health, sanitation and nutritional cooperation;
 - (e) Scientific and technical cooperation; and
 - (f) Cooperation for defence and security.

Principles

Article III

The Member States, in pursuit of the purposes stated in Article II, solemnly affirm and declare their adherence to the following principles:

1. The sovereign equality of all Member States;
2. Non-interference in the internal affairs of States;
3. Respect for the sovereignty and territorial integrity of each State and for its inalienable right to independent existence;
4. Peaceful settlement of disputes by negotiation, mediation, conciliation or arbitration;
5. Unreserved condemnation, in all its forms, of political assassination as well as of subversive activities on the part of neighbouring States or any other States;
6. Absolute dedication to the total emancipation of the African territories which are still dependent;
7. Affirmation of a policy of non-alignment with regard to all blocs.

Membership

1. OAU CHARTER

Article IV

Each independent sovereign African State shall be entitled to become a Member of the Organization.

Rights and Duties of Member States

Article V

All Member States shall enjoy equal rights and have equal duties.

Article VI

The Member States pledge themselves to observe scrupulously the principles enumerated in Article III of the present Charter.

Institutions

Article VII

The Organization shall accomplish its purposes through the following principal institutions:

1. The Assembly of Heads of State and Government;
2. The Council of Ministers;
3. The General Secretariat;
4. The Commission of Mediation, Conciliation and Arbitration.

The Assembly of Heads of State and Government

Article VIII

The Assembly of Heads of State and Government shall be the supreme organ of the Organization. It shall, subject to the provisions of this Charter, discuss matters of common concern to Africa with a view to coordinating and harmonizing the general policy of the Organization. It may in addition review the structure, functions and acts of all the organs and any specialized agencies which may be created in accordance with the present Charter.

Article IX

The Assembly shall be composed of the Heads of State and Government or their duly accredited representatives and it shall meet at least once a year. At the request of any Member State and on approval by a two-thirds majority of the Member States, the Assembly shall meet in extraordinary session.

Article X

1. Each Member State shall have one vote.
2. All resolutions shall be determined by a two-thirds majority of the Members of the Organization.
3. Questions of procedure shall require a simple majority. Whether or not a question is one of procedure shall be determined by a simple majority of all Member States of the Organization.

I. ORGANIZATION OF AFRICAN UNITY

4. Two thirds of the total membership of the Organization shall form a quorum at any meeting of the Assembly.

Article XI

The Assembly shall have the power to determine its own rules of procedure.

The Council of Ministers

Article XII

1. The Council of Ministers shall consist of Foreign Ministers or other Ministers as are designated by the Governments of Member States.

2. The Council of Ministers shall meet at least twice a year. When requested by any Member State and approved by two thirds of all Member States, it shall meet in extraordinary session.

Article XIII

1. The Council of Ministers shall be responsible to the Assembly of Heads of State and Government. It shall be entrusted with the responsibility of preparing conferences of the Assembly.

2. It shall take cognizance of any matter referred to it by the Assembly. It shall be entrusted with the implementation of the decision of the Assembly of Heads of State and Government. It shall coordinate inter-African cooperation in accordance with the instructions of the Assembly in conformity with Article II, paragraph 2, of the present Charter.

Article XIV

1. Each Member State shall have one vote.

2. All resolutions shall be determined by a simple majority of the members of the Council of Ministers.

3. Two thirds of the total membership of the Council of Ministers shall form a quorum for any meeting of the Council.

Article XV

The Council shall have the power to determine its own rules of procedure.

General Secretariat

Article XVI

There shall be a Secretary-General of the Organization, who shall be appointed by the Assembly of Heads of State and Government. The Secretary-General shall direct the affairs of the Secretariat.

Article XVII

There shall be one or more Assistant Secretaries-General of the Organization, who shall be appointed by the Assembly of Heads of State and Government.

Article XVIII

1. OAU CHARTER

The functions and conditions of service of the Secretary-General, of the Assistant Secretaries-General and other employees of the Secretariat shall be governed by the provisions of this Charter and the regulations approved by the Assembly of Heads of State and Government.

1. In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any government or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization.
2. Each Member of the Organization undertakes to respect the exclusive character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities.

Commission of Mediation, Conciliation and Arbitration

Article XIX

Member States pledge to settle all disputes among themselves by peaceful means and, to this end decide to establish a Commission of Mediation, Conciliation and Arbitration, the composition of which and conditions of service shall be defined by a separate protocol to be approved by the Assembly of Heads of State and Government. Said protocol shall be regarded as forming an integral part of the present Charter.

Specialized Commission

Article XX

The Assembly shall establish such specialized commissions as it may deem necessary, including the following:

1. The Economic and Social Commission;
2. The Educational, Scientific, Cultural and Health Commission;
3. The Defence Commission.

Article XXI

Each specialized commission referred to in Article XX shall be composed of the Ministers concerned or other Ministers or Plenipotentiaries designated by the Governments of the Member States.

Article XXII

The functions of the specialized commissions shall be carried out in accordance with the provisions of the present Charter and of the regulations approved by the Council of Ministers.

The Budget

Article XXIII

The budget of the Organization prepared by the Secretary-General shall be approved by the Council of Ministers. The budget shall be provided by contribution from Member States in accordance with the scale of assessment of the United Nations; provided, however, that no Member State shall be assessed an amount exceeding 20 per cent of the yearly regular budget of the Organization. The Member States agree to pay their respective contributions regularly.

I. ORGANIZATION OF AFRICAN UNITY

Signature and Ratification of Charter

Article XXIV

1. This Charter shall be open for signature to all independent sovereign African States and shall be ratified by the signatory States in accordance with their respective constitutional processes.
2. The original instrument, done, if possible in African languages, in English and French, all texts being equally authentic, shall be deposited with the Government of Ethiopia which shall transmit certified copies thereof to all independent sovereign African States.
3. Instruments of ratification shall be deposited with the Government of Ethiopia, which shall notify all signatories of each such deposit.

Entry into Force

Article XXV

This Charter shall enter into force immediately upon receipt by the Government of Ethiopia of the instruments of ratification from two thirds of the signatory States.

Registration of Charter

Article XXVI

This Charter shall, after due ratification, be registered with the Secretariat of the United Nations through the Government of Ethiopia in conformity with Article 102 of the Charter of the United Nations.

Interpretation of the Charter

Article XXVII

Any question which may arise concerning the interpretation of this Charter shall be decided by a vote of two thirds of the Assembly of Heads of State and Government of the Organization.

Adhesion and Accession

Article XXVIII

1. Any independent sovereign African State may at any time notify the Secretary-General of its intention to adhere or accede to this Charter.
2. The Secretary-General shall, on receipt of such notification, communicate a copy of it to all the Member States. Admission shall be decided by a simple majority of the Member States. The decision of each Member State shall be transmitted to the Secretary-General, who shall, upon receipt of the required number of votes, communicate the decision to the State concerned.

Miscellaneous

Article XXIX

The working languages of the Organization and all its institutions shall be, if possible African languages, English, French, Arabic and Portuguese.

2. PROTOCOL OF THE COMMISSION OF MEDIATION, CONCILIATION AND ARBITRATION

Article XXX

The Secretary-General may accept, on behalf of the Organization, gifts, bequests and other donations made to the Organization, provided that this is approved by the Council of Ministers.

Article XXXI

The Council of Ministers shall decide on the privileges and immunities to be accorded to the personnel of the Secretariat in the respective territories of the Member States.

Cessation of Membership

Article XXXII

Any State which desires to renounce its membership shall forward a written notification to the Secretary-General. At the end of one year from the date of such notification, if not withdrawn, the Charter shall cease to apply with respect to the renouncing State, which shall thereby cease to belong to the Organization.

Amendment of the Charter

Article XXXIII

This Charter may be amended or revised if any Member State makes a written request to the Secretary-General to that effect; provided, however, that the proposed amendment is not submitted to the Assembly for consideration until all the Member States have been duly notified of it and a period of one year has elapsed. Such an amendment shall not be effective unless approved by at least two thirds of all the Member States.

2.

PROTOCOL OF THE COMMISSION OF MEDIATION, CONCILIATION AND ARBITRATION

Adopted in Cairo, United Arab Republic, on 21 July 1964.

Entered into force upon adoption.*

Part I

Establishment and Organization

Article I

The Commission of Mediation, Conciliation and Arbitration established by Article XIX of the Charter of the Organization of African Unity shall be governed by the provisions of the present Protocol.

Article II

1. The Commission shall consist of twenty-one members elected by the Assembly of Heads of State and Government.
2. No two members shall be nationals of the same State.

* Editor's note: The Charter of the Organization of African Unity established the Commission as one of the principal institutions of the OAU and provided for the adoption of a separate protocol on the Commission that would form an integral part of the Charter. OAU Charter, Articles VII and XIX, and Protocol, Article XXXIII.

I. ORGANIZATION OF AFRICAN UNITY

3. The members of the Commission shall be persons with recognized professional qualifications.
4. Each Member State of the Organization of African Unity shall be entitled to nominate two candidates.
5. The Administrative Secretary-General shall prepare a list of the candidates nominated by Member States and shall submit it to the Assembly of Heads of State and Government.

Article III

1. Members of the Commission shall be elected for a term of five years and shall be eligible for re-election.
2. Members of the Commission whose terms of office have expired shall remain in office until the election of a new Commission.
3. Notwithstanding the expiry of their terms of office, members shall complete any proceedings in which they are already engaged.

Article IV

Members of the Commission shall not be removed from office except by decision of the Assembly of Heads of State and Government, by a two-thirds majority of the total membership, on the grounds of inability to perform the functions of their office or of proved misconduct.

Article V

1. Whenever a vacancy occurs in the Commission, it shall be filled in conformity with the provisions of Article II.
2. A member of the Commission elected to fill a vacancy shall hold office for the unexpired term of the member he has replaced.

Article VI

1. A President and two Vice-Presidents shall be elected by the Assembly of Heads of State and Government from among the members of the Commission who shall each hold office for five years. The President and the two Vice-Presidents shall not be eligible for re-election as such officers.
2. The President and the two Vice-Presidents shall be full-time members of the Commission, while the remaining eighteen shall be part-time members.

Article VII

The President and the two Vice-Presidents shall constitute the Bureau of the Commission and shall have the responsibility of consulting with the parties as regards the appropriate mode of settling the dispute in accordance with this Protocol.

Article VIII

The salaries and allowances of the members of the Bureau and the remuneration of the other members of the Commission shall be determined in accordance with the provisions of the Charter of the Organization of African Unity.

2. PROTOCOL OF THE COMMISSION OF MEDIATION, CONCILIATION AND ARBITRATION

Article IX

1. The Commission shall appoint a Registrar and may provide for such other officers as may be deemed necessary.
2. The terms and conditions of service of the Registrar and other administrative officers of the Commission shall be governed by the Commission's staff regulations.

Article X

The administrative expense of the Commission shall be borne by the Organization of African Unity. All other expenses incurred in connection with the proceedings before the Commission shall be set in accordance with the Rules of Procedure of the Commission.

Article XI

The seat of the Commission shall be at Addis Ababa, Ethiopia.

Part II

General Provisions

Article XII

The Commission shall have jurisdiction over disputes between States only.

Article XIII

1. A dispute may be referred to the Commission jointly by the parties concerned, by a party to the dispute, by the Council of Ministers or by the Assembly of Heads of State and Government.
2. Where a dispute has been referred to the Commission as provided in paragraph 1, and one or more of the parties have refused to submit to the jurisdiction of the Commission, the Bureau shall refer the matter to the Council of Ministers for consideration.

Article XIV

The consent of any party to a dispute to submit to the jurisdiction of the Commission may be evidence by:

- (a) A prior written undertaking by such party that there shall be recourse to mediation, conciliation or arbitration;
- (b) Reference of a dispute by such party to the Commission; or
- (c) Submission by such party to the jurisdiction in respect of a dispute referred to the Commission by another State, by the Council of Ministers, or by the Assembly of Heads of State and Government.

Article XV

Member States shall refrain from any act or omission that is likely to aggravate a situation which has been referred to the Commission.

Article XVI

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Subject to the provisions of this Protocol and any special agreement between the parties, the Commission shall be entitled to adopt such working methods as it deems to be necessary and expedient and shall establish appropriate rules of procedure.

Article XVII

The members of the Commission, when engaged in the business of the Commission, shall enjoy diplomatic privileges and immunities as provided for in the General Convention on the Privileges and Immunities of the Organization of African Unity.

Article XVIII

Where, in the course of mediation, conciliation or arbitration, it is deemed necessary to conduct an investigation or inquiry for the purpose of elucidating facts or circumstances relating to a matter in dispute, the parties concerned and all other Member States shall extend to those engaged in any such proceedings the fullest cooperation in the conduct of such investigation or inquiry.

Article XIX

In case of a dispute between Member States, the parties may agree to resort to any one of these modes of settlement: mediation, conciliation and arbitration.

Part III

Mediation

Article XX

When a dispute between Member States is referred to the Commission for mediation, the President shall, with the consent of the parties, appoint one or more members of the Commission to mediate the dispute.

Article XXI

1. The role of the mediator shall be confined to reconciling the views and claims of the parties.
2. The mediator shall make written proposals to the parties as expeditiously as possible.
3. If the means of reconciliation proposed by the mediator are accepted, they shall become the basis of a protocol of arrangement between the parties.

Part IV

Conciliation

Article XXII

1. A request for the settlement of a dispute by conciliation may be submitted to the Commission by means of a petition addressed to the President by one or more of the parties to the dispute.
2. If the request is made by only one of the parties, that party shall indicate that prior written notice has been given to the other party.

2. PROTOCOL OF THE COMMISSION OF MEDIATION, CONCILIATION AND ARBITRATION

3. The petition shall include a summary explanation of the grounds of the dispute.

Article XXIII

1. Upon receipt of the petition, the President shall, in agreement with the parties, establish a Board of Conciliators, of whom three shall be appointed by the President from among the members of the Commission, and one each by the parties.
2. The Chairman of the Board shall be a person designated by the President from among the three members of the Commission.
3. In nominating persons to serve as members of the Board, the parties to the dispute shall designate persons in such a way that no two members of it shall be nationals of the same State.

Article XXIV

1. It shall be the duty of the Board of Conciliators to clarify the issues in dispute and to endeavour to bring about an agreement between the parties upon mutually acceptable terms.
2. The Board shall consider all questions submitted to it and may undertake any inquiry or hear any person capable of giving relevant information concerning the dispute.
3. In the absence of disagreement between the parties, the Board shall determine its own procedure.

Article XXV

The parties shall be represented by agents, whose duty shall be to act as intermediaries between them and the Board. They may moreover be assisted by counsel and experts and may request that all persons whose evidence appears to the Board to be relevant shall be heard.

Article XXVI

1. At the close of the proceedings, the Board shall draw up a report stating either:
 - (a) That the parties have come to an agreement and, if the need arises, the terms of the agreement and any recommendations for settlement made by the Board; or
 - (b) That it has been impossible to effect a settlement.
2. The report of the Board of Conciliators shall be communicated to the parties and to the President of the Commission without delay and may be published only with the consent of the parties.

Part V

Arbitration

Article XXVII

1. Where it is agreed that arbitration should be resorted to, the Arbitral Tribunal shall be established in the following manner:
 - (a) Each party shall designate one arbitrator from among the members of the Commission having legal qualifications;

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(b) The two arbitrators thus designated shall, by common agreement, designate from among the members of the Commission a third person who shall act as Chairman of the Tribunal;

(c) Where the two arbitrators fail to agree, within one month of their appointment, in the choice of the person to be Chairman of the Tribunal, the Bureau shall designate the Chairman.

2. The President may, with the agreement of the parties, appoint to the Arbitral Tribunal two additional members who need not be members of the Commission but who shall have the same powers as the other members of the Tribunal.

3. The arbitrators shall not be nationals of the parties, or have their domicile in the territories of the parties, or be employed in their service, or have served as mediators or conciliators in the same dispute. They shall all be of different nationalities.

Article XXVIII

Recourse to arbitration shall be regarded as submission in good faith to the award of the Arbitral Tribunal.

Article XXIX

1. The parties shall, in each case, conclude a *compromis* which shall specify:

(a) The undertaking of the parties to go to arbitration, and to accept as legally binding, the decision of the Tribunal;

(b) The subject matter of the controversy; and

(c) The seat of the Tribunal.

2. The *compromis* may specify the law to be applied by the Tribunal and the power, if the parties so agree, to adjudicate *ex aequo et bono*, the time limit within which the award of the arbitrators shall be given, and the appointment of agents and counsel to take part in the proceedings before the Tribunal.

Article XXX

In the absence of any provision in the *compromis* regarding the applicable law, the Arbitral Tribunal shall decide the dispute according to treaties concluded between the parties, international law, the Charter of the Organization of African Unity, the Charter of the United Nations and, if the parties agree, *ex aequo et bono*.

Article XXXI

1. Hearings shall be held in *camera* unless the arbitrators decide otherwise.

2. The record of the proceedings signed by the arbitrators and the Registrar shall alone be authoritative.

3. The arbitral award shall be in writing and shall, in respect of every point decided, state the reasons on which it is based.

Part VI

Final Provisions

3. GENERAL CONVENTION ON PRIVILEGES AND IMMUNITIES

Article XXXII

The present Protocol shall, after approval by the Assembly of Heads of State and Government, be an integral part of the Charter of the Organization of African Unity.

Article XXXIII

This Protocol may be amended or revised in accordance with the provisions of Article XXXIII of the Charter of the Organization of African Unity.

3.

GENERAL CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE ORGANIZATION OF AFRICAN UNITY

Adopted in Accra, Ghana, on 25 October 1965.

Entered into force on 25 October 1965.

Considering it necessary that the Organization of African Unity should enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfilment of its purpose,

Considering it necessary that the representatives of the Members of the Organization of African Unity and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization,

Now therefore the Assembly adopted the following convention:

Section A

Article I

1. The Organization of African Unity shall possess juridical personality and shall have the capacity:
 - (a) To enter into contacts including the rights to acquire and dispose of movable and immovable property;
 - (b) To institute legal proceedings.

Section B

Article II

Property, Funds, Assets and Transactions of the Organization of African Unity

1. The Organization of African Unity, its premises, buildings, assets and other property wherever located and by whomsoever held, shall enjoy immunity from every form of legal process except in so far as in any particular case the Organization of African Unity has waived such immunity in accordance with the provisions of this General Convention. It is, however, understood that no waiver of immunity shall extend to any measure of execution.
2. The premises and buildings of the Organization of African Unity shall be inviolable. The property and assets of the Organization of African Unity, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation and from any other form of interference, whether by executive, administrative, juridical or legislative action.

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3. The archives of the Organization of African Unity and, in general, all documents belonging to it or held by it shall be inviolable wherever located.
4. Without being restricted by financial controls, regulations or moratoria of any kind:
 - (a) The Organization of African Unity may hold funds, gold or currency of any kind and operate accounts of any currency;
 - (b) The Organization of African Unity shall be free to transfer its funds, gold or currency from one country to another or within any country and to convert any currency held by it into any other currency.
5. It is provided, however, that in exercising its right under paragraph 4 above, the Organization of African Unity shall pay due regard to any representations made by the Government of any Member insofar as it is considered that effect can be given to such representations without prejudicing the interests of the Organization of African Unity.

Article III Tax Exemptions

1. The Organization of African Unity, its income, assets and properties shall be exempt:
 - (a) From all direct taxes, except that the Organization of African Unity will not claim exemption from taxes or dues which are no more than charges for public utility services;
 - (b) From import and export duties, prohibitions and quantitative restrictions on imports and exports in respect of articles imported or exported by the Organization of African Unity intended for and used for its official purpose. It is provided, however, that articles imported under such exemption shall not be sold with or without consideration in the country into which they were imported except under conditions agreed upon by the appropriate authorities of the Government of that country;
 - (c) From customs duties, prohibitions and restrictions on imports and exports in respect of its publications.
2. While the Organization of African Unity will not, as a general rule, claim exemption from excise duties and from transaction taxes on the sale of movable and immovable property which form part of the price to be paid, nevertheless when the Organization of African Unity is making important purchases for official use of property on which such duties and taxes have been charged or are chargeable, Members will enact the necessary provisions or make appropriate administrative arrangements for the remission or refund of the amount of duty or tax so charged.

Article IV Facilities in Respect of Communications

1. For its official communication and the transfer of all its documents, the Organization of African Unity shall enjoy in the territory of each Member State treatment not less favourable than that accorded by the Government of that Member to any other international organization as well as any government, including its diplomatic mission, in matters of priorities, rates and taxes on mails, cables, telegrams, radiograms, telephotos, telephones and other communications, as well as press rates for information to the press and radio. Official correspondence and other official communications of the Organization of African Unity shall not be subject to censorship.
2. The Organization of African Unity shall have the right to use codes and to dispatch and receive its official correspondence, either by courier or in sealed bags which shall have the same immunities and privileges as diplomatic couriers and bags.

3. GENERAL CONVENTION ON PRIVILEGES AND IMMUNITIES

Section C

Article V

Representatives of Member States

1. Representatives of Member States to the principal and subsidiary institutions, as well as to the specialized commissions of the Organization of African Unity, and to conferences convened by the Organization, shall, while exercising their functions and during their travel to and from the place of meetings, be accorded the following privileges and immunities:

(a) Immunity from personal arrest or detention and from any official interrogation as well as from inspection or seizure of their personal baggage;

(b) Immunity from legal process of every kind in respect of words spoken, written or acts performed or votes cast by them for and in the exercise of their functions;

(c) Inviolability for all their papers and documents and the right to use codes and to receive papers or correspondence by courier or in sealed bags;

(d) Exemption in respect of themselves and their spouse from immigration restrictions, aliens registration and from national service obligations in the State they are visiting or through which they are passing for and in the exercise of their functions;

(e) The same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign governments on temporary official missions;

(f) The same immunities and facilities in respect of their personal and official baggage as are accorded to diplomatic envoys;

(g) Such other privileges, immunities and facilities not inconsistent with the foregoing as diplomatic envoys enjoy, except that they shall have no right to claim exemption from customs duties on goods imported (otherwise than as part of their personal baggage) or from excise duties or sales taxes.

2. In order to secure, for the representatives of Members to the principal and subsidiary institutions as well as to specialized commissions of the Organization of African Unity and to conferences convened by the Organization, complete freedom of speech and independence in the discharge of their duties, the immunity from legal process in respect of words spoken, written or votes cast, and all acts done by them in discharging their duties shall continue to be accorded, notwithstanding that the persons concerned are no longer the representatives of Members.

3. Where the incidence of any form of taxation depends upon residence, periods during which the representatives of Members to the principal and subsidiary institutions as well as to the specialized commissions of the Organization of African Unity and to conferences convened by the Organization of African Unity are present in a State for the discharge of their duties shall not be considered as periods of residence.

4. Privileges and immunities are accorded to the representatives of Members not for the personal benefit of the individuals themselves, but in order to safeguard the independent exercise of their functions in connection with the Organization of African Unity. Consequently, a Member not only has the right but is under a duty to waive the immunity of its representative in any case where, in the opinion of the Member, the immunity would impede the course of justice, and it can be waived without prejudice to the purpose for which the immunity is accorded.

5. The provisions of paragraphs 1, 2, and 3 of Article V are not applicable as between a representative and the authorities of the State of which he is a national or of which he is or has been the representative.

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6. In this article the expression “representatives” shall be deemed to include all delegates, deputy delegates, advisers, technical experts and secretaries of delegations.

Section D

Article VI

Officials of the Organization of African Unity

1. The Administration Secretary-General will specify the category of officials to which the provisions of this article and Article VIII shall apply. He shall submit these categories to the Assembly. Thereafter these categories shall be communicated to the Governments of all Members. The names of the officials included in these categories shall from time to time be made known to the Governments of Members.

2. Officials of the Organization of African Unity shall:

(a) Be immune from legal process in respect of words spoken, written and all acts performed by them in their official capacity;

(b) Be exempt from taxation on the salaries and emoluments paid to them by the Organization of African Unity;

(c) Be immune from national service obligations;

(d) Be immune, together with their spouses and relatives residing with and dependent on them, from immigration restrictions and alien registration and finger printing;

(e) Be accorded the same privileges in respect of exchange facilities as are accorded to the officials of comparable ranks forming part of diplomatic missions to the Government concerned;

(f) Be given, together with their spouses and relatives residing with and dependent on them, the same repatriation facilities in time of international crisis as diplomatic envoys;

(g) Have the right to import free of duty their furniture and effects at the time of first taking up their post in the country in question.

3. In addition to the immunities and privileges specified in paragraph 2 of this article, the Administrative Secretary-General and all Assistant Secretaries-General shall be accorded in respect of themselves, their spouses and minor children, the privileges and immunities, exemptions and facilities accorded to diplomatic envoys, in accordance with international law.

4. Privileges and immunities are granted to officials in the interests of the Organization of African Unity and not for the personal benefit of the individuals themselves. The Administrative Secretary-General shall have the right and the duty to waive the immunity of any official in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the Organization of African Unity. In the case of the Administrative Secretary-General, the Council of Ministers shall have the right to waive immunity.

5. The Organization of African Unity shall cooperate at all times with the appropriate authorities of Members to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuse in connection with the privileges, immunities and facilities mentioned in this article.

Article VII

3. GENERAL CONVENTION ON PRIVILEGES AND IMMUNITIES

Experts on Missions for the Organization of African Unity

1. Experts (other than officials coming within the scope of Article VI) performing missions for the Organization of African Unity shall be accorded such privileges and immunities as are necessary for the independent exercise of their functions during the period of their missions, including the time spent on journeys in connection with their missions. In particular, they shall be accorded:

(a) Immunity from personal arrest or detention as well as any official interrogation and from inspections or seizure of their personal baggage;

(b) In respect of words spoken, written or votes cast and acts done by them in the course of the performance of their mission; immunity from legal process of every kind; the said immunities from legal process continue to be accorded notwithstanding that persons concerned are no longer employed on missions for the Organization of African Unity;

(c) Inviolability for all papers and documents;

(d) For the purpose of their communications with the Organization of African Unity, the right to use codes and to receive papers or correspondence by courier or in sealed bags;

(e) The same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign Governments on temporary official missions;

(f) The same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys.

2. Privileges and immunities are granted to experts in the interests of the Organization of African Unity and not for the personal benefit of the individuals themselves. The Administrative Secretary-General shall have the right and the duty to waive the immunities of any expert in any case where, in his opinion, the immunity would impede the course of justice and it can be waived without prejudice to the interests of the Organization of African Unity.

Article VIII

Organization of African Unity Laissez-Passer

1. The Organization of African Unity may issue Organization of African Unity laissez-passers to its officials. These laissez-passers shall be recognized and accepted as valid travel documents by the authorities of Members, taking into account the provisions of paragraph 2 of this article.

2. Applications for visas (where required) from the holders of Organization of African Unity laissez-passers, when accompanied by a certificate that they are travelling on the business of the Organization of African Unity, shall be dealt with as speedily as possible. In addition, such persons shall be granted facilities for speedy travel.

3. Similar facilities to those specified in paragraph 2 of this article shall be accorded to experts and other persons who, though not the holders of Organization of African Unity laissez-passers, have a certificate that they are travelling on the business of the Organization of African Unity.

4. The Administrative Secretary-General, Assistant Secretaries-General and Directors travelling on Organization of African Unity laissez-passers on the business of the Organization of African Unity shall be granted the same facilities as are accorded to diplomatic envoys.

Section E

I. ORGANIZATION OF AFRICAN UNITY

Article IX Settlement of Disputes

1. The Organization of African Unity shall make provisions for appropriate modes of settlement of:
 - (a) Disputes arising out of contracts or other disputes of a private law character to which the Organization of African Unity is a party;
 - (b) Disputes involving any official of the Organization of African Unity who by reason of his official position enjoys immunity, if immunity has not been waived by the Administrative Secretary-General.
2. (a) All differences arising out of the interpretation and/or application of the present Convention shall be referred for arbitration to the Commission of Mediation, Conciliation and Arbitration, unless in any case it is agreed by the parties to have recourse to another mode of settlement.
 - (b) All differences which may arise between the Organization of African Unity on the one hand, and a Member State on the other hand, with respect to the interpretation and/or application of the present Convention; failing settlement by negotiation or any other agreed method of settlement shall be submitted to a tribunal of three arbitrators; one to be named by the Administrative Secretary-General of the Organization, one to be named by the Member State, the third to be chosen by the two arbitrators, and/or if they should fail to agree upon the third, then the third shall be chosen by the President of the Commission of Mediation, Conciliation and Arbitration.

Article X Final Provisions

1. This Convention is submitted to every Member of the Organization of African Unity for accession.
2. The accession provided for in paragraph 1 of this article shall be effected by the signature of the Heads of State and Government; this signature implies the immediate entering into force of the General Convention on the Privileges and Immunities of the Organization of African Unity.
3. The Administrative Secretary-General may conclude with any Member or Members supplementary agreements adjusting the provisions of this Convention so far as that Member or those Members are concerned. These supplementary agreements shall in each case be subject to the approval of the Assembly.

4.

ADDITIONAL PROTOCOL TO THE OAU GENERAL CONVENTION ON PRIVILEGES AND IMMUNITIES

Adopted in Freetown, Sierra Leone, on 3 July 1980.

Entered into force for each Member State on the date of the deposit of the instrument of accession.

The States Parties to the present Protocol,

Convinced of the importance of granting adequate immunities and privileges, as well as the issue of the Organization of African Unity laissez-passers to personnel of the Organization of African Unity specialized agencies to enable them to perform their functions efficiently in the territories of Member States of the Organization of African Unity,

Considering that the General Convention on the Privileges and Immunities of the Organization of African Unity (hereinafter referred to as the Convention) does not contain provisions for granting of privileges and immunities including the issue of the Organization of African Unity laissez-passers to officials and other staff members, and

4. ADDITIONAL PROTOCOL ON PRIVILEGES AND IMMUNITIES

travel certificates to experts and non-nationals of the members of the OAU specialized agencies hereinafter referred to as agencies,

Considering that such immunities and privileges as are granted to the Organization of African Unity officials will be adequate for the officials of the agencies for the efficient performance of their functions in the territories of the Organization of African Unity Member States,

Have agreed as follows:

Article 1 Definition

For the purpose of this Protocol, the word "official" means any person employed on a permanent basis at the professional level.

For the purpose of this Protocol, the word "expert" means any person other than an official who owing to his special qualifications is recruited on a temporary basis to perform a specific job.

Immunities and Privileges

A. Officials of the Agencies Nationals of OAU Member States

Article 2

1. The Secretary-General of the Organization of African Unity shall, in consultation with the heads of the agencies, specify the categories of officials of the agencies to which the provisions of this article and Article 3 shall apply. He shall submit these categories to the Organization of African Unity Assembly of Heads of State and Government. Thereafter the categories shall be communicated to the Governments of all Member States. The names of officials included in those categories shall from time to time be made known to the Governments of Member States.

2. Officials of the agencies shall:

- (a) Be immune from legal process in respect of words spoken, written and all acts performed by them in their official capacity;
- (b) Be exempt from taxation on the salaries and emoluments paid to them by the Organization of African Unity agencies;
- (c) Be immune from arrest and detention;
- (d) Be immune from national service obligation;
- (e) Be immune, together with their spouses and the members of their immediate families residing with, and dependent on them, including their personal employees, from immigration restrictions, alien registration and finger printing;
- (f) Be accorded the same privileges in respect of exchange facilities as are accorded to the officials of comparable ranks forming part of diplomatic missions to the Government concerned;
- (g) Be given, together with their spouses and relatives residing with, and dependent on them, the same repatriation facilities in time of international crisis as diplomatic envoys;

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(h) Import free of duty their furniture and effects at the time of first taking up their appointment in the countries of OAU Member States.

3. The provisions of subparagraphs (b) to (h) may not apply to nationals in their country of origin.

4. In addition to the immunities and privileges specified in paragraph 2 of this article, the Secretary-General and the Assistant Secretary-General of the agencies shall be accorded in respect of themselves, their spouses and children, the privileges and immunities, exemptions and facilities accorded to diplomatic envoys in accordance with international law.

5. Privileges and immunities are granted to the personnel of the agencies in the interest of the Organization of African Unity, and not for the personal benefit of the individuals themselves. The Secretary-General of the Organization of African Unity shall have the right and the duty to waive the immunity of any official of the agencies in any case where, in his opinion, the immunity would impede the course of justice and can be waived without prejudice to the interests of the Organization of African Unity.

6. The Organization of African Unity and the agencies shall cooperate at all times with the appropriate authorities of Member States to facilitate the proper administration of justice, secure the observance of police regulations and prevent the occurrence of any abuse in connection with the privileges, immunities and facilities mentioned in this article.

(B) Officials of the Agencies With Nationalities Other Than Those of Organization of African Unity Member States and Experts on Mission for the Agencies

Article 3

Experts on mission for the agencies and the officials of the agencies other than those holding the nationality of a Member State of the Organization of African Unity shall be accorded such privileges and immunities as are necessary for the independent exercise of their functions during the period of their missions, including the time spent on journeys in connection with their missions. In particular, they shall be accorded:

(a) Immunity from arrest or detention;

(b) Immunity from legal process of any kind in respect of words spoken, written and all acts performed by them in the course of the performance of their mission;

(c) Inviolability for all official papers and documents for the purpose of their communication with the specialized agencies and the Organization of African Unity;

(d) The same facilities in respect of currency or exchange restrictions as are accorded to representatives of foreign governments on temporary official missions;

(e) The same immunities and facilities in respect of their personal baggage as are accorded to diplomatic envoys.

Article 4

Privileges and immunities are granted to the experts and officials in the interest of the Organization of African Unity and not for the personal benefit of the individual themselves. The Secretary-General of the Organization of African Unity shall have the right and the duty to waive the immunity of any expert or official in any case where, in his opinion, the immunity would impede the course of justice and it can be waived without prejudice to the interest of the Organization of African Unity.

4. ADDITIONAL PROTOCOL ON PRIVILEGES AND IMMUNITIES

Article 5

Organization of African Unity Laissez-Passer

1. The Organization of African Unity may issue Organization of African Unity laissez-passers to the officials of the Organization of African Unity agencies. These laissez-passers shall be recognized and accepted as valid travel documents by the authorities of the Organization of African Unity Member States, taking into account the provisions of paragraph 2 of this article.
2. Application for visas from holders of Organization of African Unity laissez-passers, when accompanied by travel authorization that they are travelling on the business of the agencies for the Organization of African Unity, shall be dealt with as speedily as possible. In addition, such persons shall be granted facilities for speedy travel.
3. The head of the Organization of African Unity agencies and their deputies travelling on Organization of African Unity laissez-passers on the business of the Organization of African Unity shall be granted the same facilities as are accorded to diplomatic envoys.
4. The Organization of African Unity laissez-passers may be issued by the Organization of African Unity Secretary-General to the agencies' officials on the application of the heads of the agencies.
5. On the termination of the appointment of an official of the agencies who is a holder of the Organization of African Unity laissez-passers, the agencies shall promptly return the laissez-passers to the Organization of African Unity Secretary-General, who shall notify all Member States of the cancellation of the laissez-passers.

Article 6

Organization of African Unity Travel Certificate

1. The Organization of African Unity travel certificate may be issued to the officials of the Organization of African Unity agencies who are not the nationals of the Organization of African Unity Member States, who hold a contract appointment of not more than six months duration with the Organization of African Unity agencies, to experts on the missions of the agencies for the Organization of African Unity and such other staff members as the Secretary-General of the OAU may determine.
2. Application for visas from holders of OAU travel certificate when accompanied by travel authorization that they are travelling on the business of the agencies for the Organization of African Unity shall be dealt with as speedily as possible. In addition, such persons shall be granted facilities for speedy travel.
3. The Organization of African Unity travel certificate may be issued by the Secretary-General on application from the head of an agency.
4. On the termination of the appointment of a holder of an Organization of African Unity travel certificate, the agency shall return the certificate to the Organization of African Unity Secretary-General for cancellation. If for any reason the travel certification is not returned, the agency shall inform the OAU Secretary-General who shall notify all Member States of the cancellation of the certificate.
5. The Organization of African Unity travel certificates shall specify the following:
 - (a) Full names of holder;
 - (b) Nationality;
 - (c) Date and place of birth;

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- (d) Title;
- (e) Period of validity;
- (f) General remark.

Article 7 Settlement of Disputes

Any disputes arising out of this Protocol shall be settled in accordance with the provisions of Section E, Article IX, of the General Convention on the Privileges and Immunities of the OAU.

Article 8 Amendment

1. Any State Party to the present Protocol may propose an amendment and file it with the Organization of African Unity Secretary-General, who thereupon shall communicate the proposed amendment to the States Parties to the present Protocol with a request that they notify him whether they favour a conference of States Parties for the purpose of considering and voting upon the proposal. In the event that at least one third of the States Parties favour such conference, the Secretary-General shall convene the conference under the auspices of the Organization of African Unity. Any amendment adopted by a majority of the States Parties present and voting at the conference, shall immediately come into force.

2. In the event, that a conference is not favoured, the Secretary-General shall call upon States Parties to indicate to him in writing whether or not they are in favour of the proposed amendment. A simple majority of such indication immediately on receipt by the Secretary-General shall bring the amendment into force.

3. When amendments come into force, they shall be binding on those States Parties which have accepted them; other States Parties still being bound by the provisions of the present Protocol and any earlier amendments which they have accepted.

Article 9 Denunciation

1. Any State Party may denounce the present Protocol at any time by a written notification addressed to the Organization of African Unity Secretary-General. Denunciation shall take effect three months after the date of receipt of the notification by the Secretary-General.

2. The Organization of African Unity Secretary-General shall inform all Member States of the following particulars:

- (a) Accessions to the present Protocol;
- (b) The date of entry into force of the present Protocol with respect to the Member depositing an instrument of accession and the date of entry into force of any amendments;
- (c) Denunciations.

Article 10 Final Provisions

1. This Protocol is submitted to every Member of the Organization of African Unity for accession.

5. DECLARATION IN TRIBUTE TO THE OAU

2. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the Organization of African Unity; and the Protocol shall come into force as regards such Member on the date of the deposit of its instrument of accession.
3. The Secretary-General of the Organization of African Unity shall inform all Members of the Organization of African Unity of the deposit of each instrument of accession.
4. The Protocol shall continue in force as between the Organization of African Unity and every Member that has deposited an instrument of accession or until a revised protocol has been approved by the Assembly of Heads of State and Government and that Member has become a party to the revised protocol.
5. The head of an agency may conclude with any Member or Members of the Organization of African Unity supplementary agreements adjusting the provisions of this Protocol with particular reference to the establishment of the agencies' offices, so far as that Member or those Members are concerned. These supplementary agreements shall in each case be subject to the approval of the Organization of African Unity Assembly of Heads of State and Government.

Article 11

1. The present Protocol of which the Arabic, English and French texts are equally authentic, shall be deposited in the archives of the Organization of African Unity.
2. The Organization of African Unity Secretary-General shall transmit copies of the present Protocol to all States Parties.
3. The present Protocol is approved by the Organization of African Unity Assembly of Heads of State and Government at its Seventeenth Ordinary Session at Freetown, Sierra Leone, on 3 July 1980.

5.

DURBAN DECLARATION IN TRIBUTE TO THE ORGANIZATION OF AFRICAN UNITY ON THE OCCASION OF THE LAUNCHING OF THE AFRICAN UNION (Assembly/AU/Decl.2 (I))

Adopted in Durban, South Africa, on 10 July 2002.

We, the Heads of State and Government of the Assembly of the African Union, meeting in our inaugural session in Durban, South Africa, have adopted the following declaration in tribute to the Organization of African Unity:

1. Thirty-nine years ago, the Heads of State and Government of the then independent African countries gathered in Addis Ababa, Ethiopia, to found the Organization of African Unity.
2. The main objectives for establishing the organization were, inter alia, to rid the continent of the remaining vestiges of colonization and apartheid; to promote unity and solidarity among African States; coordinate and intensify cooperation for development; for the defence of sovereignty, territorial integrity and consolidation of the independence of African States, as well as promoting international cooperation within the framework of the United Nations.
3. The common identity and unity of purpose engendered by the OAU became a dynamic force at the service of the African people in the pursuit of the struggle for the total emancipation of the African continent in the political, economic and social fields. Nowhere has that dynamic force proved more decisive than in the African struggle for decolonization. Through the OAU Coordinating Committee for the Liberation of Africa, the continent worked and spoke as one with undivided determination in forging an international consensus in support of the

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liberation struggle. Today, we celebrate a fully decolonized Africa and apartheid has been consigned to the ignominy of history.

4. Pursuant to one of the major objectives of its Charter, the OAU has strived to address Africa's problem of poverty and underdevelopment and adopted strategies in this regard, including the 1980 Lagos Plan of Action and the Final Act of Lagos which continue to be the blue print for Africa's integration and development.

5. In June 1991, the Treaty establishing the African Economic Community was signed and is now in force. The Treaty seeks to build the African Economic Community through a common market built on the Regional Economic Communities. Today, Regional Economic Communities are consolidating and proving to be engines for integration. ECCAS, SADC, COMESA, UMA, ECOWAS, IGAD and CENSAD are making great effort at economic development and integration as well as at promoting peace through conflict resolution in their region. We remain committed to continental and global cooperation including the strengthening of Afro-Arab cooperation.

6. In the political realm, the OAU Declaration on the Political and Socio-Economic Situation in Africa and the Fundamental Changes Taking Place in the World of 1990, underscored Africa's resolve to seize the initiative, to determine its destiny and to address the challenges to peace, democracy and security. The Mechanism for Conflict Prevention, Management and Resolution that was established in 1993 was a practical expression of that determination to begin in earnest, the task of promoting peace and stability in Africa.

7. Through the Mechanism, the OAU has managed to address constructively many of the conflicts which have and continue to afflict our continent. The Mechanism has made a fundamental difference, not only in its political significance of our determination to strive for peace, but more so in the practical framework it has provided for the continent to address conflicts and conflict situations.

8. The OAU has been on the vanguard in the promotion of the observance of human and peoples' rights. The OAU Charter on Human and Peoples' Rights and the Grand Bay Declaration and Plan of Action on Human Rights are among the instruments adopted by the Organization to promote human rights. Underlying these instruments is a determination to ensure that Africa responds to the challenge of observing, promoting and protecting human rights and the rule of law.

9. The OAU has also responded to the yearning of the African people for greater political freedoms inherent in democratic government. To this effect, it was at the forefront in galvanizing governments around a new determination to progressively place the people at the centre of decision-making. The Charter on Popular Participation adopted in 1990 was a testimony to this new determination.

10. Today, Africa is firmly on the road to democratization. In our Algiers decision on unconstitutional changes of Government and our Lomé Declaration on the Framework for an OAU Response to Unconstitutional Changes adopted in 1999 and 2000 respectively, we reiterated our determination to see Africa governed on the basis of democracy and by governments emanating from the will of the people expressed through transparent, free and fair elections.

11. Similarly, in our 2000 Solemn Declaration on the Conference on Security, Stability, Development and Cooperation, we agreed on fundamental principles to govern our cooperation in security, and development and in the promotion of democracy and good governance on the continent.

12. Through the OAU, Africa has been able to respond to the many other challenges it faces. Whether in the protection of the environment, in fighting international terrorism, in combating the scourge of the HIV/AIDS pandemic, malaria and tuberculosis or dealing with humanitarian issues such as refugees and displaced persons, landmines, small and light weapons among others, Africa has found collective action through the OAU.

13. We, the Heads of State and Government, meeting in the inaugural session of the Assembly of our African Union, honour the founding leaders of the OAU and pay tribute to their tenacity, resilience and commitment to

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African unity. They stood firm in the face of the divisive manipulations of the detractors of Africa and fought for the integrity of Africa and the human dignity of all the peoples of the continent. In the same vein, we pay tribute to all the Secretaries-General and all the men and women who served the OAU with dedication and commitment.

14. As we hail the achievements of the OAU, we rededicate ourselves more resolutely to its principles and objectives and to the ideals of freedom, unity and development which the founding leaders sought to achieve in establishing the Organization thirty-nine years ago. As we bid farewell to the OAU, we rededicate ourselves to its memory as a pioneer, a liberator, a unifier, an organizer, and the soul of our continent. We pledge to strive more resolutely in pursuing the ultimate goals of the OAU and in furthering the cause of Africa and its people under the African Union.

15. We reiterate our continuing commitment to the objectives of the African Union which was initiated at the Fourth Extraordinary Session of the OAU Assembly of Heads of State and Government in the Great Socialist People's Libyan Arab Jamahiriya and as embodied in our Sirte Declaration of 1999. We further rededicate ourselves to the objectives on the New Partnership of Africa's Development (NEPAD), as a programme of the African Union for strengthening inter-African cooperation and integration in a globalizing world and to overcome the prevalence of poverty and strive for a better quality of life for all the peoples of Africa.

16. We commit ourselves to urgently establish all institutional structures to advance the agenda of the African Union and call on all Member States to honour their political and financial commitments and to take all the necessary actions to give unwavering support to all the Union's initiatives aimed at promoting peace, security, stability, sustainable development, democracy and human rights on our continent.

17. In order to ensure the involvement of our peoples and their civil society organizations in the activities of the Union, we recommit ourselves to the early establishment of the Pan-African Parliament and the Economic, Social and Cultural Council (ECOSOCC) as envisaged in the Constitutive Act of our Union.

18. We welcome and recognize the important contribution of the youth, women, business community, parliamentary representatives and civil society and call upon these stakeholders to continue participating fully as partners in the regeneration of the African continent through the programmes of the African Union. We reaffirm, in particular, the pivotal role of women in all levels of society and recognize that the objectives of the African Union cannot be achieved without the full involvement and participation of women at all levels and structures of the Union.

19. We note the importance of continuing to cooperate with Africa's partners as well as regional and continental organizations in the furtherance of the objectives of the African Union.

20. As we enter a new era in the history of our continent, we commit ourselves to the principles and objectives that we set out in the Constitutive Act of our Union in order to ensure that our peoples live in peace and prosperity. We also rededicate ourselves to implementing all programmes, policies and decisions of the African Union.

PART II
AFRICAN UNION

1. SIRTE DECLARATION

1.

SIRTE DECLARATION (EAHG/Decl. (IV) Rev.1))

Adopted in Sirte, Libya, on 9 September 1999.

We, the Heads of State and Government of the Organization of African Unity (OAU), met at the Fourth Extraordinary Session of our Assembly in Sirte, in the Great Socialist People's Libya Arab Jamahiriya, from 8 to 9 September 1999, at the invitation of the Leader of the Al-Fatah Revolution, Colonel Muammar Ghaddafi, and as agreed upon during the Thirty-fifth Ordinary Session of our Summit in Algiers, Algeria, from 12 to 14 July 1999.

We deliberated extensively on the ways and means of strengthening our continental Organization to make it more effective so as to keep pace with the political, economic and social developments taking place within and outside our continent.

In this endeavor, we were inspired by the ideals which guided the founding fathers of our Organization and generations of Pan-Africanists in their resolve to forge unity, solidarity and cohesion, as well as cooperation, between African peoples and among African States.

We recall the heroic struggles waged by our peoples and our countries during the last century of this millennium for political independence, human dignity, and economic emancipation. We take pride in the achievements made to promote and consolidate African unity and we salute the heroism and the sacrifices of our peoples, particularly during the liberation struggles.

As we prepare to enter the twenty-first century, and cognizant of the challenges that will confront our continent and peoples, we emphasize the imperative need and a high sense of urgency to rekindle the aspirations of our peoples for stronger unity, solidarity and cohesion in a larger community of peoples transcending cultural, ideological, ethnic, and national differences.

In order to cope with these challenges and to effectively address the new social, political, and economic realities in Africa and in the world, we are determined to fulfill our peoples' aspirations for greater unity in conformity with the objectives of the Charter of the Organization of African Unity and the Treaty Establishing the African Economic Community (the Abuja Treaty). It is also our conviction that our continental Organization needs to be revitalized in order to be able to play a more active role and continue to be relevant to the needs of our peoples and responsive to the demands of the prevailing circumstances. We are also determined to eliminate the scourge of conflicts which constitutes a major impediment to the implementation of our development and integration agenda.

In our deliberations, we have been inspired by the important proposals submitted by Colonel Muammar Ghaddafi, Leader of the Great Al-Fatah Libyan Revolution, and, particularly, by his vision for a strong and united Africa, capable of meeting global challenges and shouldering its responsibility to harness the human and natural resources of the continent in order to improve the living conditions of its peoples.

Having discussed frankly and extensively how to proceed with the strengthening of the unity of our continent and its peoples, in the light of those proposals, and bearing in mind the current situation on the continent, we decided to:

1. *Establish* an African Union in conformity with the ultimate objectives of the Charter of our continental Organization and the provisions of the Treaty Establishing the African Economic Community;
2. *Accelerate* the process of implementing the Treaty Establishing the African Economic Community, in particular shorten the implementation periods of the Abuja Treaty;

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3. *Ensure* the speedy establishment of all the institutions provided for in the Abuja Treaty, such as the African Central Bank, the African Monetary Union, the African Court of Justice and, in particular, the Pan-African Parliament. We aim to establish that Parliament by the year 2000 to provide a common platform for our peoples and their grass-roots organizations to be more involved in discussions and decision-making on the problems and challenges facing our continent;
4. *Strengthen and consolidate* the Regional Economic Communities as the pillars for achieving the objectives of the African Economic Community and realizing the envisaged Union;
5. *Mandate* the Council of Ministers to take the necessary measures to ensure the implementation of the above decisions and, in particular, to prepare the constitutive legal text of the Union, taking into account the Charter of the OAU and the Treaty Establishing the African Economic Community. Member States should encourage the participation of Parliamentarians in that process. The Council should submit its report to the Thirty-sixth Ordinary Session of our Assembly for appropriate action. Member States should work towards finalizing the process of ratification, where appropriate, by December 2000, in order for a Constitutive Act to be solemnly adopted in the year 2001 at an extraordinary summit to be convened in Sirte;
6. *Mandate* our current Chairman, President Abdelaziz Bouteflika of Algeria, and President Thabo Mbeki of South Africa, to engage African creditors on our behalf on the issue of Africa's external indebtedness, with a view to securing the total cancellation of Africa's debt, as a matter of urgency. They are to coordinate their efforts with the OAU Contact Group on Africa's External Debt;
7. *Convene* an African Ministerial Conference on Security, Stability, Development and Cooperation in the Continent, as soon as possible;
8. *Request* the Secretary-General of our Organization, as a matter of priority, to take all appropriate measures to follow up the implementation of these decisions.

2.

CONSTITUTIVE ACT OF THE AFRICAN UNION

Adopted in Lomé, Togo, on 11 July 2000.

Entered into force on 26 May 2001.

We, Heads of State and Government of the Member States of the Organization of African Unity (OAU),

Inspired by the noble ideals which guided the founding fathers of our continental organization and generations of Pan-Africanists in their determination to promote unity, solidarity, cohesion and cooperation among the peoples of Africa and African States,

Considering the principles and objectives stated in the Charter of the Organization of African Unity and the Treaty Establishing the African Economic Community,

Recalling the heroic struggles waged by our peoples and our countries for political independence, human dignity and economic emancipation,

Considering that since its inception, the Organization of African Unity has played a determining and invaluable role in the liberation of the continent, the affirmation of a common identity and the process of attainment of the unity of our continent and has provided a unique framework for our collective action in Africa and in our relations with the rest of the world,

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Determined to take up the multifaceted challenges that confront our continent and peoples in the light of the social, economic and political changes taking place in the world,

Convinced of the need to accelerate the process of implementing the Treaty Establishing the African Economic Community in order to promote the socio-economic development of Africa and to face more effectively the challenges posed by globalization,

Guided by our common vision of a united and strong Africa and by the need to build a partnership between governments and all segments of civil society, in particular women, youth and the private sector, in order to strengthen solidarity and cohesion among our peoples,

Conscious of the fact that the scourge of conflicts in Africa constitutes a major impediment to the socio-economic development of the continent and of the need to promote peace, security and stability as a prerequisite for the implementation of our development and integration agenda,

Determined to promote and protect human and peoples' rights, consolidate democratic institutions and culture, and to ensure good governance and the rule of law,

Further determined to take all necessary measures to strengthen our common institutions and provide them with the necessary powers and resources to enable them to discharge their respective mandates effectively,

Recalling the Declaration which we adopted at the Fourth Extraordinary Session of our Assembly in Sirte, the Great Socialist People's Libyan Arab Jamahiriya, on 9 September 1999, in which we decided to establish an African Union, in conformity with the ultimate objectives of the Charter of our continental organization and the Treaty Establishing the African Economic Community,

Have agreed as follows:

Article 1 Definitions

In this Constitutive Act:

"Act" means the present Constitutive Act;

"AEC" means the African Economic Community;

"Assembly" means the Assembly of Heads of State and Government of the Union;

"Charter" means the Charter of the OAU;

"Commission" means the Secretariat of the Union;

"Committee" means a Specialized Technical Committee of the Union;

"Council" means the Economic, Social and Cultural Council of the Union;

"Court " means the Court of Justice of the Union;

"Executive Council" means the Executive Council of Ministers of the Union;

"Member State" means a Member State of the Union;

"OAU" means the Organization of African Unity;

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"Parliament" means the Pan-African Parliament of the Union;

"Union" means the African Union established by the present Constitutive Act.

Article 2 Establishment

The African Union is hereby established in accordance with the provisions of this Act.

Article 3 Objectives

The objectives of the Union shall be to:

- (a) Achieve greater unity and solidarity between the African countries and the peoples of Africa;
- (b) Defend the sovereignty, territorial integrity and independence of its Member States;
- (c) Accelerate the political and socio-economic integration of the continent;
- (d) Promote and defend African common positions on issues of interest to the continent and its peoples;
- (e) Encourage international cooperation, taking due account of the Charter of the United Nations and the Universal Declaration of Human Rights;
- (f) Promote peace, security, and stability on the continent;
- (g) Promote democratic principles and institutions, popular participation and good governance;
- (h) Promote and protect human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights and other relevant human rights instruments;
- (i) Establish the necessary conditions which enable the continent to play its rightful role in the global economy and in international negotiations;
- (j) Promote sustainable development at the economic, social and cultural levels as well as the integration of African economies;
- (k) Promote cooperation in all fields of human activity to raise the living standards of African peoples;
- (l) Coordinate and harmonize the policies between the existing and future Regional Economic Communities for the gradual attainment of the objectives of the Union;
- (m) Advance the development of the continent by promoting research in all fields, in particular in science and technology;
- (n) Work with relevant international partners in the eradication of preventable diseases and the promotion of good health on the continent.

Article 4 Principles

2. CONSTITUTIVE ACT OF THE AFRICAN UNION

The Union shall function in accordance with the following principles:

- (a) Sovereign equality and interdependence among Member States of the Union;
- (b) Respect of borders existing on achievement of independence;
- (c) Participation of the African peoples in the activities of the Union;
- (d) Establishment of a common defence policy for the African continent;
- (e) Peaceful resolution of conflicts among Member States of the Union through such appropriate means as may be decided upon by the Assembly;
- (f) Prohibition of the use of force or threat to use force among Member States of the Union;
- (g) Non-interference by any Member State in the internal affairs of another;
- (h) The right of the Union to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely: war crimes, genocide and crimes against humanity;
- (i) Peaceful coexistence of Member States and their right to live in peace and security;
- (j) The right of Member States to request intervention from the Union in order to restore peace and security;
- (k) Promotion of self-reliance within the framework of the Union;
- (l) Promotion of gender equality;
- (m) Respect for democratic principles, human rights, the rule of law and good governance;
- (n) Promotion of social justice to ensure balanced economic development;
- (o) Respect for the sanctity of human life, condemnation and rejection of impunity and political assassination, acts of terrorism and subversive activities;
- (p) Condemnation and rejection of unconstitutional changes of governments.

Article 5 Organs of the Union

- 1. The organs of the Union shall be:
 - (a) The Assembly of the Union;
 - (b) The Executive Council;
 - (c) The Pan-African Parliament;
 - (d) The Court of Justice;
 - (e) The Commission;
 - (f) The Permanent Representatives Committee;

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- (g) The Specialized Technical Committees;
 - (h) The Economic, Social and Cultural Council;
 - (i) The financial institutions.
2. Other organs that the Assembly may decide to establish.

Article 6 The Assembly

1. The Assembly shall be composed of Heads of State and Government or their duly accredited representatives.
2. The Assembly shall be the supreme organ of the Union.
3. The Assembly shall meet at least once a year in ordinary session. At the request of any Member State and on approval by a two-thirds majority of the Member States, the Assembly shall meet in extraordinary session.
4. The Office of the Chairman of the Assembly shall be held for a period of one year by a Head of State or Government elected after consultations among the Member States.

Article 7 Decisions of the Assembly

1. The Assembly shall take its decisions by consensus or, failing which, by a two-thirds majority of the Member States of the Union. However, procedural matters, including the question of whether a matter is one of procedure or not, shall be decided by a simple majority.
2. Two thirds of the total membership of the Union shall form a quorum at any meeting of the Assembly.

Article 8 Rules of Procedure of the Assembly

The Assembly shall adopt its own rules of procedure.

Article 9 Powers and Functions of the Assembly

1. The functions of the Assembly shall be to:
 - (a) Determine the common policies of the Union;
 - (b) Receive, consider and take decisions on reports and recommendations from the other organs of the Union;
 - (c) Consider requests for Membership of the Union;
 - (d) Establish any organ of the Union;
 - (e) Monitor the implementation of policies and decisions of the Union as well ensure compliance by all Member States;

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- (f) Adopt the budget of the Union;
 - (g) Give directives to the Executive Council on the management of conflicts, war and other emergency situations and the restoration of peace;
 - (h) Appoint and terminate the appointment of the judges of the Court of Justice;
 - (i) Appoint the Chairman of the Commission and his or her deputy or deputies and Commissioners of the Commission and determine their functions and terms of office.
2. The Assembly may delegate any of its powers and functions to any organ of the Union.

Article 10 The Executive Council

1. The Executive Council shall be composed of the Ministers of Foreign Affairs or such other Ministers or Authorities as are designated by the Governments of Member States.
2. The Executive Council shall meet at least twice a year in ordinary session. It shall also meet in an extraordinary session at the request of any Member State and upon approval by two thirds of all Member States.

Article 11 Decisions of the Executive Council

1. The Executive Council shall take its decisions by consensus or, failing which, by a two-thirds majority of the Member States. However, procedural matters, including the question of whether a matter is one of procedure or not, shall be decided by a simple majority.
2. Two thirds of the total membership of the Union shall form a quorum at any meeting of the Executive Council.

Article 12 Rules of Procedure of the Executive Council

The Executive Council shall adopt its own Rules of Procedure.

Article 13 Functions of the Executive Council

1. The Executive Council shall coordinate and take decisions on policies in areas of common interest to the Member States, including the following:
 - (a) Foreign trade;
 - (b) Energy, industry and mineral resources;
 - (c) Food, agricultural and animal resources, livestock production and forestry;
 - (d) Water resources and irrigation;
 - (e) Environmental protection, humanitarian action and disaster response and relief;
 - (f) Transport and communications;

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- (g) Insurance;
 - (h) Education, culture, health and human resources development;
 - (i) Science and technology;
 - (j) Nationality, residency and immigration matters;
 - (k) Social security, including the formulation of mother and child care policies, as well as policies relating to the disabled and the handicapped;
 - (l) Establishment of a system of African awards, medals and prizes.
2. The Executive Council shall be responsible to the Assembly. It shall consider issues referred to it and monitor the implementation of policies formulated by the Assembly.
3. The Executive Council may delegate any of its powers and functions mentioned in paragraph 1 of this article to the Specialized Technical Committees established under Article 14 of this Act.

Article 14 The Specialized Technical Committees Establishment and Composition

1. There is hereby established the following Specialized Technical Committees, which shall be responsible to the Executive Council:
- (a) The Committee on Rural Economy and Agricultural Matters;
 - (b) The Committee on Monetary and Financial Affairs;
 - (c) The Committee on Trade, Customs and Immigration Matters;
 - (d) The Committee on Industry, Science and Technology, Energy, Natural Resources and Environment;
 - (e) The Committee on Transport, Communications and Tourism;
 - (f) The Committee on Health, Labour and Social Affairs; and
 - (g) The Committee on Education, Culture and Human Resources.
2. The Assembly shall, whenever it deems appropriate, restructure the existing Committees or establish other Committees.
3. The Specialized Technical Committees shall be composed of Ministers or senior officials responsible for sectors falling within their respective areas of competence.

Article 15 Functions of the Specialized Technical Committees

Each Committee shall within its field of competence:

- (a) Prepare projects and programmes of the Union and submit it to the Executive Council;

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- (b) Ensure the supervision, follow-up and the evaluation of the implementation of decisions taken by the organs of the Union;
- (c) Ensure the coordination and harmonization of projects and programmes of the Union;
- (d) Submit to the Executive Council either on its own initiative or at the request of the Executive Council, reports and recommendations on the implementation of the provisions of this Act; and
- (e) Carry out any other functions assigned to it for the purpose of ensuring the implementation of the provisions of this Act.

Article 16 Meetings

Subject to any directives given by the Executive Council, each Committee shall meet as often as necessary and shall prepare its Rules of Procedure and submit them to the Executive Council for approval.

Article 17 The Pan-African Parliament

1. In order to ensure the full participation of African peoples in the development and economic integration of the continent, a Pan-African Parliament shall be established.
2. The composition, powers, functions and organization of the Pan-African Parliament shall be defined in a protocol relating thereto.

Article 18 The Court of Justice

1. A Court of Justice of the Union shall be established.
2. The statute, composition and functions of the Court of Justice shall be defined in a protocol relating thereto.

Article 19 The Financial Institutions

The Union shall have the following financial institutions whose rules and regulations shall be defined in protocols relating thereto:

- (a) The African Central Bank;
- (b) The African Monetary Fund;
- (c) The African Investment Bank.

Article 20 The Commission

1. There shall be established a Commission of the Union, which shall be the Secretariat of the Union.

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2. The Commission shall be composed of the Chairman, his or her deputy or deputies and the Commissioners. They shall be assisted by the necessary staff for the smooth functioning of the Commission.
3. The structure, functions and regulations of the Commission shall be determined by the Assembly.

Article 21

The Permanent Representatives Committee

1. There shall be established a Permanent Representatives Committee. It shall be composed of Permanent Representatives to the Union and other Plenipotentiaries of Member States.
2. The Permanent Representatives Committee shall be charged with the responsibility of preparing the work of the Executive Council and acting on the Executive Council's instructions. It may set up such subcommittees or working groups as it may deem necessary.

Article 22

The Economic, Social and Cultural Council

1. The Economic, Social and Cultural Council shall be an advisory organ composed of different social and professional groups of the Member States of the Union.
2. The functions, powers, composition and organization of the Economic, Social and Cultural Council shall be determined by the Assembly.

Article 23

Imposition of Sanctions

1. The Assembly shall determine the appropriate sanctions to be imposed on any Member State that defaults in the payment of its contributions to the budget of the Union in the following manner: denial of the right to speak at meetings, to vote, to present candidates for any position or post within the Union or to benefit from any activity or commitments, therefrom.
2. Furthermore, any Member State that fails to comply with the decisions and policies of the Union may be subjected to other sanctions, such as the denial of transport and communications links with other Member States, and other measures of a political and economic nature to be determined by the Assembly.

Article 24

The Headquarters of the Union

1. The Headquarters of the Union shall be in Addis Ababa in the Federal Democratic Republic of Ethiopia.
2. There may be established such other offices of the Union as the Assembly may, on the recommendation of the Executive Council, determine.

Article 25

Working Languages

The working languages of the Union and all its institutions shall be, if possible, African languages, Arabic, English, French and Portuguese.

Article 26

Interpretation

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The Court shall be seized with matters of interpretation arising from the application or implementation of this Act. Pending its establishment, such matters shall be submitted to the Assembly of the Union, which shall decide by a two-thirds majority.

Article 27

Signature, Ratification and Accession

1. This Act shall be open to signature, ratification and accession by the Member States of the OAU in accordance with their respective constitutional procedures.
2. The instruments of ratification shall be deposited with the Secretary-General of the OAU.
3. Any Member State of the OAU acceding to this Act after its entry into force shall deposit the instrument of accession with the Chairman of the Commission.

Article 28

Entry into Force

This Act shall enter into force thirty (30) days after the deposit of the instruments of ratification by two thirds of the Member States of the OAU.

Article 29

Admission to Membership

1. Any African State may, at any time after the entry into force of this Act, notify the Chairman of the Commission of its intention to accede to this Act and to be admitted as a member of the Union.
2. The Chairman of the Commission shall, upon receipt of such notification, transmit copies thereof to all Member States. Admission shall be decided by a simple majority of the Member States. The decision of each Member State shall be transmitted to the Chairman of the Commission who shall, upon receipt of the required number of votes, communicate the decision to the State concerned.

Article 30

Suspension

Governments, which shall come to power through unconstitutional means, shall not be allowed to participate in the activities of the Union.

Article 31

Cessation of Membership

1. Any State which desires to renounce its membership shall forward a written notification to the Chairman of the Commission, who shall inform Member States thereof. At the end of one year from the date of such notification, if not withdrawn, the Act shall cease to apply with respect to the renouncing State, which shall thereby cease to belong to the Union.
2. During the period of one year referred to in paragraph 1 of this article, any Member State wishing to withdraw from the Union shall comply with the provisions of this Act and shall be bound to discharge its obligations under this Act up to the date of its withdrawal.

Article 32

Amendment and Revision

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1. Any Member State may submit proposals for the amendment or revision of this Act.
2. Proposals for amendment or revision shall be submitted to the Chairman of the Commission who shall transmit same to Member States within thirty (30) days of receipt thereof.
3. The Assembly, upon the advice of the Executive Council, shall examine these proposals within a period of one year following notification of Member States, in accordance with the provisions of paragraph 2 of this article.
4. Amendments or revisions shall be adopted by the Assembly by consensus or, failing which, by a two-thirds majority and submitted for ratification by all Member States in accordance with their respective constitutional procedures. They shall enter into force thirty (30) days after the deposit of the instruments of ratification with the Chairman of the Commission by a two-thirds majority of the Member States.

Article 33

Transitional Arrangements and Final Provisions

1. This Act shall replace the Charter of the Organization of African Unity. However, the Charter shall remain operative for a transitional period of one year or such further period as may be determined by the Assembly, following the entry into force of the Act, for the purpose of enabling the OAU/AEC to undertake the necessary measures regarding the devolution of its assets and liabilities to the Union and all matters relating thereto.
2. The provisions of this Act shall take precedence over and supersede any inconsistent or contrary provisions of the Treaty Establishing the African Economic Community.
3. Upon the entry into force of this Act, all necessary measures shall be undertaken to implement its provisions and to ensure the establishment of the organs provided for under the Act in accordance with any directives or decisions which may be adopted in this regard by the Parties thereto within the transitional period stipulated above.
4. Pending the establishment of the Commission, the OAU General Secretariat shall be the interim Secretariat of the Union.
5. This Act, drawn up in four (4) original texts in the Arabic, English, French and Portuguese languages, all four (4) being equally authentic, shall be deposited with the Secretary-General of the OAU and, after its entry into force, with the Chairman of the Commission who shall transmit a certified true copy of the Act to the Government of each signatory State. The Secretary-General of the OAU and the Chairman of the Commission shall notify all signatory States of the dates of the deposit of the instruments of ratification or accession and shall upon entry into force of this Act register the same with the Secretariat of the United Nations.

3.

STATUTE OF THE COMMISSION OF THE AFRICAN UNION

Adopted in Durban, South Africa, on 9 July 2002.

Entered into force upon adoption.

Amended pursuant to Decision Ext/Assembly/AU/Dec.1 (XI) in Addis Ababa, Ethiopia, on 18 November 2018.

Amendments entered into force upon completion on 7 February 2021.

General Provision

The Commission shall be the Secretariat of the Union and shall act as such in conformity with Articles 5 and 20 of the Constitutive Act of the African Union.

3. STATUTE OF THE COMMISSION OF THE AFRICAN UNION

Article 1 Definitions

In this Statute:

- (a) “Assembly” means the Assembly of Heads of State and Government of the African Union;
- (b) “Chairperson” means the Chairperson of the Commission unless otherwise specified;
- (c) “Commission” means the Secretariat of the African Union;
- (d) “Committee” means a Specialized Technical Committee of the African Union;
- (e) “Constitutive Act” means the Constitutive Act of the African Union;
- (f) “Council” means the Economic, Social and Cultural Council of the African Union;
- (g) “Court” means the Court of Justice of the African Union;
- (h) “Deputy Chairperson” means the Deputy Chairperson of the Commission unless otherwise specified;
- (i) “Executive Council” means the Executive Council of Ministers of the African Union;
- (j) “Member State” means a Member State of the African Union;
- (k) “Members of the Commission” means the Chairperson, the Deputy Chairperson and the Commissioners;
- (l) “PRC” means the Permanent Representatives’ Committee of the African Union;
- (m) “PSC” means the Peace and Security Council of the African Union;
- (n) “RECs” means the Regional Economic Communities;
- (o) “Union” means the African Union established by the Constitutive Act.

Article 2 Composition

1. The Commission shall be composed of the following members:
 - (a) The Chairperson;
 - (b) The Deputy Chairperson; and
 - (c) Six (6) Commissioners.
2. The Assembly may, when it deems necessary, review the number of Commissioners.
3. The Members of the Commission shall be assisted by the necessary staff for the smooth functioning of the Commission.

Article 3 Functions

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1. The Commission shall carry out the functions assigned to it under the Constitutive Act, those specified in Protocols thereto, decisions of the Union as well as those established in this Statute.
2. The Commission shall:
 - (a) Represent the Union and defend its interests under the guidance of and as mandated by the Assembly and the Executive Council;
 - (b) Initiate proposals for consideration by other organs;
 - (c) Implement the decisions taken by other organs;
 - (d) Organize and manage the meetings of the Union;
 - (e) Act as the custodian of the Constitutive Act, its protocols, the treaties, legal instruments, decisions adopted by the Union and those inherited from the OAU;
 - (f) Establish, on the basis of approved programmes, such operational units as it may deem necessary;
 - (g) Coordinate and monitor the implementation of the decisions of the other organs of the Union in close collaboration with the PRC and report regularly to the Executive Council;
 - (h) Assist Member States in implementing the Union programmes and policies;
 - (i) Work out draft common positions of the Union and coordinate the actions of Member States in international negotiations;
 - (j) Prepare the Union's programme and budget for approval by the policy organs;
 - (k) Manage the budgetary and financial resources including collecting the approved revenue from various sources, establishing fiduciary, reserve and special funds with the appropriate approvals, and accepting donations and grants that are compatible with the objectives and principles of the Union;
 - (l) Manage the assets and liabilities of the Union according to laid down regulations and procedures;
 - (m) Prepare strategic plans and studies for the consideration of the Executive Council;
 - (n) Take action in the domains of responsibility as may be delegated by the Assembly and the Executive Council. The domains shall include the following:
 - (i) Control of pandemics;
 - (ii) Disaster management;
 - (iii) International crime and terrorism;
 - (iv) Environmental management;
 - (v) Negotiations relating to external trade;
 - (vi) Negotiations relating to external debt;
 - (vii) Population, migration, refugees and displaced persons;
 - (viii) Food security;
 - (ix) Socio-economic integration; and
 - (x) All other areas in which a common position has been established;

3. STATUTE OF THE COMMISSION OF THE AFRICAN UNION

- (o) Mobilize resources and devise appropriate strategies for self-financing, income generating activities and investment for the Union;
- (p) Promote integration and socio-economic development;
- (q) Strengthen cooperation and coordination of activities between Member States in fields of common interest;
- (r) Ensure the promotion of peace, democracy, security and stability;
- (s) Provide operational support to the PSC;
- (t) Elaborate, promote, coordinate and harmonize the programmes and policies of the Union with those of the RECs;
- (u) Prepare and submit an annual report on the activities of the Union to the Assembly, the Executive Council and the Pan-African Parliament;
- (v) Prepare the Staff Regulations and Rules for approval by the Assembly;
- (w) Implement the decisions of the Assembly regarding the opening and closing down of sections, administrative or technical offices;
- (x) Follow up and ensure the application of the Rules of Procedure and Statutes of the organs of the Union;
- (y) Negotiate, in consultation with the PRC, with the host countries, the host country agreements of the Union and those of its administrative or technical offices;
- (z) Build capacity for scientific research and development for enhancing socio-economic development in the Member States;
- (aa) Strive for the promotion and popularization of the objectives of the Union;
- (bb) Collect and disseminate information on the Union and set up and maintain a reliable database;
- (cc) Ensure the mainstreaming of gender in all programmes and activities of the Union;
- (dd) Undertake research on building the Union and on the integration process;
- (ee) Develop capacity, infrastructure and maintenance of intra-continental information and communication technology; and
- (ff) Prepare and submit to the Executive Council for approval, administrative regulations, standing orders and rules and regulations for the management of the affairs of the Union and keeping proper books of accounts.

Article 4 Obligations

1. In the performance of their duties, the Members of the Commission and other staff shall not seek or receive instructions from any government or from any other authority external to the Union. They shall refrain from any action which may reflect adversely on their position as international officials responsible only to the Union.

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2. Each Member State undertakes to respect the exclusive character of the responsibilities of the Members of the Commission and the other staff and shall not influence or seek to influence them in the discharge of their responsibilities.

3. The Members of the Commission and the other staff shall not, in the discharge of their duties, engage in any other occupation, whether gainful or not. When taking up their duties they shall give a solemn undertaking that, both during and after their term of office, they shall respect the obligations arising therefrom, and in particular their duty to behave with integrity and discretion and to regulate their conduct with only the interests of the Union in view, and not to seek or accept instructions from the government of any Member State or authority external to the Union.

4. In the event of any breach of these obligations, the Assembly may, on application by the Executive Council or the Commission, decide disciplinary measures to be applied to the Members of the Commission.

5. In the event of breach of these obligations, by other staff, the internal procedures set out in the Staff Regulations and Rules shall be applied provided that the staff member concerned shall have a right of appeal, after exhausting all the internal administrative measures, to the Court.

Article 5 Headquarters of the Commission

1. The Commission shall be based at the Headquarters of the Union in the city of Addis Ababa, Ethiopia.

2. The Headquarters is for the official use of the Union.

3. The Chairperson may authorize the holding of meetings or social functions at the Headquarters or other offices of the Union when such meetings or functions are closely linked or are compatible with the objectives and principles of the Union.

Article 6 Election of Members of the Commission

1. The election of Members of the Commission shall be governed by the Rules of Procedure of the Assembly, of the Executive Council and this Statute.

2. The regions from which the Chairperson and the Deputy Chairperson are appointed, shall not be eligible for consideration for the six (6) remaining Commissioner posts. The other three (3) regions shall be entitled to two (2) Commissioners each, equally distributed by gender.

Article 7 The Chairperson

1. The functions and responsibilities of the Chairperson shall be:

- (a) Chief Executive Officer of the Union;
- (b) Legal Representative of the Union;
- (c) Accounting Officer of the Union.

2. The Chairperson shall be directly responsible to the Executive Council for the effective discharge of his/her duties.

3. STATUTE OF THE COMMISSION OF THE AFRICAN UNION

Article 8 Functions of the Chairperson

1. The functions of the Chairperson shall be to, inter alia:
 - (a) Chair all meetings and deliberations of the Commission;
 - (b) Undertake measures aimed at promoting and popularizing the objectives of the Union and enhancing its performance;
 - (c) Promote cooperation with other organizations for the furtherance of the objectives of the Union;
 - (d) Participate in and keep records of the deliberations of the Assembly, the Executive Council, the PRC, the Committees and any other organs of the Union, as may be required;
 - (e) Submit reports requested by the Assembly, the Executive Council, the PRC, the Committees and any other organs of the Union as may be required;
 - (f) Prepare, in conjunction with the PRC, and submit the Staff Regulations and Rules and Financial Rules and Regulations to the Executive Council, for consideration;
 - (g) Prepare, together with the PRC, and transmit to Member States the budget, audited accounts and programme of work at least one (1) month before the commencement of the sessions of the Assembly and the Executive Council;
 - (h) Act as depository of all Union and OAU treaties and other legal instruments of the Union and perform depository functions thereof;
 - (i) Act as depository for instruments of ratification, accession or adherence of all international agreements concluded under the auspices of the Union and communicate information in this respect to Member States;
 - (j) Receive copies of international agreements entered into between or among Member States;
 - (k) Receive the notification of Member States which may desire to renounce their membership in the Union as provided for in Article 31 of the Constitutive Act;
 - (l) Communicate to Member States, and include in the agenda of the Assembly, as provided in Article 32 of the Constitutive Act, written requests of Member States for amendments or revisions to the Constitutive Act;
 - (m) Circulate the provisional agenda of the sessions of the Assembly, the Executive Council and the PRC to Member States;
 - (n) Receive proposals, together with explanatory notes, for the inclusion of items on the agenda of the Assembly and the Executive Council at least sixty (60) days prior to the session;
 - (o) Receive and circulate requests which conform to the Rules of Procedure of the Assembly or the Executive Council, from any Member State, for the convening of an extraordinary session of the Assembly or the Executive Council;
 - (p) Assess, in conjunction with the PRC, the need for branches, administrative and technical offices as may be considered necessary for the adequate functioning of the Commission, and create or abolish them as necessary, with the approval of the Assembly;

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- (q) Consult and coordinate with the governments and other institutions of Member States and the RECs, on the activities of the Union;
- (r) Appoint the staff of the Commission in accordance with the provisions of Article 20;
- (s) Assume overall responsibility for the administration and finances of the Commission;
- (t) Prepare an annual report on the activities of the Union and its organs;
- (u) Carry out diplomatic representations of the Union;
- (v) Liaise closely with the organs of the Union to guide, support and monitor the performance of the Union in the various areas to ensure conformity and harmony with agreed policies, strategies, programmes and projects;
- (w) Report to the Executive Council, through the PRC, cases of non-compliance with the rules and regulations of the Union;
- (x) Carry out such other functions as may be determined by the Assembly or the Executive Council;
- (y) Supervise the functioning of the Headquarters and other offices of the Union;
- (z) Coordinate all activities and programmes of the Commission related to gender issues;
- (aa) Recommend to the Executive Council, through written notification to the Bureau, the termination of appointment of Commissioners.

2. In case of an unconstitutional change of government, the Chairperson, in consultation with the Chairperson of the Union, shall:

- (a) Gather the facts relevant to the unconstitutional change of government;
- (b) Establish appropriate contacts with the perpetrators with a view to ascertaining their intentions regarding the restoration of constitutional order in the country, without recognizing or legitimizing the perpetrators;
- (c) Seek the contribution of African leaders and personalities in order to get the perpetrators of the unconstitutional change to cooperate with the Union;
- (d) Enlist the cooperation of the RECs to which the country concerned belongs.

3. The Chairperson may delegate any of his/her functions to the Deputy Chairperson and in the absence of the latter, to one of the Commissioners.

4. In case of absence, death, temporary or permanent incapacity of the Deputy Chairperson, the Chairperson shall, in consultation with the Chairperson of the Assembly, appoint one (1) of the Commissioners to act as the Deputy Chairperson, pending the return of the incumbent or the appointment of a new Deputy Chairperson, as the case may be.

Article 9 The Deputy Chairperson

The Deputy Chairperson shall, in the discharge of his/her responsibilities, be accountable to the Chairperson. He/she shall have, inter alia, the following functions:

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- (a) Assist the Chairperson in the exercise of his/her functions;
- (b) Exercise the functions delegated to him/her by the Chairperson;
- (c) Be in charge of the administration and finance of the Commission;
- (d) Act as Chairperson in case of death or permanent incapacity of the latter, pending the appointment of a new Chairperson;
- (e) Act as Chairperson in the absence or in case of temporary incapacity of the latter.

Article 10

Term of Office and Termination of Office

1. The term of office of the members of the Commission shall be four (4) years. The Members may be eligible to compete for re-election for another term of four (4) years.
2. When so required for the good functioning of the Union, the Assembly and the Executive Council may terminate the appointment of a Member of the Commission.
3. Where, due to any reason, the Chairperson, the Deputy Chairperson or any Commissioner is unable to take up office or complete his/her term of office, the region from which he/she was appointed, shall be given the opportunity to present a candidate to complete the remaining term.

Article 11

The Commissioners

Each Commissioner shall be responsible for the implementation of all decisions, policies and programmes in respect of the portfolio for which he/she has been elected, and be accountable to the Chairperson.

Article 12

Portfolios of the Commission

1. The portfolios of the Commission shall be as follows:
 - (a) Agriculture, Rural Development, Blue Economy and Sustainable Environment;
 - (b) Economic Development, Trade, Industry and Mining;
 - (c) Education, Science, Technology and Innovation;
 - (d) Infrastructure and Energy;
 - (e) Political Affairs, Peace and Security;
 - (f) Health, Humanitarian Affairs and Social Development.
2. Considering that gender issues are cross-cutting through all the portfolios of the Commission, a special unit shall be established in the Office of the Chairperson to coordinate all activities and programmes of the Commission related to gender issues.

Article 13

Nomination of the Commissioners

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1. A skill and competency-based assessment and shortlisting of candidates shall be undertaken by a High-Level Panel of Eminent Africans (1 per region) assisted by an independent African firm to generate a ranked pool of pre-qualified candidates nominated by the relevant AU regions from which Commissioners shall be elected and appointed by the Executive Council.
2. Candidates shall be assessed through an initial review of applications and curricula vitae. Shortlisted candidates will be invited for assessment against the skills and competency criteria established for the leadership posts.
3. There shall be a pre-selection process at the regional level. Each region shall nominate at least two (2) candidates, including a woman, for each portfolio. The nomination process shall be based on modalities to be determined by the region. The candidates selected at the regional level shall form part of the continental pool without prejudice to the scrupulous respect of the provisions of Article 6, paragraph 2, and Article 14, paragraph 3.

Article 14

Guiding Principles for the Selection Process

1. The following key principles shall guide the selection process of the senior leadership of the Commission:
 - (a) Equitable regional representation and gender parity;
 - (b) Predictable inter and intra-regional rotation following the English alphabetical order to be applied to each senior leadership position;
 - (c) Attracting and retaining Africa's top talent;
 - (d) Accountable and effective leadership and management;
 - (e) Transparent and merit-based selection.
2. The principle of rotational gender parity shall be applied to the posts of Chairperson and Deputy Chairperson ensuring that if the Chairperson is male then the Deputy Chairperson shall be a female and vice versa.
3. The six (6) Commissioner level posts shall be equally distributed by gender and across the three regions that are not represented at the Chairperson and Deputy Chairperson level.
4. The regions with candidates that are elected to the position of the Chairperson or the Deputy Chairperson shall not be eligible for consideration for the six remaining Commissioner posts.

Article 15

Panel of Eminent Africans

1. The Panel of Eminent Africans shall be composed of five (5) eminent personalities, one (1) per region.
2. The Panel of Eminent Africans shall oversee the pre-selection of candidatures of the Members of the Commission and shall be technically assisted by an independent African consultancy firm, to be selected by the Panel.
3. Job profiles and competency requirements for the senior leadership of the Commission shall be developed by the Panel of Eminent Africans. These shall include generic leadership skills and competencies as well as expert and thematic skills in relation to specific portfolios. In addition to the key principles referred to above,

3. STATUTE OF THE COMMISSION OF THE AFRICAN UNION

the assessment process for all candidates shall be based on the skills and competencies identified for each senior leadership position.

Article 16 Selection and Election Timeline

The timeline for selection and election for the Members of the Commission shall be as follows:

- (a) The announcement of the candidates for the Member of the Commission posts shall start in March of the year preceding the election of the new Commission;
- (b) Candidatures for the Office of the Chairperson of the Commission and his/her Deputy shall be circulated to Member States at least ten (10) months before the election;
- (c) The independent assessment of candidates for Commissioners shall start from August to December;
- (d) The election and appointment of the Chairperson and the Deputy Chairperson in January/February by the Assembly;
- (e) The election of the Commissioners in January/February by the Executive Council.

Article 17 Qualifications and Experience of the Commissioners

- 1. The Commissioners shall possess minimal educational qualifications with at least a first degree, or equivalent from a recognized university.
- 2. They shall also possess a significant and wide-ranging working experience with a good track record in government, parliament, international organizations, a recognized university, multinational or private sector organizations.
- 3. Only nationals of Member States shall be appointed as Commissioners, provided that no two (2) Commissioners shall be nationals of the same Member State. A minimum age criterion of thirty-five (35) years shall apply.

Article 18 Voting Procedure for Election of Commissioners

- 1. Where no candidate obtains, in the first ballot, the two-thirds majority required for his/her election, the balloting shall continue until one (1) of the candidates obtains the two-thirds majority required. If the third ballot remains inconclusive, the next ballot shall be restricted to the two (2) candidates who obtain the greatest number of votes in the third ballot.
- 2. Where there are only two (2) candidates initially and neither candidate obtains the majority required at the third ballot, the candidate with fewer votes shall be withdrawn.
- 3. If after three (3) further ballots neither of the two (2) candidates obtains the majority required, the candidate with the fewer votes shall be withdrawn.
- 4. If the remaining candidate fails to secure the required two-thirds majority, the election shall be suspended until the next session of the Executive Council. The Chairperson shall, in consultation with the Chairperson of the Executive Council, appoint one (1) of the Commissioners to act until a new Commissioner has been appointed in accordance with this Statute.

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5. Where there is only one (1) candidate initially and he or she fails to obtain the two-thirds majority required after the third ballot, the Chairperson of the Executive Council shall suspend the elections and the provisions in paragraph 4 above shall apply.

Article 19 Rules of Procedure

The Commission shall adopt its own rules of procedure.

Article 20 Appointment of other Staff of the Commission

1. The Members of the Commission shall be assisted, in the discharge of their functions, by a corps of suitably qualified, experienced and well-motivated senior administrative, professional and technical staff.

2. Appointment of senior administrative, professional and technical staff of the Commission shall be made by a Recruitment Board, comprising the Members of the Commission, the Head of Human Resources, the Legal Counsel and a Representative of the Staff Association.

3. The recruitment of senior administrative, professional and technical staff of the Commission shall be undertaken after consultation with the PRC.

4. The remaining general/ancillary staff of the Commission shall be recruited and appointed pursuant to the terms of mechanisms and procedures contained in the Staff Regulations and Rules.

5. The recruitment process shall be conducted in accordance with elaborate recruitment procedures calculated to ensure the utmost transparency and objectivity.

6. In recruiting senior administrative, professional and technical staff, the Recruitment Board shall:

(a) Uphold the principles of equitable geographical representation and gender equality; and

(b) Apply a quota system recommended by the Executive Council and approved by the Assembly on the basis of a minimum number of posts allocated to a Member State, and additional posts allocated on the basis of agreed criteria including assessed contributions.

7. Paramount in the employment of the staff referred to in the preceding paragraph shall be the need to guarantee the highest standards of competence, efficiency and integrity.

8. Nationals of Member States which are under sanctions for defaulting in the payment of assessed contributions to the budget of the Union amounting to one (1) year or more or for failure to comply with the decisions and policies of the Union shall not be eligible for appointment.

9. The provision of paragraph 8 above shall also be applicable to recruitment for projects financed by extrabudgetary resources/funds.

10. The promotion and advancement of the senior administrative, professional and technical staff of the Commission shall be carried out in accordance with the Staff Regulations and Rules, based on the following criteria, among others:

(a) Annual performance evaluation reports;

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(b) Result of competitive examination and interviews to be conducted by a Board made up of representatives of the Commission and the Staff Association.

11. A Disciplinary Board, which shall be composed of representatives of the Commission shall be set up under the Staff Regulations and Rules. The type of misconduct to attract disciplinary measures shall be spelled out in the Staff Regulations and Rules to be drawn up by the Commission and considered by the Executive Council for approval by the Assembly.

12. The Commission shall maintain a package of remuneration and conditions of service comparable to those obtainable in other international organizations, multilateral institutions and the private sector organizations of equivalent status, in order to attract and retain the appropriate calibre of employees.

Article 21 Privileges and Immunities

1. The Headquarters of the Union, other organs and administrative and technical offices of the Union shall be governed by host country agreements negotiated by the Commission with the host countries and approved by the Executive Council, and reviewed periodically to ensure strict compliance and facilitate the smooth functioning of the Commission.

2. The Headquarters of the Union and those of the other organs and administrative and technical offices shall enjoy the privileges and immunities stipulated in the General Convention on the Privileges and Immunities of the Organization of African Unity and the Vienna Convention on Diplomatic Relations.

Article 22 Property, Funds and Assets

1. The property, funds and assets of the Union wherever located and by whosoever held shall enjoy immunity from every form of legal process except insofar as in any particular case the Union has expressly waived its immunity. No waiver of immunity shall extend to any measure of execution.

2. The property and assets of the Union wherever located and by whosoever held, shall be immune from search, requisition, confiscation, expropriation and any other form of interference, whether by executive, administrative, judicial or legislative action.

Article 23 Programme and Budget

1. The Commission shall prepare the programme and budget of the Union every two (2) years and shall submit to the Assembly, through the PRC and the Executive Council, for consideration and adoption.

2. The proposed programme and budget shall include:

- (a) The programme of activities of the Commission;
- (b) The expenses of the Assembly, the Executive Council, the Committees and other organs of the Union;
- (c) A list of contributions made by Member States in accordance with the scale of assessment established by the Executive Council;
- (d) An estimate of the various incomes of the Union;
- (e) A description of the financial status of the working fund as created under this Statute;

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(f) Staff nominal rolls of the Commission.

3. In preparing the programme and budget of the Union, the Commission shall consult the different organs of the Union.

Article 24 Financial Resources

1. The Chairperson shall, as soon as the Assembly approves the budget, communicate it to the Member States, with all pertinent documents, at least three (3) months before the first day of the financial year.

2. The budget shall be accompanied by a list indicating the assessed annual contributions in respect of each Member State.

3. The assessed annual contribution of each Member State becomes due on the first day of the financial year, namely 1 January.

4. The Chairperson shall submit to Member States a quarterly statement on payments of contributions and outstanding contributions.

Article 25 General Fund

1. There shall be a general fund, in which the following categories of accounts shall be maintained:

- (a) Annual contributions of Member States;
- (b) Miscellaneous income including donations and grants; and
- (c) Advances from the working fund.

2. All expenditures established in the budget shall be met from the general fund.

Article 26 Special Funds

The Chairperson may establish special funds including fiduciary funds, reserve funds, with the approval of the Executive Council. The objectives and limitations of these funds shall be defined by the Executive Council. These funds shall be administered in separate accounts, as provided for in the Financial Rules and Regulations of the Union.

Article 27 Gifts and Other Donations

1. The Chairperson, may accept, on behalf of the Union, gifts, bequests and other donations made to the Union, provided that such donations are consistent with the objectives and principles of the Union and shall remain the property of the Union.

2. In the case of monetary donations for specific purposes, these funds shall be treated as special funds as provided for in Article 26 of this Statute. Monetary donations for no specific purposes shall be considered as miscellaneous income.

4. PROTOCOL ON AMENDMENTS TO THE CONSTITUTIVE ACT

Article 28 Deposit of Funds

The Commission shall determine the financial institutions in which the funds of the Union shall be deposited. The interests accrued by such funds, including the working fund, shall be entered as miscellaneous income.

Article 29 Accounts and Auditing

1. The accounts of the Union shall be maintained in the currencies specified by the Executive Council on the proposal of the Commission.
2. The Chairperson shall ensure that the accounts of the Union are audited by external auditors at the end of each financial year, including the accounts of projects funded through extrabudgetary resources.
3. The Chairperson shall submit to the Executive Council for its approval, at the earliest possible moment, the complete regulations governing the accounting method of the Union, in accordance with established international accounting standards.

Article 30 Amendments

This Statute of the Commission may be amended by the Assembly.

Article 31 Entry into Force

This Statute shall enter into force upon its adoption by the Assembly.

4.

PROTOCOL ON AMENDMENTS TO THE CONSTITUTIVE ACT OF THE AFRICAN UNION

Adopted in Maputo, Mozambique, on 11 July 2003.

The Protocol shall enter into force thirty days after the deposit of the instruments of ratification by a two-thirds majority of the Member States.

The Member States of the African Union, States Parties to the Constitutive Act of the African Union,

Have agreed to adopt amendments to the Constitutive Act as follows:

Article 1 Definitions

In this Protocol, the following expressions shall have the meanings assigned to them hereunder unless otherwise specified:

"Act" means the Constitutive Act;

"Assembly" means the Assembly of Heads of State and Government of the African Union;

"Chairperson" means the Chairperson of the Assembly;

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"Court" means the Court of Justice of the Union and Court of Justice has the same meaning;

"Union" means the African Union.

Article 2 Preamble

In the first paragraph of the Preamble to the Constitutive Act, the replacement of the words "founding fathers" with "founders".

Article 3 Objectives

In Article 3 of the Act (Objectives), the insertion of three new subparagraphs (i), (p) and (q) with consequential renumbering of subparagraphs:

The objectives of the Union shall be to:

.....

(i) Ensure the effective participation of women in decision-making, particularly in the political, economic and sociocultural areas;

.....

(p) Develop and promote common policies on trade, defence and foreign relations to ensure the defence of the continent and the strengthening of its negotiating positions;

(q) Invite and encourage the full participation of the African diaspora as an important part of our continent, in the building of the African Union.

Article 4 Principles

In Article 4 of the Act (Principles), the expansion of subparagraph (h) and the insertion of two new subparagraphs (q) and (r):

.....

(h) The right of the Union to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely: war crimes, genocide and crimes against humanity as well as a serious threat to legitimate order to restore peace and stability to the Member State of the Union upon the recommendation of the Peace and Security Council;

.....

(q) Restraint by any Member State from entering into any treaty or alliance that is incompatible with the principles and objectives of the Union;

(r) Prohibition of any Member State from allowing the use of its territory as a base for subversion against another Member State.

Article 5 Organs of the Union

In Article 5 of the Act (Organs of the Union), the insertion of a new subparagraph (f) with consequential renumbering of subsequent subparagraphs:

4. PROTOCOL ON AMENDMENTS TO THE CONSTITUTIVE ACT

.....

(f) The Peace and Security Council;

.....

Article 6 The Assembly

In Article 6 of the Act (The Assembly) and wherever else it occurs in the Act, the substitution of the word "Chairman" with "Chairperson"; the deletion of the second sentence of subparagraph 3 and the insertion of new paragraphs 4, 5, 6 and 7.

.....

3. The Assembly shall meet at least once a year in ordinary session.
4. At the initiative of the Chairperson after due consultation with all Member States, or at the request of any Member State and upon approval by two-thirds majority of Member States, the Assembly shall meet in extraordinary session.
5. The Assembly shall elect its Chairperson from among the Heads of State or Government at the beginning of each ordinary session and on the basis of rotation for a period of one year renewable.
6. The Chairperson shall be assisted by a Bureau chosen by the Assembly on the basis of equitable geographical representation.
7. Where the Assembly meets at the Headquarters, an election of the Chairperson shall be held taking into account the principle of rotation.

Article 7 Functions of the Chairperson of the Assembly

The insertion in the Act of a new Article 7 bis:

1. The Chairperson shall represent the Union, during his/her tenure with a view to promoting the objectives and principles of the African Union as stipulated in Articles 3 and 4 of the Act. He/She shall also, with the collaboration of the Chairperson of the Commission, carry out the functions of the Assembly set out in Article 9, paragraph 1 (e) and (g) of the Act.
2. The Chairperson may convene the meeting of the other organs through their Chairpersons or Chief Executives and in accordance with their respective Rules of Procedure.

Article 8 The Executive Council

In Article 10 of the Act (The Executive Council), the insertion of a new paragraph 3:

.....

3. The Chairperson of the Executive Council shall be assisted by a Bureau chosen by the Executive Council on the basis of equitable geographical representation.

Article 9 Peace and Security Council

II. AFRICAN UNION

The insertion in the Act of a new Article 20 (bis):

1. There is hereby established, a Peace and Security Council (PSC) of the Union, which shall be the standing decision-making organ for the prevention, management and resolution of conflicts.
2. The functions, powers, composition and organization of the PSC shall be determined by the Assembly and set out in a protocol relating thereto.

Article 10

The Permanent Representatives Committee

In Article 21 of the Act (The Permanent Representatives Committee) the insertion of a new paragraph 3:

.....

3. The Chairperson of the Permanent Representatives Committee shall be assisted by a Bureau chosen on the basis of equitable geographical representation.

Article 11

Official Languages

In Article 25 of the Act (Working Languages), replace the title "Working Languages" by "Official Languages" and substitute the existing provision with:

1. The official languages of the Union and all its institutions shall be Arabic, English, French, Portuguese, Spanish, Kiswahili and any other African language.
2. The Executive Council shall determine the process and practical modalities for the use of official languages as working languages.

Article 12

Cessation of Membership

Article 31 of the Act (Cessation of Membership) is deleted.

Article 13

Entry into Force

This Protocol shall enter into force thirty days after the deposit of the instruments of ratification by a two-thirds majority of the Member States.

5.

SOLEMN DECLARATION ON THE FIFTIETH ANNIVERSARY OF THE OAU/AU (Assembly/AU/Decl.3 (XXI))

Adopted in Addis Ababa, Ethiopia, on 26 May 2013.

We, Heads of State and Government of the African Union assembled to celebrate the Golden Jubilee of the OAU/AU established in the city of Addis Ababa, Ethiopia, on 25 May 1963,

Evoking the uniqueness of the history of Africa as the cradle of humanity and a centre of civilization, and dehumanized by slavery, deportation, dispossession, apartheid and colonialism as well as our struggles against these evils, which shaped our common destiny and enhanced our solidarity with peoples of African descent,

5. SOLEMN DECLARATION ON THE FIFTIETH ANNIVERSARY OF THE OAU/AU

Recalling with pride, the historical role and efforts of the founders of the Pan-African movement and the nationalist movements, whose visions, wisdom, solidarity and commitment continue to inspire us,

Reaffirming our commitment to the ideals of Pan-Africanism and Africa's aspiration for greater unity, and paying tribute to the founders of the Organization of African Unity (OAU) as well as the African peoples on the continent and in the diaspora for their glorious and successful struggles against all forms of oppression, colonialism and apartheid,

Mindful that the OAU/AU have been relentlessly championing for the complete decolonization of the African continent and that one of the fundamental objectives is unconditional respect for the sovereignty and territorial integrity of each of its Member States,

Stressing our commitment to build a united and integrated Africa,

Guided by the vision of our Union and affirming our determination to "build an integrated, prosperous and peaceful Africa, driven and managed by its own citizens and representing a dynamic force in the international arena",

Determined to take full responsibility for the realization of this vision,

Guided by the principles enshrined in the Constitutive Act of our Union and our shared values, in particular our commitment to ensure gender equality and a people-centred approach in all our endeavours as well as respect for the sovereignty and territorial integrity of our countries,

Acknowledge that:

1. The Organization of African Unity (OAU) overcame internal and external challenges, persevered in the quest for continental unity and solidarity; contributed actively to the liberation of Africa from colonialism and apartheid; provided a political and diplomatic platform to generations of leaders on continental and international matters; and elaborated frameworks for Africa's development and integration agenda through programmes such as NEPAD and APRM;
2. The African Union (AU) carried forward our struggle for self-determination and drive for development and integration; formulated a clear vision for our Union; agreed that the ultimate goal of the Union is the construction of a united and integrated Africa; instituted the principle of non-indifference by authorizing the right of the Union to intervene in Member States in conformity with the Constitutive Act; and laid the groundwork for the entrenchment of the rule of law, democracy, respect for human rights, solidarity, promotion of gender equality and the empowerment of women and youth in Africa;
3. The implementation of the integration agenda; the involvement of people, including our diaspora in the affairs of the Union; the quest for peace and security and preventing wars and genocide such as the 1994 Rwandan genocide; the alignment between our institutional framework and the vision of the Union; the fight against poverty, inequality and underdevelopment; and assuring Africa's rightful place in the world remain challenges;

We hereby declare:

A. On the African Identity and Renaissance

1. Our strong commitment to accelerate the African renaissance by ensuring the integration of the principles of Pan-Africanism in all our policies and initiatives;

II. AFRICAN UNION

2. Our unflinching belief in our common destiny, our shared values and the affirmation of the African identity; the celebration of unity in diversity and the institution of the African citizenship;
3. Our commitment to strengthen AU programmes and Member States institutions aimed at reviving our cultural identity, heritage, history and shared values, as well as undertake, henceforth, to fly the AU flag and sing the AU anthem along with our national flags and anthems;
4. Promote and harmonize the teaching of African history, values and Pan-Africanism in all our schools and educational institutions as part of advancing our African identity and renaissance;
5. Promote people to people engagements including youth and civil society exchanges in order to strengthen Pan-Africanism.

B. The Struggle against Colonialism and the Right to Self-Determination of People Still under Colonial Rule

1. The completion of the decolonization process in Africa to protect the right to self-determination of African peoples still under colonial rule; solidarity with people of African descent and in the diaspora in their struggles against racial discrimination; and resist all forms of influences contrary to the interests of the continent;
2. The reaffirmation of our call to end expeditiously the unlawful occupation of the Chagos Archipelago, the Comorian island of Mayotte and also reaffirm the right to self-determination of the people of Western Sahara, with a view to enable these countries and peoples, to effectively exercise sovereignty over their respective territories.

C. On the Integration Agenda

Our commitment to Africa's political, social and economic integration agenda, and in this regard, speed up the process of attaining the objectives of the African Economic Community and take steps towards the construction of a united and integrated Africa. Consolidating existing commitments and instruments, we undertake, in particular, to:

1. Speedily implement the Continental Free Trade Area; ensure free movement of goods, with focus on integrating local and regional markets as well as facilitate African citizenship to allow free movement of people through the gradual removal of visa requirements;
2. Accelerate action on the ultimate establishment of a united and integrated Africa, through the implementation of our common continental governance, democracy and human rights frameworks. Move with speed towards the integration and merger of the Regional Economic Communities as the building blocks of the Union.

D. On the Agenda for Social and Economic Development

Our commitment to place the African people, in particular women, children and the youth, as well as persons with disabilities, at the centre of our endeavours and to eradicate poverty. In this regard, we undertake to:

1. Develop our human capital as our most important resource, through education and training, especially in science, technology and innovation, and ensure that Africa takes its place and contributes to humanity, including in the field of space sciences and explorations;
2. Eradicate disease, especially HIV/AIDS, malaria and tuberculosis, ensure that no African woman dies while giving life, address maternal, infant and child mortality as well as provide universal health care services to our citizens;

5. SOLEMN DECLARATION ON THE FIFTIETH ANNIVERSARY OF THE OAU/AU

3. Accelerate Africa's infrastructural development to link African peoples, countries and economies and help to drive social, cultural and economic development. In this regard, we commit to meet our strategic targets in transport, ICT, energy and other social infrastructure by committing national, regional and continental resources to this end;
4. Create an enabling environment for the effective development of the African private sector through meaningful public-private sector dialogue at all levels in order to foster socially responsive business, good corporate governance and inclusive economic growth;
5. Take ownership of, use and develop our natural endowments and resources through value addition, as the basis for industrialization; promote intra-Africa trade and tourism in order to foster economic integration, development, employment and inclusive growth to the benefit of the African people;
6. Also take ownership, preserve, protect and use our oceanic spaces and resources, improve our maritime and transport industries to the benefit of the continent and its peoples, including by contributing to food security;
7. Preserve our arable land for current and future generations, develop our rural economies, our agricultural production and agro-processing to eradicate hunger and malnutrition, as well as achieve food security and self-sufficiency;
8. Expand and develop urban infrastructure and develop planned approaches to rapid urbanization and the emergence of new cities;
9. Make our development agenda responsive to the needs of our peoples, anchored on the preservation of our environment for current and future generations, including in the fight against desertification and mitigation of the effects of climate change, especially with regard to island States and land-locked countries.

E. On Peace and Security

Our determination to achieve the goal of a conflict-free Africa, to make peace a reality for all our people and to rid the continent of wars, civil conflicts, human rights violations, humanitarian disasters and violent conflicts, and to prevent genocide. We pledge not to bequeath the burden of conflicts to the next generation of Africans and undertake to end all wars in Africa by 2020. In this regard, we undertake to:

1. Address the root causes of conflicts including economic and social disparities; put an end to impunity by strengthening national and continental judicial institutions, and ensure accountability in line with our collective responsibility to the principle of non-indifference;
2. Eradicate recurrent and address emerging sources of conflict including piracy, trafficking in narcotics and humans, all forms of extremism, armed rebellions, terrorism, transnational organized crime and new crimes such as cybercrime;
3. Push forward the agenda of conflict prevention, peacemaking, peace support, national reconciliation and post-conflict reconstruction and development through the African Peace and Security Architecture; as well as ensure enforcement of and compliance with peace agreements and build Africa's peacekeeping and enforcement capacities through the African Standby Force;
4. Maintain a nuclear-free Africa and call for global nuclear disarmament, non-proliferation and peaceful uses of nuclear energy;
5. Ensure the effective implementation of agreements on landmines and the non-proliferation of small arms and light weapons;

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6. Address the plight of internally displaced persons and refugees and eliminate the root causes of this phenomenon by fully implementing continental and universal frameworks.

F. On Democratic Governance

Our determination to anchor our societies, governments and institutions on respect for the rule of law, human rights and dignity, popular participation, the management of diversity, as well as inclusion and democracy. In this regard, we undertake to:

1. Strengthen democratic governance including through decentralized systems, the rule of law and the capacities of our institutions to meet the aspirations of our people;
2. Reiterate our rejection of unconstitutional change of government, including through any attempts to seize power by force but recognize the right of our people to peacefully express their will against oppressive systems;
3. Promote integrity, fight corruption in the management of public affairs and promote leadership that is committed to the interests of the people;
4. Foster the participation of our people through democratic elections and ensure accountability and transparency.

G. On Determining Africa's Destiny

Our determination to take responsibility for our destiny. We pledge to foster self-reliance and self-sufficiency. In this regard, we undertake to:

1. Take ownership of African issues and provide African solutions to African problems;
2. Mobilize our domestic resources, on a predictable and sustainable basis to strengthen institutions and advance our continental agenda;
3. Take all necessary measures, using our rich natural endowments and human resources, to transform Africa and make it a leading continent in the area of innovation and creativity.

H. Africa's Place in the World

Our endeavour for Africa to take its rightful place in the political, security, economic, and social systems of global governance towards the realization of its renaissance and establishing Africa as a leading continent. We undertake to:

1. Continue the global struggle against all forms of racism and discrimination, xenophobia and related intolerances;
2. Act in solidarity with oppressed countries and peoples;
3. Advance international cooperation that promotes and defends Africa's interests, is mutually beneficial and aligned to our Pan-Africanist vision;
4. Continue to speak with one voice and act collectively to promote our common interests and positions in the international arena;

5. SOLEMN DECLARATION ON THE FIFTIETH ANNIVERSARY OF THE OAU/AU

5. Reiterate our commitment to Africa's active role in the globalization process and international forums including in financial and economic Institutions;

6. Advocate for our common position for reform of the United Nations and other global institutions with particular reference to the United Nations Security Council, in order to correct the historical injustice with Africa as the only region without a permanent seat.*

We pledge to articulate the above ideals and goals in our national development plans and in the development of the Continental Agenda 2063, through a people-driven process for the realization of our vision for an integrated, people-centred, prosperous Africa at peace with itself.

As Heads of State and Government, mindful of our responsibility and commitment, we pledge to act together with our peoples and the African diaspora to realize our vision of Pan-Africanism and African renaissance.

* Editor's note: There are two regions that do not have a permanent seat on the Security Council: Africa and Latin America and the Caribbean.

PART III
AFRICAN COURT

1. AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS

1.

PROTOCOL TO THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS ON THE ESTABLISHMENT OF AN AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS

Adopted in Ouagadougou, Burkina Faso, on 9 June 1998.

Entered into force on 25 January 2004.

The Member States of the Organization of African Unity (hereinafter referred to as "the OAU"), States Parties to the African Charter on Human and Peoples' Rights,

Considering that the Charter of the Organization of African Unity recognizes that freedom, equality, justice, peace and dignity are essential objectives for the achievement of the legitimate aspirations of the African peoples,

Noting that the African Charter on Human and Peoples' Rights reaffirms adherence to the principles of human and peoples' rights, freedoms and duties contained in the declarations, conventions and other instruments adopted by the Organization of African Unity, and other international organizations,

Recognizing that the twofold objective of the African Charter on Human and Peoples' Rights is to ensure, on the one hand, promotion and, on the other, protection of human and peoples' rights, freedoms and duties,

Recognizing further the efforts of the African Commission on Human and Peoples' Rights in the promotion and protection of human and peoples' rights since its inception in 1987,

Recalling Resolution AHG/Res.230 (XXX) adopted by the Assembly of Heads of State and Government in June 1994 in Tunis, Tunisia, requesting the Secretary-General to convene a government experts meeting to ponder, in conjunction with the African Commission, over the means to enhance the efficiency of the African Commission and to consider in particular the establishment of an African Court on Human and Peoples' Rights,

Noting the First and Second Government Legal Experts meetings held respectively in Cape Town, South Africa, (September 1995) and Nouakchott, Mauritania, (April 1997), and the Third Government Legal Experts meeting held in Addis Ababa, Ethiopia, (December 1997), which was enlarged to include diplomats,

Firmly convinced that the attainment of the objectives of the African Charter on Human and Peoples' Rights requires the establishment of an African Court on Human and Peoples' Rights to complement and reinforce the functions of the African Commission on Human and Peoples' Rights,

Have agreed as follows:

Article 1 Establishment of the Court

There shall be established within the Organization of African Unity an African Court on Human and Peoples' Rights (hereinafter referred to as "the Court"), the organization, jurisdiction and functioning of which shall be governed by the present Protocol.

Article 2 Relationship Between the Court and the Commission

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The Court shall, bearing in mind the provisions of this Protocol, complement the protective mandate of the African Commission on Human and Peoples' Rights (hereinafter referred to as "the Commission") conferred upon it by the African Charter on Human and Peoples' Rights (hereinafter referred to as "the Charter").

Article 3 Jurisdiction

1. The jurisdiction of the Court shall extend to all cases and disputes submitted to it concerning the interpretation and application of the Charter, this Protocol and any other relevant human rights instrument ratified by the States concerned.
2. In the event of a dispute as to whether the Court has jurisdiction, the Court shall decide.

Article 4 Advisory Opinions

1. At the request of a Member State of the OAU, the OAU, any of its organs, or any African organization recognized by the OAU, the Court may provide an opinion on any legal matter relating to the Charter or any other relevant human rights instruments, provided that the subject matter of the opinion is not related to a matter being examined by the Commission.
2. The Court shall give reasons for its advisory opinions provided that every judge shall be entitled to deliver a separate or dissenting opinion.

Article 5 Access to the Court

1. The following are entitled to submit cases to the Court:
 - (a) The Commission;
 - (b) The State Party which has lodged a complaint to the Commission;
 - (c) The State Party against which the complaint has been lodged at the Commission;
 - (d) The State Party whose citizen is a victim of a human rights violation;
 - (e) African intergovernmental organizations.
2. When a State Party has an interest in a case, it may submit a request to the Court to be permitted to join.
3. The Court may entitle relevant non-governmental organizations (NGOs) with observer status before the Commission, and individuals to institute cases directly before it, in accordance with Article 34, paragraph 6, of this Protocol.

Article 6 Admissibility of Cases

1. The Court, when deciding on the admissibility of a case instituted under Article 5, paragraph 3, of this Protocol, may request the opinion of the Commission which shall give it as soon as possible.
2. The Court shall rule on the admissibility of cases taking into account the provisions of Article 56 of the Charter.

1. AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS

3. The Court may consider cases or transfer them to the Commission.

Article 7

Sources of Law

The Court shall apply the provisions of the Charter and any other relevant human rights instruments ratified by the States concerned.

Article 8

Consideration of Cases

The Rules of Procedure of the Court shall lay down the detailed conditions under which the Court shall consider cases brought before it, bearing in mind the complementarity between the Commission and the Court.

Article 9

Amicable Settlement

The Court may try to reach an amicable settlement in a case pending before it in accordance with the provisions of the Charter.

Article 10

Hearings and Representation

1. The Court shall conduct its proceedings in public. The Court may, however, conduct proceedings in camera as may be provided for in the Rules of Procedure.
2. Any party to a case shall be entitled to be represented by a legal representative of the party's choice. Free legal representation may be provided where the interests of justice so require.
3. Any person, witness or representative of the parties, who appears before the Court, shall enjoy protection and all facilities, in accordance with international law, necessary for the discharging of their functions, tasks and duties in relation to the Court.

Article 11

Composition

1. The Court shall consist of eleven judges, nationals of Member States of the OAU, elected in an individual capacity from among jurists of high moral character and of recognized practical, judicial or academic competence and experience in the field of human and peoples' rights.
2. No two judges shall be nationals of the same State.

Article 12

Nominations

1. States Parties to the Protocol may each propose up to three candidates, at least two of whom shall be nationals of that State.
2. Due consideration shall be given to adequate gender representation in the nomination process.

Article 13

List of Candidates

III. AFRICAN COURT

1. Upon entry into force of this Protocol, the Secretary-General of the OAU shall request each State Party to the Protocol to present, within ninety (90) days of such a request, its nominees for the office of judge of the Court.
2. The Secretary-General of the OAU shall prepare a list in alphabetical order of the candidates nominated and transmit it to the Member States of the OAU at least thirty days prior to the next session of the Assembly of Heads of State and Government of the OAU (hereinafter referred to as "the Assembly").

Article 14 Elections

1. The judges of the Court shall be elected by secret ballot by the Assembly from the list referred to in Article 13, paragraph 2, of the present Protocol.
2. The Assembly shall ensure that in the Court as a whole there is representation of the main regions of Africa and of their principal legal traditions.
3. In the election of the judges, the Assembly shall ensure that there is adequate gender representation.

Article 15 Term of Office

1. The judges of the Court shall be elected for a period of six years and may be re-elected only once. The terms of four judges elected at the first election shall expire at the end of two years, and the terms of four more judges shall expire at the end of four years.
2. The judges whose terms are to expire at the end of the initial periods of two and four years shall be chosen by lot to be drawn by the Secretary-General of the OAU immediately after the first election has been completed.
3. A judge elected to replace a judge whose term of office has not expired shall hold office for the remainder of the predecessor's term.
4. All judges except the President shall perform their functions on a part-time basis. However, the Assembly may change this arrangement as it deems appropriate.

Article 16 Oath of Office

After their election, the judges of the Court shall make a solemn declaration to discharge their duties impartially and faithfully.

Article 17 Independence

1. The independence of the judges shall be fully ensured in accordance with international law.
2. No judge may hear any case in which the same judge has previously taken part as agent, counsel or advocate for one of the parties or as a member of a national or international court or a commission of enquiry or in any other capacity. Any doubt on this point shall be settled by decision of the Court.
3. The judges of the Court shall enjoy, from the moment of their election and throughout their term of office, the immunities extended to diplomatic agents in accordance with international law.

1. AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS

4. At no time shall the judges of the Court be held liable for any decision or opinion issued in the exercise of their functions.

Article 18 Incompatibility

The position of judge of the Court is incompatible with any activity that might interfere with the independence or impartiality of such a judge or the demands of the office, as determined in the Rules of Procedure of the Court.

Article 19 Cessation of Office

1. A judge shall not be suspended or removed from office unless, by the unanimous decision of the other judges of the Court, the judge concerned has been found to be no longer fulfilling the required conditions to be a judge of the Court.
2. Such a decision of the Court shall become final unless it is set aside by the Assembly at its next session.

Article 20 Vacancies

1. In case of death or resignation of a judge of the Court, the President of the Court shall immediately inform the Secretary-General of the Organization of African Unity, who shall declare the seat vacant from the date of death or from the date on which the resignation takes effect.
2. The Assembly shall replace the judge whose office became vacant unless the remaining period of the term is less than one hundred and eighty (180) days.
3. The same procedure and considerations as set out in Articles 12, 13 and 14 shall be followed for the filling of vacancies.

Article 21 Presidency of the Court

1. The Court shall elect its President and one Vice-President for a period of two years. They may be re-elected only once.
2. The President shall perform judicial functions on a full-time basis and shall reside at the seat of the Court.
3. The functions of the President and the Vice-President shall be set out in the Rules of Procedure of the Court.

Article 22 Exclusion

If a judge is a national of any State which is a party to a case submitted to the Court, that judge shall not hear the case.

Article 23 Quorum

The Court shall examine cases brought before it if it has a quorum of at least seven judges.

III. AFRICAN COURT

Article 24 Registry of the Court

1. The Court shall appoint its own Registrar and other staff of the registry from among nationals of Member States of the OAU according to the Rules of Procedure.
2. The office and residence of the Registrar shall be at the place where the Court has its seat.

Article 25 Seat of the Court

1. The Court shall have its seat at the place determined by the Assembly from among States Parties to this Protocol. However, it may convene in the territory of any Member State of the OAU when the majority of the Court considers it desirable, and with the prior consent of the State concerned.
2. The seat of the Court may be changed by the Assembly after due consultation with the Court.

Article 26 Evidence

1. The Court shall hear submissions by all parties and if deemed necessary, hold an enquiry. The States concerned shall assist by providing relevant facilities for the efficient handling of the case.
2. The Court may receive written and oral evidence including expert testimony and shall make its decision on the basis of such evidence.

Article 27 Findings

1. If the Court finds that there has been violation of a human or peoples' right, it shall make appropriate orders to remedy the violation, including the payment of fair compensation or reparation.
2. In cases of extreme gravity and urgency, and when necessary to avoid irreparable harm to persons, the Court shall adopt such provisional measures as it deems necessary.

Article 28 Judgment

1. The Court shall render its judgment within ninety (90) days of having completed its deliberations.
2. The judgment of the Court decided by majority shall be final and not subject to appeal.
3. Without prejudice to paragraph 2 above, the Court may review its decision in the light of new evidence under conditions to be set out in the Rules of Procedure.
4. The Court may interpret its own decision.
5. The judgment of the Court shall be read in open court, due notice having been given to the parties.
6. Reasons shall be given for the judgment of the Court.
7. If the judgment of the Court does not represent, in whole or in part, the unanimous decision of the judges, any judge shall be entitled to deliver a separate or dissenting opinion.

1. AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS

Article 29 Notification of Judgment

1. The parties to the case shall be notified of the judgment of the Court and it shall be transmitted to the Member States of the OAU and the Commission.
2. The Council of Ministers shall also be notified of the judgment and shall monitor its execution on behalf of the Assembly.

Article 30 Execution of Judgment

The States Parties to the present Protocol undertake to comply with the judgment in any case to which they are parties within the time stipulated by the Court and to guarantee its execution.

Article 31 Report

The Court shall submit to each regular session of the Assembly, a report on its work during the previous year. The report shall specify, in particular, the cases in which a State has not complied with the Court's judgment.

Article 32 Budget

Expenses of the Court, emoluments and allowances for judges and the budget of its registry, shall be determined and borne by the OAU, in accordance with criteria laid down by the OAU in consultation with the Court.

Article 33 Rules of Procedure

The Court shall draw up its Rules and determine its own procedures. The Court shall consult the Commission as appropriate.

Article 34 Ratification

1. This Protocol shall be open for signature and ratification or accession by any State Party to the Charter.
2. The instrument of ratification or accession to the present Protocol shall be deposited with the Secretary-General of the OAU.
3. The Protocol shall come into force thirty days after fifteen instruments of ratification or accession have been deposited.
4. For any State Party ratifying or acceding subsequently, the present Protocol shall come into force in respect of that State on the date of the deposit of its instrument of ratification or accession.
5. The Secretary-General of the OAU shall inform all Member States of the entry into force of the present Protocol.
6. At the time of the ratification of this Protocol or any time thereafter, the State shall make a declaration accepting the competence of the Court to receive cases under Article 5, paragraph 3, of this Protocol. The Court

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shall not receive any petition under Article 5, paragraph 3, involving a State Party which has not made such a declaration.

7. Declarations made under paragraph 6 above shall be deposited with the Secretary-General, who shall transmit copies thereof to the States Parties.

Article 35 Amendments

1. The present Protocol may be amended if a State Party to the Protocol makes a written request to that effect to the Secretary-General of the OAU. The Assembly may adopt, by simple majority, the draft amendment after all the States Parties to the present Protocol have been duly informed of it and the Court has given its opinion on the amendment.

2. The Court shall also be entitled to propose such amendments to the present Protocol as it may deem necessary, through the Secretary-General of the OAU.

3. The amendment shall come into force for each State Party which has accepted it thirty days after the Secretary-General of the OAU has received notice of the acceptance.

2.

PROTOCOL ON THE COURT OF JUSTICE OF THE AFRICAN UNION

Adopted in Maputo, Mozambique, on 11 July 2003.

Entered into force on 11 February 2009.

The Member States of the African Union,

Considering that the Constitutive Act of the African Union established the Court of Justice of the African Union,

Firmly convinced that the attainment of the objectives of the African Union requires the establishment of the Court of Justice of the African Union,

Have agreed as follows:

Chapter I

Article 1 Definitions

In this Protocol unless otherwise specifically stated:

"Act" means the Constitutive Act of the Union;

"Assembly" means the Assembly of Heads of State and Government of the Union;

"Commission" means the Commission of the Union;

"Court" means the Court of Justice of the Union;

"ECOSOCC" means the Economic, Social and Cultural Council of the Union;

2. COURT OF JUSTICE OF THE AFRICAN UNION

"Executive Council" means the Executive Council of Ministers of the Union;

"Financial institutions" means the financial institutions established by the Constitutive Act;

"Judge" means a judge of the Court;

"Member State" means a Member State of the Union;

"Parliament" means the Pan-African Parliament of the Union;

"Peace and Security Council" means the Peace and Security Council of the Union;

"President" means the President of the Court;

"Protocol" means this Protocol defining the composition, powers and functions of the Court;

"Regions" means the geographical regions into which the continent of Africa, at any time, is divided pursuant to a decision of the Assembly;

"Rules of Court" means the Rules of Court under Article 58;

"Registrar" means the Registrar of the Court;

"States Parties" means the Member States that have ratified or acceded to this Protocol;

"Union" means the African Union established by the Act;

"Vice-President" means the Vice-President of the Court.

Article 2 Establishment of the Court

1. The Court established by the Act shall function in accordance with the provisions of the Act and this Protocol.
2. The Court shall be the principal judicial organ of the Union.

Article 3 Composition

1. The Court shall consist of eleven (11) judges who are nationals of States Parties.
2. The Assembly may, when it deems it necessary, review the number of judges.
3. The judges shall be assisted by the necessary staff for the smooth functioning of the Court.
4. No two (2) judges shall be nationals of the same State Party.
5. In the Court as a whole, the representation of the principal legal traditions of Africa shall be assured.
6. Each region shall be represented by no less than two (2) judges.

Chapter II

III. AFRICAN COURT

Article 4 Qualifications

The Court shall be composed of impartial and independent judges elected from among persons of high moral character, who possess the necessary qualifications required in their respective countries for appointment to the highest judicial offices, or are jurists of recognized competence in international law.

Article 5 Submission of Candidates

1. Upon entry into force of this Protocol, the Chairperson of the Commission shall request each State Party to submit in writing within ninety (90) days of such a request, its nomination for the office of a judge of the Court.
2. Each State Party may nominate only one (1) candidate having the qualifications prescribed in Article 4 of this Protocol.
3. Due consideration shall be given to adequate gender representation in the nomination process.

Article 6 List of Candidates

The Chairperson of the Commission shall prepare a list of the candidates nominated, in alphabetical order and transmit it to the Member States at least thirty (30) days prior to the ordinary session of the Assembly at which the judges are to be elected.

Article 7 Election of Judges of the Court

1. The Assembly shall elect the judges by secret ballot and by two-thirds majority of the Member States eligible to vote.
2. Where one or more candidates fail to obtain the two-thirds majority required for an election, the balloting shall continue until the required number of judges has been elected. However, the next ballots shall be restricted to the candidates who obtain the greatest number of votes.
3. In the election of the judges, the Assembly shall ensure that there is equal gender representation.

Article 8 Tenure of Office

1. The judges shall be elected for a period of six (6) years and may be re-elected only once. The term of five (5) judges elected at the first election shall expire at the end of four (4) years and the other judges shall serve the full term.
2. The judges whose terms are to expire at the end of the initial period of four (4) years shall be chosen by lot to be drawn by the Chairperson of the Assembly immediately after the first election has been completed.
3. A judge elected to replace another judge whose term of office has not expired shall be from the same region and shall hold office for the remainder of the predecessor's term.

Article 9 Oath of Office

2. COURT OF JUSTICE OF THE AFRICAN UNION

1. Before taking up his or her duties each judge shall in open court take the following oath:

"I do solemnly swear (or affirm or declare) that I shall faithfully exercise the duties of my office as judge of the Court of Justice of the African Union impartially and conscientiously, without fear or favour, affection or ill will and that I will preserve the secrecy of the deliberations of the Court."

2. The oath of office shall be administered by the Chairperson of the Assembly or his or her duly authorized representative.

Article 10 Presidency of the Court

1. The Court shall elect its President and Vice-President for a period of three (3) years. The President and Vice-President may be re-elected once.
2. The President shall reside at the seat of the Court.
3. The modalities for elections of the President and the Vice-President and their functions shall be set out in the Rules of Court.

Article 11 Resignation, Suspension and Removal from Office

1. A judge may resign his or her position in writing addressed to the President for transmission to the Chairperson of the Assembly.
2. A judge shall not be suspended or removed from office save where, on the unanimous recommendation of the other judges, he or she no longer fulfils the requisite conditions to be a judge.
3. The President shall communicate the recommendation for the suspension or removal of a judge to the Chairperson of the Assembly and the Chairperson of the Commission.
4. Such a recommendation of the Court shall become final upon its adoption by the Assembly.

Article 12 Vacancies

1. A vacancy shall arise in the Court under the following circumstances:
 - (a) Death;
 - (b) Resignation;
 - (c) Removal from office.
2. In the case of death or resignation of a judge, the President shall immediately inform the Chairperson of the Assembly in writing, who shall declare the seat vacant.
3. The same procedure and consideration for the election of a judge shall also be followed in filling vacancies.

Article 13 Independence

III. AFRICAN COURT

1. The independence of the judges shall be fully ensured in accordance with international law.
2. No judge may participate in the decision of any case in which he or she has previously taken part as agent, counsel or advocate for one of the parties, or as a member of a national or international court, or commission of inquiry, or in any other capacity.
3. Any doubt on this point shall be settled by decision of the Court.

Article 14 Privileges and Immunities

1. The judges shall enjoy, from the time of their election and throughout their term of office, the full privileges and immunities extended to diplomatic agents in accordance with international law.
2. The judges shall be immune from legal proceedings for any act or omission committed in the discharge of their judicial functions.
3. The judges shall continue, after they have ceased to hold office, to enjoy immunity in respect of acts performed by them when engaged in their official capacity.

Article 15 Incompatibility

1. The position of a judge shall be incompatible with any activity that might interfere with the independence or impartiality of such a judge or the demands of the office, as determined in the Rules of Court.
2. Any doubt on this point shall be settled by the Court.

Article 16 Quorum

1. The full Court shall sit except where it is expressly provided otherwise in this Protocol.
2. Except when sitting in Chamber, the Court shall only examine cases brought before it, if it has a quorum of at least seven (7) judges.
3. The quorum for a Special Chamber shall be set out in the Rules of Court.

Article 17 Remuneration of Judges

1. A judge shall receive an annual allowance and, for each day on which he or she exercises his or her functions, a special allowance, provided that in any year the total sum payable to any judge as special allowance shall not exceed the amount of the annual allowance.
2. The President shall receive an additional special annual allowance.
3. The Vice-President shall receive an additional special allowance for each day on which he or she acts as President.

2. COURT OF JUSTICE OF THE AFRICAN UNION

4. The allowances shall be determined from time to time by the Assembly upon the recommendation of the Executive Council, taking into account the workload of the Court. They may not be decreased during the term of office.
5. Regulations adopted by the Assembly upon the recommendation of the Executive Council shall determine the conditions under which retirement pensions shall be given to the judges and the terms and conditions under which their travel expenses shall be paid or refunded.
6. The allowances shall be free of all taxation.

Article 18 Eligibility to Submit Cases

1. The following are entitled to submit cases to the Court:
 - (a) States Parties to this Protocol;
 - (b) The Assembly, the Parliament and other organs of the Union authorized by the Assembly;
 - (c) The Commission or a member of staff of the Commission in a dispute between them within the limits and under the conditions laid down in the Staff Rules and Regulations of the Union;
 - (d) Third parties under conditions to be determined by the Assembly and with the consent of the State Party concerned.
2. The conditions under which the Court shall be open to third parties shall, subject to the special provisions contained in treaties in force, be laid down by the Assembly, but in no case shall such conditions place the parties in a position of inequality before the Court.
3. The States which are not members of the Union shall not be allowed to submit cases to the Court. The Court shall have no jurisdiction to deal with a dispute involving a Member State that has not ratified this Protocol.

Article 19 Competence/Jurisdiction

1. The Court shall have jurisdiction over all disputes and applications referred to it in accordance with the Act and this Protocol which relate to:
 - (a) The interpretation and application of the Act;
 - (b) The interpretation, application or validity of Union treaties and all subsidiary legal instruments adopted within the framework of the Union;
 - (c) Any question of international law;
 - (d) All acts, decisions, regulations and directives of the organs of the Union;
 - (e) All matters specifically provided for in any other agreements that States Parties may conclude among themselves or with the Union and which confer jurisdiction on the Court;
 - (f) The existence of any fact which, if established, would constitute a breach of an obligation owed to a State Party or to the Union;

III. AFRICAN COURT

(g) The nature or extent of the reparation to be made for the breach of an obligation.

2. The Assembly may confer on the Court power to assume jurisdiction over any dispute other than those referred to in this article.

Chapter III

Article 20 Sources of Law

1. The Court, whose function it is to decide in accordance with international law such disputes, as are submitted to it, shall have regard to:

(a) The Act;

(b) International treaties whether general or particular, establishing rules expressly recognized by the contesting States;

(c) International custom, as evidence of a general practice accepted as law;

(d) The general principles of law recognized universally or by African States;

(e) Subject to Article 37 of this Protocol, judicial decisions and the writings of the most highly qualified publicists of various nations as well as the regulations, directives and decisions of the Union as subsidiary means for the determination of the rules of law.

2. This provision shall not prejudice the power of the Court to decide a case *ex aequo et bono*, if the parties, agree thereto.

Chapter IV

Article 21 Submission of a Dispute

1. Disputes shall be submitted to the Court by a written application to the Registrar. The subject of the dispute, the applicable law and basis of the jurisdiction shall be indicated.

2. The Registrar shall forthwith give notice of the application to all concerned parties.

3. The Registrar shall also notify all Member States, the Chairperson of the Commission and any third parties entitled to appear before the Court.

Article 22 Provisional Measures

1. The Court shall have the power, on its own motion or on application by the parties, to indicate, if it considers that circumstances so require any provisional measures which ought to be taken to preserve the respective rights of the parties.

2. Pending the final decision, notice of the provisional measures shall forthwith be given to the parties and to the Chairperson of the Commission.

Article 23 Representation of Parties

2. COURT OF JUSTICE OF THE AFRICAN UNION

1. The parties may be represented before the Court by agents.
2. An agent or party may have the assistance of counsel or advocate before the Court.
3. The organs of the Union, where relevant, shall be represented by the Chairperson of the Commission or his or her representative.
4. The agents, counsel and advocates of the parties before the Court shall enjoy the privileges and immunities necessary to the independent exercise of their duties.

Article 24 Procedure Before the Court

1. The procedure before the Court shall consist of two parts: written and oral.
2. The written procedure shall consist of the communications to the Court, the parties and the institutions of the Union whose decisions are in dispute, of applications, statements of the case, defences and observations and of replies if any, as well as all papers and documents in support, or of certified copies thereof.
3. The communications shall be made through the Registrar, in the order and time fixed by the Court either in the Rules or the case.
4. A certified copy of every document produced by one party shall be communicated to the other party.
5. The oral proceedings shall, if necessary, consist of hearing by the Court of witnesses, experts, agents, counsels and advocates.

Article 25 Service of Notice

1. For the service of all notices upon persons other than parties, agents, counsel and advocates, the Court shall apply directly to the Government of the State upon whose territory the notice has to be served.
2. The same provision shall apply whenever steps are to be taken to procure evidence locally in the territory of the State concerned.

Article 26 Public Hearing

The hearing in Court shall be public, unless the Court, on its own motion or upon application by the parties, decides that the public not be admitted.

Article 27 Record of Proceedings

1. A record of proceedings shall be made at each hearing and shall be signed by the Presiding Judge and the Registrar of the session.
2. Such a record shall be kept by the Registrar and shall be the authentic record of the case.

Article 28 Regulation of Proceedings

III. AFRICAN COURT

1. The Court shall have the power to regulate its own proceedings. It shall have the power to make orders for the conduct of the case before it.
2. It shall decide the form and time in which each party must conclude its arguments, and make all arrangements connected with the taking of evidence.

Article 29 Production of Documents

The Court may, before the hearing begins, call upon the agents to produce any relevant document or to supply any relevant explanation. Formal note shall be taken of any refusal to produce documents or supply an explanation requested by it.

Article 30 Enquiries

The Court may, at any time, entrust any individual, body, bureau, commission, or other organization that it may select, and is accepted by the parties to the dispute, with the task of carrying out an enquiry or giving an expert opinion.

Article 31 Refusal of Evidence

After the Court has received the proofs and evidence within the time specified for this purpose, it may, unless it decides that the interests of justice so require, refuse to accept any further oral or written evidence that any party may desire to present.

Article 32 Default Judgments

1. Whenever one of the parties does not appear before the Court, or fails to defend the case against it, the other party may call upon the Court to give its judgment.
2. The Court must before doing so, satisfy itself, not only that it has jurisdiction in accordance with Article 19, but also that the claim is well founded in fact and in law and that the other party had due notice.
3. An objection by the party concerned may be lodged against the judgment within ninety (90) days of it being notified of the default judgment. The objection shall not have the effect of staying the enforcement of the judgment by default.

Article 33 Consideration of the Judgment

1. When, subject to the control of the Court, the agent, counsel and advocates have completed their submissions of the case, the resident shall declare the hearing closed.
2. The Court shall adjourn to consider its judgment.
3. The deliberations of the Court shall take place in private and shall remain secret at all times.

Article 34 Majority Necessary for Decision

2. COURT OF JUSTICE OF THE AFRICAN UNION

1. All questions shall be decided by a majority of the judges present.
2. In the event of equality of votes, the Presiding Judge shall have a casting vote.

Article 35 Judgment

1. The judgment shall state the reasons on which it is based.
2. The judgment shall state the names of judges who have taken part in the decision.
3. The judgment shall be signed by all the judges and certified by the President and the Registrar. It shall be read in open session, due notice having been given to the agents.
4. Subject to Articles 32 and 41 of this Protocol, the judgment shall be final.

Article 36 Separate or Dissenting Opinion

If the judgment does not represent in whole or in part the unanimous opinion of the judges, any judge shall be entitled to deliver a separate or dissenting opinion.

Article 37 Binding Force of Judgments

The judgments of the Court shall be binding on the parties and in respect of that particular case.

Article 38 Decisions on Interpretation and Application of the Act

1. Decisions of the Court on the interpretation and application of the Act shall be binding on Member States and organs of the Union notwithstanding the provisions of Article 37 of this Protocol.
2. Whenever questions of interpretation of the Act arise in a case in which States other than those concerned have expressed an interest, the Registrar shall notify all such States and organs of the Union forthwith.
3. Every Member State and organ of the Union so notified has the right to intervene in the proceedings.
4. Any decision taken in application of Articles 38 and 39 of this Protocol shall be by a qualified majority of at least two (2) votes and in the presence of at least nine (9) judges.

Article 39 Interpretation of Other Treaties

1. Whenever the question of interpretation of a treaty arises in a case in which States other than those concerned have expressed an interest, the Registrar shall notify all such States and organs of the Union forthwith.
2. Every State Party and organ of the Union so notified has the right to intervene in the proceedings and the interpretation given by the judgment will be equally binding upon it.

Article 40 Interpretation of a Judgment

III. AFRICAN COURT

In the event of any dispute as to the meaning or scope of the judgment, the Court shall construe it upon the request of any of the parties.

Article 41 Revision

1. An application for revision of a judgment may be made only when it is based upon discovery of a new fact of such nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court and also to the party claiming revision, provided that such ignorance was not due to negligence.
2. The proceedings for revision shall be opened by a ruling of the Court expressly recording the existence of the new fact, recognizing that it has such a character as to lay the case open to revision, and declaring the revision admissible on this ground.
3. The Court may require prior compliance with the terms of the judgment before it admits proceedings in revision.
4. The application for revision shall be made within six (6) months of the discovery of the new fact.
5. No application may be made after the lapse of ten (10) years from the date of the judgment.

Article 42 Intervention

1. Any Member State that has an interest of a legal nature, which may be affected by the decision in the case, may submit a request to the Court to be permitted to intervene.
2. The Court shall decide upon the request.

Article 43 Costs

Unless otherwise decided by the Court, each party shall bear its own costs.

Article 44 Advisory Opinion

1. The Court may give an advisory opinion on any legal question at the request of the Assembly, the Parliament, the Executive Council, the Peace and Security Council, the ECOSOCC, any of the Financial Institutions, a Regional Economic Community or such other organs of the Union as may be authorized by the Assembly.
2. A request for an advisory opinion under paragraph 1 of this article shall be in writing and shall contain an exact statement of the question upon which the opinion is required and shall be accompanied by all relevant documents.

Chapter V

Article 45 Procedure for Amendments

1. This Protocol may be amended if a State Party makes a written request to that effect to the Chairperson of the Assembly.

2. COURT OF JUSTICE OF THE AFRICAN UNION

2. Proposals for amendment shall be submitted to the Chairperson of the Commission who shall transmit same to Member States within thirty (30) days of receipt thereof.
3. The Assembly may adopt by a simple majority, the draft amendment after the Court has given its opinion on the amendment.

Article 46

Power of the Court to Propose Amendments

The Court shall have the power to propose such amendments to this Protocol as it may deem necessary to the Assembly through written communication to the Chairperson of the Commission for consideration in conformity with Article 45 of this Protocol.

Chapter VI

Article 47

Seat and Seal of the Court

1. The seat of the Court shall be determined by the Assembly from among States Parties. However, the Court may sit in any other Member State if circumstances warrant and with the consent of the Member State concerned. The seat of the Court may be changed by the Assembly after due consultations with the Court.
2. The Court shall have a seal bearing the inscription "The Court of Justice of the African Union".

Chapter VII

Article 48

Appointment of Registrar

1. The Court shall appoint the Registrar and Deputy Registrar(s) from among candidates proposed by the judges of the Court, as it considers necessary, in accordance with the Rules of Court.
2. The Registrar and Deputy Registrar(s) shall be elected for a term of four (4) years. They may be re-appointed once. They shall reside at the seat of the Court.
3. The salary and conditions of service of the Registrar and Deputy Registrar(s) shall be determined by the Assembly upon recommendation of the Court through the Executive Council.

Article 49

Appointment and Terms of Service of Other Staff

1. The Court shall employ such staff as may be required to enable the Court to perform its functions and who shall hold office in the service of the Court.
2. The salary and other allowances of the other staff of the Court shall be determined by the Assembly upon the recommendation of the Court through the Executive Council.

Article 50

Official Languages of the Court

The official and working languages of the Court shall be those of the Union.

Chapter VIII

III. AFRICAN COURT

Article 51 Execution of Judgment

The States Parties shall comply with the judgment in any dispute to which they are parties within the time stipulated by the Court and shall guarantee its execution.

Article 52 Non-Compliance with Judgment

1. Where a party has failed to comply with a judgment, the Court may, upon application by either party, refer the matter to the Assembly, which may decide upon measures to be taken to give effect to the judgment.
2. The Assembly may impose sanctions under paragraph 2 of Article 23 of the Act.

Article 53 Report to the Assembly

The Court shall submit to each ordinary session of the Assembly, a report on its work during the previous year. The report shall specify, in particular, the cases in which a State has not complied with the Court's judgment.

Chapter IX

Article 54 Budget

1. The Court shall elaborate its draft annual budget and shall submit it to the Assembly through the Executive Council.
2. The budget of the Court shall be borne by the Member States.

Article 55 Summary Procedure

With a view to the speedy dispatch of business, the Court shall form annually a chamber composed of five (5) judges, which, at the request of the parties, may hear and determine cases by summary procedure in accordance with the Rules of Court. In addition, two (2) judges shall be selected from among themselves for the purpose of replacing judges who find it impossible to sit.

Article 56 Special Chambers

The Court may from time to time form one or more chambers, composed of three (3) or more judges as the Court may determine, for dealing with particular categories of cases.

Article 57 Judgment Given by a Chamber

A judgment given by any of the chambers provided for in Articles 55 and 56 of this Protocol shall be considered as rendered by the Court.

Chapter X

3. STATUTE OF THE AFRICAN COURT OF JUSTICE AND HUMAN RIGHTS

Article 58 Rules of Court

The Court shall frame rules for carrying out its functions and generally for giving effect to this Protocol. In particular, it shall lay down rules of procedure in conformity with this Protocol.

Article 59 Signature, Ratification and Accession

1. This Protocol shall be open to signature, ratification and accession by Member States in accordance with their respective constitutional procedures.
2. The instruments of ratification shall be deposited with the Chairperson of the Commission.
3. Any Member State acceding to this Protocol after its entry into force shall deposit the instrument of accession with the Chairperson of the Commission.

Article 60 Entry into Force

This Protocol shall enter into force thirty (30) days after the deposit of the instruments of ratification by fifteen (15) Member States.

3.

PROTOCOL ON THE STATUTE OF THE AFRICAN COURT OF JUSTICE AND HUMAN RIGHTS

Adopted in Sharm El-Sheikh, Egypt, on 1 July 2008.

The Protocol and the Statute annexed to it shall enter into force thirty days after the deposit of the fifteenth instrument of ratification.

The Member States of the African Union, Parties to this Protocol,

Recalling the objectives and principles enunciated in the Constitutive Act of the African Union, adopted on 11 July 2000 in Lomé, Togo, in particular the commitment to settle their disputes through peaceful means,

Bearing in mind their commitment to promote peace, security and stability on the continent and to protect human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights and other relevant instruments relating to human rights,

Considering that the Constitutive Act of the African Union provides for the establishment of a Court of Justice charged with hearing, among other things, all cases relating to interpretation or application of the said Act or of all other treaties adopted within the framework of the Union,

Further considering Decisions Assembly/AU/Dec.45 (III) and Assembly/AU/Dec.83 (V) of the Assembly of the Union, adopted respectively at its Third (6 to 8 July 2004, Addis Ababa, Ethiopia) and Fifth (4 to 5 July 2005, Sirte, Libya) Ordinary Sessions, to merge the African Court on Human and Peoples' Rights and the Court of Justice of the African Union into a single Court,

Firmly convinced that the establishment of an African Court of Justice and Human Rights shall assist in the achievement of the goals pursued by the African Union and that the attainment of the objectives of the African Charter on Human and Peoples' Rights requires the establishment of a judicial organ to supplement and

III. AFRICAN COURT

strengthen the mission of the African Commission on Human and Peoples' Rights as well as the African Committee of Experts on the Rights and Welfare of the Child,

Taking due account of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, adopted by the Assembly of Heads of State and Government of the Organization of African Unity on 10 June 1998 at Ouagadougou, Burkina Faso, and which entered into force on 25 January 2004,

Taking due account also of the Protocol of the Court of Justice of the African Union, adopted by the Assembly of the Union on 11 July 2003 in Maputo, Mozambique,

Recalling their commitment to take all necessary measures to strengthen their common institutions and to endow them with the necessary powers and resources to carry out their missions effectively,

Cognizant of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, and the commitments contained in the Solemn Declaration on the Gender Equality in Africa, Assembly/AU/Decl.12 (III), adopted by the Assembly of the Union respectively at its Second and Third Ordinary Sessions held in July 2003 and 2004, in Maputo, Mozambique, and in Addis Ababa, Ethiopia,

Convinced that that the present Protocol shall supplement the mandate and efforts of other continental treaty bodies as well as national institutions in protecting human rights,

Have agreed as follows:

Chapter I

Merger of the African Court on Human And Peoples' Rights and the Court of Justice of the African Union

Article 1

Replacement of the 1998 and 2003 Protocols

The Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, adopted on 10 June 1998 in Ouagadougou, Burkina Faso, and which entered into force on 25 January 2004, and the Protocol of the Court of Justice of the African Union, adopted on 11 July 2003 in Maputo, Mozambique, are hereby replaced by the present Protocol and Statute annexed as an integral part hereto, subject to the provisions of Articles 5, 7 and 9 of this Protocol.

Article 2

Establishment of a Single Court

The African Court on Human and Peoples' Rights established by the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights and the Court of Justice of the African Union established by the Constitutive Act of the African Union, are hereby merged into a single Court and established as "The African Court of Justice and Human Rights".

Article 3

Reference to the Single Court in the Constitutive Act

References made to the "Court of Justice" in the Constitutive Act of the African Union shall be read as references to the "African Court of Justice and Human Rights" established under Article 2 of this Protocol.

Chapter II

Transitional Provisions

3. STATUTE OF THE AFRICAN COURT OF JUSTICE AND HUMAN RIGHTS

Article 4

Term of Office of the Judges of the African Court on Human and Peoples' Rights

The term of office of the judges of the African Court on Human and Peoples' Rights shall end following the election of the judges of the African Court of Justice and Human Rights. However, the judges shall remain in office until the newly elected judges of the African Court of Justice and Human Rights are sworn in.

Article 5

Cases Pending Before the African Court on Human and Peoples' Rights

Cases pending before the African Court on Human and Peoples' Rights, that have not been concluded before the entry into force of the present Protocol, shall be transferred to the Human Rights Section of the African Court of Justice and Human Rights on the understanding that such cases shall be dealt with in accordance with the Protocol to the ACHPR on the establishment of the African Court on Human and Peoples' Rights.

Article 6

Registry of the Court

The Registrar of the African Court on Human and Peoples' Rights shall remain in office until the appointment of a new Registrar for the African Court of Justice and Human Rights.

Article 7

Provisional Validity of the 1998 Protocol

The Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights shall remain in force for a transitional period not exceeding one (1) year or any other period determined by the Assembly, after entry into force of the present Protocol, to enable the African Court on Human and Peoples' Rights to take the necessary measures for the transfer of its prerogatives, assets, rights and obligations to the African Court of Justice and Human Rights.

Chapter III

Final Provisions

Article 8

Signature, Ratification and Accession

1. The present Protocol shall be open for signature, ratification or accession by Member States, in accordance with their respective constitutional procedures.
2. The instruments of ratification or accession to the present Protocol shall be deposited with the Chairperson of the Commission of the African Union.
3. Any Member State may, at the time of signature or when depositing its instrument of ratification or accession, or at any time thereafter, make a declaration accepting the competence of the Court to receive cases under Article 30, subparagraph (f), involving a State which has not made such a declaration.

Article 9

Entry into Force

1. The present Protocol and the Statute annexed to it shall enter into force thirty (30) days after the deposit of the instruments of ratification by fifteen (15) Member States.

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2. For each Member State which shall ratify or accede to it subsequently, the present Protocol shall enter into force on the date on which the instruments of ratification or accession are deposited.

3. The Chairperson of the Commission shall inform all Member States of the entry into force of the present Protocol.

ANNEX

STATUTE OF THE AFRICAN COURT OF JUSTICE AND HUMAN RIGHTS

Chapter I General Provisions

Article 1 Definitions

In this Statute, except otherwise indicated, the following shall mean:

"African Charter" means the African Charter on Human and Peoples' Rights;

"African Commission" means the African Commission on Human and Peoples' Rights;

"African Committee of Experts" means the African Committee of Experts on the Rights and Welfare of the Child;

"African intergovernmental organizations" means an organization that has been established with the aim of ensuring socio-economic integration, and to which some Member States have ceded certain competences to act on their behalf, as well as other subregional, regional or inter-African Organizations;

"African non-governmental organizations" means non-governmental organizations at the subregional, regional or inter-African levels as well as those in the diaspora as may be defined by the Executive Council;

"Agent" means a person mandated in writing to represent a party in a case before the Court;

"Assembly" means the Assembly of Heads of State and Government of the Union;

"Chamber(s)" means a Chamber established in accordance with Article 19 of the Statute;

"Constitutive Act" means the Constitutive Act of the African Union;

"Commission" means the Commission of the Union;

"Court" means the African Court of Justice and Human Rights as well as its sections and chambers;

"Executive Council" means the Executive Council of Ministers of the Union;

"Full Court" means a joint sitting of the General Affairs and Human Rights Sections of the Court;

"Human Rights Section" means the Human and Peoples' Rights Section of the Court;

"Judge" means a judge of the Court;

"Member State" means a Member State of the Union;

3. STATUTE OF THE AFRICAN COURT OF JUSTICE AND HUMAN RIGHTS

"National human rights institutions" means public institutions established by a State to promote and protect human rights;

"President" means the President of the Court elected in accordance with Article 22, paragraph 1, of the Statute;

"Protocol" means the Protocol to the Statute of the African Court of Justice and Human Rights;

"Registrar" means the person appointed as such in accordance with Article 22, paragraph 4, of the Statute;

"Rules" means the Rules of the Court;

"Section" means the General Affairs or the Human Rights Section of the Court;

"Senior Judge" means the person defined as such in the Rules of Court;

"States Parties" means Member States, which have ratified or acceded to this Protocol;

"Statute" means the present Statute;

"Union" means the African Union established by the Constitutive Act;

"Vice-President" means the Vice-President of the Court elected in accordance with Article 22, paragraph 1, of the Statute.

Article 2 Functions of the Court

1. The African Court of Justice and Human Rights shall be the main judicial organ of the African Union.
2. The Court shall be constituted and function in accordance with the provisions of the present Statute.

Chapter II Organization of the Court

Article 3 Composition

1. The Court shall consist of sixteen (16) judges who are nationals of States Parties. Upon recommendation of the Court, the Assembly may review the number of judges.
2. The Court shall not, at any one time, have more than one judge from a single Member State.
3. Each geographical region of the continent, as determined by the decisions of the Assembly shall, where possible, be represented by three (3) judges except the Western Region which shall have four (4) judges.

Article 4 Qualifications of Judges

The Court shall be composed of impartial and independent judges elected from among persons of high moral character, who possess the qualifications required in their respective countries for appointment to the highest judicial offices, or are jurisconsults of recognized competence and experience in international law and/or, human rights law.

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Article 5 Presentation of Candidates

1. As soon as the Protocol to this Statute enters into force, the Chairperson of the Commission shall invite each State Party to submit, in writing, within a period of ninety (90) days, candidatures to the post of judge of the Court.
2. Each State Party may present up to two (2) candidates and shall take into account equitable gender representation in the nomination process.

Article 6 List of Candidates

1. For the purpose of election, the Chairperson of the Commission shall establish two alphabetical lists of candidates presented as follows:
 - (a) List A containing the names of candidates having recognized competence and experience in international law; and
 - (b) List B containing the names of candidates possessing recognized competence and experience in human rights law.
2. States Parties that nominate candidates possessing the competences required on the two lists shall choose the list on which their candidates may be placed.
3. At the first election, eight (8) judges shall be elected from among the candidates of list A and eight (8) from among the candidates of list B. The elections shall be organized in a way as to maintain the same proportion of judges elected on the two lists.
4. The Chairperson of the Commission shall communicate the two lists to Member States, at least thirty (30) days before the ordinary session of the Assembly or of the Council, during which the elections shall take place.

Article 7 Election of Judges

1. The judges shall be elected by the Executive Council, and appointed by the Assembly.
2. They shall be elected through secret ballot by a two-thirds majority of Member States with voting rights, from among the candidates provided for in Article 6 of this Statute.
3. Candidates who obtain the two-thirds majority and the highest number of votes shall be elected. However, if several rounds of election are required, the candidates with the least number of votes shall withdraw.
4. The Assembly shall ensure that in the Court as a whole there is equitable representation of the regions and the principal legal traditions of the continent.
5. In the election of the judges, the Assembly shall ensure that there is equitable gender representation.

Article 8 Term of Office

3. STATUTE OF THE AFRICAN COURT OF JUSTICE AND HUMAN RIGHTS

1. The judges shall be elected for a period of six (6) years and may be re-elected only once. However, the term of office of eight (8) judges, four (4) from each section, elected during the first election shall end after four (4) years.
2. The judges, whose term of office shall end after the initial period of four (4) years, shall be determined for each section, by lot drawn by the Chairperson of the Assembly or the Executive Council, immediately after the first election.
3. A judge, elected to replace another whose term of office has not expired, shall complete the term of office of his predecessor.
4. All the judges, except the President and the Vice-President, shall perform their functions on a part-time basis.

Article 9

Resignation, Suspension and Removal from Office

1. A judge may resign his/her position in writing addressed to the President for transmission to the Chairperson of the Assembly through the Chairperson of the Commission.
2. A judge shall not be suspended or removed from office save, where, on the recommendation of two-thirds majority of the other members, he/she no longer meets the requisite conditions to be a judge.
3. The President shall communicate the recommendation for the suspension or removal of a judge to the Chairperson of the Assembly through the Chairperson of the Commission.
4. Such a recommendation of the Court shall become final upon its adoption by the Assembly.

Article 10

Vacancies

1. A vacancy shall arise in the Court under the following circumstances:
 - (a) Death;
 - (b) Resignation;
 - (c) Removal from office.
2. In the case of death or resignation of a judge, the President shall immediately inform the Chairperson of the Assembly through the Chairperson of the Commission in writing, who shall declare the seat vacant.
3. The same procedure and consideration for the election of a judge shall also be followed in filling the vacancies.

Article 11

Solemn Declaration

1. After the first election, the judges shall, at the first session of the Court and in the presence of the Chairperson of the Assembly, make a solemn declaration as follows:

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" I, do solemnly swear (or affirm or declare) that I shall faithfully exercise the duties of my office as judge of the African Court of Justice and Human Rights of the African Union impartially and conscientiously, without fear or favour, affection or ill will and that I will preserve the integrity of the Court.

2. The Chairperson of the Assembly or his/her duly authorized representative shall administer the solemn declaration.

3. Subsequently, the solemn declaration shall be made before the President of the Court.

Article 12 Independence

1. The independence of the judges shall be fully ensured in accordance with international law.

2. The Court shall act impartially, fairly and justly.

3. In performance of the judicial functions and duties, the Court and its judges shall not be subject to the direction or control of any person or body.

Article 13 Conflict of Interest

1. Functions of a judge are incompatible with all other activities, which might infringe on the need for independence or impartiality of the judicial profession. In case of doubt, the Court shall decide.

2. A judge shall not exercise the function of agent, or counsel, or lawyer in any case before the Court.

Article 14 Conditions Governing the Participation of Members in the Settlement of a Specific Case

1. Where a particular judge feels he/she has a conflicting interest in a particular case, he/she shall so declare. In any event, he/she shall not participate in the settlement of a case for which he/she was previously involved as agent, counsel or lawyer of one of the parties, or as a member of a national or international court or tribunal, or a commission of enquiry or in any other capacity.

2. If the President considers that a judge should not participate in a particular case, he/she shall notify the judge concerned. Such notification from the President shall, after agreement by the Court, exclude that judge from participating in that particular case.

3. A judge of the nationality of a State Party to a case before the full Court or one of its Sections shall not have the right to sit on the case.

4. Where there is doubt on these points, the Court shall decide.

Article 15 Privileges and Immunities

1. The judges shall enjoy, from the time of their election and throughout their term of office, the full privileges and immunities extended to diplomatic agents in accordance with international law.

2. The judges shall be immune from legal proceedings for any act or omission committed in the discharge of their judicial functions.

3. STATUTE OF THE AFRICAN COURT OF JUSTICE AND HUMAN RIGHTS

3. The judges shall continue, after they have ceased to hold office, to enjoy immunity in respect of acts performed by them when engaged in their official capacity.

Article 16 Sections of the Court

The Court shall have two (2) sections: a General Affairs Section composed of eight (8) judges and a Human Rights Section composed of eight (8) judges.

Article 17 Assignment of Matters to Sections

1. The General Affairs Section shall be competent to hear all cases submitted under Article 28 of this Statute save those concerning human and/or peoples' rights issues.
2. The Human Rights Section shall be competent to hear all cases relating to human and/or peoples' rights.

Article 18 Referral of Matters to the Full Court

When a section of the Court is seized with a case, it may, if it deems it necessary refer that case to the Full Court for consideration.

Article 19 Chambers

1. The General Affairs Section and the Human Rights Section may, at any time, constitute one or several chambers. The quorum required to constitute such chambers shall be determined in the Rules of Court.
2. A judgment given by any section or chamber shall be considered as rendered by the Court.

Article 20 Sessions

1. The Court shall hold ordinary and extraordinary sessions.
2. The Court shall decide each year on the periods of its ordinary sessions.
3. Extraordinary sessions shall be convened by the President or at the request of the majority of the judges.

Article 21 Quorum

1. A quorum of nine (9) judges shall be required for deliberations of the Full Court.
2. A quorum of five (5) judges shall be required for the deliberations of the General Affairs Section.
3. A quorum of five (5) judges shall be required for the deliberations of the Human and Peoples' Rights Section.

Article 22 Presidency, Vice-Presidency and Registry

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1. At its first ordinary session after the election of the judges, the full Court shall elect its President as well as the Vice-President from the different lists for a period of three (3) years. The President and the Vice-President may be re-elected once.
2. The President shall preside over all sessions of the full Court and those of the Section to which he/she belongs; in the event of being unable to sit, the President shall be replaced by the Vice-President for the full Court and by the most senior judge for the sessions of his/her section.
3. The Vice-President shall preside over all sessions of the section to which he/she belongs. In the event of being unable to sit, the Vice-President shall be replaced by the most senior judge of that section.
4. The Court shall appoint a Registrar and may provide for the appointment of such other officers as may be necessary.
5. The President, the Vice-President and the Registrar shall reside at the seat of the Court.

Article 23 Remuneration of Judges

1. The President and the Vice-President shall receive an annual salary and other benefits.
2. The other judges shall receive a sitting allowance for each day on which he/she exercises his/her functions.
3. These salaries, allowances and compensation shall be determined by the Assembly, on the proposal of the Executive Council. They may not be decreased during the term of office of the judges.
4. Regulations adopted by the Assembly on the proposal of the Executive Council shall determine the conditions under which retirement pensions shall be given to the judges as well as the conditions under which their travel expenses shall be paid.
5. The above-mentioned salaries, allowances and compensation shall be free from all taxation.

Article 24 Conditions of Service of the Registrar and Members of the Registry

The salaries and conditions of service of the Registrar and other Court officials shall be determined by the Assembly on the proposal of the Court, through the Executive Council.

Article 25 Seat and Seal of the Court

1. The seat of the Court shall be same as the seat of the African Court on Human and Peoples' Rights. However, the Court may sit in any other Member State, if circumstances warrant, and with the consent of the Member State concerned. The Assembly may change the seat of the Court after due consultations with the Court.
2. The Court shall have a seal bearing the inscription "The African Court of Justice and Human Rights".

Article 26 Budget

1. The Court shall prepare its draft annual budget and shall submit it to the Assembly through the Executive Council.

3. STATUTE OF THE AFRICAN COURT OF JUSTICE AND HUMAN RIGHTS

2. The budget of the Court shall be borne by the African Union.

3. The Court shall be accountable for the execution of its budget and shall submit a report thereon to the Executive Council in conformity with the Financial Rules and Regulations of the African Union.

Article 27 Rules of Court

1. The Court shall adopt rules for carrying out its functions and the implementation of the present Statute. In particular, it shall lay down its own Rules.

2. In elaborating its Rules, the Court shall bear in mind the complementarity it maintains with the African Commission and the African Committee of Experts.

Chapter III Competence of the Court

Article 28 Jurisdiction of the Court

The Court shall have jurisdiction over all cases and all legal disputes submitted to it in accordance with the present Statute which relate to:

- (a) The interpretation and application of the Constitutive Act;
- (b) The interpretation, application or validity of other African Union treaties and all subsidiary legal instruments adopted within the framework of the African Union or the Organization of African Unity;
- (c) The interpretation and the application of the African Charter, the Charter on the Rights and Welfare of the Child, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, or any other legal instrument relating to human rights, ratified by the States Parties concerned;
- (d) Any question of international law;
- (e) All acts, decisions, regulations and directives of the organs of the Union;
- (f) All matters specifically provided for in any other agreements that States Parties may conclude among themselves, or with the Union and which confer jurisdiction on the Court;
- (g) The existence of any fact which, if established, would constitute a breach of an obligation owed to a State Party or to the Union;
- (h) The nature or extent of the reparation to be made for the breach of an international obligation.

Article 29 Entities Eligible to Submit Cases to the Court

1. The following entities shall be entitled to submit cases to the Court on any issue or dispute provided for in Article 28:

- (a) States Parties to the present Protocol;

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- (b) The Assembly, the Parliament and other organs of the Union authorized by the Assembly;
- (c) A staff member of the African Union on appeal, in a dispute and within the limits and under the terms and conditions laid down in the Staff Rules and Regulations of the Union.

2. The Court shall not be open to States, which are not members of the Union. The Court shall also have no jurisdiction to deal with a dispute involving a Member State that has not ratified the Protocol.

Article 30

Other Entities Eligible to Submit Cases to the Court

The following entities shall also be entitled to submit cases to the Court on any violation of a right guaranteed by the African Charter, by the Charter on the Rights and Welfare of the Child, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, or any other legal instrument relevant to human rights ratified by the States Parties concerned:

- (a) States Parties to the present Protocol;
- (b) The African Commission on Human and Peoples' Rights;
- (c) The African Committee of Experts on the Rights and Welfare of the Child;
- (d) African intergovernmental organizations accredited to the Union or its organs;
- (e) African national human rights institutions;
- (f) Individuals or relevant non-governmental organizations accredited to the African Union or to its organs, subject to the provisions of Article 8 of the Protocol.

Article 31

Applicable Law

1. In carrying out its functions, the Court shall have regard to:
 - (a) The Constitutive Act;
 - (b) International treaties, whether general or particular, ratified by the contesting States;
 - (c) International custom, as evidence of a general practice accepted as law;
 - (d) The general principles of law recognized universally or by African States;
 - (e) Subject to the provisions of paragraph 1 of Article 46 of the present Statute, judicial decisions and writings of the most highly qualified publicists of various nations as well as the regulations, directives and decisions of the Union, as subsidiary means for the determination of the rules of law;
 - (f) Any other law relevant to the determination of the case.
2. This article shall not prejudice the power of the Court to decide a case *ex aequo et bono*, if the parties agree thereto.

Chapter IV Procedure

3. STATUTE OF THE AFRICAN COURT OF JUSTICE AND HUMAN RIGHTS

Article 32 Official Languages

The official and working languages of the Court shall be those of the Union.

Article 33 Institution of Proceedings before the General Affairs Section

1. Cases brought before the Court by virtue of Article 29 of the present Statute shall be submitted by written application addressed to the Registrar. The subject of the dispute, the applicable law and basis of jurisdiction shall be indicated.
2. The Registrar shall forthwith give notice of the application to the parties concerned.
3. The Registrar shall also notify, through the Chairperson of the Commission, all Member States and, if necessary, the organs of the Union whose decisions are in dispute.

Article 34 Institution of Proceedings Before the Human Rights Section

1. Cases brought before the Court relating to an alleged violation of a human or peoples' right shall be submitted by a written application to the Registrar. The application shall indicate the right(s) alleged to have been violated, and, insofar as it is possible, the provision or provisions of the African Charter on Human and Peoples' Rights, the Charter on the Rights and Welfare of the Child, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa or any other relevant human rights instrument, ratified by the State concerned, on which it is based.
2. The Registrar shall forthwith give notice of the application to all parties concerned, as well as the Chairperson of the Commission.

Article 35 Provisional Measures

1. The Court shall have the power, on its own motion or on application by the parties, to indicate, if it considers that circumstances so require, any provisional measures which ought to be taken to preserve the respective rights of the parties.
2. Pending the final decision, notice of the provisional measures shall forthwith be given to the parties and the Chairperson of the Commission, who shall inform the Assembly.

Article 36 Representation of Parties

1. The States Parties to a case shall be represented by agents.
2. They may, if necessary, have the assistance of counsel or advocates before the Court.
3. The organs of the Union entitled to appear before the Court shall be represented by the Chairperson of the Commission or his/her representative.

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4. The African Commission, the African Committee of Experts, African intergovernmental organizations accredited to the Union or its organs and African national human rights institutions entitled to appear before the Court shall be represented by any person they choose for that purpose.

5. Individuals and non-governmental organizations accredited to the Union or its organs may be represented or assisted by a person of their choice.

6. The agents and other representatives of parties before the Court, their counsel or advocates, witnesses, and any other persons whose presence is required at the Court shall enjoy the privileges and immunities necessary to the independent exercise of their duties or the smooth functioning of the Court.

Article 37 Communications and Notices

1. Communications and notices addressed to agents or counsel of parties to a case shall be considered as addressed to the parties.

2. For the service of all communications or notices upon persons other than the agents, the counsel or the advocates of the parties concerned, the Court shall direct its request to the Government of the State upon whose territory the communication or notice has to be served.

3. The same provision shall apply whenever steps are to be taken to procure evidence on the spot.

Article 38 Procedure Before the Court

The procedures before the Court shall be laid out in the Rules of Court, taking into account the complementarity between the Court and other treaty bodies of the Union.

Article 39 Public Hearing

The hearing shall be public, unless the Court, on its own motion or upon application by the parties, decides that the session shall be closed.

Article 40 Record of Proceedings

1. A record of proceedings shall be made at each hearing and shall be signed by the Registrar and the Presiding Judge of the session.

2. This record alone shall be authentic.

Article 41 Default Judgment

1. Whenever one of the parties does not appear before the Court, or fails to defend the case against it, the Court shall proceed to consider the case and to give its judgment.

2. The Court shall before doing so, satisfy itself, not only that it has jurisdiction in accordance with Articles 28, 29 and 30 of the present Statute, but also that the claim is well founded in fact and law, and that the other party had due notice.

3. STATUTE OF THE AFRICAN COURT OF JUSTICE AND HUMAN RIGHTS

3. An objection by the party concerned may be lodged against the judgment within ninety (90) days of it being notified of the default judgment. Unless there is a decision to the contrary by the Court, the objection shall not have effect of staying the enforcement of the default judgment.

Article 42

Majority Required for Decision of the Court

1. Without prejudice to the provisions of Article 50, paragraph 4, of the present Statute, the decisions of the Court shall be decided by a majority of the judges present.
2. In the event of an equality of votes, the Presiding Judge shall have a casting vote.

Article 43

Judgments and Decisions

1. The Court shall render its judgment within ninety (90) days of having completed its deliberations.
2. All judgments shall state the reasons on which they are based.
3. The judgment shall contain the names of the judges who have taken part in the decision.
4. The judgment shall be signed by all the judges and certified by the Presiding Judge and the Registrar. It shall be read in open session, due notice having been given to the agents.
5. The parties to the case shall be notified of the judgment of the Court and it shall be transmitted to the Member States and the Commission.
6. The Executive Council shall also be notified of the judgment and shall monitor its execution on behalf of the Assembly.

Article 44

Dissenting Opinion

If the judgment does not represent in whole or in part the unanimous opinion of the judges, any judge shall be entitled to deliver a separate or dissenting opinion.

Article 45

Compensation

Without prejudice to its competence to rule on issues of compensation at the request of a party by virtue of paragraph 1(h) of Article 28 of the present Statute, the Court may, if it considers that there was a violation of a human or peoples' right, order any appropriate measures in order to remedy the situation, including granting fair compensation.

Article 46

Binding Force and Execution of Judgments

1. The decision of the Court shall be binding on the parties.
2. Subject to the provisions of paragraph 3 of Article 41 of the present Statute, the judgment of the Court is final.

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3. The parties shall comply with the judgment made by the Court in any dispute to which they are parties within the time stipulated by the Court and shall guarantee its execution.

4. Where a party has failed to comply with a judgment, the Court shall refer the matter to the Assembly, which shall decide upon measures to be taken to give effect to that judgment.

5. The Assembly may impose sanctions by virtue of paragraph 2 of Article 23 of the Constitutive Act.

Article 47 Interpretation

In the event of any dispute as to the meaning or scope of a judgment, the Court shall construe it upon the request of any party.

Article 48 Revision

1. An application for revision of a judgment may be made to the Court only when it is based upon discovery of a new fact of such nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court and also to the party claiming revision, provided that such ignorance was not due to negligence.

2. The proceedings for revision shall be opened by a ruling of the Court expressly recording the existence of the new fact, recognizing that it has such a character as to lay the case open to revision, and declaring the revision admissible on this ground.

3. The Court may require prior compliance with the terms of the judgment before it admits proceedings in revision.

4. The application for revision shall be made within six (6) months of the discovery of the new fact.

5. No application may be made after the lapse of ten (10) years from the date of the judgment.

Article 49 Intervention

1. Should a Member State or organ of the Union consider that it has an interest of a legal nature which may be affected by the decision in the case, it may submit a request to the Court to be permitted to intervene. It shall be for the Court to decide upon this request.

2. If a Member State or organ of the Union should exercise the option offered under paragraph 1 of the present article, the interpretation contained in the decision shall be equally binding upon it.

3. In the interest of the effective administration of justice, the Court may invite any Member State that is not a party to the case, any organ of the Union or any person concerned other than the claimant, to present written observations or take part in hearings.

Article 50 Intervention in a Case Concerning the Interpretation of the Constitutive Act

1. Whenever the question of interpretation of the Constitutive Act arises in a case in which Member States other than the parties to the dispute have expressed an interest, the Registrar shall notify all such States and organs of the Union forthwith.

3. STATUTE OF THE AFRICAN COURT OF JUSTICE AND HUMAN RIGHTS

2. Every State Party and organ of the Union so notified has the right to intervene in the proceedings.
3. The decisions of the Court concerning the interpretation and application of the Constitutive Act shall be binding on Member States and organs of the Union, notwithstanding the provisions of paragraph 1 of Article 46 of this Statute.
4. Any decision made by virtue of this article shall be made by a qualified majority of at least two (2) votes and in the presence of at least two thirds of the judges.

Article 51

Intervention in a Case Concerning the Interpretation of Other Treaties

1. Whenever the question is that of interpretation of other treaties ratified by Member States other than the parties to a dispute, the Registrar shall notify all such States and the organs of the Union forthwith.
2. Every State Party and organ of the Union so notified has the right to intervene in the proceedings, and if it exercises this right, the interpretation given by the judgment shall be equally binding upon it.
3. This article shall not be applicable to cases relating to alleged violations of a human or peoples' right, submitted by virtue of Article 29 or 30 of the present Statute.

Article 52

Costs

1. Unless otherwise decided by the Court, each party shall bear its own costs.
2. Should it be required in the interest of justice, free legal aid may be provided for the person presenting an individual communication under conditions to be set out in the Rules of Court.

Chapter V

Advisory Opinion

Article 53

Request for Advisory Opinion

1. The Court may give an advisory opinion on any legal question at the request of the Assembly, the Parliament, the Executive Council, the Peace and Security Council, the Economic, Social and Cultural Council (ECOSOCC), the Financial Institutions or any other organ of the Union as may be authorized by the Assembly.
2. A request for an advisory opinion shall be in writing and shall contain an exact statement of the question upon which the opinion is required and shall be accompanied by all relevant documents.
3. A request for an advisory opinion must not be related to a pending application before the African Commission or the African Committee of Experts.

Article 54

Service of Notice

1. The Registrar shall forthwith give notice of the request for an advisory opinion to all States or organs entitled to appear before the Court by virtue of Article 30 of the present Statute.
2. The Registrar shall also, by means of a special and direct communication, notify any State entitled to appear before the Court or any intergovernmental organization considered by the Court, or should it not be sitting,

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by the President, as likely to be able to furnish information on the question, that the Court will be prepared to receive, within a time limit to be fixed by the President, written statements, or to hear, at a public sitting to be held for the purpose, oral statements relating to the question.

3. Should any such State entitled to appear before the Court have failed to receive the special communication referred to in paragraph 2 of this article, such State may express the desire to submit a written statement or to be heard, and the Court shall decide.

4. States and organizations having presented written or oral statements or both shall be permitted to comment on the statements made by other States or organizations in the form, to the extent, and within the time limits which the Court, or should it not be sitting, the President, shall decide in each particular case. Accordingly, the Registrar shall in due course communicate any such written statements to States and organizations having submitted similar statements.

Article 55

Delivery of Advisory Opinion

The Court shall deliver its advisory opinion in open court, notice having been given to the Chairperson of the Commission and Member States, and other international organizations directly concerned.

Article 56

Application by Analogy of the Provisions of the Statute Applicable to Contentious Cases

In the exercise of its advisory functions, the Court shall further be guided by the provisions of the present Statute which apply in contentious cases to the extent to which it recognizes them to be applicable.

Chapter VI

Report to the Assembly

Article 57

Annual Activity Report

The Court shall submit to the Assembly, an annual report on its work during the previous year. The report shall specify, in particular, the cases in which a party has not complied with the judgment of the Court.

CHAPTER VII

Procedure for Amendments

Article 58

Proposed Amendments from a State Party

1. The present Statute may be amended if a State Party makes a written request to that effect to the Chairperson of the Commission, who shall transmit same to Member States within thirty (30) days of receipt thereof.

2. The Assembly may adopt, by a simple majority, the proposed amendment after the Court has given its opinion on it.

Article 59

Proposed Amendments from the Court

4. AMENDMENTS TO THE AFRICAN COURT OF JUSTICE AND HUMAN RIGHTS STATUTE

The Court may propose such amendments to the present Statute as it may deem necessary, to the Assembly through written communication to the Chairperson of the Commission, for consideration in conformity with the provisions of Article 58 of the present Statute.

Article 60

Entry into Force of Amendments

The amendment shall enter into force for every State which has accepted it in conformity with its constitutional laws thirty (30) days after the Chairperson of the Commission is notified of this acceptance.

4.

PROTOCOL ON AMENDMENTS TO THE PROTOCOL ON THE STATUTE OF THE AFRICAN COURT OF JUSTICE AND HUMAN RIGHTS

Adopted in Malabo, Equatorial Guinea, on 27 June 2014.

The Protocol and the Statute annexed to it shall enter into force thirty days after the deposit of the instruments of ratification by fifteen Member States.

The Member States of the African Union, Parties to the Constitutive Act of the African Union,

Recalling the objectives and principles enunciated in the Constitutive Act of the African Union, adopted on 11 July 2000 in Lomé, Togo, in particular the commitment to settle their disputes through peaceful means,

Further recalling the provisions of the Protocol on the Statute of the African Court of Justice and Human Rights and the Statute annexed to it adopted on 1 July 2008 in Sharm-El-Sheikh, Egypt,

Recognizing that the Protocol on the Statute of the African Court of Justice and Human Rights had merged the African Court on Human and Peoples' Rights and the Court of Justice of the African Union into a single Court,

Bearing in mind their commitment to promote peace, security and stability on the continent, and to protect human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights and other relevant instruments,

Further recognizing the efforts and contribution of the African Commission on Human and Peoples' Rights in the promotion and protection of human and peoples' rights since its inception in 1987,

Noting the steady growth of the African Court on Human and Peoples' Rights and the contribution it has made in protecting human and peoples' rights on the African continent as well as the progress towards the establishment of the African Court of Justice and Human and Peoples' Rights,

Further bearing in mind the complementary relationship between the African Commission on Human and Peoples' Rights and the African Court on Human and Peoples' Rights, as well as its successor, the African Court of Justice and Human and Peoples' Rights,

Further recalling their commitment to the right of the Union to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely, war crimes, genocide and crimes against humanity as well as a serious threat to legitimate order to restore peace and stability to the Member State of the Union upon the recommendation of the Peace and Security Council,

Reiterating their respect for democratic principles, human and peoples' rights, the rule of law and good governance,

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Further reiterating their respect for the sanctity of human life, condemnation and rejection of impunity and political assassination, acts of terrorism and subversive activities, unconstitutional changes of governments and acts of aggression,

Further reiterating their commitment to fighting impunity in conformity with the provisions of Article 4, subparagraph (o), of the Constitutive Act of the African Union,

Acknowledging the pivotal role that the African Court of Justice and Human and Peoples' Rights can play in strengthening the commitment of the African Union to promote sustained peace, security and stability on the continent and to promote justice and human and peoples' rights as an aspect of their efforts to promote the objectives of the political and socio-economic integration and development of the continent with a view to realizing the ultimate objective of a United States of Africa,

Further recalling Assembly Decision Assembly/AU/Dec.213 (XII) adopted at the Twelfth Ordinary Session of the Assembly in Addis Ababa, Federal Democratic Republic of Ethiopia, on 3 February 2009 on the implementation of the Assembly's Decision on the Abuse of the Principle of Universal Jurisdiction,

Further recalling Assembly Decision Assembly/AU/Dec.263 (XIII) adopted at the Thirteenth Ordinary Session of the Assembly in Sirte, Libya, on 3 July 2009 on the transformation of the African Union Commission to the African Union Authority,

Further recognizing the need to take the necessary measures to amend the legal instruments of the principal organs of the African Union in the light of the aforementioned Assembly decisions,

Convinced that the present Protocol will complement national, regional and continental bodies and institutions in preventing serious and massive violations of human and peoples' rights in keeping with Article 58 of the Charter and ensuring accountability for them wherever they occur,

Have agreed to adopt the present amendments to the Protocol on the Statute of the African Court of Justice and Human Rights and the Statute annexed thereto as follows:

Chapter I

In Chapter I of the Protocol (Merger of the African Court on Human and Peoples' Rights and the Court of Justice of the African Union) the deletion of the existing title, articles and their provisions in their entirety and the insertion in their place of the following:

"Chapter I General Provisions

Article 1 Definitions

In this Protocol:

"Assembly" means the Assembly of Heads of State and Government of the African Union;

"Chairperson" means the Chairperson of the Assembly;

"Charter" means the African Charter on Human and Peoples' Rights;

"Commission" means the Commission of the African Union;

4. AMENDMENTS TO THE AFRICAN COURT OF JUSTICE AND HUMAN RIGHTS STATUTE

"Court" means the African Court of Justice and Human and Peoples' Rights;

"Member State" means a Member State of the Union;

"President" means the President of the Court;

"Protocol" means the Protocol on the Statute of the African Court of Justice and Human Rights;

"Single Court" has the same meaning as the Court;

"Statute" means the present Statute;

"Union" means the African Union established by the Constitutive Act of the African Union;

"Vice-President" means the Vice-President of the Court.

Article 2 Organs of the Court

The Court shall be composed of the following organs:

1. The Presidency;
2. The Office of the Prosecutor;
3. The Registry;
4. The Defence Office.

Article 3 Jurisdiction of the Court

1. The Court is vested with an original and appellate jurisdiction, including international criminal jurisdiction, which it shall exercise in accordance with the provisions of the Statute annexed hereto.
2. The Court has jurisdiction to hear such other matters or appeals as may be referred to it in any other agreements that the Member States or the Regional Economic Communities or other international organizations recognized by the African Union may conclude among themselves, or with the Union.

Article 4 Relationship Between the Court and the African Commission on Human and Peoples' Rights

The Court shall, in accordance with the Charter and this Protocol, complement the protective mandate of the African Commission on Human and Peoples' Rights."

Chapter II Transitional Provisions

Article 5 Term of Office of the Judges of the African Court on Human and Peoples' Rights

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In Article 4 (Term of Office of the Judges of the African Court on Human and Peoples' Rights), replace the existing provision including its title, with:

"Article 4

Term of Office of the Judges of the African Court on Human and Peoples' Rights

1. Upon the coming into force of the Protocol on the Statute of the African Court of Justice and Human Rights, the terms and appointment of the judges of the African Court on Human and Peoples' Rights shall terminate.
2. Without prejudice to paragraph 1, the judges of the African Court on Human and Peoples' Rights shall remain in office until the judges of the African Court of Justice and Human and Peoples' Rights are sworn in.

Article 6

Pending Cases

At the entry into force of this Protocol, where any matter affecting any State had already been commenced before either the African Court on Human and Peoples' Rights or the African Court of Justice and Human Rights, if in force, such a matter shall be continued before the relevant section of the African Court of Justice and Human and Peoples' Rights, pursuant to such rules as may be made by the Court.

Article 6 bis

Temporary Jurisdiction

At the entry into force of this Protocol, until a Member State ratifies it, any jurisdiction which has hitherto been accepted by such Member State with respect to either the African Court on Human and Peoples' Rights or the African Court of Justice and Human Rights shall be exercisable by this Court.

Article 7

Registry of the Court

1. The Registrar of the African Court on Human and Peoples' Rights shall remain in office until the appointment of a new Registrar for the African Court of Justice and Human and Peoples' Rights.
2. The staff of the African Court on Human and Peoples' Rights shall be absorbed into the Registry of the African Court of Justice and Human and Peoples' Rights, for the remainder of their subsisting contracts of employment."

Chapter III

Final Provisions

Article 8

Nomenclature

In the Protocol and the Statute wherever it occurs "African Court of Justice and Human Rights" is deleted and replaced with "African Court of Justice and Human and Peoples' Rights."

Article 9

Signature, Ratification and Accession

1. This Protocol and the Statute annexed to it shall be open for signature, ratification or accession by Member States, in accordance with their respective constitutional procedures.

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2. The instruments of ratification or accession to this Protocol and the Statute annexed to it shall be deposited with the Chairperson of the Commission.

3. Any Member State may, at the time of signature or when depositing its instrument of ratification or accession, or at any time thereafter, make a declaration accepting the competence of the Court to receive cases under Article 30, subparagraph (f).

Article 10 Depositary Authority

1. This Protocol and the Statute annexed to it, drawn up in four (4) original texts in the Arabic, English, French and Portuguese languages, all four (4) texts being equally authentic, shall be deposited with the Chairperson of the Commission, who shall transmit a certified true copy to the Government of each Member State.

2. The Chairperson of the Commission, shall notify all Member States of the dates of deposit of the instruments of ratification or accession, and shall, upon the entry into force of this Protocol, register the same with the Secretariat of the United Nations.

Article 11 Entry into force

1. This Protocol and the Statute annexed to it shall enter into force thirty (30) days after the deposit of instruments of ratification by fifteen (15) Member States.

2. For each Member State which shall accede to it subsequently, this Protocol and annexed Statute shall enter into force on the date on which the instrument of ratification or accession is deposited.

3. The Chairperson of the Commission shall notify all Member States of the entry into force of this Protocol.

Article 12 Amendments

1. This Protocol and the Statute annexed to it may be amended if a State Party to the Protocol makes a written request to that effect to the Chairperson of the Commission. The Assembly may adopt, by simple majority, the draft amendment after all the States Parties to the present Protocol have been duly informed of it and the Court has given its opinion on the amendment.

2. The Court shall also be entitled to propose such amendments to the present Protocol or the Statute annexed to it as it may deem necessary, through the Chairperson of the Commission.

3. The amendments shall come into force for each State Party which has accepted it thirty (30) days after the Chairperson of the Commission has received notice of the acceptance.

ANNEX

STATUTE OF THE AFRICAN COURT OF JUSTICE AND HUMAN AND PEOPLES' RIGHTS

Article 1 Definitions

1. In Article 1 of the Statute (Definitions), the deletion from the chapeau of the words "except otherwise indicated, the following shall mean".

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3. The insertion of the following words and the definitions ascribed to them:

"Chairperson" means the Chairperson of the Commission;

"Child" means any person under eighteen years of age;

"Court" means the African Court of Justice and Human and Peoples' Rights;

"Full Court" means the three sections of the Court sitting together in plenary;

"Person" means a natural or legal person;

"President" means the President of the Court unless otherwise specified;

"Section" means the General Affairs Section, the Human and Peoples' Rights Section or the International Criminal Law Section of the Court;

"Statute" means the Statute of the African Court of Justice and Human and Peoples' Rights;

"Vice-President" means the Vice-President of the Court.

Article 2 Composition

In Article 3 of the Statute (Composition), add the following paragraph 4:

"4. The Assembly shall ensure that there is equitable gender representation in the Court."

Article 3 Qualifications of Judges

Article 4 of the Statute (Qualifications of Judges) is replaced with the following:

"The Court shall be composed of impartial and independent judges elected from among persons of high moral character, who possess the qualifications required in their respective countries for appointment to the highest judicial offices, or are jurisconsults of recognized competence and experience in international law, international human rights law, international humanitarian law or international criminal law."

Article 4 List of Candidates

Article 6 of the Statute (List of Candidates) is replaced with the following:

"1. For the purpose of election, the Chairperson of the Commission shall establish three (3) alphabetical lists of candidates presented as follows:

(i) List A containing the names of candidates having recognized competence and experience in international law;

(ii) List B containing the names of candidates having recognized competence and experience in international human rights law and international humanitarian law; and

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(iii) List C containing the names of candidates having recognized competence and experience in international criminal law.

2. States Parties that nominate candidates possessing the competences required on the three (3) lists shall choose the list on which their candidates may be placed.

3. At the first election, five (5) judges each shall be elected from among the candidates on lists A and B, and six (6) judges shall be elected from among the candidates of list C, respectively.

4. The Chairperson of the Commission shall communicate the three lists to Member States, at least thirty (30) days before the ordinary session of the Assembly or of the Council during which the elections shall take place."

Article 5 Term of Office

Article 8 of the Statute (Term of Office) is replaced with the following:

"1. The judges shall be elected for a single, non-renewable term of nine (9) years. The terms of office of five (5) of the judges elected at the first election shall end after three (3) years, and the terms of another five (5) of the judges shall end after six (6) years.

2. The judges whose term of office shall end after the initial periods of three (3) and six (6) years shall be determined by lot drawn by the Chairperson of the Assembly or the Executive Council, immediately after the first election.

3. A judge elected to replace another whose term of office has not expired shall complete the term of office of his or her predecessor.

4. All the judges, except the President and the Vice-President, shall perform their functions on a part-time basis.

5. The Assembly shall, on the recommendation of the Court, decide the time when all the judges of the Court shall perform their functions on a full-time basis."

Article 6 Structure of the Court

Article 16 of the Statute (Sections of the Court) is replaced with the following:

"Article 16 Structure of the Court

1. The Court shall have three (3) sections: a General Affairs Section, a Human and Peoples' Rights Section and an International Criminal Law Section.

2. The International Criminal Law Section of the Court shall have three (3) chambers: a Pre-Trial Chamber, a Trial Chamber and an Appellate Chamber.

3. The allocation of judges to the respective sections and chambers shall be determined by the Court in its Rules."

Article 7

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Assignment of Matters to Sections of the Court

Article 17 of the Statute (Assignment of matters to Sections) is replaced with the following:

"Article 17

Assignment of Matters to Sections of the Court

1. The General Affairs Section shall be competent to hear all cases submitted under Article 28 of the Statute except those assigned to the Human and Peoples' Rights Section and the International Criminal Law Section as specified in this article.
2. The Human and Peoples' Rights Section shall be competent to hear all cases relating to human and peoples' rights.
3. The International Criminal Law Section shall be competent to hear all cases relating to the crimes specified in this Statute."

Article 8

Revision and Appeal

Article 18 of the Statute (Referral of matters to the Full Court) is replaced with the following:

"Article 18

Revision and Appeal

1. In the case of the General Affairs Section and the Human and People's Rights Section, a revision of a judgment shall be made in terms of the provisions of Article 48.
2. In the case of the International Criminal Law Section, a decision of the Pre-Trial Chamber or the Trial Chamber may be appealed against by the Prosecutor or the accused, on the following grounds:
 - (a) A procedural error;
 - (b) An error of law;
 - (c) An error of fact.
3. An appeal may be made against a decision on jurisdiction or admissibility of a case, an acquittal or a conviction.
4. The Appellate Chamber may affirm, reverse or revise the decision appealed against. The decision of the Appellate Chamber shall be final."

Article 9

Chambers of the Court

Article 19 of the Statute (Chambers) is replaced with the following:

"Chambers of the Court

1. The General Affairs Section, the Human and Peoples' Rights Section or the International Criminal Law Section may, at any time, constitute one or more chambers in accordance with the Rules of Court.

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2. A judgment given by any chamber shall be considered as rendered by the Court."

Article 9 bis

Powers and Functions of the Chambers of the International Criminal Law Section

After Article 19 of the Statute (Chambers) add the following as Article 19 bis:

"Article 19 bis

Powers and Functions of the Chambers of the International Criminal Law Section

1. The Pre-Trial Chamber shall exercise the functions provided for in Article 46F of this Statute.
2. In addition, the Pre-Trial Chamber may also, at the request of the Prosecutor, issue such orders and warrants as may be required for an investigation or prosecution.
3. The Pre-Trial Chamber may issue such orders as may be required to provide for the protection and privacy of witnesses and victims, the presentation of evidence and the protection of arrested persons.
4. The Trial Chamber shall conduct trials of accused persons in accordance with this Statute and the Rules of Court.
5. The Trial Chamber shall receive and conduct appeals from the Pre-Trial Chamber in accordance with Article 18 of this Statute.
6. The Appeals Chamber shall receive and conduct appeals from the Trial Chamber in accordance with Article 18 of this Statute."

Article 10

Quorum

Article 21 of the Statute (Quorum) is replaced with the following:

- "1. The General Affairs Section of the Court shall be duly constituted by three (3) judges.
2. The Human and Peoples' Rights Section of the Court shall be duly constituted by three (3) judges.
3. The Pre-Trial Chamber of the International Criminal Law Section of the Court shall be duly constituted by one (1) judge.
4. The Trial Chamber of the International Criminal Law Section of the Court shall be duly constituted by three (3) judges.
5. The Appellate Chamber of the International Criminal Law Section of the Court shall be duly constituted by five (5) judges."

Article 11

Presidency and Vice-Presidency

Article 22 of the Statute (Presidency, Vice-Presidency and Registry) is replaced with the following:

"Article 22

Presidency and Vice-Presidency

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1. At its first ordinary session after the election of the judges, the Full Court shall elect a President and a Vice-President of the Court.
2. The President and Vice-President shall serve for a period of two (2) years, and may be re-elected once.
3. The President and Vice-President shall, in consultation with the Members of the Court and as provided for in the Rules of Court, assign judges to the sections.
4. The President shall preside over all sessions of the Full Court. In the event of the President being unable to sit during a session, the session shall be presided over by the Vice-President.
5. The President and Vice-President shall reside at the seat of the Court."

Article 12 Presidency and Vice-Presidency

After Article 22 (Presidency and Vice-Presidency) add the following as Articles 22 A, 22 B and 22 C:

"Article 22 A The Office of the Prosecutor

1. The Office of the Prosecutor shall consist of a Prosecutor and two Deputy Prosecutors.
2. The Prosecutor and Deputy Prosecutors shall be elected by the Assembly from among candidates who shall be nationals of States Parties nominated by States Parties.
3. The Prosecutor shall serve for a single, non-renewable term of seven (7) years.
4. The Deputy Prosecutors shall serve for a term of four (4) years, renewable once.
5. The Prosecutor and the Deputy Prosecutors shall be persons of high moral character, be highly competent in and have extensive practical experience in the conduct of investigations, trial and prosecution of criminal cases.
6. The Office of the Prosecutor shall be responsible for the investigation and prosecution of the crimes specified in this Statute and shall act independently as a separate organ of the Court and shall not seek or receive instructions from any State Party or any other source.
7. The Office of the Prosecutor shall have the power to question suspects, victims and witnesses and collect evidence, including the power to conduct on-site investigations.
8. The Prosecutor shall be assisted by such other staff as may be required to perform the functions of the Office of the Prosecutor effectively and efficiently.
9. The staff of the Office of the Prosecutor shall be appointed by the Prosecutor in accordance with the Staff Rules and Regulations of the African Union.
10. The remuneration and conditions of service of the Prosecutor and Deputy Prosecutors shall be determined by the Assembly on the recommendation of the Court made through the Executive Council.

Article 22 B The Registry

1. The Registry shall consist of a Registrar and three Assistant Registrars.

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2. The Court shall appoint the Registrar and Assistant Registrars, in accordance with the Staff Rules and Regulations of the African Union.
3. The Registrar shall serve for a single, non-renewable term of seven years.
4. The Assistant Registrars shall serve for a term of four (4) years, renewable once.
5. The Registry shall be headed by a Registrar who, under the direction of the President, shall be responsible for the non-judicial aspects and servicing of the Court. The Registrar shall be the principal administrative and accounting officer of the Court, and shall ensure that proper books of accounts are kept in accordance with the Financial Rules and Regulations of the African Union.
6. The Registrar and Assistant Registrars shall be persons of high moral character, be highly competent in and have extensive practical managerial experience.
7. The Registrar shall be assisted by such other staff as may be necessary for the effective and efficient performance of the functions of the Registry.
8. The staff of the Registry shall be appointed by the Court in accordance with the Staff Rules and Regulations of the African Union.
9. The Registrar shall set up, within the Registry:
 - (a) A Victims and Witnesses Unit, which shall provide, in consultation with the Court and the Office of the Prosecutor, as appropriate, protective measures and security arrangements, counselling and other appropriate assistance for witnesses, victims who appear before the Court and others who are at risk on account of testimony given by such witnesses. The Unit personnel shall include experts in the management of trauma;
 - (b) A Detention Management Unit, which shall manage the conditions of detention of suspects and accused persons.
10. The salaries and conditions of service of the Registrar, Assistant Registrars and other staff of the Registry shall be determined by the Assembly on the proposal of the Court, through the Executive Council.

Article 22 C The Defence Office

1. The Court shall establish, maintain and develop a Defence Office for the purpose of ensuring the rights of suspects and accused and any other person entitled to legal assistance.
2. The Defence Office, which may also include one or more public defenders, shall act independently as a separate organ of the Court. It shall be responsible for protecting the rights of the defence, providing support and assistance to defence counsel and to the persons entitled to legal assistance, including, where appropriate, legal research, collection of evidence and advice, and appearing before the Chamber in respect of specific issues.
3. The Defence Office shall ensure that there are adequate facilities to defence counsel and persons entitled to legal assistance in the preparation of a case, and shall provide any additional assistance ordered by a judge or Chamber.
4. The Defence Office shall be headed by a Principal Defender, who shall be appointed by the Assembly, and shall be a person of high moral character and possess the highest level of professional competence and extensive

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experience in the defence of criminal cases. He shall be admitted to the practice of law in a recognized jurisdiction and shall have practiced criminal law before a national or international criminal court for a minimum of ten years.

5. The Principal Defender shall, in order to ensure that the fair trial rights of suspects and accused are protected, adopt such regulations and practice directions as may be necessary to effectively carry out the functions of the Defence Office.

6. The Principal Defender shall be assisted by such other staff as maybe required to perform the functions of the Defence Office effectively and efficiently. The staff of the Defence Office shall be appointed by the Principal Defender in accordance with the Staff Rules and Regulations of the African Union.

7. The Principal Defender shall, for all purposes connected with pre-trial, trial and appellate proceedings, enjoy equal status with the Prosecutor in respect of rights of audience and negotiations *inter partes*.

8. At the request of a judge or chamber, the Registry, defence or, where the interests of justice so require, *proprio motu*, the Principal Defender or a person designated by him shall have rights of audience in relation to matters of general interest to defence teams, the fairness of the proceedings or the rights of a suspect or accused."

Article 12 bis Conditions of Service of the Registrar and Members of the Registry

Article 24 of the Statute (Conditions of Service of the Registrar and Members of the Registry) is deleted.

Article 13

Under Chapter III (Competence of the Court), in Article 28 of the Statute (Jurisdiction of the Court), the insertion of a new subparagraph (d) as follows, with consequential renumbering of the existing subparagraphs (d) to (h).

"(d) The crimes contained in this Statute, subject to a right of appeal;"

Article 14 International Criminal Jurisdiction of the Court

Immediately after Article 28 (Jurisdiction of the Court), the insertion of new Articles 28 A, 28 B, 28 C, 28 D, 28 E, 28 F, 28 G, 28 H, 28 I, 28 I bis, 28 J, 28 K, 28 L, 28 L bis, 28 M and 28 N as follows:

"Article 28 A International Criminal Jurisdiction of the Court

1. Subject to the right of appeal, the International Criminal Law Section of the Court shall have power to try persons for the crimes provided hereunder:

- (1) Genocide;
- (2) Crimes Against humanity;
- (3) War crimes;
- (4) The crime of unconstitutional change of government;
- (5) Piracy;

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- (6) Terrorism;
- (7) Mercenarism;
- (8) Corruption;
- (9) Money laundering;
- (10) Trafficking in persons;
- (11) Trafficking in drugs;
- (12) Trafficking in hazardous wastes;
- (13) Illicit exploitation of natural resources;
- (14) The crime of aggression.

2. The Assembly may extend, upon the consensus of States Parties, the jurisdiction of the Court to incorporate additional crimes to reflect developments in international law.

3. The crimes within the jurisdiction of the Court shall not be subject to any statute of limitations.

Article 28 B Genocide

For the purposes of this Statute, "genocide" means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group;
- (f) Acts of rape or any other form of sexual violence.

Article 28 C Crimes Against Humanity

1. For the purposes of this Statute, "crime against humanity" means any of the following acts when committed as part of a widespread or systematic attack or enterprise directed against any civilian population, with knowledge of the attack or enterprise:

- (a) Murder;
- (b) Extermination;

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- (c) Enslavement;
- (d) Deportation or forcible transfer of population;
- (e) Imprisonment or other severe deprivation of physical liberty in violation of fundamental rules of international law;
- (f) Torture, cruel, inhuman and degrading treatment or punishment;
- (g) Rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence of comparable gravity;
- (h) Persecution against any identifiable group or collectivity on political, racial, national, ethnic, cultural, religious, gender or other grounds that are universally recognized as impermissible under international law;
- (i) Enforced disappearance of persons;
- (j) The crime of apartheid;
- (k) Other inhumane acts of a similar character intentionally causing great suffering, or serious injury to body or mental or physical health.

2. For the purpose of paragraph 1:

- (a) "Attack directed against any civilian population" means a course of conduct involving the multiple commission of acts referred to in paragraph 1 against any civilian population, pursuant to or in furtherance of a State or organizational policy to commit such attack;
- (b) "Extermination" includes the intentional infliction of conditions of life, inter alia the deprivation of access to food and medicine, calculated to bring about the destruction of part of a population;
- (c) "Enslavement" means the exercise of any or all of the powers attaching to the right of ownership over a person and includes the exercise of such power in the course of trafficking in persons, in particular women and children;
- (d) "Deportation or forcible transfer of population" means forced displacement of the persons concerned by expulsion or other coercive acts from the area in which they are lawfully present, without grounds permitted under international law;
- (e) "Torture" means the intentional infliction of severe pain or suffering, whether physical or mental, upon a person in the custody or under the control of the accused; except that torture shall not include pain or suffering arising only from, inherent in or incidental to, lawful sanctions;
- (f) "Forced pregnancy" means the unlawful confinement of a woman forcibly made pregnant, with the intent of affecting the ethnic composition of any population or carrying out other grave violations of international law. This definition shall not in any way be interpreted as affecting national laws relating to pregnancy;
- (g) "Persecution" means the intentional and severe deprivation of fundamental rights contrary to international law by reason of the identity of the group or collectivity;
- (h) "The crime of apartheid" means inhumane acts of a character similar to those referred to in paragraph 1, committed in the context of an institutionalized regime of systematic oppression and domination by one racial group over any other racial group or groups and committed with the intention of maintaining that regime;

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(i) "Enforced disappearance of persons" means the arrest, detention or abduction of persons by, or with the authorization, support or acquiescence of, a State or a political organization, followed by a refusal to acknowledge that deprivation of freedom or to give information on the fate or whereabouts of those persons, with the intention of removing them from the protection of the law for a prolonged period of time.

Article 28 D War Crimes

For the purposes of this Statute, "war crimes" means any of the offences listed, in particular when committed as part of a plan or policy or as part of a large scale commission of such crimes.

(a) Grave breaches of the Geneva Conventions of 12 August 1949, namely, any of the following acts against persons or property protected under the provisions of the relevant Geneva Convention:

- (i) Wilful killing;
- (ii) Torture or inhuman treatment, including biological experiments;
- (iii) Wilfully causing great suffering, or serious injury to body or health;
- (iv) Extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly;
- (v) Compelling a prisoner of war or other protected person to serve in the forces of a hostile Power;
- (vi) Wilfully depriving a prisoner of war or other protected person of the rights of fair and regular trial;
- (vii) Unlawful deportation or transfer or unlawful confinement;
- (viii) Taking of hostages.

(b) Grave breaches of the First Additional Protocol to the Geneva Conventions of 8 June 1977 and other serious violations of the laws and customs applicable in international armed conflict, within the established framework of international law, namely, any of the following acts:

- (i) Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;
- (ii) Intentionally directing attacks against civilian objects, that is, objects which are not military objectives;
- (iii) Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;
- (iv) Intentionally launching an attack in the knowledge that such attack will cause incidental loss of life or injury to civilians or damage to civilian objects or widespread, long-term and severe damage to the natural environment which would be clearly excessive in relation to the concrete and direct overall military advantage anticipated;

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- (v) Intentionally launching an attack against works or installations containing dangerous forces in the knowledge that such attack will cause excessive loss of life, injury to civilians or damage to civilian objects which will be excessive in relation to the concrete and direct overall military advantage anticipated;
- (vi) Attacking or bombarding, by whatever means, towns, villages, dwellings or buildings which are undefended and which are not military objectives;
- (vii) Killing or wounding a combatant who, having laid down his arms or having no longer means of defence, has surrendered at discretion;
- (viii) Making improper use of a flag of truce, of the flag or of the military insignia and uniform of the enemy or of the United Nations, as well as of the distinctive emblems of the Geneva Conventions, resulting in death or serious personal injury;
- (ix) The transfer, directly or indirectly, by the Occupying Power of parts of its own civilian population into the territory it occupies, or the deportation or transfer of all or parts of the population of the occupied territory within or outside this territory;
- (x) Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives;
- (xi) Subjecting persons who are in the power of an adverse party to physical mutilation or to medical or scientific experiments of any kind which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his or her interest, and which cause death to or seriously endanger the health of such person or persons;
- (xii) Killing or wounding treacherously individuals belonging to the hostile nation or army;
- (xiii) Declaring that no quarter will be given;
- (xiv) Destroying or seizing the enemy's property unless such destruction or seizure be imperatively demanded by the necessities of war;
- (xv) Declaring abolished, suspended or inadmissible in a court of law the rights and actions of the nationals of the hostile party;
- (xvi) Compelling the nationals of the hostile party to take part in the operations of war directed against their own State, even if they were in the belligerent's service before the commencement of the war;
- (xvii) Pillaging a town or place, even when taken by assault;
- (xviii) Employing poison or poisoned weapons;
- (xix) Employing asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices;
- (xx) Employing bullets which expand or flatten easily in the human body, such as bullets with a hard envelope which does not entirely cover the core or is pierced with incisions;
- (xxi) Employing weapons, projectiles and material and methods of warfare which are of a nature to cause superfluous injury or unnecessary suffering or which are inherently indiscriminate in violation of the international law of armed conflict;

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- (xxii) Committing outrages upon personal dignity, in particular humiliating and degrading treatment;
 - (xxiii) Committing rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, or any other form of sexual violence also constituting a grave breach of the Geneva Conventions;
 - (xxiv) Utilizing the presence of a civilian or other protected person to render certain points, areas or military forces immune from military operations;
 - (xxv) Intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law;
 - (xxvi) Intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including wilfully impeding relief supplies as provided for under the Geneva Conventions;
 - (xxvii) Conscripting or enlisting children under the age of eighteen years into the national armed forces or using them to participate actively in hostilities;
 - (xxviii) Unjustifiably delaying the repatriation of prisoners of war or civilians;
 - (xxix) Wilfully committing practices of apartheid and other inhuman and degrading practices involving outrages upon personal dignity based on racial discrimination;
 - (xxx) Making non-defended localities and demilitarized zones the object of attack;
 - (xxxi) Slavery and deportation to slave labour;
 - (xxxii) Collective punishments;
 - (xxxiii) Despoliation of the wounded, sick, shipwrecked or dead.
- (c) In the case of an armed conflict not of an international character, serious violations of Article 3 common to the four Geneva Conventions of 12 August 1949, namely, any of the following acts committed against persons taking no active part in the hostilities, including members of armed forces who have laid down their arms and those placed *hors de combat* by sickness, wounds, detention or any other cause:
- (i) Violence to life and person, in particular murder of all kinds, mutilation, cruel treatment and torture;
 - (ii) Committing outrages upon personal dignity, in particular humiliating and degrading treatment;
 - (iii) Taking of hostages;
 - (iv) The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all judicial guarantees which are generally recognized as indispensable.
- (d) Paragraph (c) applies to armed conflicts not of an international character and thus does not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of a similar nature.
- (e) Other serious violations of the laws and customs applicable in armed conflicts not of an international character, within the established framework of international law, namely, any of the following acts:

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- (i) Intentionally directing attacks against the civilian population as such or against individual civilians not taking direct part in hostilities;
- (ii) Intentionally directing attacks against buildings, material, medical units and transport, and personnel using the distinctive emblems of the Geneva Conventions in conformity with international law;
- (iii) Intentionally directing attacks against personnel, installations, material, units or vehicles involved in a humanitarian assistance or peacekeeping mission in accordance with the Charter of the United Nations, as long as they are entitled to the protection given to civilians or civilian objects under the international law of armed conflict;
- (iv) Intentionally directing attacks against buildings dedicated to religion, education, art, science or charitable purposes, historic monuments, hospitals and places where the sick and wounded are collected, provided they are not military objectives;
- (v) Pillaging a town or place, even when taken by assault;
- (vi) Committing rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, and any other form of sexual violence also constituting a serious violation of Article 3 common to the four Geneva Conventions;
- (vii) Conscripting or enlisting children under the age of eighteen years into armed forces or groups or using them to participate actively in hostilities;
- (viii) Ordering the displacement of the civilian population for reasons related to the conflict, unless the security of the civilians involved or imperative military reasons so demand;
- (ix) Killing or wounding treacherously a combatant adversary;
- (x) Declaring that no quarter will be given;
- (xi) Subjecting persons who are in the power of another party to the conflict to physical mutilation or to medical or scientific experiments of any kind which are neither justified by the medical, dental or hospital treatment of the person concerned nor carried out in his or her interest, and which cause death to or seriously endanger the health of such person or persons;
- (xii) Destroying or seizing the property of an adversary unless such destruction or seizure be imperatively demanded by the necessities of the conflict;
- (xiii) Employing poison or poisoned weapons;
- (xiv) Employing asphyxiating, poisonous or other gases, and all analogous liquids, materials or devices;
- (xv) Employing bullets which expand or flatten easily in the human body, such as bullets with a hard envelope which does not entirely cover the core or is pierced with incisions;
- (xvi) Intentionally using starvation of civilians as a method of warfare by depriving them of objects indispensable to their survival, including wilfully impeding relief supplies;
- (xvii) Utilizing the presence of a civilian or other protected person to render certain points, areas or military forces immune from military operations;

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- (xviii) Launching an indiscriminate attack resulting in death or injury to civilians, or an attack in the knowledge that it will cause excessive incidental civilian loss, injury or damage;
 - (xix) Making non-defended localities and demilitarized zones the object of attack;
 - (xx) Slavery;
 - (xxi) Collective punishments;
 - (xxii) Despoliation of the wounded, sick, shipwrecked or dead.
- (f) Paragraph (e) applies to armed conflicts not of an international character and thus does not apply to situations of internal disturbances and tensions, such as riots, isolated and sporadic acts of violence or other acts of a similar nature. It applies to armed conflicts that take place in the territory of a State when there is protracted armed conflict between governmental authorities and organized armed groups or between such groups.
- (g) Using nuclear weapons or other weapons of mass destruction.

Article 28 E

The Crime of Unconstitutional Change of Government

1. For the purposes of this Statute, "unconstitutional change of government" means committing or ordering to be committed the following acts, with the aim of illegally accessing or maintaining power:
- (a) A putsch or coup d'état against a democratically elected government;
 - (b) An intervention by mercenaries to replace a democratically elected government;
 - (c) Any replacement of a democratically elected government by the use of armed dissidents or rebels or through political assassination;
 - (d) Any refusal by an incumbent government to relinquish power to the winning party or candidate after free, fair and regular elections;
 - (e) Any amendment or revision of the constitution or legal instruments, which is an infringement of the principles of democratic change of government or is inconsistent with the constitution;
 - (f) Any substantial modification to the electoral laws in the last six (6) months before the elections without the consent of the majority of the political actors.
2. For the purposes of this Statute, "democratically elected government" has the same meaning as contained in AU instruments.

Article 28 F

Piracy

Piracy consists of any of the following acts:

- (a) Any illegal acts of violence or detention, or any act of depredation, committed for private ends by the crew or the passengers of a private boat, ship or a private aircraft, and directed:
 - (i) On the high seas, against another boat, ship or aircraft, or against persons or property on board such boat, ship or aircraft;

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- (ii) Against a boat, ship, aircraft, persons or property in a place outside the jurisdiction of any State;
- (b) Any act of voluntary participation in the operation of a boat, ship or aircraft with knowledge of facts making it a pirate boat, ship or aircraft;
- (c) Any act of inciting or of intentionally facilitating an act described in subparagraph (a) or (b).

Article 28 G Terrorism

For the purposes of this Statute, "terrorism" means any of the following acts:

A. Any act which is a violation of the criminal laws of a State Party, the laws of the African Union or a Regional Economic Community recognized by the African Union, or by international law, and which may endanger the life, physical integrity or freedom of, or cause serious injury or death to, any person, any number or group of persons or causes or may cause damage to public or private property, natural resources, environmental or cultural heritage and is calculated or intended to:

1. Intimidate, put in fear, force, coerce or induce any government, body, institution, the general public or any segment thereof, to do or abstain from doing any act, or to adopt or abandon a particular standpoint, or to act according to certain principles; or
2. Disrupt any public service, the delivery of any essential service to the public or to create a public emergency; or
3. Create general insurrection in a State.

B. Any promotion, sponsoring, contribution to, command, aid, incitement, encouragement, attempt, threat, conspiracy, organizing, or procurement of any person, with the intent to commit any act referred to in subparagraph A (1) to (3).

C. Notwithstanding the provisions of subparagraphs A and B, the struggle waged by peoples in accordance with the principles of international law for their liberation or self-determination, including armed struggle against colonialism, occupation, aggression and domination by foreign forces shall not be considered as terrorist acts.

D. The acts covered by international humanitarian law, committed in the course of an international or non-international armed conflict by government forces or members of organized armed groups, shall not be considered as terrorist acts.

E. Political, philosophical, ideological, racial, ethnic, religious or other motives shall not be a justifiable defence against a terrorist act.

Article 28 H Mercenarism

1. For the purposes of this Statute:

(a) A mercenary is any person who:

- (i) Is specially recruited locally or abroad in order to fight in an armed conflict;

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- (ii) Is motivated to take part in the hostilities essentially by the desire for private gain and, in fact, is promised, by or on behalf of a party to the conflict, material compensation;
 - (iii) Is neither a national of a party to the conflict nor a resident of territory controlled by a party to the conflict;
 - (iv) Is not a member of the armed forces of a party to the conflict; and
 - (v) Has not been sent by a State which is not a party to the conflict on official duty as a member of its armed forces.
- (b) A mercenary is also any person who, in any other situation:
- (i) Is specially recruited locally or abroad for the purpose of participating in a concerted act of violence aimed at:
 - 1. Overthrowing a legitimate government or otherwise undermining the constitutional order of a State;
 - 2. Assisting a government to maintain power;
 - 3. Assisting a group of persons to obtain power; or
 - 4. Undermining the territorial integrity of a State;
 - (ii) Is motivated to take part therein essentially by the desire for private gain and is prompted by the promise or payment of material compensation;
 - (iii) Is neither a national nor a resident of the State against which such an act is directed;
 - (iv) Has not been sent by a State on official duty; and
 - (v) Is not a member of the armed forces of the State on whose territory the act is undertaken.
2. Any person who recruits, uses, finances or trains mercenaries, as defined in paragraph 1 (a) or (b) above commits an offence.
3. A mercenary, as defined in paragraph 1 (a) or (b) above, who participates directly in hostilities or in a concerted act of violence, as the case may be, commits an offence.

Article 28 I Corruption

1. For the purposes of this Statute, the following shall be deemed to be acts of corruption if they are of a serious nature affecting the stability of a State, region or the Union:
- (a) The solicitation or acceptance, directly or indirectly, by a public official, his/her family member or any other person, of any goods of monetary value, or other benefit, such as a gift, favour, promise or advantage for himself or herself or for another person or entity, in exchange for any act or omission in the performance of his or her public functions;
 - (b) The offering or granting, directly or indirectly, to a public official, his/family member or any other person, of any goods of monetary value, or other benefit, such as a gift, favour, promise or advantage for himself or herself

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or for another person or entity, in exchange for any act or omission in the performance of his or her public functions;

(c) Any act or omission in the discharge of his or her duties by a public official, his/her family member or any other person for the purpose of illicitly obtaining benefits for himself or herself or for a third party;

(d) The diversion by a public official, his/her family member or any other person, for purposes unrelated to those for which they were intended, for his or her own benefit or that of a third party, of any property belonging to the State or its agencies, to an independent agency, or to an individual, that such official has received by virtue of his or her position;

(e) The offering or giving, promising, solicitation or acceptance, directly or indirectly, of any undue advantage to or by any person who directs or works for, in any capacity, a private sector entity, for himself or herself or for anyone else, for him or her to act, or refrain from acting, in breach of his or her duties;

(f) The offering, giving, solicitation or acceptance directly or indirectly, or promising of any undue advantage to or by any person who asserts or confirms that he or she is able to exert any improper influence over the decision-making of any person performing functions in the public or private sector in consideration thereof, whether the undue advantage is for himself or herself or for anyone else, as well as the request, receipt or the acceptance of the offer or the promise of such an advantage, in consideration of that influence, whether or not the influence is exerted or whether or not the supposed influence leads to the intended result;

(g) Illicit enrichment;

(h) The use or concealment of proceeds derived from any of the acts referred to in this article.

2. For the purposes of this Statute, "Illicit enrichment" means the significant increase in the assets of a public official or any other person which he or she cannot reasonably explain in relation to his or her income.

Article 28 I bis Money Laundering

1. For the purposes of this Statute, "money laundering" means any act of:

(i) Conversion, transfer or disposal of property, knowing that such property is the proceeds of corruption or related offences for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the offence to evade the legal consequences of his or her action;

(ii) Concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property which is the proceeds of corruption or related offences;

(iii) Acquisition, possession or use of property, with the knowledge at the time of receipt, that such property is the proceeds of corruption or related offences;

(iv) Participation in, association with or conspiracy to commit, attempts to commit and aiding, abetting, facilitating and counselling the commission of any of the offences established in accordance with this article.

2. Nothing in this article shall be interpreted as prejudicing the power of the Court to make a determination as to the seriousness of any act or offence.

Article 28 J Trafficking in Persons

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For the purposes of this Statute:

1. "Trafficking in persons" means the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation;
2. Exploitation shall include the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;
3. The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph 1 of this article shall be irrelevant where any of the means set forth in subparagraph 1 have been used;
4. The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered "trafficking in persons" even if this does not involve any of the means set forth in subparagraph 1 of this article.

Article 28 K Trafficking in Drugs

1. For the purposes of this Statute, "trafficking in drugs" means:
 - (a) The production, manufacture, extraction, preparation, offering, offering for sale, distribution, sale, delivery on any terms whatsoever, brokerage, dispatch, dispatch in transit, transport, importation or exportation of drugs;
 - (b) The cultivation of opium poppy, coca bush or cannabis plant;
 - (c) The possession or purchase of drugs with a view to conducting one of the activities listed in subparagraph (a);
 - (d) The manufacture, transport or distribution of precursors knowing that they are to be used in or for the illicit production or manufacture of drugs.
2. The conduct described in paragraph 1 shall not be included in the scope of this Statute when it is committed by perpetrators for their own personal consumption as defined by national law.
3. For the purposes of this article:
 - A. "Drugs" shall mean any of the substances covered by the following United Nations Conventions:
 - (a) The 1961 Single Convention on Narcotic Drugs, as amended by the 1972 Protocol Amending the Single Convention on Narcotic Drugs of 1961;
 - (b) The 1971 Vienna Convention on Psychotropic Substances;
 - B. "Precursors" shall mean any substance scheduled pursuant to Article 12 of the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 20 December 1988.

Article 28 L Trafficking in Hazardous Wastes

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1. For the purposes of this Statute, any import or failure to re-import, transboundary movement, or export of hazardous wastes proscribed by the Bamako Convention on the Ban of the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa, adopted in Bamako, Mali, in January 1991 shall constitute the offence of trafficking in hazardous waste.
2. The following substances shall be "hazardous wastes" for the purposes of this Statute:
 - (a) Wastes that belong to any category contained in Annex I of the Bamako Convention;
 - (b) Wastes that are not covered under subparagraph (a) above but are defined as, or are considered to be, hazardous wastes by the domestic legislation of the State of export, import or transit;
 - (c) Wastes which possess any of the characteristics contained in Annex II of the Bamako Convention;
 - (d) Hazardous substances which have been banned, cancelled or refused registration by government regulatory action, or voluntarily withdrawn from registration in the State of manufacture, for human health or environmental reasons.
3. Wastes which, as a result of being radioactive, are subject to any international control systems, including international instruments, applying specifically to radioactive materials are included in the scope of this Convention.
4. Wastes which derive from the normal operations of a ship, the discharge of which is covered by another international instrument, shall not fall within the scope of this Convention.
5. For the purposes of this article, "failure to re-import" shall have the same meaning assigned to it in the Bamako Convention.
6. The export of hazardous waste into a Member State for the purpose of rendering it safe shall not constitute an offence under this article.

Article 28 L bis Illicit Exploitation of Natural Resources

For the purposes of this Statute, "Illicit exploitation of natural resources" means any of the following acts if they are of a serious nature affecting the stability of a State, region or the Union:

- (a) Concluding an agreement to exploit resources, in violation of the principle of peoples' sovereignty over their natural resources;
- (b) Concluding with State authorities an agreement to exploit natural resources, in violation of the legal and regulatory procedures of the State concerned;
- (c) Concluding an agreement to exploit natural resources through corrupt practices;
- (d) Concluding an agreement to exploit natural resources that is clearly one-sided;
- (e) Exploiting natural resources without any agreement with the State concerned;
- (f) Exploiting natural resources without complying with norms relating to the protection of the environment and the security of the people and the staff; and
- (g) Violating the norms and standards established by the relevant natural resource certification mechanism.

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Article 28 M Crime of Aggression

A. For the purposes of this Statute, "crime of aggression" means the planning, preparation, initiation or execution, by a person in a position effectively to exercise control over or to direct the political or military action of a State or organization, whether connected to the State or not of an act of aggression which, by its character, gravity and scale, constitutes a manifest violation of the Charter of the United Nations or the Constitutive Act of the African Union and with regard to the territorial integrity and human security of the population of a State Party.

B. The following shall constitute acts of aggression, regardless of a declaration of war by a State, group of States, organizations of States, or non-State actor(s) or by any foreign entity:

(a) The use of armed forces against the sovereignty, territorial integrity and political independence of any State, or any other act inconsistent with the provisions of the Constitutive Act of the African Union and the Charter of the United Nations;

(b) The invasion or attack by armed forces against the territory of a State, or military occupation however temporary, resulting from such an invasion or attack, or any annexation by the use of force of the territory of a State or part thereof;

(c) The bombardment by the armed forces of a State against the territory of another State or the use of any weapons by a State against the territory of another State;

(d) The blockade of the ports, coasts or airspace of a State by the armed forces of another State;

(e) The attack by the armed forces of a State on the land, sea or air forces, or marine and fleets of another State;

(f) The use of the armed forces of one State which are within the territory of another State with the agreement of the receiving State, in contravention of the conditions provided for in the African Union Non-Aggression and Common Defence Pact or any extension of their presence in such territory beyond the termination of the agreement;

(g) The action of a State in allowing its territory, which it has placed at the disposal of another State to be used by another State for perpetrating an act of aggression against a third State;

(h) The sending or materially supporting by or on behalf of a State of armed bands, groups, irregulars or mercenaries, which carry out acts of armed force against another State of such gravity as to amount to the acts listed above, or its substantial involvement therein.

Article 28 N Modes of Responsibility

An offence is committed by any person who, in relation to any of the crimes or offences provided for in this Statute:

(i) Incites, instigates, organizes, directs, facilitates, finances, counsels or participates as a principal, co-principal, agent or accomplice in any of the offences set forth in the present Statute;

(ii) Aids or abets the commission of any of the offences set forth in the present Statute;

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- (iii) Is an accessory before or after the fact or in any other manner participates in a collaboration or conspiracy to commit any of the offences set forth in the present Statute;
- (iv) Attempts to commit any of the offences set forth in the present Statute."

Article 15

Entities Eligible to Submit Cases to the Court

In paragraph 1 (b) of Article 29 of the Statute (Entities Eligible to Submit Cases to the Court), immediately after the words "The Assembly" insert:

"the Peace and Security Council,"

Add a new subparagraph (d)

"(d) The Office of the Prosecutor."

Article 16

Other Entities Eligible to Submit Cases to the Court

The deletion of subparagraph (f) of Article 30 of the Statute (Other Entities Eligible to Submit Cases to the Court), and the insertion of the following new paragraph:

"(f) African individuals or African non-governmental organizations with observer status with the African Union or its organs or institutions, but only with regard to a State that has made a declaration accepting the competence of the Court to receive cases or applications submitted to it directly. The Court shall not receive any case or application involving a State Party which has not made a declaration in accordance with Article 9, paragraph 3, of this Protocol."

Article 17

Institution of Proceedings Before the International Criminal Law Section

Under Chapter Four (Procedure), immediately after Article 34 of the Statute (Institution of Proceedings before the Human Rights Section), the insertion of new Articles 34 A and 34 B as follows:

"Article 34 A

Institution of Proceedings Before the International Criminal Law Section

1. Subject to the provisions of Articles 22 A and 29, cases brought before the International Criminal Law Section of the Court shall be brought by or in the name of the Prosecutor.
2. The Registrar shall forthwith give notice of the case to all parties concerned, as well as the Chairperson of the Commission.

Article 34 B

Institution of Proceedings Before the Appellate Chamber

The Court shall define the procedures for appeals in its Rules."

Article 18

Representation of Parties

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In Article 36 of the Statute (Representation of the Parties), the insertion of a new paragraph 6 as follows, with consequential renumbering of the existing paragraph 6:

"6. A person accused under the international criminal jurisdiction of this Court shall have the right to represent himself or herself in person or through an agent."

Article 19 Sentences and Penalties

Immediately after Article 43 of the Statute (Judgments and Decisions), the insertion of a new Article 43 A as follows:

"Article 43 A Sentences and Penalties Under the International Criminal Jurisdiction of the Court

1. Without prejudice to the provisions of Article 43, the Court shall pronounce judgment and impose sentences and/or penalties, other than the death penalty, for persons convicted of international crimes under this Statute.
2. For the avoidance of doubt, the penalties imposed by the Court shall be limited to prison sentences and/or pecuniary fines.
3. The sentences and/or penalties shall be pronounced in public and, wherever possible, in the presence of the accused.
4. In imposing the sentences and/or penalties, the Court should take into account such factors as the gravity of the offence and the individual circumstances of the convicted person.
5. In addition to the sentences and/or penalties, the Court may order the forfeiture of any property, proceeds or any asset acquired unlawfully or by criminal conduct, and their return to their rightful owner or to an appropriate Member State."

Article 20 Compensation and Reparations to Victims

Article 45 of the Statute (Compensation), including its title, is deleted in its entirety and substituted with the following:

"Article 45 Compensation and Reparations to Victims

1. Without prejudice to the provisions of subparagraph (i) of Article 28, the Court shall establish in the Rules of Court principles relating to reparations to, or in respect of, victims, including restitution, compensation and rehabilitation. On this basis, in its decision the Court may, either upon request or on its own motion in exceptional circumstances, determine the scope and extent of any damage, loss or injury to, or in respect of victims and will state the principles on which it is acting.
2. With respect to its international criminal jurisdiction, the Court may make an order directly against a convicted person specifying appropriate reparations to, or in respect of, victims, including restitution, compensation and rehabilitation.
3. Before making an order the Court may invite and take account of representations from or on behalf of the convicted person, victims, other interested persons or interested States.

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4. Nothing in this article shall be interpreted as prejudicing the rights of victims under national or international law."

Article 21

Binding Force and Execution of Judgments

Paragraph 2 of Article 46 of the Statute (Binding Force and Execution of Judgments) is deleted and substituted with the following:

"2. Subject to the provisions of Article 18 (as amended) and paragraph 3 of Article 41 of the Statute, the judgment of the Court is final."

Article 22

Provisions Specific to the International Criminal Jurisdiction of the Court

Under Chapter IV (Procedure), immediately at the end of Article 46 (Binding Force and Execution of Judgments), the insertion of a new Chapter IV A and new Articles 46 A to 46 M as follows:

"Chapter IV A

Provisions Specific to the International Criminal Jurisdiction of the Court

Article 46 A

Rights of Accused

1. All accused shall be equal before the Court.
2. The accused shall be entitled to a fair and public hearing, subject to measures ordered by the Court for the protection of victims and witnesses.
3. The accused shall be presumed innocent until proven guilty according to the provisions of this Statute.
4. In the determination of any charge against the accused pursuant to this Statute, he or she shall be entitled to the following minimum guarantees, in full equality:
 - (a) To be informed promptly and in detail in a language that he or she understands of the nature and cause of the charge against him or her;
 - (b) To have adequate time and facilities for the preparation of his or her defence and to communicate freely with counsel of his or her own choosing;
 - (c) To be tried without undue delay;
 - (d) To be tried in his or her presence, and to defend himself or herself in person or through legal assistance of his or her own choosing; to be informed, if he or she does not have legal assistance, of this right; and to have legal assistance assigned to him or her, in any case where the interests of justice so require, and without payment by him or her in any such case if he or she does not have sufficient means to pay for it;
 - (e) To examine, or have examined, the witnesses against him or her and to obtain the attendance and examination of witnesses on his or her behalf under the same conditions as witnesses against him or her;
 - (f) To have the free assistance of an interpreter if he or she cannot understand or speak the language used in the Court;

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- (g) Not to be compelled to testify against himself or herself or to confess guilt;
- (h) To have the judgment pronounced publicly;
- (i) To be informed of his /her right to appeal.

Article 46 A bis Immunities

No charges shall be commenced or continued before the Court against any serving AU Head of State or Government, or anybody acting or entitled to act in such capacity, or other senior State officials based on their functions, during their tenure of office.

Article 46 B Individual Criminal Responsibility

1. A person who commits an offence under this Statute shall be held individually responsible for the crime.
2. Subject to the provisions of Article 46A bis of this Statute, the official position of any accused person shall not relieve such person of criminal responsibility nor mitigate punishment.
3. The fact that any of the acts referred to in Article 28 A of the present Statute was committed by a subordinate does not relieve his or her superior of criminal responsibility if he or she knew or had reason to know that the subordinate was about to commit such acts or had done so and the superior failed to take the necessary and reasonable measures to prevent such acts or to punish the perpetrators thereof.
4. The fact that an accused person acted pursuant to the order of a government or of a superior shall not relieve him or her of criminal responsibility, but may be considered in mitigation of punishment if the Court determines that justice so requires.

Article 46 C Corporate Criminal Liability

1. For the purposes of this Statute, the Court shall have jurisdiction over legal persons, with the exception of States.
2. Corporate intention to commit an offence may be established by proof that it was the policy of the corporation to do the act which constituted the offence.
3. A policy may be attributed to a corporation where it provides the most reasonable explanation of the conduct of that corporation.
4. Corporate knowledge of the commission of an offence may be established by proof that the actual or constructive knowledge of information was possessed within the corporation.
5. Knowledge may be possessed within a corporation even though the relevant information is divided between corporate personnel.
6. The criminal responsibility of legal persons shall not exclude the criminal responsibility of natural persons who are perpetrators or accomplices in the same crimes.

Article 46 D

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Exclusion of Jurisdiction over Persons Under the Age of Eighteen

The Court shall have no jurisdiction over any person who was under the age of eighteen (18) years at the time of the alleged commission of a crime.

Article 46 E Temporal Jurisdiction

1. The Court has jurisdiction only with respect to crimes committed after the entry into force of this Protocol and Statute.
2. If a State becomes a Party to this Protocol and Statute after its entry into force, the Court may exercise its jurisdiction only with respect to crimes committed after the entry into force of this Protocol and Statute for that State.

Article 46 E bis Preconditions to the Exercise of Jurisdiction

1. A State which becomes a Party to this Protocol and Statute thereby accepts the jurisdiction of the Court with respect to the crimes referred to in Article 28 A.
2. The Court may exercise its jurisdiction if one or more of the following conditions apply:
 - (a) The State on the territory of which the conduct in question occurred or, if the crime was committed on board a vessel or aircraft, the State of registration of that vessel or aircraft;
 - (b) The State of which the person accused of the crime is a national;
 - (c) When the victim of the crime is a national of that State;
 - (d) Extraterritorial acts by non-nationals which threaten a vital interest of that State.
3. If the acceptance of a State which is not a Party to this Statute is required under paragraph 2, that State may, by declaration lodged with the Registrar, accept the exercise.

Article 46 F Exercise of Jurisdiction

The Court may exercise its jurisdiction with respect to a crime referred to in Article 28 A in accordance with the provisions of this Statute if:

1. A situation in which one or more of such crimes appears to have been committed is referred to the Prosecutor by a State Party;
2. A situation in which one or more of such crimes appears to have been committed is referred to the Prosecutor by the Assembly of Heads of State and Government of the African Union or the Peace and Security Council of the African Union;
3. The Prosecutor has initiated an investigation in respect of such a crime in accordance with Article 46G.

Article 46 G The Prosecutor

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1. The Office of the Prosecutor may initiate investigations *proprio motu* on the basis of information on crimes within the jurisdiction of the Court.
2. The Office of the Prosecutor shall analyse the seriousness of information received. For this purpose, he or she may seek additional information from States, organs of the African Union or United Nations, intergovernmental or non-governmental organizations, or other reliable sources that he or she deems appropriate, and may receive written or oral testimony.
3. If the Office of the Prosecutor concludes that there is a reasonable basis to proceed with an investigation, it shall submit to a Pre-Trial Chamber a request for authorization of an investigation, together with any supporting material collected. Victims may make representations to the Pre-Trial Chamber, in accordance with the Rules of the Court.
4. If the Pre-Trial Chamber, upon examination of the request and supporting material, considers that there is a reasonable basis to proceed with an investigation, and that the case appears to fall within the jurisdiction of the Court, it shall authorize the commencement of the investigation, without prejudice to subsequent determinations by the Court with regard to the jurisdiction and admissibility of a case.
5. The refusal of the Pre-Trial Chamber to authorize the investigation shall not preclude the presentation of a subsequent request by the Office of the Prosecutor based on new facts or evidence regarding the same situation.
6. If, after the preliminary examination referred to in paragraphs 1 and 2, the Office of the Prosecutor concludes that the information provided does not constitute a reasonable basis for an investigation, it shall inform those who provided the information. This shall not preclude the Office of the Prosecutor from considering further information submitted to him or her regarding the same situation in the light of new facts or evidence.

Article 46 H Complementary Jurisdiction

1. The jurisdiction of the Court shall be complementary to that of the national courts, and to the courts of the Regional Economic Communities where specifically provided for by the Communities.
2. The Court shall determine that a case is inadmissible where:
 - (a) The case is being investigated or prosecuted by a State which has jurisdiction over it, unless the State is unwilling or unable to carry out the investigation or prosecution;
 - (b) The case has been investigated by a State which has jurisdiction over it and the State has decided not to prosecute the person concerned, unless the decision resulted from the unwillingness or inability of the State to prosecute;
 - (c) The person concerned has already been tried for conduct which is the subject of the complaint;
 - (d) The case is not of sufficient gravity to justify further action by the Court.
3. In order to determine that a State is unwilling to investigate or prosecute in a particular case, the Court shall consider, having regard to the principles of due process recognized by international law, whether one or more of the following exist, as applicable:
 - (a) The proceedings were or are being undertaken or the national decision was made for the purpose of shielding the person concerned from criminal responsibility for crimes within the jurisdiction of the Court;

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(b) There has been an unjustified delay in the proceedings which, in the circumstances, is inconsistent with an intent to bring the person concerned to justice;

(c) The proceedings were not or are not being conducted independently or impartially, and they were or are being conducted in a manner which, in the circumstances, is inconsistent with an intent to bring the person concerned to justice.

4. In order to determine that a State is unable to investigate or prosecute in a particular case, the Court shall consider whether, due to a total or substantial collapse or unavailability of its national judicial system, the State is unable to obtain the accused or the necessary evidence and testimony or otherwise unable to carry out its proceedings.

Article 46 I Non Bis in Idem

1. Except as provided in this Statute, no person shall be tried before the Court with respect to conduct which formed the basis of crimes for which the person has been convicted or acquitted by the Court.

2. Except in exceptional circumstances, no person who has been tried by another court for conduct proscribed under Article 28A of this Statute shall be tried by the Court with respect to the same conduct unless the proceedings in the other Court:

(a) Were for the purpose of shielding the person concerned from criminal responsibility for crimes within the jurisdiction of the Court;

(b) Otherwise were not conducted independently or impartially in accordance with the norms of due process recognized by international law and were conducted in a manner which, in the circumstances, was inconsistent with an intent to bring the person concerned to justice.

3. In considering the penalty to be imposed on a person convicted of a crime under the present Statute, the Court shall take into account the extent to which any penalty imposed by another court on the same person for the same act has already been served.

Article 46 J Enforcement of Sentences

1. A sentence of imprisonment shall be served in a State designated by the Court from a list of States which have indicated to the Court their willingness to accept sentenced persons.

2. Such imprisonment shall be as provided for in a prior agreement between the Court and a receiving State and in accordance with the criteria as set out in the Rules of Court.

Article 46 J bis Enforcement of Fines and Forfeiture Measures

1. States Parties shall give effect to fines or forfeitures ordered by the Court without prejudice to the rights of bona fide third parties, and in accordance with the procedure provided for in their national law.

2. If a State Party is unable to give effect to an order for forfeiture, it shall take measures to recover the value of the proceeds, property or assets ordered by the Court to be forfeited, without prejudice to the rights of bona fide third parties.

4. AMENDMENTS TO THE AFRICAN COURT OF JUSTICE AND HUMAN RIGHTS STATUTE

3. The Court shall determine in its Rules how real or movable property obtained by a State as a result of its enforcement of a judgment or order may be dealt with.

Article 46 K

Pardon or Commutation of Sentences

If, pursuant to the applicable law of the State in which the convicted person is imprisoned, he or she is eligible for pardon or commutation of sentence, the State concerned shall notify the Court accordingly. There shall only be pardon or commutation of sentence if the Court so decides on the basis of the interests of justice and the general principles of law.

Article 46 L

Cooperation and Judicial Assistance

1. States Parties shall cooperate with the Court in the investigation and prosecution of persons accused of committing the crimes defined by this Statute.
2. States Parties shall comply without undue delay with any request for assistance or an order issued by the Court, including but not limited to:
 - (a) The identification and location of persons;
 - (b) The taking of testimony and the production of evidence;
 - (c) The service of documents;
 - (d) The arrest, detention or extradition of persons;
 - (e) The surrender or the transfer of the accused to the Court;
 - (f) The identification, tracing and freezing or seizure of proceeds, property and assets and instrumentalities of crimes for the purpose of eventual forfeiture, without prejudice to the rights of bona fide third parties;
 - (g) Any other type of assistance which is not prohibited by the law of the requested State, with a view to facilitating the investigation and prosecution of crimes within the jurisdiction of the Court.
3. The Court shall be entitled to seek the cooperation or assistance of regional or international courts, non-States Parties or cooperating partners of the African Union and may conclude agreements for that purpose.

Article 46 M Trust Fund

1. The Assembly shall, by a decision, establish, within the jurisdiction of the Court, a trust fund for legal aid and assistance and for the benefit of victims of crimes or human rights violations and their families.
2. The Court may order money and other property collected through fines or forfeiture to be transferred, by order of the Court, to the trust fund.
3. The trust fund shall be managed according to criteria to be determined by the Assembly."

Article 23

Annual Activity Report

Article 57 of the Statute (Annual Activity Report) is deleted and substituted with the following:

III. AFRICAN COURT

"The Court shall submit to the Assembly an annual report on its work during the previous year. The report shall specify, in particular, the pending and concluded investigations, prosecutions and decisions and the cases in which a party has not complied with the judgment, sentence, order or penalty of the Court."

PART IV

PAN-AFRICAN PARLIAMENT

1. PROTOCOL TO THE AFRICAN ECONOMIC COMMUNITY TREATY RELATING TO THE PAN-AFRICAN PARLIAMENT

1.

**PROTOCOL TO THE TREATY ESTABLISHING THE AFRICAN ECONOMIC COMMUNITY
RELATING TO THE PAN-AFRICAN PARLIAMENT**

Adopted in Sirte, Libya, on 2 March 2001.

Entered into force on 14 December 2003.

Preamble

The Member States of the Organization of African Unity, States Parties to the Treaty Establishing the African Economic Community,

Bearing in mind the Sirte Declaration adopted at the Fourth Extraordinary Session of the Assembly of Heads of State and Government held in the Great Socialist People's Libyan Arab Jamahiriya on 9 September 1999 establishing the African Union and calling for the speedy establishment of the institutions provided for in the Treaty Establishing the African Economic Community signed in Abuja, Nigeria, on 3 June 1991 and the establishment of the Pan-African Parliament by the year 2000,

Noting, in particular, the adoption by the Assembly of Heads of State and Government meeting in its Thirty-sixth Ordinary Session in Lomé, Togo, from 10 to 12 July 2000, of the Constitutive Act of the African Union, thereby giving concrete expression to the common vision of a united, integrated and strong Africa,

Further noting that the establishment of the Pan-African Parliament is informed by a vision to provide a common platform for African peoples and their grass-roots organizations to be more involved in discussions and decision-making on the problems and challenges facing the continent,

Conscious of the imperative and urgent need to further consolidate the aspiration of the African peoples for greater unity, solidarity and cohesion in a larger community transcending cultural, ideological, ethnic, religious and national differences,

Considering the principles and objectives stated in the Charter of the Organization of African Unity,

Further considering that Articles 7 and 14 of the Treaty Establishing the African Economic Community provide for a Pan-African Parliament of the Community, whose composition, functions, powers and organization shall be defined in a related protocol,

Recalling the Cairo Agenda for Action which was endorsed by the Thirty-first Ordinary Session of the Assembly held in Addis Ababa, Ethiopia, from 26 to 28 June 1995 (AHG/Res.236 (XXXI)), and which recommended the speeding up of the rationalization of the institutional framework in order to achieve economic integration at the regional level,

Recalling further the Declaration on the Political and Socio-Economic Situation in Africa and the Fundamental Changes Taking Place in the World, which was adopted by the Twenty-sixth Ordinary Session of the Assembly in Addis Ababa, Ethiopia, on 11 July 1990,

Considering that by the Algiers Declaration (AHG/Decl.1 (XXXV)) of 14 July 1999 the Assembly reaffirmed its faith in the African Economic Community,

Determined to promote democratic principles and popular participation, to consolidate democratic institutions and culture and to ensure good governance,

Further determined to promote and protect human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights and other relevant human rights instruments,

IV. PAN-AFRICAN PARLIAMENT

Conscious of the obligations and legal implications for Member States of the need to establish the Pan-African Parliament,

Firmly convinced that the establishment of the Pan-African Parliament will ensure effectively the full participation of the African peoples in the economic development and integration of the continent,

Hereby agree as follows:

Article 1 Definitions

In this Protocol, the following expressions shall have the meanings assigned to them hereunder:

"Assembly" means the Assembly of Heads of State and Government of the Community;

"Bureau" means the officers of the Pan-African Parliament as provided for in Article 12, paragraph 5, of this Protocol;

"Community" means the African Economic Community;

"Council" means the Council of Ministers of the Community;

"Court of Justice" means the Court of the Community;

"General Secretariat" means the General Secretariat of the Community;

"Member of Pan-African Parliament" or "Pan-African Parliamentarian" means a representative elected or designated in accordance with Article 5 of this Protocol;

"Member State" or "Member States", unless the context otherwise prescribes, means Member State or Member States of the Community;

"OAU" means the Organization of African Unity;

"President" means the Member of the Pan-African Parliament elected to conduct the business of Parliament in accordance with Article 12, paragraph 2, of this Protocol;

"Region of Africa" shall have the meaning assigned to it in Article 1 of the Treaty Establishing the African Economic Community;

"Secretary-General" means the Secretary-General of the Community;

"Treaty" means the Treaty Establishing the African Economic Community (AEC).

Article 2 Establishment of the Pan-African Parliament

1. Member States hereby establish a Pan-African Parliament the composition, functions, powers and organization of which shall be governed by the present Protocol.

2. The Pan-African Parliamentarians shall represent all the peoples of Africa.

1. PROTOCOL TO THE AFRICAN ECONOMIC COMMUNITY TREATY RELATING TO THE PAN-AFRICAN PARLIAMENT

3. The ultimate aim of the Pan-African Parliament shall be to evolve into an institution with full legislative powers, whose members are elected by universal adult suffrage. However, until such time as the Member States decide otherwise by an amendment to this Protocol:

- (i) The Pan-African Parliament shall have consultative and advisory powers only; and
- (ii) The Members of the Pan-African Parliament shall be appointed as provided for in Article 4 of this Protocol.

Article 3 Objectives

The objectives of the Pan-African Parliament shall be to:

- 1. Facilitate the effective implementation of the policies and objectives of the OAU/AEC and, ultimately, of the African Union;
- 2. Promote the principles of human rights and democracy in Africa;
- 3. Encourage good governance, transparency and accountability in Member States;
- 4. Familiarize the peoples of Africa with the objectives and policies aimed at integrating the African continent within the framework of the establishment of the African Union;
- 5. Promote peace, security and stability;
- 6. Contribute to a more prosperous future for the peoples of Africa by promoting collective self-reliance and economic recovery;
- 7. Facilitate cooperation and development in Africa;
- 8. Strengthen continental solidarity and build a sense of common destiny among the peoples of Africa;
- 9. Facilitate cooperation among Regional Economic Communities and their parliamentary fora.

Article 4 Composition

- 1. Member States shall be represented in the Pan-African Parliament by an equal number of Parliamentarians.
- 2. Each Member State shall be represented in the Pan-African Parliament by five (5) members, at least one of whom must be a woman.
- 3. The representation of each Member State must reflect the diversity of political opinions in each national parliament or other deliberative organ.

Article 5 Election, Tenure and Vacancies

- 1. The Pan-African Parliamentarians shall be elected or designated by the respective national parliaments or any other deliberative organs of the Member States, from among their members.

IV. PAN-AFRICAN PARLIAMENT

2. The Assembly shall determine the beginning of the first term of office of the Pan-African Parliament at its session immediately following the entry into force of this Protocol.
3. The term of a Member of the Pan-African Parliament shall run concurrently with his or her term in the national parliament or other deliberative organ.
4. The seat of a Member of the Pan-African Parliament shall become vacant if he or she:
 - (a) Dies;
 - (b) Resigns in writing to the President;
 - (c) Is unable to perform his or her functions for reasons of physical or mental incapacity;
 - (d) Is removed on grounds of misconduct;
 - (e) Ceases to be a member of the national parliament or other deliberative organ;
 - (f) Is recalled by the national parliament or other deliberative organ; or
 - (g) Ceases to be a Pan-African Parliamentarian in terms of Article 19 of this Protocol.

Article 6 Vote

The Pan-African Parliamentarians shall vote in their personal and independent capacity.

Article 7 Incompatibility

Membership of the Pan-African Parliament shall not be compatible with the exercise of executive or judicial functions in a Member State.

Article 8 Privileges and Immunities of Pan-African Parliamentarians

1. The Pan-African Parliamentarians, while exercising their functions, shall enjoy in the territory of each Member State the immunities and privileges extended to representatives of Member States under the General Convention on the Privileges and Immunities of the OAU and the Vienna Convention on Diplomatic Relations.
2. Without prejudice to paragraph 1 of this article, the Pan-African Parliament shall have the power to waive the immunity of a member in accordance with its Rules of Procedure.

Article 9 Parliamentary Immunities

1. The Pan-African Parliamentarians shall enjoy parliamentary immunity in each Member State. Accordingly, a Member of the Pan-African Parliament shall not be liable to civil or criminal proceedings, arrest, imprisonment or damages for what is said or done by him or her within or outside the Pan-African Parliament in his or her capacity as a Member of Parliament in the discharge of his or her duties.
2. Without prejudice to paragraph 1 of this article, the Pan-African Parliament shall have the power to waive the immunity of a member in accordance with its Rules of Procedure.

1. PROTOCOL TO THE AFRICAN ECONOMIC COMMUNITY TREATY RELATING TO THE PAN-AFRICAN PARLIAMENT

Article 10 Allowance

The Pan-African Parliamentarians shall be paid an allowance to meet expenses in the discharge of their duties.

Article 11 Functions and Powers

The Pan-African Parliament shall be vested with legislative powers to be defined by the Assembly. However, during the first term of its existence, the Pan-African Parliament shall exercise advisory and consultative powers only. In this regard, it may:

1. Examine, discuss or express an opinion on any matter, either on its own initiative or at the request of the Assembly or other policy organs and make any recommendations it may deem fit relating to, inter alia, matters pertaining to respect of human rights, the consolidation of democratic institutions and the culture of democracy, as well as the promotion of good governance and the rule of law;
2. Discuss its budget and the budget of the Community and make recommendations thereon prior to its approval by the Assembly;
3. Work towards the harmonization or coordination of the laws of Member States;
4. Make recommendations aimed at contributing to the attainment of the objectives of the OAU/AEC and draw attention to the challenges facing the integration process in Africa as well as the strategies for dealing with them;
5. Request officials of the OAU/AEC to attend its sessions, produce documents or assist in the discharge of its duties;
6. Promote the programmes and objectives of the OAU/AEC in the constituencies of the Member States;
7. Promote the coordination and harmonization of policies, measures, programmes and activities of the Regional Economic Communities and the parliamentary fora of Africa;
8. Adopt its Rules of Procedure, elect its own President and propose to the Council and the Assembly the size and nature of the support staff of the Pan-African Parliament;
9. Perform such other functions as it deems appropriate to achieve the objectives set out in Article 3 of this Protocol.

Article 12 Rules of Procedure and Organization of the Pan-African Parliament

1. The Pan-African Parliament shall adopt its own Rules of Procedure on the basis of a two-thirds majority of all its members.
2. The Pan-African Parliament shall elect, at its first sitting following its election, by secret ballot, from among its members and in accordance with its Rules of Procedure, a President and four (4) Vice-Presidents representing the regions of Africa as determined by the OAU. The election shall, in each case, be by simple majority of the members present and voting.
3. The terms of office of the President and the Vice-Presidents shall run with the national parliament or the deliberative organ which elects or designates them.

IV. PAN-AFRICAN PARLIAMENT

4. The Vice-Presidents shall be ranked in the order of first, second, third and fourth initially, in accordance with the result of the vote and subsequently by rotation.
5. The President and the Vice-Presidents shall be the officers of the Pan-African Parliament. The officers, under the control and direction of the President and subject to such directives as may be issued by the Pan-African Parliament, shall be responsible for the management and administration of the affairs and facilities of the Pan-African Parliament and its organs. In the discharge of their duties, the officers shall be assisted by the clerk and the two deputy clerks.
6. The Pan-African Parliament shall appoint a clerk, two deputy clerks and such other staff and functionaries as it may deem necessary for the proper discharge of its functions and may by regulations provide for their terms and conditions of office in accordance with the relevant OAU practice as appropriate.
7. The President shall preside over all parliamentary proceedings except those held in committee and, in his or her absence, the Vice-Presidents shall act in rotation, in accordance with the Rules of Procedure which shall also deal with the powers of the person presiding over parliamentary proceedings.
8. The Office of the President or Vice-President shall become vacant if he or she:
 - (a) Dies;
 - (b) Resigns in writing;
 - (c) Is unable to perform his or her functions for reasons of physical or mental incapacity;
 - (d) Is removed on grounds of misconduct;
 - (e) Ceases to be a member of the national parliament or other deliberative organ;
 - (f) Is recalled by the national parliament or other deliberative organ; or
 - (g) Ceases to be a Pan-African Parliamentarian in terms of Article 19 of this Protocol.
9. Removal on the grounds stipulated in paragraph 8 (c) or (d) above shall be on a motion to be decided by secret ballot and supported at the end of debate by two-thirds majority of all the Pan-African Parliamentarians. In the case of removal under the ground stipulated in paragraph 8 (c), the motion shall, in addition, be supported by a medical report.
10. A vacancy in the Office of the President or Vice-President shall be filled at the sitting of the Pan-African Parliament immediately following its occurrence.
11. The quorum for a meeting of the Pan-African Parliament shall be constituted by a simple majority.
12. Each Pan-African Parliamentarian shall have one vote. Decisions shall be made by consensus or, failing which, by a two-thirds majority of all the members present and voting. However, procedural matters, including the question of whether a matter is one of the procedure or not, shall be decided by a simple majority of those present and voting, unless otherwise stipulated in the Rules of Procedure. In the event of an equal number of votes, the person presiding shall have a casting vote.
13. The Pan-African Parliament may establish such committees, as it deems fit, for the proper discharge of its functions and in accordance with its Rules of Procedure.

1. PROTOCOL TO THE AFRICAN ECONOMIC COMMUNITY TREATY RELATING TO THE PAN-AFRICAN PARLIAMENT

14. Until the Pan-African Parliament appoints its staff, the General Secretariat of the OAU shall act as its Secretariat.

Article 13 Oath of Office

At its first sitting, after the election and before proceeding with any other matter, the Pan-African Parliamentarians shall take an oath or make a solemn declaration which shall be set out as an addendum to this Protocol.

Article 14 Sessions

1. The inaugural session shall be presided over by the Chairperson of the OAU/AEC until the election of the President of the Pan-African Parliament who shall thereafter preside.

2. The Pan-African Parliament shall meet in ordinary session at least twice a year, within a period to be determined in the Rules of Procedure. Each ordinary session may last up to one month.

3. Two thirds of the Pan-African Parliamentarians, the Assembly or the Council, through the Chairperson of the OAU, may, by written notification addressed to the President, request an extraordinary session. The request shall provide a motivation for and details of the matters to be discussed at the proposed extraordinary session. The President shall convene such a session which shall discuss only the matters stipulated in the request. The session shall end upon exhaustion of the agenda.

4. The proceedings of the Pan-African Parliament shall be open to the public, unless otherwise directed by the Bureau.

Article 15 Budget

1. The annual budget of the Pan-African Parliament shall constitute an integral part of the regular budget of the OAU/AEC.

2. The budget shall be drawn up by the Pan-African Parliament in accordance with the Financial Rules and Regulations of the OAU/AEC and shall be approved by the Assembly until such time as the Pan-African Parliament shall start to exercise legislative powers.

Article 16 Seat of the Pan-African Parliament

The seat of the Pan-African Parliament shall be determined by the Assembly and shall be located in the territory of a State Party to this Protocol. However, the Pan-African Parliament may convene in the territory of any Member State at the invitation of that Member State.

Article 17 Working Languages

The working languages of the Pan-African Parliament shall be, if possible, African languages, Arabic, English, French and Portuguese.

Article 18 The Relationship between the Pan-African Parliament and the Parliaments of Regional Economic Communities and National Parliaments or Other Deliberative Organs

IV. PAN-AFRICAN PARLIAMENT

The Pan-African Parliament shall work in close cooperation with the Parliaments of the Regional Economic Communities and the national parliaments or other deliberative organs of Member States. To this effect, the Pan-African Parliament may, in accordance with its Rules of Procedure, convene annual consultative fora with the Parliaments of the Regional Economic Communities and the national parliaments or other deliberative organs to discuss matters of common interest.

Article 19 Withdrawal

The Pan-African Parliamentarians from a Member State which withdraws from the Community shall automatically cease to be Pan-African Parliamentarians.

Article 20 Interpretation

The Court of Justice shall be seized with all matters of interpretation emanating from this Protocol. Pending its establishment, such matters shall be submitted to the Assembly which shall decide by a two-thirds majority.

Article 21 Signature and Ratification

1. This Protocol shall be signed and ratified by the Member States in accordance with their respective constitutional procedures.
2. The instruments of ratification or accession shall be deposited with the Secretary-General of the OAU.

Article 22 Entry into Force

This Protocol shall enter into force thirty (30) days after the deposit of the instruments of ratification by a simple majority of the Member States.

Article 23 Accession

1. Any Member State may notify the Secretary-General of its intention to accede to this Protocol after its entry into force. The Secretary-General shall, upon receipt of such notification, transmit copies thereof to all Member States.
2. For any Member State acceding to this Protocol, the Protocol shall come into force on the date of the deposit of its instrument of accession.

Article 24 Amendment or Revision of the Protocol

1. This Protocol may be amended or revised by the decision of a two-thirds majority of the Assembly.
2. Any Member State party to this Protocol or the Pan-African Parliament may propose, in writing to the Secretary-General, any amendment or revision of the Protocol.
3. The Secretary-General shall notify the proposal to all Member States at least thirty (30) days before the meeting of the Assembly, which is to consider the proposal.

2. PROTOCOL TO THE AU CONSTITUTIVE ACT RELATING TO THE PAN-AFRICAN PARLIAMENT

4. The Secretary-General shall request the opinion of the Pan-African Parliament on the proposal and shall transmit the opinion, if any, to the Assembly, which may adopt the proposal, taking into account the opinion of the Pan-African Parliament.

5. The amendment or revision shall enter into force thirty (30) days after the deposit of the instruments of ratification with the Secretary-General by two thirds of Member States.

Article 25 Review of the Protocol

1. Five years after the entry into force of this Protocol, a Conference of the States Parties to this Protocol shall be held to review the operation and effectiveness of this Protocol, with a view to ensuring that the objectives and purposes of this Protocol, as well as the vision underlying the Protocol, are being realized and that the Protocol meets with the evolving needs of the African continent.

2. At intervals of ten years thereafter, further Review Conferences of States Parties to this Protocol may be convened with the same objective as stated in paragraph 1 above. Such conferences may be convened at an interval of less than ten years, if so decided by the Pan-African Parliament.

2.

PROTOCOL TO THE CONSTITUTIVE ACT OF THE AFRICAN UNION RELATING TO THE PAN-AFRICAN PARLIAMENT

Adopted in Malabo, Equatorial Guinea, on 27 June 2014.

The Protocol shall enter into force thirty days after the deposit of the instruments of ratification by a simple majority of the Member States.

Preamble

The Member States of the African Union, States Parties to the Constitutive Act of the African Union,

Bearing in mind the Sirte Declaration adopted at the Fourth Extraordinary Session of the Assembly of Heads of State and Government held in Sirte, Libya, on 9 September 1999 establishing the African Union and calling for the speedy establishment of the institutions provided for in the Treaty Establishing the African Economic Community signed in Abuja, Nigeria, on 3 June 1991, and the establishment of the Pan-African Parliament by the year 2000,

Noting, in particular, the adoption by the Assembly of Heads of State and Government meeting at its Thirty-sixth Ordinary Session in Lomé, Togo, from 10 to 12 July 2000, of the Constitutive Act of the African Union, thereby giving concrete expression to the common vision of a united, integrated and strong Africa,

Considering the principles and objectives stated in the Constitutive Act of the African Union,

Further considering that Articles 5 and 17 of the Constitutive Act of the African Union provide for a Pan-African Parliament as an organ of the African Union, whose composition, functions, powers and organization are to be defined in a protocol,

Further noting that the establishment of the Pan-African Parliament is informed by a vision to provide a common platform for African peoples on the continent and the diaspora and their grass-roots organizations to be more involved in discussions and decision-making on the problems and challenges facing the continent,

Conscious of the imperative and urgent need to further consolidate the aspiration of the African peoples for greater unity, solidarity and cohesion in a larger community transcending cultural, ideological, ethnic, religious and national differences,

IV. PAN-AFRICAN PARLIAMENT

Recalling the Cairo Agenda for Action which was endorsed by the Thirty-first Ordinary Session of the Assembly held in Addis Ababa, Ethiopia, from 26 to 28 June 1995 (AHG/Res.236 (XXXI), and which recommended the speeding up of the rationalization of the institutional framework in order to achieve economic integration at the regional level,

Further recalling the Declaration on the Political and Socio-Economic Situation in Africa and the Fundamental Changes Taking Place in the World, which was adopted by the Twenty-sixth Ordinary Session of the Assembly in Addis Ababa, Ethiopia, on 11 July 1990,

Considering that by the Algiers Declaration (AHG/Decl.1 (XXXV) of 14 July 1999 the Assembly reaffirmed its faith in the African Economic Community,

Determined to promote democratic principles and popular participation, to consolidate democratic institutions and culture and to ensure good governance,

Further determined to promote and protect human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights and other relevant human rights instruments,

Conscious of the obligations and legal implications for Member States of the need to establish the Pan-African Parliament,

Taking into account the Decision of the Assembly adopted at its Twelfth Ordinary Session held in Addis Ababa, Ethiopia, in February 2009 (Assembly/AU/Dec.223 (XII)) requesting the Commission to initiate a review process of the Protocol in consultation with the Permanent Representatives Committee taking into account the views of the Pan-African Parliament,

Noting that Article 25 of the Protocol to the Treaty Establishing the African Economic Community Relating to the Pan-African Parliament provided for a review of the operation and effectiveness of the Protocol and the system of representation in the Pan-African Parliament after five years and also for further conferences of the Members at intervals of ten (10) years or such shorter time as may be decided by the Pan-African Parliament,

Firmly convinced that the strengthening of the Pan-African Parliament will ensure effectively the full participation of the African peoples in the economic development and integration of the continent,

Hereby agree as follows:

Article 1 Definitions

In this Protocol,

"AU" means the African Union;

"African diaspora" means peoples of African origin living outside the continent irrespective of their citizenship and nationality and who are willing to contribute to the development of the continent and the building of the African Union;

"Assembly" means the Assembly of Heads of States and Government of the African Union;

"Bureau" means the Bureau of the Pan-African Parliament and it is composed of the President and Vice-Presidents of the Pan-African Parliament;

"Chairperson of the Commission" refers to the Chairperson of the African Union Commission;

2. PROTOCOL TO THE AU CONSTITUTIVE ACT RELATING TO THE PAN-AFRICAN PARLIAMENT

"Secretary-General" means the Secretary-General of the Pan-African Parliament;

"Commission" means the African Union Commission;

"Community" means the African Economic Community;

"Council" means the Executive Council of Ministers of the African Union;

"Court" means the African Court of Justice and Human and Peoples' Rights of the African Union;

"Deputy Secretary-General" means the Deputy Secretary-General of the Pan-African Parliament;

"Inaugural session" means the first meeting of the Pan-African Parliament after the election of the Members;

"Member of the Pan-African Parliament" or "Pan-African Parliamentarian" or "Member" means a person elected to the Pan-African Parliament in accordance with Article 5 of this Protocol;

"Member State" means a Member State of the African Union;

"OAU" means the Organization of African Unity;

"Other deliberative body" means the institution in a Member State which performs the legislative functions of the State;

"Parliament" means the Pan-African Parliament;

"Plenary" means a meeting of the whole or full Parliament;

"President", unless otherwise specified, means the Member of the Pan-African Parliament elected to preside over the business of Parliament in accordance with Article 13 of this Protocol;

"Protocol" means the Protocol to the Constitutive Act of the African Union relating to the Pan-African Parliament;

"Region of Africa" shall have the meaning assigned to it in the relevant decisions of the Assembly;

"State Party" means a Member State who has ratified or acceded to this Protocol;

"Treaty" means the Treaty Establishing the African Economic Community.

Article 2

The Pan-African Parliament

1. The Pan-African Parliament established by the Protocol to the Treaty Establishing the African Economic Community Relating to the Establishment of the Pan-African Parliament is hereby continued in existence and shall have the functions and powers provided for in the present Protocol.
2. The organs of the Pan-African Parliament shall be the Plenary, the Bureau, the Secretariat, committees and regional groups.
3. The Pan-African Parliamentarians shall represent all the peoples of Africa and the interests of the African diaspora.

IV. PAN-AFRICAN PARLIAMENT

Article 3

Objectives of the Pan-African Parliament

The objectives of the Pan-African Parliament shall be to:

- (a) Give a voice to the African peoples and the diaspora;
- (b) Facilitate the effective implementation of the policies and objectives of the AU;
- (c) Promote the principles of human and peoples' rights and democracy in Africa;
- (d) Encourage good governance, respect for the rule of law, transparency and accountability in Member States;
- (e) Familiarize the peoples of Africa and the African diaspora with the objectives and policies aimed at integrating the African continent within the framework of the African Union;
- (f) Promote peace, security and stability;
- (g) Contribute to a more prosperous future for the peoples of Africa by promoting collective self-reliance and economic recovery;
- (h) Facilitate cooperation and development in Africa;
- (i) Strengthen continental solidarity, cooperation and development and build a sense of common destiny;
- (j) Facilitate cooperation among Regional Economic Communities in Africa and their parliamentary fora;
- (k) Encourage national and regional parliaments to ratify and integrate treaties adopted by the AU into their legal systems';
- (l) Cooperate with national and regional parliaments and similar bodies within and outside Africa as well as civil societies, community based organizations and grass-roots organizations;
- (m) Invite and encourage the full participation of African diaspora as an important part of the African peoples in the building of the African Union in accordance with modalities approved by the Assembly.

Article 4

Membership

1. Until the Assembly decides otherwise, each State Party shall be represented in the Pan-African Parliament by an equal number of parliamentarians.
2. The membership of the Pan-African Parliament shall comprise five (5) members elected by each State Party.
3. At least two (2) of the elected members shall be women. A delegation which does not satisfy this requirement shall not have the right to be accredited for representation in the Parliament.

Article 5

Elections

2. PROTOCOL TO THE AU CONSTITUTIVE ACT RELATING TO THE PAN-AFRICAN PARLIAMENT

1. (a) The national parliament or other deliberative body shall elect from outside its membership, five (5) Members of the Pan-African Parliament.

(b) The representation of each State Party must reflect the diversity of political opinions in each national parliament or other deliberative body taking into account the number of members from each political party represented in the national parliament.

(c) The elections of Members of the Pan-African Parliament by the national parliaments or other deliberative body shall be conducted as far as possible in the same month throughout the Member States as may be decided by the Assembly.

(d) The election of the President of the Pan-African Parliament shall be presided over by the Chairperson of the Assembly.
2. (a) Qualifications for election to the Pan-African Parliament shall be the same as for a national parliament or other deliberative body.

(b) Notwithstanding paragraph 2 (a) of this article, membership of the Pan-African Parliament shall not be compatible with the exercise of executive or judicial functions in a State Party or a permanent office in the AU, a Regional Economic Community or other international organization.
3. Until a code is developed for election to the Pan-African Parliament by direct universal suffrage, the procedure for election to the Pan-African Parliament shall be determined by the national parliament or other deliberative body of each Member State.
4. (a) The institution of a Member State which determines disputes about elections to the national assembly or other deliberative body shall be responsible for determining any question that may arise as to whether a person has been duly elected a Member of the Pan-African Parliament or whether a vacancy has occurred in the representation at the Pan-African Parliament of a Member State.

(b) Where the institution decides that a vacancy has occurred, a by-election shall be conducted to elect another person to fill the vacancy.
5. The Speaker or President of the national parliament or other deliberative body shall notify the President of the Pan-African Parliament of every election under paragraph 1 of this article and every determination under paragraph 4 of this article.
6. For the avoidance of doubt, a member of a national parliament or other deliberative body is eligible to contest an election to the Pan-African Parliament. However, if elected, he or she shall resign from the national parliament or other deliberative body.

Article 6

Tenure of Office of a Member and Vacancies

1. The term of a Member of the Pan-African Parliament shall be five (5) years. He or she shall be eligible for re-election or one (1) further term only.
2. The term of a Member of the Pan-African Parliament shall commence from the date on which he or she is sworn into office and shall end on the last day of the term of the Parliament.
3. The seat of a Member of the Pan-African Parliament shall become vacant if the holder:
 - (a) Dies;

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- (b) Ceases to satisfy the eligibility criteria stipulated in this Protocol for Members of the Pan-African Parliament;
- (c) Is unable to perform his or her functions because of physical or mental incapacity;
- (d) Resigns in writing to the President;
- (e) Is removed on grounds of misconduct by the Pan-African Parliament in accordance with its Rules of Procedure;
- (f) Is absent from the Pan-African Parliament meetings for such period and in such circumstances as are prescribed by the Rules of Procedure of the Pan-African Parliament;
- (g) Is convicted by a court of competent jurisdiction of an offence involving fraud, dishonesty or moral integrity and sentenced to a term of imprisonment exceeding six (6) months;
- (h) Represents a State Party which is suspended from participating in the activities of the AU;
- (i) When his or her term expires.

4. Removal on the grounds stipulated in paragraph 3 (c) or (e) above shall be by a resolution on a motion to be decided on by secret ballot and supported at the end of a debate by two-thirds majority of all the Members of the Pan-African Parliament. In the case of a removal on the grounds stipulated in paragraph 3 (c), the motion shall, in addition, be supported by a medical report in accordance with rules provided for in the Rules of Procedure.

5. Where a vacancy occurs in the office of a Member of the Pan-African Parliament, a by-election shall be conducted to fill his or her place subject to Article 4, paragraph 3. The person elected shall serve for the remainder of the term of the member and shall be eligible for re-election for a full term.

Article 7

Voting in the Pan-African Parliament

The Pan-African Parliamentarian shall vote in person and in his or her personal and independent capacity except when he or she is on an official mission of the Parliament in which case he or she may vote through a proxy. A Parliamentarian cannot act as a proxy for more than one (1) member at a time.

Article 8

Functions and Powers

1. The Pan-African Parliament shall be the legislative organ of the African Union. In this regard,
 - (a) The Assembly shall determine the subjects/areas on which the Pan-African Parliament may propose draft model laws;
 - (b) The Pan-African Parliament may on its own make proposals on the subjects/ areas on which it may submit or recommend draft model laws to the Assembly for its consideration and approval.
2. The Pan-African Parliament shall also:
 - (a) Receive and consider reports of other organs of the African Union as may be referred to it by the Council or the Assembly, including audits and other reports, and make recommendations thereon;

2. PROTOCOL TO THE AU CONSTITUTIVE ACT RELATING TO THE PAN-AFRICAN PARLIAMENT

- (b) Debate and discuss its own budget and the budget of the Union and make recommendations thereon to the relevant policy organs;
- (c) Establish any parliamentary committee and determine its functions, mandate, composition and term of office;
- (d) Discuss any matter relevant to the African Union and make recommendations to the Council or the Assembly, as it may deem appropriate;
- (e) Make proposals to the Council on the structure of the Secretariat of the Parliament taking into account its needs;
- (f) Request the attendance of officials of the other organs of the African Union at its sessions to offer assistance to the Parliament in the discharge of its duties;
- (g) Promote the programmes and objectives of the African Union in Member States;
- (h) Receive, consider and submit opinions on draft legal instruments, treaties and other international agreements as may be referred to it by the Council or Assembly;
- (i) Liaise with national parliaments or other deliberative bodies and the Parliaments of the Regional Economic Communities on all matters relating to the African Union and regional integration in Africa;
- (j) Carry out such other activities as it deems appropriate to achieve the objectives set out in Article 3 of this Protocol.

3. Without prejudice to the preceding paragraphs and in so far as it is not in conflict with the mandate of any other organ of the AU, the powers and functions of the Parliament may also be exercised through:

- (a) Fact-finding or inquiry missions;
- (b) Observer missions.

4. (a) The Pan-African Parliament shall have the power, in accordance with the Financial Rules and Regulations of the African Union, to engage in fund raising activities.

(b) The Pan-African Parliament shall not have the power to raise a loan.

5. For the avoidance of doubt, paragraph 2 shall not apply to the Assembly, Council or Court.

Article 9

Privileges and Immunities of the Pan-African Parliamentarians

1. The Pan-African Parliamentarians, while exercising their functions, shall enjoy in the territory of each Member State the immunities and privileges extended to representatives of Member States under the General Convention on the Privileges and Immunities of the OAU and the Vienna Convention on Diplomatic Relations.

2. The Pan-African Parliamentarians shall enjoy parliamentary immunity in each Member State. Accordingly, a Member of the Pan-African Parliament shall not be liable to civil or criminal proceedings, arrest, imprisonment or damages for what is said or done by him or her, within or outside the Pan-African Parliament in his or her capacity as a Pan-African Parliamentarian in the discharge of his or her duties.

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3. Without prejudice to paragraph 2 of this article, the Pan-African Parliament shall have the power to waive the immunity of a member in accordance with its Rules of Procedure.

Article 10 Allowances

1. The Pan-African Parliamentarians shall be paid allowances by their respective States Parties.
2. The allowances for the President, Vice-Presidents and other officials of committees shall be the responsibility of the respective States Parties.

Article 11 Rules of Procedure

1. The Parliament may adopt and amend its own Rules of Procedure, including the procedures for giving effect to its mandate under Article 8 of this Protocol, by a two-thirds majority of all its members.
2. In developing its Rules of Procedure, the Parliament shall ensure consistency of these Rules with AU rules and regulations.

Article 12 The Bureau of the Pan-African Parliament

1. There shall be a Bureau of the Pan-African Parliament which shall be elected on a rotational basis among the five (5) regions of the AU.
2. The Pan-African Parliament shall elect, at its first sitting, by secret ballot, from among its members and in accordance with its Rules of Procedure, a President and four (4) Vice-Presidents representing the five (5) regions of the AU. The election shall, in each case, be by simple majority of the members present and voting. At least two (2) of the Bureau Members shall be women.
3. The Bureau shall, in line with the relevant AU rules and regulations, be responsible for the development of policies for the management and administration of the affairs and property of the Pan-African Parliament, which shall be submitted to the Plenary for approval.
4. The functions of the President and the Vice-Presidents shall be defined in the Rules of Procedure.
5. The term of office of the President and the Vice-Presidents of the Bureau shall be two (2) and a half years renewable once.
6. The President shall preside over all parliamentary proceedings except those held in committees and, in his or her absence, the Vice-Presidents shall act in rotation, in accordance with the Rules of Procedure.
7. The Vice-Presidents shall be ranked in the order of First, Second, Third and Fourth Vice-President, in accordance with the result of the vote. In the absence of the President, each Vice-President shall stand in for the President in rotation.
8. The offices of the President and Vice-President shall become vacant if the holder:
 - (a) Dies;
 - (b) Resigns in writing to the Bureau;

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- (c) Is unable to perform his or her functions for reasons of physical or mental incapacity;
- (d) Is removed on grounds of misconduct;
- (e) Loses his/her membership of the Pan-African Parliament or when his or her term of office expires.

9. Removal on the grounds stipulated in paragraph 8 (c) or 8 (d) above shall be by a resolution on a motion to be decided on by secret ballot and supported at the end of debate by two-thirds majority of all the Members of the Pan-African Parliament. In the case of removal on the grounds stipulated in paragraph 8 (c), the motion shall, in addition, be supported by a medical report.

10. In case of a vacancy in the Bureau, a Member of the Pan-African Parliament shall be elected in his/her place to complete his/her term, through an election at the sitting of the Pan-African Parliament immediately following its occurrence.

11. The President may, with the approval of the Bureau, invite any person to a session of the Pan-African Parliament, if in the opinion of the Bureau the business to be transacted at that session renders the presence of that person desirable.

Article 13

The Secretary-General of the Pan-African Parliament

1. The Pan-African Parliament shall, on the recommendation of the Bureau, appoint a Secretary-General and two Deputy Secretaries-General in accordance with the AU Staff Rules and Regulations.

2. The Secretary-General shall appoint, after consultation with the Bureau, such other staff as may be necessary for the proper functioning of the Pan-African Parliament, in accordance with the AU Staff Rules and Regulations.

3. The Secretary-General and a Deputy Secretary-General shall be a person of proven experience or expertise in parliamentary practice, management and financial administration, and a demonstrated interest and understanding of the process of integration in Africa.

4. The Secretary-General shall be the head of the Secretariat, and shall be responsible for the day-to-day management and administration of the affairs and property of the Pan-African Parliament. He/she shall be accountable to the Parliament through the Bureau.

5. The Secretary-General shall be the accounting officer of the Parliament.

6. The Secretary-General shall, as soon as practicable, cause to be transmitted to the secretaries-general/clerks of the national parliaments or other deliberative body and the Parliaments of the Regional Economic Communities copies of the records of all the relevant debates at the sessions and committee hearings of the Pan-African Parliament for information.

7. The Deputy Secretaries-General shall assist the Secretary-General in the discharge of his/her duties.

8. The Secretary-General shall ensure that proper books of account are kept for the Pan-African Parliament; the Secretary-General shall submit annually a report on the utilization of the funds available to the Pan-African Parliament, including its budgetary allocation, through the Bureau to the Council in accordance with the AU Financial Rules and Regulations.

9. The Secretary-General and the Deputy Secretaries-General shall before assuming office take an oath or make a solemn declaration before the Pan-African Parliament.

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Article 14 Oath of Office

At its sitting following the election and before transacting any other business, the Parliamentarians shall take an oath or make a solemn declaration. The text of the oath or declaration shall be set out as an addendum to the Rules of Procedure.

Article 15 Sessions and Quorum

1. The inaugural session of the Pan-African Parliament shall be convened by the Secretary-General.
2. The Pan-African Parliament shall meet in ordinary session at least twice a year, within a period to be determined in the Rules of Procedure. Each ordinary session may last up to one (1) month.
3. The Bureau, the Assembly, the Council or at least two thirds of the Pan-African Parliamentarians may, by written notification addressed to the President, request an extraordinary session, subject to the following:
 - (a) The request shall provide the reasons for and details of the matters to be discussed at the proposed extraordinary session;
 - (b) The President shall convene such a session within such time as provided for in the Rules of Procedure;
 - (c) The session shall discuss only those matters stipulated in the request;
 - (d) The session shall end upon exhaustion of the agenda;
 - (e) In any case, the duration of an extraordinary session shall not exceed ten (10) days.
4. The proceedings of the Pan-African Parliament shall be open to the public, unless otherwise directed by the Bureau.
5. (a) The quorum for a meeting of the Pan-African Parliament shall be determined by the Rules of Procedure.
 - (b) The Rules of Procedure may differentiate between the quorum necessary for conducting ordinary business by the Pan-African Parliament and the quorum needed for making valid decisions.

Article 16 Budget of the Pan-African Parliament

1. The annual budget of the Pan-African Parliament shall constitute an integral part of the regular budget of the AU.
2. The budget shall be drawn up by the Pan-African Parliament and submitted to the relevant AU policy organs for approval, in accordance with the AU Financial Rules and Regulations.
3. The financial year of the Pan-African Parliament shall be the same as that of the AU.

Article 17 Seat of the Pan-African Parliament

2. PROTOCOL TO THE AU CONSTITUTIVE ACT RELATING TO THE PAN-AFRICAN PARLIAMENT

1. The seat of the Pan-African Parliament shall be located in the Republic of South Africa.
2. The Pan-African Parliament may convene in the territory of any Member State at the invitation of that Member State.

Article 18 Official and Working Languages

The official and working languages of the Pan-African Parliament shall be those of the AU.

Article 19 Relations Between the Pan-African Parliament, the Parliaments of Regional Economic Communities and National Parliaments or Other Deliberative Bodies

1. The Pan-African Parliament shall work in close cooperation with the Parliaments of the Regional Economic Communities and the national parliaments or other deliberative body. To this effect, the Pan-African Parliament may, in accordance with its Rules of Procedure, convene annual consultative fora with the Parliaments of the Regional Economic Communities and the national parliaments or other deliberative body to discuss matters of common interest.
2. The Pan-African Parliament shall periodically submit a report in writing on its work to the national parliaments or other deliberative bodies for information. Copies of such reports shall also be submitted to the Ministers with responsibility for foreign affairs, African Union affairs and/or regional integration.

Article 20 Relations Between the Pan-African Parliament and Other Organs of the AU

1. The Chairperson of the Assembly shall deliver a speech on the state of the AU at each inaugural session of a new term of the Pan-African Parliament.
2. The Chairperson of the Commission shall, at least once during the term of each Parliament, present the activity report of the Commission to the Pan-African Parliament.
3. The other organs of the AU, except the Assembly, the Council and the Court, shall forward their activity reports annually to the Pan-African Parliament by the third month of each succeeding year.
4. The Pan-African Parliament shall forward its annual activity report to the different organs of the AU, at the latest, by the third month of each succeeding year.

Article 21 Interpretation

The Court shall have jurisdiction on all questions of interpretation of this Protocol.

Article 22 Signature and Ratification

1. This Protocol shall be signed and ratified by Member States in accordance with their respective constitutional procedures.
2. The instruments of ratification or accession shall be deposited with the Chairperson of the Commission.

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Entry into Force

This Protocol shall enter into force thirty (30) days after the deposit of the instruments of ratification with the Chairperson of the Commission by a simple majority of the Member States.

Article 24

Accession

1. A Member State shall accede to this Protocol, after its entry into force, by depositing its instrument of accession with the Chairperson of the Commission. The Chairperson of the Commission shall, upon receipt of such instrument of accession, notify all Member States.
2. For any Member State acceding to this Protocol, the Protocol shall come into force on the date of the deposit of its instrument of accession.

Article 25

Amendment or Revision of the Protocol

1. This Protocol may be amended or revised by a decision of a two-thirds majority of the Assembly.
2. A Member State party to this Protocol or the Pan-African Parliament may propose, in writing, to the Chairperson of the Commission any amendment or revision of the Protocol.
3. The Chairperson of the Commission shall notify the proposal to all Member States at least thirty (30) days before the meeting of the Assembly, which is to consider the proposal.
4. Save where the proposal originates from the Pan-African Parliament, the Chairperson of the Commission shall request the opinion of the Pan-African Parliament on the proposal and shall transmit the opinion, if any, to the Assembly, which may approve the proposal, taking into account the opinion of the Pan-African Parliament.
5. The amendment or revision shall enter into force thirty (30) days after the deposit of the instruments of ratification with the Chairperson by a simple majority of Member States.

Article 26

Review of the Protocol

Conferences to review the operation and effectiveness of the Protocol, the legislative mandate and the system of representation to the Pan-African Parliament may be organized by the States Parties at intervals of ten (10) years, or within such shorter time as the Pan-African Parliament may decide with a view to ensuring that the objectives and purposes of this Protocol, as well as the vision underlying the Protocol, are being realized and that the Protocol meets with the evolving needs of African States.

Article 27

Transitional Provision

1. The present Protocol shall upon entry into force replace the Protocol to the Treaty Establishing the African Economic Community Relating to the Pan-African Parliament.
2. The term of office of a Member of the Parliament shall terminate within a period not exceeding one year after the entry into force of this Protocol.

PART V

AFRICAN UNION COMMISSION ON INTERNATIONAL LAW

1. AFRICAN UNION COMMISSION ON INTERNATIONAL LAW

1.

STATUTE OF THE AFRICAN UNION COMMISSION ON INTERNATIONAL LAW

Adopted in Addis Ababa, Ethiopia, on 4 February 2009.

Entered into force upon adoption.

Amended in Addis Ababa, Ethiopia, on 6 February 2022.*

Preamble

The Member States of the African Union,

Bearing in mind the importance of treaties in international relations, notably in the area of maintenance of peace, consolidation and promotion of international law,

Recalling Decision Assembly/AU/Dec. 66 (IV) adopted by the Assembly of the Union in Abuja, Nigeria, in January 2005 reaffirming, inter alia, the need for the establishment of the African Union Commission on International Law,

Further recalling Decision EX.CL/Dec.129 (V) on the establishment of the African Union Commission on International Law adopted by the Fifth Ordinary Session of the Executive Council held in Addis Ababa, Ethiopia, in July 2004,

Inspired by the common objectives and principles enshrined in the Constitutive Act of the African Union, notably Articles 3 and 4 which underscore the importance of accelerating the socio-economic development of the continent through the promotion of research in all fields,

Also inspired by our common goal to strengthen and consolidate the principles of international law and to remain at the forefront of international legal development, and to continue to work towards maintaining standards in important areas of international law,

Acknowledging the contributions of the African Union, including the Regional Economic Communities, in the promotion of all fields of research with a view to advancing the codification of international law,

Determined to promote the universal values and progressive principles of international law at the continental level in the light of the historical and cultural conditions in Africa,

Further determined to promote on the African continent a culture of respect for emerging international norms and rules which have a potential for eventual crystallization into firm rules of international law,

Convinced of the value of the dissemination of, and research in international law, which lies in the ability to foster the creation of an environment that is conducive to the respect for and acceptance of the principles of international law, and the peaceful settlement of conflicts,

Reaffirming the collective will to work relentlessly for the development and codification of international law on the African continent,

* Editor's note: The Statute of the African Union Commission of International Law was amended by the Assembly of Heads of State and Government of the African Union at its Thirty-fifth Ordinary Session in Addis Ababa, Ethiopia, on 6 February 2022 (Decision Assembly/AU/Dec.821 (XXXV)) (Concept Note: Amendments to the Statute of the African Union Commission on International Law). The following articles were amended and subsequent articles were renumbered as necessary: Article 1, Article 5, Article 6, Article 7, Article 19 and Article 21. The provisions affected by the amendments are indicated by an asterisk.

V. AFRICAN UNION COMMISSION ON INTERNATIONAL LAW

Have agreed as follows:

Article 1 Definitions

In this Statute, unless otherwise indicated:

"Assembly" means the Assembly of Heads of State and Government of the African Union;

"AUCIL" means the African Union Commission on International Law;

"Chairperson" means the Chairperson of the AUCIL;

"Chairperson of the Commission" means the Chairperson of the Commission of the African Union;

"Commission" means the Commission of the African Union;

"Constitutive Act" means the Constitutive Act of the African Union;

"Executive Council" means the Executive Council of Ministers of the African Union;

"Member" means a member of the AUCIL;

"Member States" means the Member States of the African Union;

"Peace and Security Council" means the Peace and Security Council of the African Union;

"Statute" means the present Statute of the African Union Commission on International Law;

"STC" Specialized Technical Committee on Justice and Legal Affairs;*

"Union" means the African Union.

Article 2 Establishment of the African Union Commission on International Law (AUCIL)

1. The AUCIL is hereby established as an independent advisory organ of the Union in accordance with Article 5, paragraph 2, of the Constitutive Act.
2. The structure, objectives and functions of the AUCIL shall be defined in this Statute.

Article 3 Composition

1. The AUCIL shall consist of eleven (11) members of recognized competence in international law, who are nationals of Member States and who shall serve in their personal capacities.
2. No two (2) members shall be nationals of the same State.
3. The composition of the AUCIL shall reflect and respect the principles of equitable geographical representation, the principal legal systems of the continent and equitable gender representation.

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Article 4 Objectives

The AUCIL shall act at the instance of the policy and other organs of the Union. It shall have the following specific objectives:

- (a) To undertake activities relating to the codification and progressive development of international law in the African continent with particular attention to the laws of the Union as embodied in the treaties of the Union, in the decisions of the policy organs of the Union and in African customary international law arising from the practice of Member States;
- (b) To propose draft framework agreements, model regulations, formulations and analyses of emerging trends in State practice to facilitate the codification and progressive development of international law;
- (c) To assist in the revision of existing treaties, assist in the identification of areas in which new treaties are required and prepare drafts thereof;
- (d) To conduct studies on legal matters of interest to the Union and its Member States;
- (e) To encourage the teaching, study, publication and dissemination of literature on international law, in particular the laws of the Union, with a view to promoting acceptance of and respect for the principles of international law, the peaceful resolution of conflicts, respect for the Union and recourse to its organs, when necessary.

Article 5 Progressive Development of International Law

1. The AUCIL shall identify and prepare draft instruments and studies in areas which have not yet been regulated by international law in the African continent or been sufficiently developed in the practice of African States.

2. Where the Assembly or the Executive Council or any other organ refers to the AUCIL a specific proposal for study with a view to advancing the progressive development of international law, the AUCIL shall, in general, adopt the following procedure in carrying out its work:

- (a) Appoint one of its members to be Rapporteur;
- (b) Circulate a questionnaire to Member States and invite them to supply, within a specified time, information relevant to its work;
- (c) Consult with relevant institutions and experts;
- (d) Request where it considers a draft to be satisfactory, the Chairperson of the Commission to issue the draft as an AUCIL document. The Commission shall publicize this document, together with such explanatory and supporting material as the AUCIL considers appropriate. The document shall include any information supplied to the AUCIL in reply to the questionnaire referred to in subparagraph (b) of this paragraph;
- (e) Invite Member States, organs or institutions of the Union to submit their comments on this document within a specified time frame.

3. The Rapporteur and the members appointed under this article shall review the draft, taking into consideration the comments by Member States, organs or institutions of the Union and shall prepare the final draft with an explanatory report which they shall submit to the AUCIL for finalization.

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4. The AUCIL shall submit the final draft with its recommendations to the STC for consideration. The STC in turn shall submit its recommendations for decision to the Executive Council and/or the Assembly, as applicable.*
5. The AUCIL may on its own motion or at the request of the Organ or Institution of the Union make an interim report to the Organ or Institution that submitted the proposal or draft.*
6. The AUCIL shall also consider proposals and draft multilateral conventions submitted by Member States and organs of the Union to encourage and facilitate the progressive development of international law and its codification.

Article 6 Codification of International Law

1. The AUCIL shall, with a view to establishing an authoritative statement of international law, be responsible for the codification of international law by way of a systematic and precise formulation of rules of international law in fields where there has already been extensive State practice, precedent and doctrine in the African continent.
2. When the AUCIL considers that codification of a particular area of international law is necessary, it shall study the area and shall submit its recommendations to the STC for consideration. The STC in turn shall submit its recommendations for decision to the Executive Council and/or the Assembly, as applicable.*
3. The AUCIL may on its own initiative survey the whole field of international law in the African continent with a view to selecting areas for codification, bearing in mind existing draft codes.
4. The AUCIL shall give priority to requests for codification submitted to it by the Assembly or other organs of the Union.
5. The AUCIL shall adopt the plan of work it considers appropriate in each case.
6. The AUCIL shall, through the Chairperson of the Commission, address to Member States a detailed request to furnish to it the texts of laws, regulations, decrees, judicial decisions, treaties, diplomatic correspondence and any other document relevant to the topic being studied and which it considers necessary.
7. The AUCIL shall prepare its drafts in the form of Articles and shall submit them to the STC for consideration together with a commentary containing:
 - (a) Adequate presentation of precedents and other relevant data, including treaties, judicial decisions and doctrine;
 - (b) Conclusions defining:
 - (i) The extent of agreement on each point in the practice of States and in doctrine;
 - (ii) Divergences and disagreements which exist, as well as arguments invoked in favour of each solution.*
8. The STC in turn shall submit its recommendations for decision to the Executive Council and/or the Assembly, as applicable.*
9. When the AUCIL considers a draft to be satisfactory, it shall request the Chairperson of the Commission to issue it as an AUCIL document. The Commission shall publicize the document with such explanatory material, as it may consider appropriate. The publication shall include any information supplied by AU Member States. The AUCIL

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shall decide whether the opinions of any relevant institution or individual expert consulted shall be included in the publication.

10. The AUCIL shall request Member States to submit their comments on the AUCIL document for consideration within ninety (90) days.

11. Taking into consideration the comments and observations of Member States, the AUCIL shall prepare a final draft document together with its recommendations and an explanatory report, which it shall submit to the STC for consideration. The STC in turn shall submit its recommendations for decision to the Executive Council and/or the Assembly, as applicable.*

12. The AUCIL may recommend, through the STC to the Executive Council and/or the Assembly, as applicable to:*

- (a) Take no action;
- (b) Take note of the report;
- (c) Adopt the report;
- (d) Recommend the draft to Member States with a view to the conclusion of a convention.

13. The Assembly shall, where it considers it appropriate, refer drafts back to the AUCIL for reconsideration or redrafting.

14. The AUCIL shall consider mechanisms for making evidence of customary international law more readily available, through the collection and publication of documents concerning State practice and the decisions of national and international courts on questions of international law, and shall submit a report of its work in this regard to the STC for consideration. The STC in turn shall submit its recommendations for decision to the Executive Council and/or the Assembly, as applicable.*

Article 7

Contribution to Objectives and Principles of the Union

1. In carrying out its functions on the progressive development of international law and codification of international law, the AUCIL shall contribute to the objectives and principles of the Union as enshrined in Articles 3 and 4 of the Constitutive Act and, in particular, study all legal matters related to the promotion of peace and security in the African continent, the demarcation and delineation of African borders as well as legal matters relating to the political and socio-economic integration of the continent.

2. The findings of the studies undertaken by the AUCIL shall be submitted to the STC for consideration by the Executive Council and / or the Assembly, as applicable (taking into due account of legal corpus and decisions of the Assembly).*

Article 8

Revision of Treaties

1. The AUCIL shall be entitled to propose, if necessary, the revision of OAU/AU Treaties with a view to:

- (a) Ensuring harmony between AU treaties and current legal developments;

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- (b) Ensuring that the process of contributing to the development of international law through encouraging standard setting by Member States continues;
- (c) Ensuring that standard setting within the Union is and remains both relevant and appropriate;
- (d) Promoting the harmonization of international obligations.

Article 9

The Teaching, Study and Dissemination of International Law

With a view to encouraging the teaching, study and dissemination of international law and African Union law, in particular, the AUCIL shall cooperate with universities, institutions and other educational and research centres as well as with bar associations and other associations of lawyers.

Article 10

Candidatures

1. Upon the coming into effect of this Statute, the Chairperson of the Commission shall invite each Member State to submit, in writing, within ninety (90) days, the names of its candidates, together with their curricula vitae, for election to the AUCIL.
2. Each Member State may nominate a maximum of two (2) candidates taking into account equitable gender representation.
3. The Chairperson of the Commission shall prepare a list in alphabetical order of the names of candidates submitted and shall communicate the list with the curriculum vitae of each candidate to Member States, at least thirty (30) days before the holding of the session of the Executive Council at which the members are to be elected.

Article 11

Election of Members

The Executive Council shall elect the members by secret ballot. The election of the members shall be governed by this Statute and the Rules of Procedure of the Executive Council.

Article 12

Term of Office of Members

1. Members shall be elected for a period of five (5) years and shall be eligible for re-election only once. However, the term of office of five (5) of the members elected at the first election shall expire at the end of three (3) years and they shall be eligible for re-election only once.
2. Members whose terms are to expire at the end of the initial period of three (3) years shall be chosen by lot drawn by the Chairperson of the Executive Council, immediately after the first election.
3. A member to be elected to replace a member whose term of office has not yet expired shall be from the same region.
4. He/she shall hold office for the remainder of the predecessor's term.

Article 13

Resignation, Suspension and Removal from Office

1. AFRICAN UNION COMMISSION ON INTERNATIONAL LAW

1. A member may resign by addressing a letter of resignation to the Chairperson who shall transmit the letter to the Chairperson of the Commission.
2. A member may only be suspended or removed from office on the recommendation of two thirds of the other members that the member no longer meets the requisite conditions specified in this Statute and the Rules of Procedure of the AUCIL to continue being a member.
3. The Chairperson shall bring the recommendation for suspension or removal of a member from office to the attention of the Executive Council through the Chairperson of the Commission. Suspension or removal from office shall be carried out in conformity with the AUCIL Rules of Procedure.
4. The recommendation shall become final upon its adoption by the Executive Council.

Article 14 Vacancies

1. A seat on the AUCIL shall be vacant under the following circumstances:
 - (a) Death;
 - (b) Resignation;
 - (c) Removal from office in accordance with Article 13 above.
2. In the event of death, resignation or removal from office of a member, the Chairperson, through the Chairperson of the Commission, shall immediately inform the Member States in writing. Thereafter, the Chairperson of the Commission shall declare the seat vacant.
3. The same procedure for the election of members shall be followed in filling vacancies.

Article 15 Sessions

1. The members of the AUCIL shall perform their functions on a part-time basis.
2. The AUCIL shall meet twice a year in ordinary sessions. It may meet in extraordinary sessions at the request of the Chairperson or two thirds of the membership.
3. The duration of the sessions shall be determined by the Rules of Procedure of the AUCIL.
4. Sessions of the AUCIL shall be held at the Headquarters of the Union. However, where the AUCIL is invited to meet elsewhere other than at the Headquarters, that Member State shall be responsible for the expenses over and above what would have been incurred had the meeting been held at the Headquarters.

Article 16 Quorum

The quorum for a meeting of the AUCIL shall be six (6) members.

Article 17 Election of the Chairperson and Vice-Chairperson of the AUCIL

V. AFRICAN UNION COMMISSION ON INTERNATIONAL LAW

1. The members of the AUCIL shall elect from among themselves the Chairperson and the Vice-Chairperson, who shall serve for a period of two (2) years. The elected Chairperson and the Vice-Chairperson shall be eligible for re-election only once.
2. The modalities for the election of the Chairperson and the Vice-Chairperson as well as their duties shall be defined in the AUCIL Rules of Procedure which shall be approved.

Article 18 Remuneration

1. The members shall be paid emoluments and allowances, which shall be determined by the Assembly.
2. Save for consultants or experts whose conditions of service shall be governed entirely by the terms of their contract, the terms and conditions of service of staff members of the AUCIL shall be in accordance with the African Union Staff Regulations and Rules.

Article 19 Rules of Procedure

1. The AUCIL shall determine its own rules of procedure for carrying out its functions and submit them to the Executive Council for approval, through the STC.*

Article 20 Languages

The official and working languages of the AUCIL shall be those of the Union.

Article 21 Secretariat of the AUCIL

The AUCIL shall be provided with a Permanent Secretariat with the necessary means, staff and infrastructure to enable it carry out its duties effectively.*

Article 22 Privileges and Immunities

Members will enjoy, from the date of their election and throughout their term of office, the privileges and immunities applicable to other senior officials of the Union.

Article 23 Budget

1. The budget of the AUCIL shall form part of the budget of the Union.
2. The AUCIL shall prepare and submit its draft budget to the Union for approval and inclusion in the Union's budget.
3. The initial budget of the AUCIL shall be prepared by the Commission.

Article 24 Cooperation with Other Organs of the African Union

1. AFRICAN UNION COMMISSION ON INTERNATIONAL LAW

The AUCIL may, if it considers it necessary, consult with any organ of the Union on any subject which is within the competence of that organ. All documents circulated to Member States by the AUCIL shall also be circulated to relevant organs of the Union for their information, comments and proposals or necessary action.

Article 25

Cooperation with Other Organizations

1. In order to broaden its consultation base, the AUCIL may consult with any intergovernmental, international or national organization that it may consider relevant, on any subject entrusted to it, if it believes that such a procedure might aid it in the performance of its functions.
2. For the purpose of distribution of AUCIL documents, the Chairperson of the Commission, after consultation with the AUCIL, shall draw up a list of national and international organizations concerned with questions of international law such as the national law reform commissions. The Chairperson of the Commission shall endeavour to include on this list at least one (1) national organization of each Member State.
3. In order to promote international law on the African continent, the AUCIL shall establish close collaboration with the United Nations International Law Commission.

Article 26

Amendments

1. The present Statute may be amended by the Assembly:
 - (i) Upon the recommendation of the Executive Council after it has obtained the opinion of the AUCIL; or
 - (ii) Upon the recommendation of the AUCIL.
2. The amendments shall come into effect upon their adoption by the Assembly.

Article 27

Entry into Effect

The present Statute shall come into effect upon its adoption by the Assembly.

PART VI

HUMAN AND PEOPLES' RIGHTS

1. DECLARATION ON THE RIGHTS AND WELFARE OF THE AFRICAN CHILD

1.

DECLARATION ON THE RIGHTS AND WELFARE OF THE AFRICAN CHILD (AHG/ST.4 (XVI) Rev.1)

Adopted in Monrovia, Liberia, in July 1979.

The Assembly of Heads of State and Government of the Organization of African Unity, meeting in its Sixteenth Ordinary Session of Monrovia, Liberia, from 17 to 20 July 1979,

Considering the provisions of the Charter of the Organization of African Unity affirming the responsibility of Member States to harness the natural and human resources of the continent for the total advancement of the peoples in all spheres of human endeavors,

Recalling various United Nations pronouncements, especially the 1959 Declaration on the Rights of the Child and resolution 31/169 of the United Nations General Assembly proclaiming 1979 as the International Year of the Child,

Conscious of the appeal by the said resolution for increased national, regional and international actions aimed at guaranteeing the rights and promoting the welfare of the child,

Determined to implement at national, subregional and regional levels and together with the national and international organizations the programmes undertaken to promote child welfare by providing facilities in the fields of education, medical care, nutrition and other basic services,

Convinced of the need for Member States to take effective measures such as the development of simple and appropriate technologies in order to curb unnecessary child labor,

Aware of the deep concern of African States about the future of African children as inheritors and keepers of African cultural heritage,

Bearing in mind that the welfare of the African child is inextricably bound up with that of its parents and other members of its family, especially the mother,

Declares that:

1. *In order* to focus attention on the problems of the child to make easier the coordination of efforts and mobilization of resources and for performing the advocacy role for the child on a permanent basis, Member States consider the desirability of making respective national commissions or machineries for International Year of the Child a permanent organ given the necessary legal powers;

2. *Member States* should undertake or continue their efforts to review the current legal codes and provisions relating to the rights of children, particularly by taking into account the United Nations Declaration on the Rights of the Child of 1959 and by paying particular attention to the unequal status of female children in some parts of Africa;

3. *Member States* should thoroughly examine cultural legacies and practice that are harmful to normal growth and development of the child such as child marriage and female circumcision, and should take legal and educational measures to abolish them;

4. *All Member States* should take advantage of the deliberations on the International Year of the Child in the United Nations General Assembly to urge organizations of the United Nations system to intensify their cooperation and encourage them to continue carrying out those activities which have positive bearing on the situation of the child in Africa,

VI. HUMAN AND PEOPLES' RIGHTS

5. *International* and non-governmental organizations should actively participate in the activities undertaken by Member States at the national level and strengthen and develop their own activities in cooperation with national organs set up in the framework of the International Year of the Child,
6. *Those Member States*, who have not yet done so, should:
 - (a) Formulate and implement programmes in the field of health, nutrition and education as part of national development plans with a view to making these services universally accessible to all children within the shortest possible time;
 - (b) Give priority to the most deprived and vulnerable children, paying particular attention to disabled children in the expansion of essential services;
 - (c) Expand day-care facilities with priority in the most needy and economically disadvantaged families;
7. *Where* education services through conventional school system cannot be provided, alternative strategies for establishing educational facilities for African children should be explored and non-formal and out-of-school opportunities be exploited, based on the principal of self-reliance as far as local manpower, skills, resources and materials permit;
8. *The OAU Secretary-General* should, in collaboration with all United Nations agencies, give Member States all necessary assistance to promote activities in favor of children and to implement their respective national programmes;
9. *Member States*, who have not yet ratified the International Labour Convention No. 138 concerning minimum age for admission to employment, should do so;
10. *Efforts should be made* to preserve and develop African arts, languages and culture and to stimulate the interest and appreciation of African children in the cultural heritage of their own countries and of Africa as a whole;
11. *Member States* should lay emphasis on the principle of meaningful participation of local communities and beneficiary populations in planning and management of basic services and programmes for children;
12. *Particular attention* should be paid to the needs of refugee and displaced children and that immediate measures should be taken to improve their lot.

2.

AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS (BANJUL CHARTER)

Adopted in Nairobi, Kenya, on 27 June 1981.

Entered into force on 21 October 1986.

Preamble

The African States Members of the Organization of African Unity, Parties to the present charter entitled "African Charter on Human and Peoples' Rights",

Recalling Decision 115 (XVI) of the Assembly of Heads of State and Government at its Sixteenth Ordinary Session held in Monrovia, Liberia, from 17 to 20 July 1979 on the preparation of a "preliminary draft on an African Charter on Human and Peoples' Rights providing, inter alia, for the establishment of bodies to promote and protect human and peoples' rights",

2. AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS

Considering the Charter of the Organization of African Unity, which stipulates that "freedom, equality, justice and dignity are essential objectives for the achievement of the legitimate aspirations of the African peoples",

Reaffirming the pledge they solemnly made in Article 2 of the said Charter to eradicate all forms of colonialism from Africa, to coordinate and intensify their cooperation and efforts to achieve a better life for the peoples of Africa and to promote international cooperation, having due regard to the Charter of the United Nations and the Universal Declaration of Human Rights,

Taking into consideration the virtues of their historical tradition and the values of African civilization which should inspire and characterize their reflection on the concept of human and peoples' rights,

Recognizing, on the one hand, that fundamental human rights stem from the attributes of human beings which justifies their national and international protection and, on the other hand, that the reality and respect of peoples' rights should necessarily guarantee human rights,

Considering that the enjoyment of rights and freedoms also implies the performance of duties on the part of everyone,

Convinced that it is henceforth essential to pay particular attention to the right to development and that civil and political rights cannot be dissociated from economic, social and cultural rights in their conception as well as universality and that the satisfaction of economic, social and cultural rights is a guarantee for the enjoyment of civil and political rights,

Conscious of their duty to achieve the total liberation of Africa, the peoples of which are still struggling for their dignity and genuine independence, and undertaking to eliminate colonialism, neocolonialism, apartheid, zionism and to dismantle aggressive foreign military bases and all forms of discrimination, particularly those based on race, ethnic group, colour, sex, language, religion or political opinions,

Reaffirming their adherence to the principles of human and peoples' rights and freedoms contained in the declarations, conventions and other instrument adopted by the Organization of African Unity, the Movement of Non-Aligned Countries and the United Nations,

Firmly convinced of their duty to promote and protect human and peoples' rights and freedoms taking into account the importance traditionally attached to these rights and freedoms in Africa,

Have agreed as follows:

Part I Rights and Duties

Chapter I Human and Peoples' Rights

Article 1

The Member States of the Organization of African Unity parties to the present Charter shall recognize the rights, duties and freedoms enshrined in this Chapter and shall undertake to adopt legislative or other measures to give effect to them.

Article 2

VI. HUMAN AND PEOPLES' RIGHTS

Every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status.

Article 3

1. Every individual shall be equal before the law.
2. Every individual shall be entitled to equal protection of the law.

Article 4

Human beings are inviolable. Every human being shall be entitled to respect for his life and the integrity of his person. No one may be arbitrarily deprived of this right.

Article 5

Every individual shall have the right to the respect of the dignity inherent in a human being and to the recognition of his legal status. All forms of exploitation and degradation of man particularly slavery, slave trade, torture, cruel, inhuman or degrading punishment and treatment shall be prohibited.

Article 6

Every individual shall have the right to liberty and to the security of his person. No one may be deprived of his freedom except for reasons and conditions previously laid down by law. In particular, no one may be arbitrarily arrested or detained.

Article 7

1. Every individual shall have the right to have his cause heard. This comprises:
 - (a) The right to an appeal to competent national organs against acts of violating his fundamental rights as recognized and guaranteed by conventions, laws, regulations and customs in force;
 - (b) The right to be presumed innocent until proved guilty by a competent court or tribunal;
 - (c) The right to defence, including the right to be defended by counsel of his choice;
 - (d) The right to be tried within a reasonable time by an impartial court or tribunal.
2. No one may be condemned for an act or omission which did not constitute a legally punishable offence at the time it was committed. No penalty may be inflicted for an offence for which no provision was made at the time it was committed. Punishment is personal and can be imposed only on the offender.

Article 8

Freedom of conscience, the profession and free practice of religion shall be guaranteed. No one may, subject to law and order, be submitted to measures restricting the exercise of these freedoms.

Article 9

1. Every individual shall have the right to receive information.

2. AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS

2. Every individual shall have the right to express and disseminate his opinions within the law.

Article 10

1. Every individual shall have the right to free association provided that he abides by the law.
2. Subject to the obligation of solidarity provided for in Article 29, no one may be compelled to join an association.

Article 11

Every individual shall have the right to assemble freely with others. The exercise of this right shall be subject only to necessary restrictions provided for by law, in particular those enacted in the interest of national security, the safety, health, ethics and rights and freedoms of others.

Article 12

1. Every individual shall have the right to freedom of movement and residence within the borders of a State provided he abides by the law.
2. Every individual shall have the right to leave any country including his own, and to return to his country. This right may only be subject to restrictions, provided for by law, for the protection of national security, law and order, public health or morality.
3. Every individual shall have the right, when persecuted, to seek and obtain asylum in other countries in accordance with the laws of those countries and international conventions.
4. A non-national legally admitted in a territory of a State Party to the present Charter may only be expelled from it by virtue of a decision taken in accordance with the law.
5. The mass expulsion of non-nationals shall be prohibited. Mass expulsion shall be that which is aimed at national, racial, ethnic or religious groups.

Article 13

1. Every citizen shall have the right to participate freely in the government of his country, either directly or through freely chosen representatives in accordance with the provisions of the law.
2. Every citizen shall have the right of equal access to the public service of his country.
3. Every individual shall have the right of access to public property and services in strict equality of all persons before the law.

Article 14

The right to property shall be guaranteed. It may only be encroached upon in the interest of public need or in the general interest of the community and in accordance with the provisions of appropriate laws.

Article 15

Every individual shall have the right to work under equitable and satisfactory conditions, and shall receive equal pay for equal work.

VI. HUMAN AND PEOPLES' RIGHTS

Article 16

1. Every individual shall have the right to enjoy the best attainable state of physical and mental health.
2. States Parties to the present Charter shall take the necessary measures to protect the health of their people and to ensure that they receive medical attention when they are sick.

Article 17

1. Every individual shall have the right to education.
2. Every individual may freely take part in the cultural life of his community.
3. The promotion and protection of morals and traditional values recognized by the community shall be the duty of the State.

Article 18

1. The family shall be the natural unit and basis of society. It shall be protected by the State which shall take care of its physical health and morals.
2. The State shall have the duty to assist the family which is the custodian of morals and traditional values recognized by the community.
3. The State shall ensure the elimination of every discrimination against women and also ensure the protection of the rights of the woman and the child as stipulated in international declarations and conventions.
4. The aged and the disabled shall also have the right to special measures of protection in keeping with their physical or moral needs.

Article 19

All peoples shall be equal; they shall enjoy the same respect and shall have the same rights. Nothing shall justify the domination of a people by another.

Article 20

1. All peoples shall have the right to existence. They shall have the unquestionable and inalienable right to self-determination. They shall freely determine their political status and shall pursue their economic and social development according to the policy they have freely chosen.
2. Colonized or oppressed peoples shall have the right to free themselves from the bonds of domination by resorting to any means recognized by the international community.
3. All peoples shall have the right to the assistance of the States Parties to the present Charter in their liberation struggle against foreign domination, be it political, economic or cultural.

Article 21

1. All peoples shall freely dispose of their wealth and natural resources. This right shall be exercised in the exclusive interest of the people. In no case shall a people be deprived of it.

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2. In case of spoliation the dispossessed people shall have the right to the lawful recovery of its property as well as to an adequate compensation.
3. The free disposal of wealth and natural resources shall be exercised without prejudice to the obligation of promoting international economic cooperation based on mutual respect, equitable exchange and the principles of international law.
4. States Parties to the present Charter shall individually and collectively exercise the right to free disposal of their wealth and natural resources with a view to strengthening African unity and solidarity.
5. States Parties to the present Charter shall undertake to eliminate all forms of foreign economic exploitation particularly that practiced by international monopolies so as to enable their peoples to fully benefit from the advantages derived from their national resources.

Article 22

1. All peoples shall have the right to their economic, social and cultural development with due regard to their freedom and identity and in the equal enjoyment of the common heritage of mankind.
2. States shall have the duty, individually or collectively, to ensure the exercise of the right to development.

Article 23

1. All peoples shall have the right to national and international peace and security. The principles of solidarity and friendly relations implicitly affirmed by the Charter of the United Nations and reaffirmed by that of the Organization of African Unity shall govern relations between States.
2. For the purpose of strengthening peace, solidarity and friendly relations, States Parties to the present Charter shall ensure that:
 - (a) Any individual enjoying the right of asylum under Article 12 of the present Charter shall not engage in subversive activities against his country of origin or any other State Party to the present Charter;
 - (b) Their territories shall not be used as bases for subversive or terrorist activities against the people of any other State Party to the present Charter.

Article 24

All peoples shall have the right to a general satisfactory environment favourable to their development.

Article 25

States Parties to the present Charter shall have the duty to promote and ensure through teaching, education and publication, the respect of the rights and freedoms contained in the present Charter and to see to it that these freedoms and rights as well as corresponding obligations and duties are understood.

Article 26

States Parties to the present Charter shall have the duty to guarantee the independence of the courts and shall allow the establishment and improvement of appropriate national institutions entrusted with the promotion and protection of the rights and freedoms guaranteed by the present Charter.

Chapter II

VI. HUMAN AND PEOPLES' RIGHTS

Duties

Article 27

1. Every individual shall have duties towards his family and society, the State and other legally recognized communities and the international community.
2. The rights and freedoms of each individual shall be exercised with due regard to the rights of others, collective security, morality and common interest.

Article 28

Every individual shall have the duty to respect and consider his fellow beings without discrimination, and to maintain relations aimed at promoting, safeguarding and reinforcing mutual respect and tolerance.

Article 29

The individual shall also have the duty:

1. To preserve the harmonious development of the family and to work for the cohesion and respect of the family; to respect his parents at all times, to maintain them in case of need;
2. To serve his national community by placing his physical and intellectual abilities at its service;
3. Not to compromise the security of the State whose national or resident he is;
4. To preserve and strengthen social and national solidarity, particularly when the latter is threatened;
5. To preserve and strengthen the national independence and the territorial integrity of his country and to contribute to its defence in accordance with the law;
6. To work to the best of his abilities and competence, and to pay taxes imposed by law in the interest of the society;
7. To preserve and strengthen positive African cultural values in his relations with other members of the society, in the spirit of tolerance, dialogue and consultation and, in general, to contribute to the promotion of the moral well-being of society;
8. To contribute to the best of his abilities, at all times and at all levels, to the promotion and achievement of African unity.

Part II

Measures of Safeguard

Chapter I

Establishment and Organization of the African Commission on Human and Peoples' Rights

Article 30

An African Commission on Human and Peoples' Rights, hereinafter called "the Commission", shall be established within the Organization of African Unity to promote human and peoples' rights and ensure their protection in Africa.

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Article 31

1. The Commission shall consist of eleven members chosen from among African personalities of the highest reputation, known for their high morality, integrity, impartiality and competence in matters of human and peoples' rights; particular consideration being given to persons having legal experience.
2. The members of the Commission shall serve in their personal capacity.

Article 32

The Commission shall not include more than one national of the same State.

Article 33

The members of the Commission shall be elected by secret ballot by the Assembly of Heads of State and Government, from a list of persons nominated by the States Parties to the present Charter.

Article 34

Each State Party to the present Charter may not nominate more than two candidates. The candidates must have the nationality of one of the States Parties to the present Charter. When two candidates are nominated by a State, one of them may not be a national of that State.

Article 35

1. The Secretary-General of the Organization of African Unity shall invite States Parties to the present Charter at least four months before the elections to nominate candidates.
2. The Secretary-General of the Organization of African Unity shall make an alphabetical list of the persons thus nominated and communicate it to the Heads of State and Government at least one month before the elections.

Article 36

The members of the Commission shall be elected for a six-year period and shall be eligible for re-election. However, the term of office of four of the members elected at the first election shall terminate after two years and the term of office of three others, at the end of four years.

Article 37

Immediately after the first election, the Chairman of the Assembly of Heads of State and Government of the Organization of African Unity shall draw lots to decide the names of those members referred to in Article 36.

Article 38

After their election, the members of the Commission shall make a solemn declaration to discharge their duties impartially and faithfully.

Article 39

1. In case of death or resignation of a member of the Commission, the Chairman of the Commission shall immediately inform the Secretary-General of the Organization of African Unity, who shall declare the seat vacant from the date of death or from the date on which the resignation takes effect.

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2. If, in the unanimous opinion of other members of the Commission, a member has stopped discharging his duties for any reason other than a temporary absence, the Chairman of the Commission shall inform the Secretary-General of the Organization of African Unity, who shall then declare the seat vacant.

3. In each of the cases anticipated above, the Assembly of Heads of State and Government shall replace the member whose seat became vacant for the remaining period of his term unless the period is less than six months.

Article 40

Every member of the Commission shall be in office until the date his successor assumes office.

Article 41

The Secretary-General of the Organization of African Unity shall appoint the Secretary of the Commission. He shall also provide the staff and services necessary for the effective discharge of the duties of the Commission. The Organization of African Unity shall bear the costs of the staff and services.

Article 42

1. The Commission shall elect its Chairman and Vice-Chairman for a two-year period. They shall be eligible for re-election.

2. The Commission shall lay down its rules of procedure.

3. Seven members shall form the quorum.

4. In case of an equality of votes, the Chairman shall have a casting vote.

5. The Secretary-General may attend the meetings of the Commission. He shall not participate in deliberations nor shall he be entitled to vote. The Chairman of the Commission may, however, invite him to speak.

Article 43

In discharging their duties, members of the Commission shall enjoy diplomatic privileges and immunities provided for in the General Convention on the Privileges and Immunities of the Organization of African Unity.

Article 44

Provision shall be made for the emoluments and allowances of the members of the Commission in the regular budget of the Organization of African Unity.

Chapter II

Mandate of the Commission

Article 45

The functions of the Commission shall be:

1. To promote human and peoples' rights and in particular:

(a) To collect documents, undertake studies and researches on African problems in the field of human and peoples' rights, organize seminars, symposia and conferences, disseminate information, encourage national and

2. AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS

local institutions concerned with human and peoples' rights, and should the case arise, give its views or make recommendations to Governments;

(b) To formulate and lay down, principles and rules aimed at solving legal problems relating to human and peoples' rights and fundamental freedoms upon which African Governments may base their legislation;

(c) Cooperate with other African and international institutions concerned with the promotion and protection of human and peoples' rights;

2. Ensure the protection of human and peoples' rights under conditions laid down by the present Charter;

3. Interpret all the provisions of the present Charter at the request of a State Party, an institution of the OAU or an African organization recognized by the OAU;

4. Perform any other tasks which may be entrusted to it by the Assembly of Heads of State and Government.

Chapter III Procedure of the Commission

Article 46

The Commission may resort to any appropriate method of investigation; it may hear from the Secretary-General of the Organization of African Unity or any other person capable of enlightening it.

Communication from States

Article 47

If a State Party to the present Charter has good reasons to believe that another State Party to this Charter has violated the provisions of the Charter, it may draw, by written communication, the attention of that State to the matter. This communication shall also be addressed to the Secretary-General of the OAU and to the Chairman of the Commission. Within three months of the receipt of the communication, the State to which the communication is addressed shall give the enquiring State, written explanation or statement elucidating the matter. This should include as much as possible relevant information relating to the laws and rules of procedure applied and applicable, and the redress already given or course of action available.

Article 48

If within three months from the date on which the original communication is received by the State to which it is addressed, the issue is not settled to the satisfaction of the two States involved through bilateral negotiation or by any other peaceful procedure, either State shall have the right to submit the matter to the Commission through the Chairman and shall notify the other States involved.

Article 49

Notwithstanding the provisions of Article 47, if a State Party to the present Charter considers that another State Party has violated the provisions of the Charter, it may refer the matter directly to the Commission by addressing a communication to the Chairman, to the Secretary-General of the Organization of African Unity and the State concerned.

Article 50

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The Commission can only deal with a matter submitted to it after making sure that all local remedies, if they exist, have been exhausted, unless it is obvious to the Commission that the procedure of achieving these remedies would be unduly prolonged.

Article 51

1. The Commission may ask the States concerned to provide it with all relevant information.
2. When the Commission is considering the matter, States concerned may be represented before it and submit written or oral representation.

Article 52

After having obtained from the States concerned and from other sources all the information it deems necessary and after having tried all appropriate means to reach an amicable solution based on the respect of human and peoples' rights, the Commission shall prepare, within a reasonable period of time from the notification referred to in Article 48, a report stating the facts and its findings. This report shall be sent to the States concerned and communicated to the Assembly of Heads of State and Government.

Article 53

While transmitting its report, the Commission may make to the Assembly of Heads of State and Government such recommendations as it deems useful.

Article 54

The Commission shall submit to each ordinary session of the Assembly of Heads of State and Government a report on its activities.

Other Communications

Article 55

1. Before each session, the Secretary of the Commission shall make a list of the communications other than those of States Parties to the present Charter and transmit them to the members of the Commission, who shall indicate which communications should be considered by the Commission.
2. A communication shall be considered by the Commission if a simple majority of its members so decide.

Article 56

Communications relating to human and peoples' rights referred to in Article 55 received by the Commission, shall be considered if they:

1. Indicate their authors even if the latter request anonymity;
2. Are compatible with the Charter of the Organization of African Unity or with the present Charter;
3. Are not written in disparaging or insulting language directed against the State concerned and its institutions or to the Organization of African Unity;
4. Are not based exclusively on news discriminated through the mass media;

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5. Are sent after exhausting local remedies, if any, unless it is obvious that this procedure is unduly prolonged;
6. Are submitted within a reasonable period from the time local remedies are exhausted or from the date the Commission is seized of the matter; and
7. Do not deal with cases which have been settled by these States involved in accordance with the principles of the Charter of the United Nations, or the Charter of the Organization of African Unity or the provisions of the present Charter.

Article 57

Prior to any substantive consideration, all communications shall be brought to the knowledge of the State concerned by the Chairman of the Commission.

Article 58

1. When it appears after deliberations of the Commission that one or more communications apparently relate to special cases which reveal the existence of a series of serious or massive violations of human and peoples' rights, the Commission shall draw the attention of the Assembly of Heads of State and Government to these special cases.
2. The Assembly of Heads of State and Government may then request the Commission to undertake an in-depth study of these cases and make a factual report, accompanied by its findings and recommendations.
3. A case of emergency duly noticed by the Commission shall be submitted by the latter to the Chairman of the Assembly of Heads of State and Government who may request an in-depth study.

Article 59

1. All measures taken within the provisions of the present Charter shall remain confidential until such a time as the Assembly of Heads of State and Government shall otherwise decide.
2. However, the report shall be published by the Chairman of the Commission upon the decision of the Assembly of Heads of State and Government.
3. The report on the activities of the Commission shall be published by its Chairman after it has been considered by the Assembly of Heads of State and Government.

Chapter IV Applicable Principles

Article 60

The Commission shall draw inspiration from international law on human and peoples' rights, particularly from the provisions of various African instruments on human and peoples' rights, the Charter of the United Nations, the Charter of the Organization of African Unity, the Universal Declaration of Human Rights, other instruments adopted by the United Nations and by African countries in the field of human and peoples' rights as well as from the provisions of various instruments adopted within the specialized agencies of the United Nations of which the Parties to the present Charter are members.

Article 61

VI. HUMAN AND PEOPLES' RIGHTS

The Commission shall also take into consideration, as subsidiary measures to determine the principles of law, other general or special international conventions, laying down rules expressly recognized by Member States of the Organization of African Unity, African practices consistent with international norms on human and people's rights, customs generally accepted as law, general principles of law recognized by African States as well as legal precedents and doctrine.

Article 62

Each State Party shall undertake to submit every two years, from the date the present Charter comes into force, a report on the legislative or other measures taken with a view to giving effect to the rights and freedoms recognized and guaranteed by the present Charter.

Article 63

1. The present Charter shall be open to signature, ratification or adherence of the Member States of the Organization of African Unity.
2. The instruments of ratification or adherence to the present Charter shall be deposited with the Secretary-General of the Organization of African Unity.
3. The present Charter shall come into force three months after the reception by the Secretary-General of the instruments of ratification or adherence of a simple majority of the Member States of the Organization of African Unity.

Part III General Provisions

Article 64

1. After the coming into force of the present Charter, members of the Commission shall be elected in accordance with the relevant articles of the present Charter.
2. The Secretary-General of the Organization of African Unity shall convene the first meeting of the Commission at the Headquarters of the Organization within three months of the constitution of the Commission. Thereafter, the Commission shall be convened by its Chairman whenever necessary but at least once a year.

Article 65

For each of the States that will ratify or adhere to the present Charter after its coming into force, the Charter shall take effect three months after the date of the deposit by that State of its instrument of ratification or adherence.

Article 66

Special protocols or agreements may, if necessary, supplement the provisions of the present Charter.

Article 67

The Secretary-General of the Organization of African Unity shall inform Member States of the Organization of the deposit of each instrument of ratification or adherence.

Article 68

3. AFRICAN CHARTER ON THE RIGHTS AND WELFARE OF THE CHILD

The present Charter may be amended if a State Party makes a written request to that effect to the Secretary-General of the Organization of African Unity. The Assembly of Heads of State and Government may only consider the draft amendment after all the States Parties have been duly informed of it and the Commission has given its opinion on it at the request of the sponsoring State. The amendment shall be approved by a simple majority of the States Parties. It shall come into force for each State which has accepted it in accordance with its constitutional procedure three months after the Secretary-General has received notice of the acceptance.

3.

AFRICAN CHARTER ON THE RIGHTS AND WELFARE OF THE CHILD

Adopted in Addis Ababa, Ethiopia, on 11 July 1990.

Entered into force on 29 November 1999.

Amended by Decision Assembly AU/Dec.548 (XXIV) in Addis Ababa, Ethiopia, on 31 January 2015.

Preamble

The African Member States of the Organization of African Unity, Parties to the present Charter entitled "African Charter on the Rights and Welfare of the Child",

Considering that the Charter of the Organization of African Unity recognized the paramountcy of human rights and the African Charter on Human and Peoples' Rights proclaimed and agreed that everyone is entitled to all the rights and freedoms recognized and guaranteed therein, without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status,

Recalling the Declaration on the Rights and Welfare of the African Child (AHG/ST.4 Rev.1) adopted by the Assembly of Heads of State and Government of the Organization of African Unity, at its Sixteenth Ordinary Session in Monrovia, Liberia, from 17 to 20 July 1979, recognized the need to take appropriate measures to promote and protect the rights and welfare of the African child,

Noting with concern that the situation of most African children, remains critical due to the unique factors of their socio-economic, cultural, traditional and developmental circumstances, natural disasters, armed conflicts, exploitation and hunger, and on account of the child's physical and mental immaturity he/she needs special safeguards and care,

Recognizing that the child occupies a unique and privileged position in the African society and that for the full and harmonious development of his personality, the child should grow up in a family environment in an atmosphere of happiness, love and understanding,

Recognizing that the child, due to the needs of his physical and mental development, requires particular care with regard to health, physical, mental, moral and social development, and requires legal protection in conditions of freedom, dignity and security,

Taking into consideration the virtues of their cultural heritage, historical background and the values of the African civilization which should inspire and characterize their reflection on the concept of the rights and welfare of the child,

Considering that the promotion and protection of the rights and welfare of the child also implies the performance of duties on the part of everyone,

Reaffirming adherence to the principles of the rights and welfare of the child contained in the declarations, conventions and other instruments of the Organization of African Unity and the United Nations and, in particular,

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the United Nations Convention on the Rights of the Child and the OAU Heads of State and Government's Declaration on the Rights and Welfare of the African Child,

Have agreed as follows:

Part I Rights and Duties

Chapter One Rights and Welfare of the Child

Article 1 Obligation of States Parties

1. Member States of the Organization of African Unity Parties to the present Charter shall recognize the rights, freedoms and duties enshrined in this Charter and shall undertake the necessary steps, in accordance with their constitutional processes and with the provisions of the present Charter, to adopt such legislative or other measures as may be necessary to give effect to the provisions of this Charter.
2. Nothing in this Charter shall affect any provisions that are more conducive to the realization of the rights and welfare of the child contained in the law of a State Party or in any other international convention or agreement in force in that State.
3. Any custom, tradition, cultural or religious practice that is inconsistent with the rights, duties and obligations contained in the present Charter shall to the extent of such inconsistency be discouraged.

Article 2 Definition of a Child

For the purposes of this Charter, a child means every human being below the age of 18 years.

Article 3 Non-Discrimination

Every child shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in this Charter irrespective of the child's or his/her parents' or legal guardians' race, ethnic group, colour, sex, language, religion, political or other opinion, national and social origin, fortune, birth or other status.

Article 4 Best Interests of the Child

1. In all actions concerning the child undertaken by any person or authority the best interests of the child shall be the primary consideration.
2. In all judicial or administrative proceedings affecting a child who is capable of communicating his/her own views, an opportunity shall be provided for the views of the child to be heard either directly or through an impartial representative as a party to the proceedings, and those views shall be taken into consideration by the relevant authority in accordance with the provisions of appropriate law.

Article 5 Survival and Development

1. Every child has an inherent right to life. This right shall be protected by law.

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2. States Parties to the present Charter shall ensure, to the maximum extent possible, the survival, protection and development of the child.

3. Death sentence shall not be pronounced for crimes committed by children.

Article 6 Name and Nationality

1. Every child shall have the right from his birth to a name.

2. Every child shall be registered immediately after birth.

3. Every child has the right to acquire a nationality.

4. States Parties to the present Charter shall undertake to ensure that their constitutional legislation recognize the principles according to which a child shall acquire the nationality of the State in the territory of which he has been born if, at the time of the child's birth, he is not granted nationality by any other State in accordance with its laws.

Article 7 Freedom of Expression

Every child who is capable of communicating his or her own views shall be assured the rights to express his opinions freely in all matters and to disseminate his opinions subject to such restrictions as are prescribed by laws.

Article 8 Freedom of Association

Every child shall have the right to free association and freedom of peaceful assembly in conformity with the law.

Article 9 Freedom of Thought, Conscience and Religion

1. Every child shall have the right to freedom of thought, conscience and religion.

2. Parents, and where applicable, legal guardians shall have a duty to provide guidance and direction in the exercise of these rights having regard to the evolving capacities, and best interests of the child.

3. States Parties shall respect the duty of parents and, where applicable, legal guardians to provide guidance and direction in the enjoyment of these rights subject to the national laws and policies.

Article 10 Protection of Privacy

No child shall be subject to arbitrary or unlawful interference with his privacy, family home or correspondence, or to the attacks upon his honour or reputation, provided that parents or legal guardians shall have the right to exercise reasonable supervision over the conduct of their children. The child has the right to the protection of the law against such interference or attacks.

Article 11 Education

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1. Every child shall have the right to an education.
2. The education of the child shall be directed to:
 - (a) The promotion and development of the child's personality, talents and mental and physical abilities to their fullest potential;
 - (b) Fostering respect for human rights and fundamental freedoms with particular reference to those set out in the provisions of various African instruments on human and peoples' rights and international human rights declarations and conventions;
 - (c) The preservation and strengthening of positive African morals, traditional values and cultures;
 - (d) The preparation of the child for responsible life in a free society, in the spirit of understanding tolerance, dialogue, mutual respect and friendship among all peoples, ethnic, tribal and religious groups;
 - (e) The preservation of national independence and territorial integrity;
 - (f) The promotion and achievement of African unity and solidarity;
 - (g) The development of respect for the environment and natural resources;
 - (h) The promotion of the child's understanding of primary health care.
3. States Parties to the present Charter shall take all appropriate measures with a view to achieving the full realization of this right and shall in particular:
 - (a) Provide free and compulsory basic education;
 - (b) Encourage the development of secondary education in its different forms and progressively make it free and accessible to all;
 - (c) Make the higher education accessible to all on the basis of capacity and ability by every appropriate means;
 - (d) Take measures to encourage regular attendance at schools and the reduction of dropout rates;
 - (e) Take special measures in respect of female, gifted and disadvantaged children, to ensure equal access to education for all sections of the community.
4. States Parties to the present Charter shall respect the rights and duties of parents and, where applicable, of legal guardians to choose for their children schools, other than those established by public authorities, which conform to such minimum standards as may be approved by the State, to ensure the religious and moral education of the child in a manner consistent with the evolving capacities of the child.
5. States Parties to the present Charter shall take all appropriate measures to ensure that a child who is subjected to school or parental discipline shall be treated with humanity and with respect for the inherent dignity of the child and in conformity with the present Charter.
6. States Parties to the present Charter shall have all appropriate measures to ensure that children who become pregnant before completing their education shall have an opportunity to continue with their education on the basis of their individual ability.

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7. No part of this article shall be construed as to interfere with the liberty of individuals and bodies to establish and direct educational institutions subject to the observance of the principles set out in paragraph 1 of this article and the requirement that the education given in such institutions shall conform to such minimum standards as may be laid down by the States.

Article 12

Leisure, Recreation and Cultural Activities

1. States Parties recognize the right of the child to rest and leisure, to engage in play and recreational activities appropriate to the age of the child and to participate freely in cultural life and the arts.

2. States Parties shall respect and promote the right of the child to fully participate in cultural and artistic life and shall encourage the provision of appropriate and equal opportunities for cultural, artistic, recreational and leisure activity.

Article 13

Handicapped Children

1. Every child who is mentally or physically disabled shall have the right to special measures of protection in keeping with his physical and moral needs and under conditions which ensure his dignity, promote his self-reliance and active participation in the community.

2. States Parties to the present Charter shall ensure, subject to available resources, to a disabled child and to those responsible for his care, assistance for which application is made and which is appropriate to the child's condition and in particular shall ensure that the disabled child has effective access to training, preparation for employment and recreation opportunities in a manner conducive to the child achieving the fullest possible social integration, individual development and his cultural and moral development.

3. The States Parties to the present Charter shall use their available resources with a view to achieving progressively the full convenience of the mentally and physically disabled person to movement and access to public highway buildings and other places to which the disabled may legitimately want to have access to.

Article 14

Health and Health Services

1. Every child shall have the right to enjoy the best attainable state of physical, mental and spiritual health.

2. States Parties to the present Charter shall undertake to pursue the full implementation of this right and in particular shall take measures:

- (a) To reduce infant and child mortality rate;
- (b) To ensure the provision of necessary medical assistance and health care to all children with emphasis on the development of primary health care;
- (c) To ensure the provision of adequate nutrition and safe drinking water;
- (d) To combat disease and malnutrition within the framework of primary health care through the application of appropriate technology;
- (e) To ensure appropriate health care for expectant and nursing mothers;
- (f) To develop preventive health care and family life education and provision of service;

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- (g) To integrate basic health service programmes in national development plans;
- (h) To ensure that all sectors of the society, in particular, parents, children, community leaders and community workers are informed and supported in the use of basic knowledge of child health and nutrition, the advantages of breastfeeding, hygiene and environmental sanitation and the prevention of domestic and other accidents;
- (i) To ensure the meaningful participation of non-governmental organizations, local communities and the beneficiary population in the planning and management of a basic service programme for children;
- (j) To support through technical and financial means, the mobilization of local community resources in the development of primary health care for children.

Article 15 Child Labour

1. Every child shall be protected from all forms of economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's physical, mental, spiritual, moral, or social development.
2. States Parties to the present Charter shall take all appropriate legislative and administrative measures to ensure the full implementation of this article which covers both the formal and informal sectors of employment and having regard to the relevant provisions of the International Labour Organization's instruments relating to children, States Parties shall in particular:
 - (a) Provide through legislation, minimum wages for admission to every employment;
 - (b) Provide for appropriate regulation of hours and conditions of employment;
 - (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of this article;
 - (d) Promote the dissemination of information on the hazards of child labour to all sectors of the community.

Article 16 Protection Against Child Abuse and Torture

1. States Parties to the present Charter shall take specific legislative, administrative, social and educational measures to protect the child from all forms of torture, inhuman or degrading treatment and especially physical or mental injury or abuse, neglect or maltreatment including sexual abuse, while in the care of the child.
2. Protective measures under this article shall include effective procedures for the establishment of special monitoring units to provide necessary support for the child and for those who have the care of the child, as well as other forms of prevention and for identification, reporting, referral, investigation, treatment, and follow-up of instances of child abuse and neglect.

Article 17 Administration of Juvenile Justice

1. Every child accused or found guilty of having infringed penal law shall have the right to special treatment in a manner consistent with the child's sense of dignity and worth and which reinforces the child's respect for human rights and fundamental freedoms of others.
2. States Parties to the present Charter shall in particular:

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- (a) Ensure that no child who is detained or imprisoned or otherwise deprived of his/her liberty is subjected to torture, inhuman or degrading treatment or punishment;
 - (b) Ensure that children are separated from adults in their place of detention or imprisonment;
 - (c) Ensure that every child accused of infringing the penal law:
 - (i) Shall be presumed innocent until duly recognized guilty;
 - (ii) Shall be informed promptly in a language that he understands and in detail of the charge against him, and shall be entitled to the assistance of an interpreter if he or she cannot understand the language used;
 - (iii) Shall be afforded legal and other appropriate assistance in the preparation and presentation of his defence;
 - (iv) Shall have the matter determined as speedily as possible by an impartial tribunal and, if found guilty, be entitled to an appeal by a higher tribunal;
 - (d) Prohibit the press and the public from trial.
3. The essential aim of treatment of every child during the trial and also if found guilty of infringing the penal law shall be his or her reformation, reintegration into his or her family and social rehabilitation.
4. There shall be a minimum age below which children shall be presumed not to have the capacity to infringe the penal law.

Article 18 Protection of the Family

- 1. The family shall be the natural unit and basis of society. It shall enjoy the protection and support of the State for its establishment and development.
- 2. States Parties to the present Charter shall take appropriate steps to ensure equality of rights and responsibilities of spouses with regard to children during marriage and in the event of its dissolution. In case of the dissolution, provision shall be made for the necessary protection of the child.
- 3. No child shall be deprived of maintenance by reference to the parents' marital status.

Article 19 Parental Care and Protection

- 1. Every child shall be entitled to the enjoyment of parental care and protection and shall, whenever possible, have the right to reside with his or her parents. No child shall be separated from his parents against his will, except when a judicial authority determines in accordance with the appropriate law, that such separation is in the best interest of the child.
- 2. Every child who is separated from one or both parents shall have the right to maintain personal relations and direct contact with both parents on a regular basis.
- 3. Where separation results from the action of a State Party, the State Party shall provide the child, or if appropriate, another member of the family with essential information concerning the whereabouts of the absent member or members of the family. States Parties shall also ensure that the submission of such a request shall not entail any adverse consequences for the person or persons in whose respect it is made.

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4. Where a child is apprehended by a State Party, his parents or guardians shall, as soon as possible, be notified of such apprehension by that State Party.

Article 20 Parental Responsibilities

1. Parents or other persons responsible for the child shall have the primary responsibility of the upbringing and development the child and shall have the duty:
 - (a) To ensure that the best interests of the child are their basic concern at all times;
 - (b) To secure, within their abilities and financial capacities, conditions of living necessary to the child's development; and
 - (c) To ensure that domestic discipline is administered with humanity and in a manner consistent with the inherent dignity of the child.
2. States Parties to the present Charter shall in accordance with their means and national conditions take all appropriate measures:
 - (a) To assist parents and other persons responsible for the child and in case of need provide material assistance and support programmes particularly with regard to nutrition, health, education, clothing and housing;
 - (b) To assist parents and others responsible for the child in the performance of child-rearing and ensure the development of institutions responsible for providing care of children; and
 - (c) To ensure that the children of working parents are provided with care services and facilities.

Article 21 Protection against Harmful Social and Cultural Practices

1. States Parties to the present Charter shall take all appropriate measures to eliminate harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child and in particular:
 - (a) Those customs and practices prejudicial to the health or life of the child; and
 - (b) Those customs and practices discriminatory to the child on the grounds of sex or other status.
2. Child marriage and the betrothal of girls and boys shall be prohibited and effective action, including legislation, shall be taken to specify the minimum age of marriage to be 18 years and make registration of all marriages in an official registry compulsory.

Article 22 Armed Conflicts

1. States Parties to this Charter shall undertake to respect and ensure respect for rules of international humanitarian law applicable in armed conflicts which affect the child.
2. States Parties to the present Charter shall take all necessary measures to ensure that no child shall take a direct part in hostilities and refrain, in particular, from recruiting any child.

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3. States Parties to the present Charter shall, in accordance with their obligations under international humanitarian law, protect the civilian population in armed conflicts and shall take all feasible measures to ensure the protection and care of children who are affected by armed conflicts. Such rules shall also apply to children in situations of internal armed conflicts, tension and strife.

Article 23 Refugee Children

1. States Parties to the present Charter shall take all appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law shall, whether unaccompanied or accompanied by parents, legal guardians or close relatives, receive appropriate protection and humanitarian assistance in the enjoyment of the rights set out in this Charter and other international human rights and humanitarian instruments to which the States are Parties.

2. States Parties shall undertake to cooperate with existing international organizations which protect and assist refugees in their efforts to protect and assist such a child and to trace the parents or other close relatives or an unaccompanied refugee child in order to obtain information necessary for reunification with the family.

3. Where no parents, legal guardians or close relatives can be found, the child shall be accorded the same protection as any other child permanently or temporarily deprived of his family environment for any reason.

4. The provisions of this article apply *mutatis mutandis* to internally displaced children whether through natural disaster, internal armed conflicts, civil strife, breakdown of economic and social order or howsoever caused.

Article 24 Adoption

States Parties, which recognize the system of adoption, shall ensure that the best interest of the child shall be the paramount consideration and they shall:

(a) Establish competent authorities to determine matters of adoption and ensure that the adoption is carried out in conformity with applicable laws and procedures and on the basis of all relevant and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and guardians and that, if necessary, the appropriate persons concerned have given their informed consent to the adoption on the basis of appropriate counselling;

(b) Recognize that intercountry adoption in those States who have ratified or adhered to the International Convention on the Rights of the Child or this Charter, may, as the last resort, be considered as an alternative means of a child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;

(c) Ensure that the child affected by intercountry adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;

(d) Take all appropriate measures to ensure that in intercountry adoption, the placement does not result in trafficking or improper financial gain for those who try to adopt a child;

(e) Promote, where appropriate, the objectives of this article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework to ensure that the placement of the child in another country is carried out by competent authorities or organs;

(f) Establish a machinery to monitor the well-being of the adopted child.

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Article 25 Separation from Parents

1. Any child who is permanently or temporarily deprived of his family environment for any reason shall be entitled to special protection and assistance.
2. States Parties to the present Charter:
 - (a) Shall ensure that a child who is parentless, or who is temporarily or permanently deprived of his or her family environment, or who in his or her best interest cannot be brought up or allowed to remain in that environment shall be provided with alternative family care, which could include, among others, foster placement, or placement in suitable institutions for the care of children;
 - (b) Shall take all necessary measures to trace and reunite children with parents or relatives where separation is caused by internal and external displacement arising from armed conflicts or natural disasters.
3. When considering alternative family care of the child and the best interests of the child, due regard shall be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious or linguistic background.

Article 26 Protection Against Apartheid and Discrimination

1. States Parties to the present Charter shall individually and collectively undertake to accord the highest priority to the special needs of children living under apartheid and in States subject to military destabilization by the apartheid regime.
2. States Parties to the present Charter shall individually and collectively undertake to accord the highest priority to the special needs of children living under regimes practising racial, ethnic, religious or other forms of discrimination as well as in States subject to military destabilization.
3. States Parties shall undertake to provide, whenever possible, material assistance to such children and to direct their efforts towards the elimination of all forms of discrimination and apartheid on the African continent.

Article 27 Sexual Exploitation

1. States Parties to the present Charter shall undertake to protect the child from all forms of sexual exploitation and sexual abuse and shall, in particular, take measures to prevent:
 - (a) The inducement, coercion or encouragement of a child to engage in any sexual activity;
 - (b) The use of children in prostitution or other sexual practices;
 - (c) The use of children in pornographic activities, performances and materials.

Article 28 Drug Abuse

States Parties to the present Charter shall take all appropriate measures to protect the child from the use of narcotics and illicit use of psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the production and trafficking of such substances.

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Article 29 Sale, Trafficking and Abduction

States Parties to the present Charter shall take appropriate measures to prevent:

- (a) The abduction, the sale of or traffic in children for any purpose or in any form, by any person including parents or legal guardians of the child;
- (b) The use of children in all forms of begging.

Article 30 Children of Imprisoned Mothers

1. States Parties to the present Charter shall undertake to provide special treatment to expectant mothers and to mothers of infants and young children who have been accused or found guilty of infringing the penal law and shall, in particular:

- (a) Ensure that a non-custodial sentence will always be first considered when sentencing such mothers;
- (b) Establish and promote measures alternative to institutional confinement for the treatment of such mothers;
- (c) Establish special alternative institutions for holding such mothers;
- (d) Ensure that a mother shall not be imprisoned with her child;
- (e) Ensure that a death sentence shall not be imposed on such mothers;
- (f) Ensure that the essential aim of the penitentiary system will be the reformation, the integration of the mother to the family and social rehabilitation.

Article 31 Responsibility of the Child

Every child shall have responsibilities towards his family and society, the State and other legally recognized communities and the international community. The child, subject to his age and ability, and such limitations as may be contained in the present Charter, shall have the duty:

- (a) To work for the cohesion of the family, to respect his parents, superiors and elders at all times and to assist them in case of need;
- (b) To serve his national community by placing his physical and intellectual abilities at its service;
- (c) To preserve and strengthen social and national solidarity;
- (d) To preserve and strengthen African cultural values in his relations with other members of the society, in the spirit of tolerance, dialogue and consultation and to contribute to the moral well-being of society;
- (e) To preserve and strengthen the independence and the integrity of his country;
- (f) To contribute to the best of his abilities, at all times and at all levels, to the promotion and achievement of African unity.

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Part II

Chapter Two Establishment and Organization of the Committee on the Rights and Welfare of the Child

Article 32 The Committee

An African Committee of Experts on the Rights and Welfare of the Child (hereinafter referred to as "the Committee") shall be established within the Organization of African Unity to promote and protect the rights and welfare of the child.

Article 33 Composition

1. The Committee shall consist of 11 members of high moral standing, integrity, impartiality and competence in matters of the rights and welfare of the child.
2. The members of the Committee shall serve in their personal capacity.
3. The Committee shall not include more than one national of the same State.

Article 34 Election

As soon as this Charter shall enter into force, the members of the Committee shall be elected by secret ballot by the Assembly of Heads of State and Government from a list of persons nominated by the States Parties to the present Charter.

Article 35 Candidates

Each State Party to the present Charter may nominate not more than two candidates. The candidates must have one of the nationalities of the States Parties to the present Charter. When two candidates are nominated by a State, one of them shall not be a national of that State.

Article 36

1. The Secretary-General of the Organization of African Unity shall invite States Parties to the present Charter to nominate candidates at least six months before the elections.
2. The Secretary-General of the Organization of African Unity shall draw up, in alphabetical order, a list of persons nominated and communicate it to the Heads of State and Government at least two months before the elections.

Article 37 Term of Office

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1. The members of the Committee shall be elected for a term of five years and may be re-elected only once. However, the term of four of the members elected at the first election shall expire after two years and the term of six others, after four years.*
2. Immediately after the first election, the Chairman of the Assembly of Heads of State and Government of the Organization of African Unity shall draw lots to determine the names of those members referred to in paragraph 1 of this article.
3. The Secretary-General of the Organization of African Unity shall convene the first meeting of Committee at the Headquarters of the Organization within six months of the election of the members of the Committee, and thereafter the Committee shall be convened by its Chairman whenever necessary, at least once a year.

Article 38 Bureau

1. The Committee shall establish its own Rules of Procedure.
2. The Committee shall elect its officers for a period of two years.
3. Seven Committee members shall form the quorum.
4. In case of an equality of votes, the Chairman shall have a casting vote.
5. The working languages of the Committee shall be the official languages of the OAU.

Article 39 Vacancy

If a member of the Committee vacates his office for any reason other than the normal expiration of a term, the State which nominated that member shall appoint another member from among its nationals to serve for the remainder of the term -- subject to the approval of the Assembly.

Article 40 Secretariat

The Secretary-General of the Organization of African Unity shall appoint a Secretary for the Committee.

Article 41 Privileges and Immunities

In discharging their duties, members of the Committee shall enjoy the privileges and immunities provided for in the General Convention on the Privileges and Immunities of the Organization of African Unity.

Chapter Three Mandate and Procedure of the Committee

Article 42 Mandate

The functions of the Committee shall be:

* Editor's note: This paragraph was amended by Decision Assembly AU/Dec.548 (XXIV) in 2015.

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- (a) To promote and protect the rights enshrined in this Charter and in particular to:
 - (i) Collect and document information, commission interdisciplinary assessment of situations on African problems in the fields of the rights and welfare of the child, organize meetings, encourage national and local institutions concerned with the rights and welfare of the child, and, where necessary, give its views and make recommendations to Governments;
 - (ii) Formulate and lay down principles and rules aimed at protecting the rights and welfare of children in Africa;
 - (iii) Cooperate with other African, international and regional institutions and organizations concerned with the promotion and protection of the rights and welfare of the child;
- (b) To monitor the implementation and ensure protection of the rights enshrined in this Charter;
- (c) To interpret the provisions of the present Charter at the request of a State Party, an institution of the Organization of African Unity or any other person or institution recognized by the Organization of African Unity, or any State Party;
- (d) Perform such other task as may be entrusted to it by the Assembly of Heads of State and Government, the Secretary-General of the OAU and any other organs of the OAU or the United Nations.

Article 43 Reporting Procedure

1. Every State Party to the present Charter shall undertake to submit to the Committee through the Secretary-General of the Organization of African Unity, reports on the measures they have adopted which give effect to the provisions of this Charter and on the progress made in the enjoyment of these rights:
 - (a) Within two years of the entry into force of the Charter for the State Party concerned; and
 - (b) Thereafter, every three years.
2. Every report made under this article shall:
 - (a) Contain sufficient information on the implementation of the present Charter to provide the Committee with a comprehensive understanding of the implementation of the Charter in the relevant country; and
 - (b) Shall indicate factors and difficulties, if any, affecting the fulfilment of the obligations contained in the Charter.
3. A State Party which has submitted a comprehensive first report to the Committee need not, in its subsequent reports submitted in accordance with paragraph 1 (a) of this article, repeat the basic information previously provided.

Article 44 Communications

1. The Committee may receive communications from any person, group or non-governmental organization recognized by the Organization of African Unity, by a Member State, or the United Nations relating to any matter covered by this Charter.

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2. Every communication to the Committee shall contain the name and address of the author and shall be treated in confidence.

Article 45

Investigations by the Committee

1. The Committee may resort to any appropriate method of investigating any matter falling within the ambit of the present Charter, request from the States Parties any information relevant to the implementation of the Charter and may also resort to any appropriate method of investigating the measures the State Party has adopted to implement the Charter.
2. The Committee shall submit to each ordinary session of the Assembly of Heads of State and Government, every two years, a report on its activities and on any communication made under Article 44 of this Charter.
3. The Committee shall publish its report after it has been considered by the Assembly of Heads of State and Government.
4. States Parties shall make the Committee's reports widely available to the public in their own countries.

Chapter Four

Miscellaneous Provisions

Article 46

Sources of Inspiration

The Committee shall draw inspiration from international law on human rights, particularly from the provisions of the African Charter on Human and Peoples' Rights, the Charter of the Organization of African Unity, the Universal Declaration on Human Rights, the International Convention on the Rights of the Child, and other instruments adopted by the United Nations and by African countries in the field of human rights, and from African values and traditions.

Article 47

Signature, Ratification or Adherence

1. The present Charter shall be open to signature by all the Member States of the Organization of African Unity.
2. The present Charter shall be subject to ratification or adherence by Member States of the Organization of African Unity. The instruments of ratification or adherence to the present Charter shall be deposited with the Secretary-General of the Organization of African Unity.
3. The present Charter shall come into force 30 days after the reception by the Secretary-General of the Organization of African Unity of the instruments of ratification or adherence of 15 Member States of the Organization of African Unity.

Article 48

Amendment and Revision of the Charter

1. The present Charter may be amended or revised if any State Party makes a written request to that effect to the Secretary-General of the Organization of African Unity, provided that the proposed amendment is not submitted to the Assembly of Heads of State and Government for consideration until all the States Parties have been duly notified of it and the Committee has given its opinion on the amendment.

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2. An amendment shall be approved by a simple majority of the States Parties.

4.

DAKAR DECLARATION (Document E/CN.6/1995/5/Add.2)

Adopted in Dakar, Senegal, in September 1994.

We, the Ministers and representatives of African Governments participating at the Fifth African Regional Conference on Women held in Dakar, Senegal, from 16 to 23 November 1994, for consideration and adoption of the African Platform for Action, in preparation for the Fourth World Conference on Women to be held in Beijing from 4 to 15 September 1995,

Having reviewed and appraised the regional implementation of the Nairobi Forward-looking Strategies for the Advancement of Women to the year 2000,

Appreciative of the fact that there has been an overall sensitization of African leaders, policy makers, development agencies and women regarding the need to incorporate a gender perspective in all activities of the development process,

Conscious that in spite of the progress made, obstacles still remain in the implementation of the Nairobi Forward-looking Strategies,

Reaffirming our commitment to the realization of the Nairobi Forward-looking Strategies for the promotion and advancement of women through accelerated action for equality, development and peace,

Realizing that equality is not only the absence of discrimination but also the equal enjoyment of rights, responsibilities and opportunities by women and men,

Recognizing that there can be no equality and development without peace and that peace can only be achieved with the full involvement of women as equal partners with men at all levels of decision-making, diplomacy and mechanisms for peace and conflict resolution and reconciliation,

Aware that since the adoption of the Nairobi Forward-looking Strategies, some African countries have undergone a series of crises which combined with several other internal and external factors to impede the effective implementation of the Nairobi Forward-looking Strategies, especially political instability related, in particular, to religious extremism, lack of resolute political will and commitment, lack of resources, poor economic performance due to unfavourable terms of trade and ineffective policies, effects of structural adjustment programmes and heavy debt burden, frequent natural disasters such as droughts and famines and the absence of women in decision-making levels, impeded effective implementation of the Nairobi Forward-looking Strategies,

Recalling the "Abuja Declaration on Participatory Development: The Role of Women in Africa in the 1990s" which assessed the current situation of women in Africa within the context of the Nairobi Forward-looking Strategies and which noted that the condition of African women has in most cases deteriorated particularly in the field of higher and technical education, health, employment, decision-making and economic empowerment,

Recognizing the crucial roles that women play in the critical areas that enhance their advancement particularly in culture, the family and in the socialization process; ensuring their reproductive rights and improving their health status; in the protection and management of the environment and natural resources; in the quest for peace and in conflict prevention, resolution and management; in their political empowerment and in the realization of their legal and human rights particularly women with special needs,

4. DAKAR DECLARATION
5. KIGALI DECLARATION

Determined to implement recommendations for the accelerated advancement of women and the girl child emanating from recent world conferences, inter alia, the World Conference on Children, the United Nations Conference on Environment and Development, the World Conference on Human Rights and the International Conference on Population and Development,

Aware of the recent major political changes in Africa, particularly the dismantling of apartheid in South Africa as well as other processes of democratization taking place on the continent,

Aware also of the fact that African women have become more active participants in the development process in various capacities,

Determined to support women fully so that they can contribute to and participate more effectively in all the political and economic changes now taking place in Africa,

1. *Declare* our commitment to forge a new ethic for sustainable development based on the equal and active participation of women, men and youth as agents of change at the family, community, national and international levels;
2. *Commit* ourselves to integrating women's concerns in:
 - (a) Balancing political, economic, cultural and social policy options;
 - (b) Harmonizing and reconciling economic growth with social equity;
 - (c) Emphasizing the interdependence and partnership of women, men and youth of Africa, in an atmosphere of peace and well-being;
3. *Recognize* that women have great potential which if mobilized and harnessed will make it possible to overcome the obstacles which have impeded the full and effective implementation of the Nairobi Forward-looking Strategies since 1985;
4. *Uphold* the fact that the African Platform for Action is the outcome of a regional country-based review of the progress of the implementation of the Nairobi Forward-looking Strategies, and broad consultations at the national, subregional and regional levels, with inputs from grass-roots communities;
5. *Recognize* that the African Platform for Action provides the African Common Position on the advancement of women, as well as a framework for committed and concerted action at the regional, subregional and national levels for the accelerated achievement of the objectives of the Nairobi Forward-looking Strategies during the rest of the 1990s and into the twenty-first century;
6. *Adopt* the African Platform for Action as a renewed commitment by African governments and as a blueprint to further accelerate the implementation of the Nairobi Forward-looking Strategies in line with the Abuja Declaration on Participatory Development: The Role of Women in Africa in the 1990s, the Convention on the Elimination of All Forms of Discrimination against Women, and declarations at the international and regional levels;
7. *Call upon* the United Nations institutions and international development partners and non-governmental organizations to commit themselves to the successful implementation of the African Platform for Action.*

5.

* Editor's note: The African Platform for Action is contained in document E/CN.6/1995/5/Add.2.

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KIGALI DECLARATION

Adopted in Kigali, Rwanda, on 8 May 2003.

The First African Union (AU) Ministerial Conference on Human Rights in Africa meeting on 8 May 2003 in Kigali, Rwanda,

Solemnly adopts this Kigali Declaration,

Reaffirming its commitment to the objectives and principles contained in the Constitutive Act of the African Union, Lomé, Togo 2000, the African Charter on Human and Peoples' Rights, Nairobi, Kenya 1981, the Solemn Declaration of the Conference on Security, Stability, Development and Cooperation in Africa (CSSDCA), Lomé, Togo 2000, the New Partnership for Africa's Development (NEPAD) of the AU, Lusaka, Zambia 2001, the Declaration on the Code of Conduct on Relations between States adopted in Tunis, Tunisia, in June 1994, all relevant AU declarations and decisions as well as the Charter of the United Nations, the Universal Declaration of Human Rights of 1948 and the Vienna Declarations of 1989 and 1993,

Recalling the Grand Bay Declaration and Plan of Action adopted by the OAU Ministerial Conference on Human Rights in Africa held in Grand Bay, Mauritius, from 12 to 16 April 1999, and reaffirming its commitment to the purposes and principles therein,

Reaffirming that respect for human rights is indispensable for the maintenance of national, regional and international peace and security and that it constitutes the fundamental bedrock for sustainable development,

Reaffirming further the principles enshrined in the Constitutive Act of the African Union, in particular, the prohibition of genocide, war crimes and crimes against humanity, and determined to fight the ideology of genocide and all its manifestations,

Recalling the report of the International Panel of Eminent Persons (IPEP) entitled "The Preventable Genocide" endorsed by the Thirty-sixth Ordinary Session of the Assembly of Heads of State and Government of the OAU held in Lomé, Togo, in July 2000 and the decision of the Assembly requesting the Secretary-General to actively pursue the implementation of the recommendations contained in the report,

Deeply concerned by the continuing discrimination against women and girls, as well as harmful traditional practices in some parts of Africa that endanger the life or health of women and children,

Deeply concerned that in spite of the progress made in resolving conflicts on the continent, the continuing armed and civil conflicts in some parts of Africa lead to gross violations of human rights and international humanitarian law, and create massive movements of refugee populations and internally displaced persons,

The Conference:

1. *Reaffirms* the principle that all human rights are universal, indivisible, interdependent and interrelated;
2. *Notes with satisfaction* the achievements made by Member States in the promotion and protection of human and peoples' rights, especially since the adoption of the Grand Bay Declaration and Plan of Action, and recognizes the need for Member States to build upon these achievements for the benefit and welfare of all African peoples;
3. *Reaffirms* the right to development, and calls upon the international community to support Member States in their continuing efforts to realize this right;

5. KIGALI DECLARATION

4. *Urges* Member States and regional institutions to accord the same importance to economic, social and cultural rights and civil and political rights, and apply, at all levels, a rights-based approach to policy, programme planning, implementation and evaluation;
5. *Calls upon* Member States to guarantee genuine independence, accessibility, affordability and due process of the justice systems on the continent, as a prerequisite to the entrenchment of the rule of law and democracy;
6. *Reiterates* the rejection of impunity and reaffirms the commitment to prosecute those responsible for genocide, war crimes and crimes against humanity, and appeals to all Member States to fully cooperate with and provide political and financial support to the International Criminal Tribunal for Rwanda, particularly, as regards the arrest of suspects/accused, the protection of witnesses/victims, the enforcement of sentences and the compensation of victims and their beneficiaries;
7. *Welcomes* the decision of the Second Ordinary Session of the Executive Council of the AU held in N'Djamena, Chad, in March 2003 that 7 April 2004, the tenth anniversary of the Rwandan Genocide, be commemorated by the AU as a day of remembrance of the victims of genocide in Rwanda, and reaffirmation of Africa's resolve to prevent and fight genocide on the continent;
8. *Reiterates* the recommendation of the Executive Council to the United Nations, the international community at large and civil society to commemorate 7 April as a day of reflection on the Rwandan Genocide and of a renewed commitment to the prevention of genocide in the world;
9. *Expresses its concern* about the scourge of terrorism as a source of serious violations of human rights, particularly the right to life and to security, and urges the Member States to implement the Convention on the Prevention and Combating of Terrorism adopted by the Thirty-fifth Ordinary Session of the Assembly of Heads of State and Government of the OAU held in Algiers, Algeria, in July 1999;
10. *Notes* the important contribution made by the Durban World Conference against Racism, Xenophobia and Related Intolerance and calls on all Member States to strengthen their efforts to combat the scourge of racism, xenophobia and related intolerance and discrimination;
11. *Takes note with satisfaction* of the ongoing efforts to address the plight of refugees, asylum seekers and internally displaced persons, and calls upon Member States to recognize forced displacement as a grave violation of fundamental rights to peace, security and dignity, and to take all necessary measures to address the problem;
12. *Further calls upon* all Member States to implement all the relevant international and African instruments relating to the protection of refugees, internally displaced persons and returnees, and, in particular, to discharge their obligations under the AU Convention Governing the Specific Aspects of Refugee Problems in Africa;
13. *Calls upon* the Member States that have not yet ratified the AU Convention Governing the Specific Aspects of Refugee Problems in Africa and any of the relevant international treaties to do so as soon as possible;
14. *Requests* the relevant organs of the AU, in the exercise of their peacebuilding and conflict resolution functions, to ensure the inclusion of human rights, humanitarian principles and other legal protection measures in peace agreements, in order to facilitate the voluntary repatriation and reintegration of refugees, returnees and former combatants in their countries of origin;
15. *Welcomes* the signing of a Memorandum of Understanding between the African Commission on Human and Peoples' Rights and the United Nations High Commissioner for Refugees (UNHCR), and calls upon the international community and other stakeholders to support the efforts of the African continent to address the problems of refugees, returnees and internally displaced persons in a spirit of international solidarity and burden sharing;

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16. *Notes with great concern* that the rights of women and children in spite of the progress achieved remain insufficiently protected in many African countries, welcomes the progress made towards the adoption of the draft Protocol on the Rights of Women in Africa, and calls upon Member States to take all necessary measures for its early adoption, signature and ratification, and upon coming into force, its timely implementation by States Parties to it;
17. *Calls upon* Member States to fulfill their obligations under international law and, in particular, to take the necessary measures to put an end to the practice of child soldiers and to ensure the protection of civilian populations, particularly children, women, elderly persons and persons with disability in situations of armed conflict;
18. *Calls upon* Member States that have not yet ratified the African Charter on the Rights and Welfare of the Child to do so as soon as possible, and further calls upon the AU policy organs to provide an adequate secretariat and the necessary financial and material resources to the African Committee of Experts on the Rights and Welfare of the Child to enable it carry out its mandate effectively;
19. *Notes also with great concern* the plight of the vulnerable groups, including persons with disability in general, and calls upon Member States to provide adequate support to the African Rehabilitation Institute (ARI) in Harare, Zimbabwe;
20. *Further calls upon* Member States to develop a protocol on the protection of the rights of people with disabilities and the elderly;
21. *Notes also with great concern* the alarming rate at which HIV-AIDS is spreading as well as the persistent prevalence of malaria, tuberculosis and other related infectious diseases in Africa, and urges Member States to take measures to reinforce prevention programmes relating thereto and to promote and protect the rights of people living with HIV/AIDS;
22. *Encourages* Member States to exert more efforts jointly with the international community, particularly the World Health Organization (WHO) to eradicate HIV/AIDS, malaria, tuberculosis and other related infectious diseases which constitute an impediment to the socio-economic development of the continent and an obstacle to the enjoyment of economic, social and cultural rights;
23. *Notes with satisfaction* that the African Charter on Human and Peoples' Rights has been ratified by all Member States, and calls upon the AU policy organs to provide the African Commission with suitable headquarters, an appropriate structure and adequate human and financial resources for its proper functioning, including the establishment of a fund to be financed through voluntary contributions from Member States, international and regional institutions;
24. *Calls upon* the AU policy organs to review the operation and composition of the African Commission on Human and Peoples' Rights with a view to strengthening its independence and operational integrity and ensuring appropriate gender representation and to report on the progress made to the appropriate AU organs as soon as possible;
25. *Urges* Member States which have not yet done so to incorporate in their domestic legislation, provisions of the African Charter on Human and Peoples' Rights, its protocols, international humanitarian law, in particular, the Four Geneva Convention (1949) and their Additional Protocols (1977) and other major international human rights instruments, which they have ratified, and to honour their obligations thereon, including reporting, where applicable;
26. *Notes with concern* that the Protocol to the African Charter on the Establishment of an African Court on Human and Peoples' Rights which requires fifteen (15) ratifications to come into force, has been ratified by nine (9)

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Member States only, and, therefore, appeals to those Member States that have not yet done so, to sign and/or ratify the Protocol to enable it to come into force by July 2003 as required by Dec. AHG/Dec.171 (XXXVIII);

27. *Reiterates* that the primary responsibility for the promotion and protection of human rights rests with Member States and, therefore, urges those Member States which have not yet done so, to establish independent national human rights institutions, provide them with adequate financial and other resources for their proper functioning, and guarantee their independence;

28. *Recognizes* the important role of civil society organizations (CSOs) in general and human rights defenders, in particular, in the promotion and protection of human rights in Africa, calls upon Member States and regional institutions to protect them and encourage the participation of CSOs in decision-making processes with the aim of consolidating participatory democracy and sustainable development, and underscores the need for CSOs to be independent and transparent;

29. *Recognizes* the media as important vehicles for the realization of the right to information, and therefore, urges Member States to guarantee, through appropriate legislative and policy measures, a free and independent press;

30. *Mindful* of the fact that the legal norms contained in the international and regional human rights conventions and the establishment of human rights protection and promotion mechanisms cannot by themselves guarantee entrenchment of the principles of human rights and their observance by all, and appeals to Member States to make the teaching of human rights a permanent feature in their school curricula, especially for law enforcement agents. To this end, it calls upon Member States to step up their efforts with a view to a better and wider dissemination of the human rights culture, and urges them to popularize the international and regional conventions;

31. *Calls for* African solidarity with the peoples whose fundamental rights are grossly violated;

32. *Welcomes* the creation by the AU Assembly in Durban, South Africa, in July 2002, of a portfolio within the AU Commission responsible for the issues of democracy, human rights, governance and civil society that would contribute to spearheading efforts aimed at promoting human rights on the continent;

33. *Recognizes* that implementation, monitoring and evaluation are critical to the effective realization of the Grand Bay Declaration and this Declaration, requests the Chairperson of the AU Commission to coordinate the follow up of the implementation of these declarations and urges Members States to submit reports on implementation to the AU Commission;

34. *Expresses its satisfaction* at the holding of this Conference, requests the Chairperson of the AU Commission to submit a report to the next ordinary session of the Executive Council on the outcome of this Conference, and recommends that the Ministerial Conference on Human Rights be held at intervals of not more than four years.

6.

PROTOCOL TO THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS ON THE RIGHTS OF WOMEN IN AFRICA

Adopted in Maputo, Mozambique, on 11 July 2003.

Entered into force on 25 November 2005.

The States Parties to this Protocol,

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Considering that Article 66 of the African Charter on Human and Peoples' Rights provides for special protocols or agreements, if necessary, to supplement the provisions of the African Charter, and that the Assembly of Heads of State and Government of the Organization of African Unity meeting at its Thirty-first Ordinary Session in Addis Ababa, Ethiopia, in June 1995, endorsed by Resolution AHG/Res.240 (XXXI) the recommendation of the African Commission on Human and Peoples' Rights to elaborate a Protocol on the Rights of Women in Africa,

Considering that Article 2 of the African Charter on Human and Peoples' Rights enshrines the principle of non-discrimination on the grounds of race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status,

Further considering that Article 18 of the African Charter on Human and Peoples' Rights calls on all States Parties to eliminate every discrimination against women and to ensure the protection of the rights of women as stipulated in international declarations and conventions,

Noting that Articles 60 and 61 of the African Charter on Human and Peoples' Rights recognize regional and international human rights instruments and African practices consistent with international norms on human and peoples' rights as being important reference points for the application and interpretation of the African Charter,

Recalling that women's rights have been recognized and guaranteed in all international human rights instruments, notably the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination Against Women and its Optional Protocol, the African Charter on the Rights and Welfare of the Child, and all other international and regional conventions and covenants relating to the rights of women as being inalienable, interdependent and indivisible human rights,

Noting that women's rights and women's essential role in development, have been reaffirmed in the United Nations Plans of Action on the Environment and Development in 1992, on Human Rights in 1993, on Population and Development in 1994 and on Social Development in 1995,

Recalling also United Nations Security Council resolution 1325 (2000) on the role of women in promoting peace and security,

Reaffirming the principle of promoting gender equality as enshrined in the Constitutive Act of the African Union as well as the New Partnership for Africa's Development, relevant declarations, resolutions and decisions, which underline the commitment of the African States to ensure the full participation of African women as equal partners in Africa's development,

Further noting that the African Platform for Action and the Dakar Declaration of 1994 and the Beijing Platform for Action of 1995 call on all Member States of the United Nations, which have made a solemn commitment to implement them, to take concrete steps to give greater attention to the human rights of women in order to eliminate all forms of discrimination and of gender-based violence against women,

Recognizing the crucial role of women in the preservation of African values based on the principles of equality, peace, freedom, dignity, justice, solidarity and democracy,

Bearing in mind related resolutions, declarations, recommendations, decisions, conventions and other regional and subregional instruments aimed at eliminating all forms of discrimination and at promoting equality between women and men,

Concerned that despite the ratification of the African Charter on Human and Peoples' Rights and other international human rights instruments by the majority of States Parties, and their solemn commitment to eliminate all forms of discrimination and harmful practices against women, women in Africa still continue to be victims of discrimination and harmful practices,

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Firmly convinced that any practice that hinders or endangers the normal growth and affects the physical and psychological development of women and girls should be condemned and eliminated,

Determined to ensure that the rights of women are promoted, realized and protected in order to enable them to enjoy fully all their human rights,

Have agreed as follows:

Article 1 Definitions

For the purpose of the present Protocol:

- (a) "African Charter" means the African Charter on Human and Peoples' Rights;
- (b) "African Commission" means the African Commission on Human and Peoples' Rights;
- (c) "Assembly" means the Assembly of Heads of State and Government of the African Union;
- (d) "AU" means the African Union;
- (e) "Constitutive Act" means the Constitutive Act of the African Union;
- (f) "Discrimination against women" means any distinction, exclusion or restriction or any differential treatment based on sex and whose objectives or effects compromise or destroy the recognition, enjoyment or the exercise by women, regardless of their marital status, of human rights and fundamental freedoms in all spheres of life;
- (g) "Harmful practices" means all behaviour, attitudes and/or practices which negatively affect the fundamental rights of women and girls, such as their right to life, health, dignity, education and physical integrity;
- (h) "NEPAD" means the New Partnership for Africa's Development established by the Assembly;
- (i) "States Parties" means the States Parties to this Protocol;
- (j) "Violence against women" means all acts perpetrated against women which cause or could cause them physical, sexual, psychological, and economic harm, including the threat to take such acts; or to undertake the imposition of arbitrary restrictions on or deprivation of fundamental freedoms in private or public life in peacetime and during situations of armed conflicts or of war;
- (k) "Women" means persons of female gender, including girls.

Article 2 Elimination of Discrimination Against Women

1. States Parties shall combat all forms of discrimination against women through appropriate legislative, institutional and other measures. In this regard they shall:

- (a) Include in their national constitutions and other legislative instruments, if not already done, the principle of equality between women and men and ensure its effective application;

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- (b) Enact and effectively implement appropriate legislative or regulatory measures, including those prohibiting and curbing all forms of discrimination particularly those harmful practices which endanger the health and general well-being of women;
- (c) Integrate a gender perspective in their policy decisions, legislation, development plans, programmes and activities and in all other spheres of life;
- (d) Take corrective and positive action in those areas where discrimination against women in law and in fact continues to exist;
- (e) Support the local, national, regional and continental initiatives directed at eradicating all forms of discrimination against women.

2. States Parties shall commit themselves to modify the social and cultural patterns of conduct of women and men through public education, information, education and communication strategies, with a view to achieving the elimination of harmful cultural and traditional practices and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes, or on stereotyped roles for women and men.

Article 3 Right to Dignity

- 1. Every woman shall have the right to dignity inherent in a human being and to the recognition and protection of her human and legal rights.
- 2. Every woman shall have the right to respect as a person and to the free development of her personality.
- 3. States Parties shall adopt and implement appropriate measures to prohibit any exploitation or degradation of women.
- 4. States Parties shall adopt and implement appropriate measures to ensure the protection of every woman's right to respect for her dignity and protection of women from all forms of violence, particularly sexual and verbal violence.

Article 4 The Rights to Life, Integrity and Security of the Person

- 1. Every woman shall be entitled to respect for her life and the integrity and security of her person. All forms of exploitation, cruel, inhuman or degrading punishment and treatment shall be prohibited.
- 2. States Parties shall take appropriate and effective measures to:
 - (a) Enact and enforce laws to prohibit all forms of violence against women including unwanted or forced sex whether the violence takes place in private or public;
 - (b) Adopt such other legislative, administrative, social and economic measures as may be necessary to ensure the prevention, punishment and eradication of all forms of violence against women;
 - (c) Identify the causes and consequences of violence against women and take appropriate measures to prevent and eliminate such violence;
 - (d) Actively promote peace education through curricula and social communication in order to eradicate elements in traditional and cultural beliefs, practices and stereotypes which legitimize and exacerbate the persistence and tolerance of violence against women;

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- (e) Punish the perpetrators of violence against women and implement programmes for the rehabilitation of women victims;
- (f) Establish mechanisms and accessible services for effective information, rehabilitation and reparation for victims of violence against women;
- (g) Prevent and condemn trafficking in women, prosecute the perpetrators of such trafficking and protect those women most at risk;
- (h) Prohibit all medical or scientific experiments on women without their informed consent;
- (i) Provide adequate budgetary and other resources for the implementation and monitoring of actions aimed at preventing and eradicating violence against women;
- (j) Ensure that, in those countries where the death penalty still exists, not to carry out death sentences on pregnant or nursing women;
- (k) Ensure that women and men enjoy equal rights in terms of access to refugee status determination procedures and that women refugees are accorded the full protection and benefits guaranteed under international refugee law, including their own identity and other documents.

Article 5 Elimination of Harmful Practices

States Parties shall prohibit and condemn all forms of harmful practices which negatively affect the human rights of women and which are contrary to recognized international standards. States Parties shall take all necessary legislative and other measures to eliminate such practices, including:

- (a) Creation of public awareness in all sectors of society regarding harmful practices through information, formal and informal education and outreach programmes;
- (b) Prohibition, through legislative measures backed by sanctions, of all forms of female genital mutilation, scarification, medicalization and paramedicalization of female genital mutilation and all other practices in order to eradicate them;
- (c) Provision of necessary support to victims of harmful practices through basic services such as health services, legal and judicial support, emotional and psychological counselling as well as vocational training to make them self-supporting;
- (d) Protection of women who are at risk of being subjected to harmful practices or all other forms of violence, abuse and intolerance.

Article 6 Marriage

States Parties shall ensure that women and men enjoy equal rights and are regarded as equal partners in marriage. They shall enact appropriate national legislative measures to guarantee that:

- (a) No marriage shall take place without the free and full consent of both parties;
- (b) The minimum age of marriage for women shall be 18 years;

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- (c) Monogamy is encouraged as the preferred form of marriage and that the rights of women in marriage and family, including in polygamous marital relationships are promoted and protected;
- (d) Every marriage shall be recorded in writing and registered in accordance with national laws, in order to be legally recognized;
- (e) The husband and wife shall, by mutual agreement, choose their matrimonial regime and place of residence;
- (f) A married woman shall have the right to retain her maiden name, to use it as she pleases, jointly or separately with her husband's surname;
- (g) A woman shall have the right to retain her nationality or to acquire the nationality of her husband;
- (h) A woman and a man shall have equal rights, with respect to the nationality of their children except where this is contrary to a provision in national legislation or is contrary to national security interests;
- (i) A woman and a man shall jointly contribute to safeguarding the interests of the family, protecting and educating their children;
- (j) During her marriage, a woman shall have the right to acquire her own property and to administer and manage it freely.

Article 7

Separation, Divorce and Annulment of Marriage

States Parties shall enact appropriate legislation to ensure that women and men enjoy the same rights in case of separation, divorce or annulment of marriage. In this regard, they shall ensure that:

- (a) Separation, divorce or annulment of a marriage shall be effected by judicial order;
- (b) Women and men shall have the same rights to seek separation, divorce or annulment of marriage;
- (c) In case of separation, divorce or annulment of marriage, women and men shall have reciprocal rights and responsibilities towards their children. In any case, the interests of the children shall be given paramount importance;
- (d) In case of separation, divorce or annulment of marriage, women and men shall have the right to an equitable sharing of the joint property deriving from the marriage.

Article 8

Access to Justice and Equal Protection Before the Law

Women and men are equal before the law and shall have the right to equal protection and benefit of the law. States Parties shall take all appropriate measures to ensure:

- (a) Effective access by women to judicial and legal services, including legal aid;
- (b) Support to local, national, regional and continental initiatives directed at providing women access to legal services, including legal aid;
- (c) The establishment of adequate educational and other appropriate structures with particular attention to women and to sensitize everyone to the rights of women;

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- (d) That law enforcement organs at all levels are equipped to effectively interpret and enforce gender equality rights;
- (e) That women are represented equally in the judiciary and law enforcement organs;
- (f) Reform of existing discriminatory laws and practices in order to promote and protect the rights of women.

Article 9

Right to Participation in the Political and Decision-Making Process

1. States Parties shall take specific positive action to promote participative governance and the equal participation of women in the political life of their countries through affirmative action, enabling national legislation and other measures to ensure that:
 - (a) Women participate without any discrimination in all elections;
 - (b) Women are represented equally at all levels with men in all electoral processes;
 - (c) Women are equal partners with men at all levels of development and implementation of State policies and development programmes.
2. States Parties shall ensure increased and effective representation and participation of women at all levels of decision-making.

Article 10

Right to Peace

1. Women have the right to a peaceful existence and the right to participate in the promotion and maintenance of peace.
2. States Parties shall take all appropriate measures to ensure the increased participation of women in:
 - (a) Programmes of education for peace and a culture of peace;
 - (b) The structures and processes for conflict prevention, management and resolution at local, national, regional, continental and international levels;
 - (c) The local, national, regional, continental and international decision-making structures to ensure physical, psychological, social and legal protection of asylum seekers, refugees, returnees and displaced persons, in particular women;
 - (d) All levels of the structures established for the management of camps and settlements for asylum seekers, refugees, returnees and displaced persons, in particular, women;
 - (e) All aspects of planning, formulation and implementation of post-conflict reconstruction and rehabilitation.
3. States Parties shall take the necessary measures to reduce military expenditure significantly in favour of spending on social development in general, and the promotion of women in particular.

Article 11

Protection of Women in Armed Conflicts

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1. States Parties undertake to respect and ensure respect for the rules of international humanitarian law applicable in armed conflict situations, which affect the population, particularly women.
2. States Parties shall, in accordance with the obligations incumbent upon them under international humanitarian law, protect civilians including women, irrespective of the population to which they belong, in the event of armed conflict.
3. States Parties undertake to protect asylum-seeking women, refugees, returnees and internally displaced persons, against all forms of violence, rape and other forms of sexual exploitation, and to ensure that such acts are considered war crimes, genocide and/or crimes against humanity and that their perpetrators are brought to justice before a competent criminal jurisdiction.
4. States Parties shall take all necessary measures to ensure that no child, especially girls under 18 years of age, take a direct part in hostilities and that no child is recruited as a soldier.

Article 12 Right to Education and Training

1. States Parties shall take all appropriate measures to:
 - (a) Eliminate all forms of discrimination against women and guarantee equal opportunity and access in the sphere of education and training;
 - (b) Eliminate all stereotypes in textbooks, syllabuses and the media, that perpetuate such discrimination;
 - (c) Protect women, especially the girl child from all forms of abuse, including sexual harassment in schools and other educational institutions and provide for sanctions against the perpetrators of such practices;
 - (d) Provide access to counselling and rehabilitation services to women who suffer abuses and sexual harassment;
 - (e) Integrate gender sensitization and human rights education at all levels of educational curricula including teacher training.
2. States Parties shall take specific positive action to:
 - (a) Promote literacy among women;
 - (b) Promote education and training for women at all levels and in all disciplines, particularly in the fields of science and technology;
 - (c) Promote the enrolment and retention of girls in schools and other training institutions and the organization of programmes for women who leave school prematurely.

Article 13 Economic and Social Welfare Rights

States Parties shall adopt and enforce legislative and other measures to guarantee women equal opportunities in work and career advancement and other economic opportunities. In this respect, they shall:

- (a) Promote equality of access to employment;

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- (b) Promote the right to equal remuneration for jobs of equal value for women and men;
- (c) Ensure transparency in recruitment, promotion and dismissal of women and combat and punish sexual harassment in the workplace;
- (d) Guarantee women the freedom to choose their occupation, and protect them from exploitation by their employers violating and exploiting their fundamental rights as recognized and guaranteed by conventions, laws and regulations in force;
- (e) Create conditions to promote and support the occupations and economic activities of women, in particular, within the informal sector;
- (f) Establish a system of protection and social insurance for women working in the informal sector and sensitize them to adhere to it;
- (g) Introduce a minimum age for work and prohibit the employment of children below that age, and prohibit, combat and punish all forms of exploitation of children, especially the girl child;
- (h) Take the necessary measures to recognize the economic value of the work of women in the home;
- (i) Guarantee adequate and paid prenatal and postnatal maternity leave in both the private and public sectors;
- (j) Ensure the equal application of taxation laws to women and men;
- (k) Recognize and enforce the right of salaried women to the same allowances and entitlements as those granted to salaried men for their spouses and children;
- (l) Recognize that both parents bear the primary responsibility for the upbringing and development of children and that this is a social function for which the State and the private sector have secondary responsibility;
- (m) Take effective legislative and administrative measures to prevent the exploitation and abuse of women in advertising and pornography.

Article 14 Health and Reproductive Rights

1. States Parties shall ensure that the right to health of women, including sexual and reproductive health is respected and promoted. This includes:

- (a) The right to control their fertility;
- (b) The right to decide whether to have children, the number of children and the spacing of children;
- (c) The right to choose any method of contraception;
- (d) The right to self-protection and to be protected against sexually transmitted infections, including HIV/AIDS;
- (e) The right to be informed on one's health status and on the health status of one's partner, particularly if affected with sexually transmitted infections, including HIV/AIDS, in accordance with internationally recognized standards and best practices;

VI. HUMAN AND PEOPLES' RIGHTS

(f) The right to have family planning education.

2. States Parties shall take all appropriate measures to:

(a) Provide adequate, affordable and accessible health services, including information, education and communication programmes to women especially those in rural areas;

(b) Establish and strengthen existing prenatal, delivery and postnatal health and nutritional services for women during pregnancy and while they are breastfeeding;

(c) Protect the reproductive rights of women by authorizing medical abortion in cases of sexual assault, rape, incest, and where the continued pregnancy endangers the mental and physical health of the mother or the life of the mother or the fetus.

Article 15

Right to Food Security

States Parties shall ensure that women have the right to nutritious and adequate food. In this regard, they shall take appropriate measures to:

(a) Provide women with access to clean drinking water, sources of domestic fuel, land, and the means of producing nutritious food;

(b) Establish adequate systems of supply and storage to ensure food security.

Article 16

Right to Adequate Housing

Women shall have the right to equal access to housing and to acceptable living conditions in a healthy environment. To ensure this right, States Parties shall grant to women, whatever their marital status, access to adequate housing.

Article 17

Right to Positive Cultural Context

1. Women shall have the right to live in a positive cultural context and to participate at all levels in the determination of cultural policies.

2. States Parties shall take all appropriate measures to enhance the participation of women in the formulation of cultural policies at all levels.

Article 18

Right to a Healthy and Sustainable Environment

1. Women shall have the right to live in a healthy and sustainable environment.

2. States Parties shall take all appropriate measures to:

(a) Ensure greater participation of women in the planning, management and preservation of the environment and the sustainable use of natural resources at all levels;

(b) Promote research and investment in new and renewable energy sources and appropriate technologies, including information technologies and facilitate women's access to, and participation in their control;

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- (c) Protect and enable the development of women's indigenous knowledge systems;
- (d) Regulate the management, processing, storage and disposal of domestic waste;
- (e) Ensure that proper standards are followed for the storage, transportation and disposal of toxic waste.

Article 19

Right to Sustainable Development

Women shall have the right to fully enjoy their right to sustainable development. In this connection, the States Parties shall take all appropriate measures to:

- (a) Introduce the gender perspective in the national development planning procedures;
- (b) Ensure participation of women at all levels in the conceptualization, decision-making, implementation and evaluation of development policies and programmes;
- (c) Promote women's access to and control over productive resources such as land and guarantee their right to property;
- (d) Promote women's access to credit, training, skills development and extension services at rural and urban levels in order to provide women with a higher quality of life and reduce the level of poverty among women;
- (e) Take into account indicators of human development specifically relating to women in the elaboration of development policies and programmes; and
- (f) Ensure that the negative effects of globalization and any adverse effects of the implementation of trade and economic policies and programmes are reduced to the minimum for women.

Article 20

Widows' Rights

States Parties shall take appropriate legal measures to ensure that widows enjoy all human rights through the implementation of the following provisions:

- (a) Widows are not subjected to inhuman, humiliating or degrading treatment;
- (b) A widow shall automatically become the guardian and custodian of her children, after the death of her husband, unless this is contrary to the interests and the welfare of the children;
- (c) A widow shall have the right to remarry, and in that event, to marry the person of her choice.

Article 21

Right to Inheritance

1. A widow shall have the right to an equitable share in the inheritance of the property of her husband. A widow shall have the right to continue to live in the matrimonial house. In case of remarriage, she shall retain this right if the house belongs to her or she has inherited it.
2. Women and men shall have the right to inherit, in equitable shares, their parents' properties.

Article 22

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Special Protection of Elderly Women

The States Parties undertake to:

- (a) Provide protection to elderly women and take specific measures commensurate with their physical, economic and social needs as well as their access to employment and professional training;
- (b) Ensure the right of elderly women to freedom from violence, including sexual abuse, discrimination based on age and the right to be treated with dignity.

Article 23

Special Protection of Women with Disabilities

The States Parties undertake to:

- (a) Ensure the protection of women with disabilities and take specific measures commensurate with their physical, economic and social needs to facilitate their access to employment, professional and vocational training as well as their participation in decision-making;
- (b) Ensure the right of women with disabilities to freedom from violence, including sexual abuse, discrimination based on disability and the right to be treated with dignity.

Article 24

Special Protection of Women in Distress

The States Parties undertake to:

- (a) Ensure the protection of poor women and women heads of families including women from marginalized population groups and provide an environment suitable to their condition and their special physical, economic and social needs;
- (b) Ensure the protection of pregnant or nursing women or women in detention by providing them with an environment which is suitable to their condition and the right to be treated with dignity.

Article 25

Remedies

States Parties shall undertake to:

- (a) Provide for appropriate remedies to any woman whose rights or freedoms, as herein recognized, have been violated;
- (b) Ensure that such remedies are determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by law.

Article 26

Implementation and Monitoring

1. States Parties shall ensure the implementation of this Protocol at the national level, and in their periodic reports submitted in accordance with Article 62 of the African Charter, indicate the legislative and other measures undertaken for the full realization of the rights herein recognized.

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2. States Parties undertake to adopt all necessary measures and in particular shall provide budgetary and other resources for the full and effective implementation of the rights herein recognized.

Article 27 Interpretation

The African Court on Human and Peoples' Rights shall be seized with matters of interpretation arising from the application or implementation of this Protocol.

Article 28 Signature, Ratification and Accession

1. This Protocol shall be open for signature, ratification and accession by the States Parties, in accordance with their respective constitutional procedures.
2. The instruments of ratification or accession shall be deposited with the Chairperson of the Commission of the AU.

Article 29 Entry into Force

1. This Protocol shall enter into force thirty (30) days after the deposit of the fifteenth (15th) instrument of ratification.
2. For each State Party that accedes to this Protocol after its coming into force, the Protocol shall come into force on the date of deposit of the instrument of accession.
3. The Chairperson of the Commission of the AU shall notify all Member States of the coming into force of this Protocol.

Article 30 Amendment and Revision

1. Any State Party may submit proposals for the amendment or revision of this Protocol.
2. Proposals for amendment or revision shall be submitted, in writing, to the Chairperson of the Commission of the AU who shall transmit the same to the States Parties within thirty (30) days of receipt thereof.
3. The Assembly, upon advice of the African Commission, shall examine these proposals within a period of one (1) year following notification of States Parties, in accordance with the provisions of paragraph 2 of this article.
4. Amendments or revision shall be adopted by the Assembly by a simple majority.
5. The amendment shall come into force for each State Party, which has accepted it thirty (30) days after the Chairperson of the Commission of the AU has received notice of the acceptance.

Article 31 Status of the Present Protocol

None of the provisions of the present Protocol shall affect more favourable provisions for the realization of the rights of women contained in the national legislation of States Parties or in any other regional, continental or international conventions, treaties or agreements applicable in these States Parties.

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Article 32 Transitional Provisions

Pending the establishment of the African Court on Human and Peoples' Rights, the African Commission on Human and Peoples' Rights shall be seized with matters of interpretation arising from the application and implementation of this Protocol.

7.

SOLEMN DECLARATION ON GENDER EQUALITY IN AFRICA (Assembly/AU/Decl.12 (III))

Adopted in Addis Ababa, Ethiopia, in July 2004.

We, the Heads of State and Government of Member States of the African Union, meeting in the Third Ordinary Session of our Assembly in Addis Ababa, Ethiopia, from 6 to 8 July 2004,

Reaffirming our commitment to the principle of gender equality as enshrined in Article 4, subparagraph (I), of the Constitutive Act of the African Union, as well as other existing commitments, principles, goals and actions set out in the various regional, continental and international instruments on human and women's rights, including the Dakar Platform for Action (1994), the Beijing Platform for Action (1995), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) (1979), the African Plan of Action to Accelerate the Implementation of the Dakar and Beijing Platforms for Action for the Advancement of Women (1999), the Outcome Document of the Twenty-third Special Session of the United Nations General Assembly on the Implementation of the Beijing Platform for Action (2000), United Nations Security Council resolution 1325 on Women, Peace and Security (2000), and the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa (2003),

Standing by our decision on gender parity taken at the Inaugural Session of the AU Assembly of Heads of State and Government in Durban, South Africa, in July 2002, implemented during the Second Ordinary Session of the Assembly in Maputo, Mozambique, in 2003 through the election of five female and five male Commissioners,

Noting with satisfaction that our decision on gender parity is a historic achievement that does not yet exist in any other continent or regional organization,

Reaffirming our commitment to continue, expand and accelerate efforts to promote gender equality at all levels,

Determined to build on the progress that we have achieved in addressing issues of major concern to the women of Africa,

Taking cognizance of the landmark decision to adopt the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa during the Second Ordinary Session of the Assembly in Maputo, Mozambique, in 2003,

Noting the decision of the Chairperson of the African Union Commission to transform the African Women's Committee on Peace and Development (AWCPD) into the African Union Women's Committee (AUWC), which will be located in the Gender Directorate and serve as an advisory body to the Chairperson on gender and development,

Recognizing that major challenges and obstacles to gender equality still remain and require concerted and collective leadership and efforts from all of us including networks working on gender and development,

7. SOLEMN DECLARATION ON GENDER EQUALITY

Deeply concerned about the status of women and the negative impacts on women of issues such as the high incidence of HIV/AIDS among girls and women, conflict, poverty, harmful traditional practices, high population of refugee women and internally displaced women, violence against women, women's exclusion from politics and decision-making, illiteracy and limited access of girls to education,

Aware of the policies and programmes we have put in place to curb the spread of the HIV/AIDS pandemic as well as the current challenges in this campaign,

Concerned that, while women and children bear the brunt of conflicts and internal displacement, including rapes and killings, they are largely excluded from conflict prevention, peace negotiation, and peacebuilding processes in spite of African women's experience in peacebuilding,

Aware of the fact that low levels of women's representation in social, economic and political decision-making structures and feminization of poverty impact negatively on women's ability to derive full benefit from the economies of their countries and the democratization process,

Aware of the digital divide between the North and the South, men and women and the role of information telecommunication technologies (ICTs) in the advancement of the gender issue as stated in the e-gender Forum Declaration of Tunis, Tunisia, in May 2004 in preparation for the World Summit on Information Society (WSIS) in 2005,

Hereby agree to:

1. *Accelerate* the implementation of gender specific economic, social, and legal measures aimed at combating the HIV/AIDS pandemic and effectively implement both the Abuja and Maputo Declarations on Malaria, HIV/AIDS, Tuberculosis and Other Related Infectious Disease. More specifically, we will ensure that treatment and social services are available to women at the local level making it more responsive to the needs of families that are providing care, enact legislation to end discrimination against women living with HIV/AIDS and for the protection and care for people living with HIV/AIDS, particularly women, and increase budgetary allocations in these sectors so as to alleviate women's burden of care;
2. *Ensure* the full and effective participation and representation of women in the peace process, including the prevention, resolution, and management of conflicts and post-conflict reconstruction in Africa as stipulated in United Nations Security Council resolution 1325 (2000) and to also appoint women as special envoys and special representatives of the African Union;
3. *Launch*, within the next year, a campaign for the systematic prohibition of the recruitment of child soldiers and the abuse of girl children as wives and sex slaves in violation of their rights as enshrined in the African Charter on the Rights and Welfare of the Child;
4. *Initiate, launch and engage* within two years sustained public campaigns against gender-based violence as well as the problem of trafficking in women and girls, reinforce legal mechanisms that will protect women at the national level and end impunity of crimes committed against women in a manner that will change and positively alter the attitude and behaviour of the African society;
5. *Expand and promote* the gender parity principle that we have adopted regarding the Commission of the African Union to all the other organs of the African Union, including its NEPAD programme, to the Regional Economic Communities, and to the national and local levels in collaboration with political parties and the national parliaments in our countries;
6. *Ensure* the active promotion and protection of all human rights for women and girls, including the right to development, by raising awareness or by legislation where necessary;

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7. *Actively promote* the implementation of legislation to guarantee women's land, property and inheritance rights including their right to housing;
8. *Take specific measures* to ensure the education of girls and the literacy of women, especially in the rural areas, to achieve the goal of "Education for All" (EFA);
9. *Undertake* to sign and ratify the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa by the end of 2004 and to support the launching of public campaigns aimed at ensuring its entry into force by 2005 and usher in an era of domesticating and implementing the Protocol as well as other national, regional and international instruments on gender equality by all States Parties;
10. *Establish* AIDS Watch Africa as a unit within the Office of the Chairperson of the Commission who should render an annual report on the HIV/AIDS situation on the continent during annual summits, and promote the local production of anti-retroviral drugs in our countries;
11. *Accept* to establish an African Trust Fund for Women for the purpose of building the capacity of African women and further request the African Union Commission to work out the modalities for the operationalization of the fund with special focus on women in both urban and rural areas;
12. *Commit ourselves* to report annually on progress made in terms of gender mainstreaming and to support and champion all issues raised in this Declaration, both at the national and regional levels, and regularly provide each other with updates on progress made during our ordinary sessions;
13. *Request* the Chairperson of the African Union Commission to submit, for our consideration, an annual report, during our ordinary sessions, on measures taken to implement the principle of gender equality and gender mainstreaming, and all issues raised in this Declaration both at the national and regional levels.

8.

AFRICAN YOUTH CHARTER

Adopted in Banjul, The Gambia, on 2 July 2006.

Entered into force on 8 August 2009.

Preamble

The Member States of the African Union, Parties to the present African Youth Charter,

Guided by the Constitutive Act of the African Union,

Guided by the vision, hopes and aspirations of the African Union, inclusive of Africa's integration, the inherent dignity and inalienable rights afforded to all members of the human family as set out in the United Nations Universal Declaration of Human Rights (1948), the International Covenant of Civil and Political Rights (1966) and the International Covenant on Economic, Social and Cultural Rights (1966), and articulated for the African peoples through the African Charter on Human and People's Rights (1981),

Recalling the Resolution of the Heads of State and Government during the 1999 Algiers Summit for the development of the Pan-African Charter,

Fully attached to the virtues and values of African historical tradition and civilization which form the foundation for our concept of peoples' rights,

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Recalling the historic injustices imposed on Africa such as slavery, colonization, depletion of natural resources and taking into account the firm will of African peoples for self-determination and the economic integration of Africa,

Convinced that Africa's greatest resource is its youthful population and that through their active and full participation, Africans can surmount the difficulties that lie ahead,

Bearing in mind the Convention on the Elimination of All Forms of Discrimination Against Women (1979) and the Protocol to the African Charter on Human and Peoples' Rights Relating to the Rights of Women in Africa (2003) and the progress achieved in eliminating gender discrimination, but ever cognizant of the obstacles that still prevent girls and women from fully participating in African society,

Reaffirming the need to take appropriate measures to promote and protect the rights and welfare of children as outlined in the Convention of the Rights of the Child (1989) and through the African Charter on the Rights and Welfare of the Child (1990),

Acknowledging the commitments already made towards the United Nations Millennium Development Goals (MDGs) and inviting the partners to reaffirm their support to advance the well-being of youth,

Recognizing the efforts made by States Parties and civil societies to address the economic, social, educational, cultural and spiritual needs of youth,

Noting with concern the situation of African youth, many of whom are marginalized from mainstream society through inequalities in income, wealth and power, unemployment and underemployment, infected and affected by the HIV/AIDS pandemic, living in situations of poverty and hunger, experiencing illiteracy and poor quality educational systems, restricted access to health services and to information, exposure to violence including gender violence, engaging in armed conflicts and experiencing various forms of discrimination,

Recalling the United Nations World Programme of Action for Youth to the Year 2000 and beyond and the ten priority areas identified for youth (education, employment, hunger and poverty, health, environment, drug abuse, juvenile delinquency, leisure-time activities, girls and young women and youth participating in decision-making), and the five additional areas (HIV/AIDS, ICT, Intergenerational dialogue,...) adopted by the United Nations General Assembly in 2005,

Recognizing that youth are partners, assets and a prerequisite for sustainable development and for the peace and prosperity of Africa with a unique contribution to make to the present and to future development,

Considering the role that youth have played in the process of decolonization, the struggle against apartheid and more recently in its efforts to encourage the development and to promote the democratic processes on the African continent,

Reaffirming that the continuous cultural development of Africa rests with its youth and therefore requires their active and enlightened participation as espoused in the Cultural Charter for Africa,

Guided by the New Partnership for Africa's Development Strategic Framework for Youth Programme of 2004 that is working towards youth empowerment and development,

Acknowledging the increasing calls and the enthusiasm of youth to actively participate at the local, national, regional and international levels to determine their own development and the advancement of society at large,

Acknowledging also the call in Bamako, Mali, in 2005 by the youth organizations across Africa to empower youth by building their capacity, leadership and responsibilities and provide access to information such that they can take up their rightful place as active agents in decision-making and governance,

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Taking into consideration the interrelatedness of the challenges facing youth and the need for cross-sectoral policies and programmes that attend to the needs of youth in a holistic manner,

Considering that the promotion and protection of the rights of youth also implies the performance of duties by youth as by all other actors in society,

Taking into consideration the needs and aspirations of young displaced persons, refugees and youth with special needs,

Have agreed as follows:

Definitions

For the purposes of this Charter,

"Chairperson" shall mean the Chairperson of the African Union Commission;

"Charter" shall mean the African Youth Charter;

"Commission" shall mean the Commission of African Union;

"Diaspora" shall mean peoples of African descent and heritage living outside the continent, irrespective of their citizenship and who remain committed to contribute to the development of the continent and the building of the African Union (DOC.EX.CL/164(VII));

"Member States" shall mean Member States of the African Union;

"Minors" shall mean young people aged 15 to 17 years subject to each country's laws;

"States Parties" shall mean Member States, which have ratified or acceded to the present Charter;

"Union" shall mean the African Union;

"Youth" or young people shall refer to every person between the ages of 15 and 35 years.

Part I Rights and Duties

Article 1 Obligation of States Parties

1. States Parties to the present Charter shall recognize the rights, freedoms and duties enshrined in this Charter.
2. States Parties shall undertake the necessary steps, in accordance with their constitutional processes and with the provisions of the present Charter, to adopt such legislative or other measures that may be necessary to give effect to the provisions of the Charter.

Article 2 Non-Discrimination

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1. Every young person shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in this Charter irrespective of their race, ethnic group, colour, sex, language, religion, political or other opinion, national and social origin, fortune, birth or other status.

2. States Parties shall take appropriate measures to ensure that youth are protected against all forms of discrimination on the basis of status, activities, expressed opinions or beliefs.

3. State Parties shall recognize the rights of young people from ethnic, religious and linguistic marginalized groups or youth of indigenous origin, to enjoy their own culture, freely practice their own religion or to use their own language in community with other members of their group.

Article 3 Freedom of Movement

Every young person has the right to leave any country, including his/her own, and to return to his/her country.

Article 4 Freedom of Expression

1. Every young person shall be assured the right to express his or her ideas and opinions freely in all matters and to disseminate his or her ideas and opinions subject to the restrictions as are prescribed by law.

2. Every young person shall have the freedom to seek, receive and disseminate information and ideas of all kinds, either orally, in writing, in print, in the form of art or through any media of the young person's choice subject to the restrictions as are prescribed by law.

Article 5 Freedom of Association

1. Every young person shall have the right to free association and freedom of peaceful assembly in conformity with the law.

2. Young people shall not be compelled to belong to an association.

Article 6 Freedom of Thought, Conscience and Religion

Every young person shall have the right to freedom of thought, conscience and religion.

Article 7 Protection of Private Life

No young person shall be subject to the arbitrary or unlawful interference with his/her privacy, residence or correspondence, or to attacks upon his/her honour or reputation.

Article 8 Protection of the Family

1. The family, as the most basic social institution, shall enjoy the full protection and support of States Parties for its establishment and development noting that the structure and form of families varies in different social and cultural contexts.

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2. Young men and women of full age who enter into marriage shall do so based on their free consent and shall enjoy equal rights and responsibilities.

Article 9 Property

1. Every young person shall have the right to own and to inherit property.
2. States Parties shall ensure that young men and young women enjoy equal rights to own property.
3. States Parties shall ensure that youth are not arbitrarily deprived of their property including inherited property.

Article 10 Development

1. Every young person shall have the right to social, economic, political and cultural development with due regard to their freedom and identity and in equal enjoyment of the common heritage of mankind.
2. States Parties shall encourage youth organizations to lead youth programmes and to ensure the exercise of the right to development.
3. States Parties shall:
 - (a) Encourage the media to disseminate information that will be of economic, political, social and cultural benefit to youth;
 - (b) Promote the development of youth media for the dissemination of information to young people;
 - (c) Encourage international cooperation in the production, exchange and dissemination of information from both national and international sources that are of economic, social and cultural value to youth;
 - (d) Provide access to information, education and training for young people to learn their rights and responsibilities, to be schooled in democratic processes, citizenship, decision-making, governance and leadership such that they develop the technical skills and confidence to participate in these processes.

Article 11 Youth Participation

1. Every young person shall have the right to participate in all spheres of society.
2. States Parties shall take the following measures to promote active youth participation in society. They shall:
 - (a) Guarantee the participation of youth in parliament and other decision-making bodies in accordance with the prescribed laws;
 - (b) Facilitate the creation or strengthening of platforms for youth participation in decision-making at local, national, regional, and continental levels of governance;
 - (c) Ensure equal access to young men and young women to participate in decision-making and in fulfilling civic duties;

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- (d) Give priority to policies and programmes including youth advocacy and peer-to-peer programmes for marginalized youth, such as out-of-school and out-of-work youth, to offer them the opportunity and motivation to reintegrate into mainstream society;
- (e) Provide access to information such that young people become aware of their rights and of opportunities to participate in decision-making and civic life;
- (f) Institute measures to professionalize youth work and introduce relevant training programmes in higher education and other such training institutions;
- (g) Provide technical and financial support to build the institutional capacity of youth organizations;
- (h) Institute policy and programmes of youth voluntarism at local, national, regional and international levels as an important form of youth participation and as a means of peer-to-peer training;
- (i) Provide access to information and services that will empower youth to become aware of their rights and responsibilities;
- (j) Include youth representatives as part of delegations to ordinary sessions and other relevant meetings to broaden channels of communication and enhance the discussion of youth-related issues.

Article 12 National Youth Policy

1. Every State Party shall develop a comprehensive and coherent national youth policy.
 - (a) The policy shall be cross-sectoral in nature considering the interrelatedness of the challenges facing young people.
 - (b) The development of a national youth policy shall be informed by extensive consultation with young people and cater to their active participation in decision-making at all levels of governance in issues concerning youth and society as a whole.
 - (c) A youth perspective shall be integrated and mainstreamed into all planning and decision-making as well as programme development. The appointment of youth focal points in government structures shall enable this process.
 - (d) Mechanisms to address these youth challenges shall be framed within the national development framework of the country.
 - (e) The policy shall provide guidelines on the definition of youth adopted and specify subgroups that shall be targeted for development.
 - (f) The policy shall advocate equal opportunities for young men and for young women.
 - (g) A baseline evaluation or situation analysis shall inform the policy on the priority issues for youth development.
 - (h) The policy shall be adopted by parliament and enacted into law.
 - (i) A national youth coordinating mechanism shall be set up and shall provide a platform as well as serve as a linking agent for youth organizations to participate in youth policy development as well as the implementation, monitoring and evaluation of related programmes.

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(j) National programmes of action shall be developed that are time bound and that are connected to an implementation and evaluation strategy for which indicators shall be outlined.

(k) Such a programme of action shall be accompanied by adequate and sustained budgetary allocation.

Article 13

Education and Skills Development

1. Every young person shall have the right to education of good quality.

2. The value of multiple forms of education, including formal, non-formal, informal, distance learning and life-long learning, to meet the diverse needs of young people shall be embraced.

3. The education of young people shall be directed to:

(a) The promotion and holistic development of the young person's cognitive, creative and emotional abilities to their full potential;

(b) Fostering respect for human rights and fundamental freedoms as set out in the provisions of the various African human and peoples' rights and international human rights declarations and conventions;

(c) Preparing young people for responsible lives in free societies that promote peace, understanding, tolerance, dialogue, mutual respect and friendship among all nations and across all groupings of people;

(d) The preservation and strengthening of positive African morals, traditional values and cultures and the development of national and African identity and pride;

(e) The development of respect for the environment and natural resources;

(f) The development of life skills to function effectively in society and include issues such as HIV/AIDS, reproductive health, substance abuse prevention and cultural practices that are harmful to the health of young girls and women as part of the educational curricula.

4. States Parties shall take all appropriate measures with a view to achieving full realization of this right and shall, in particular:

(a) Provide free and compulsory basic education and take steps to minimize the indirect costs of education;

(b) Make all forms of secondary education more readily available and accessible by all possible means including progressively free;

(c) Take steps to encourage regular school attendance and reduce dropout rates;

(d) Strengthen participation in and the quality of training in science and technology;

(e) Revitalize vocational education and training relevant to current and prospective employment opportunities and expand access by developing centres in rural and remote areas;

(f) Make higher education equally accessible to all including establishing distance learning centres of excellence;

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- (g) Avail multiple access points for education and skills development including opportunities outside of mainstream educational institutions e.g., workplace skills development, distance learning, adult literacy and national youth service programmes;
- (h) Ensure, where applicable, that girls and young women who become pregnant or married before completing their education shall have the opportunity to continue their education;
- (i) Allocate resources to upgrade the quality of education delivered and ensure that it is relevant to the needs of contemporary society and engenders critical thinking rather than rote learning;
- (j) Adopt pedagogy that incorporates the benefits of and trains young people in the use of modern information and communication technology such that youth are better prepared for the world of work;
- (k) Encourage youth participation in community work as part of education to build a sense of civic duty;
- (l) Introduce scholarship and bursary programmes to encourage entry into post-primary school education and into higher education for outstanding youth from disadvantaged communities, especially young girls;
- (m) Establish and encourage participation of all young men and young women in sport, cultural and recreational activities as part of holistic development;
- (n) Promote culturally appropriate, age specific sexuality and responsible parenthood education;
- (o) Promote the equivalence of degrees between African educational institutions to enable the youth to study and work in State Parties;
- (p) Adopt preferential recruitment policies for African youth with specialized skills among States Parties.

5. Youth are determined to transform the continent in the fields of science and technology. Therefore they are committed to:

- (a) Promoting and using science and technology in Africa;
- (b) Conducting research towards science and technology.

6. States Parties should encourage youth to conduct research. In this regard, an African discoveries day should be established along with a mechanism of awarding prizes at the continental level.

7. Enterprises that are located in Africa should establish partnerships with training institutions to contribute to technology transfer for the benefit of African students and researchers.

Article 14

Poverty Eradication and Socio-Economic Integration of Youth

States Parties shall:

- 1. Recognize the right of young people to a standard of living adequate for their holistic development;
- 2. Recognize the right of young people to be free from hunger and shall take individual or collective measures to:
 - (a) Enhance the attractiveness of rural areas to young people by improving access to services and facilities such as educational and cultural services;

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- (b) Train young people to take up agricultural, mineral, commercial and industrial production using contemporary systems and promote the benefits of modern information and communication technology to gain access to existing and new markets;
 - (c) Provide grants of land to youth and youth organizations for socio-economic development purposes;
 - (d) Facilitate access to credit to promote youth participation in agricultural and other sustainable livelihood projects;
 - (e) Facilitate the participation of young people in the design, implementation, monitoring and evaluation of national development plans, policies and poverty reduction strategies;
3. Recognize the right of every young person to benefit from social security, including social insurance.

In this regard, States Parties shall take the necessary measures to achieve the full realization of these rights in accordance with their national law especially when the security of food tenure, clothing, housing and other basic needs are compromised.

Article 15 Sustainable Livelihoods and Youth Employment

1. Every young person shall have the right to gainful employment.
2. Every young person shall have the right to be protected from economic exploitation and from performing work that is likely to be hazardous to or interfere with the young person's education, or to be harmful to the young person's health or holistic development.
3. States Parties shall address and ensure the availability of accurate data on youth employment, unemployment and underemployment so as to facilitate the prioritization of the issue in national development programmes complemented by clear programmes to address unemployment.
4. States Parties shall take all appropriate measures with a view to achieving full realization of this right to gainful employment and shall, in particular:
 - (a) Ensure equal access to employment and equal pay for equal work or equal value of work and offer protection against discrimination regardless of ethnicity, race, gender, disability, religion, political, social, cultural or economic background;
 - (b) Develop macroeconomic policies that focus on job creation particularly for youth and for young women;
 - (c) Develop measures to regulate the informal economy to prevent unfair labour practices where the majority of youth work;
 - (d) Foster greater linkages between the labour market and the education and training system to ensure that curricula are aligned to the needs of the labour market and that youth are being trained in fields where employment opportunities are available or are growing;
 - (e) Implement appropriately-timed career guidance for youth as part of the schooling and post-schooling education system;

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- (f) Promote youth entrepreneurship by including entrepreneurship training in the school curricula, providing access to credit, business development skills training, mentorship opportunities and better information on market opportunities;
- (g) Institute incentive schemes for employers to invest in the skills development of employed and unemployed youth;
- (h) Institute national youth service programmes to engender community participation and skills development for entry into the labour market.

Article 16 Health

1. Every young person shall have the right to enjoy the best attainable state of physical, mental and spiritual health.
2. States Parties shall undertake to pursue the full implementation of this right and, in particular, shall take measures to:
 - (a) Make available equitable and ready access to medical assistance and health care especially in rural and poor urban areas with an emphasis on the development of primary health care;
 - (b) Secure the full involvement of youth in identifying their reproductive and health needs and designing programmes that respond to these needs with special attention to vulnerable and disadvantaged youth;
 - (c) Provide access to youth friendly reproductive health services including contraceptives, antenatal and postnatal services;
 - (d) Institute programmes to address health pandemics in Africa such as HIV/AIDS, tuberculosis and malaria;
 - (e) Institute comprehensive programmes to prevent the transmission of sexually transmitted infections and HIV/AIDS by providing education, information, communication and awareness creation as well as making protective measures and reproductive health services available;
 - (f) Expand the availability and encourage the uptake of voluntary counselling and confidential testing for HIV/AIDS;
 - (g) Provide timely access to treatment for young people infected with HIV/AIDS including prevention of mother to child transmission, post-rape prophylaxis, and antiretroviral therapy and creation of health services specifically for young people;
 - (h) Provide food security for people living with HIV/AIDS;
 - (i) Institute comprehensive programmes including legislative steps to prevent unsafe abortions;
 - (j) Take legislative steps such as banning advertising and increasing price in addition to instituting comprehensive preventative and curative programmes to control the consumption of tobacco, exposure to environmental tobacco smoke and alcohol abuse;
 - (k) Raise awareness among youth on the dangers of drug abuse through partnerships with youth, youth organizations and the community;

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- (l) Strengthen local, national, regional and international partnerships to eradicate the demand, supply and trafficking of drugs including using youth to traffic drugs;
- (m) Provide rehabilitation for young people abusing drugs such that they can be reintegrated into social and economic life;
- (n) Provide technical and financial support to build the institutional capacity of youth organizations to address public health concerns including issues concerning youth with disabilities and young people married at an early age.

Article 17 Peace and Security

In view of the important role of youth in promoting peace and non-violence and the lasting physical and psychological scars that result from involvement in violence, armed conflict and war, States Parties shall:

- (a) Strengthen the capacity of young people and youth organizations in peacebuilding, conflict prevention and conflict resolution through the promotion of intercultural learning, civic education, tolerance, human rights education and democracy, mutual respect for cultural, ethnic and religious diversity, the importance of dialogue and cooperation, responsibility, solidarity and international cooperation;
- (b) Institute mechanisms to promote a culture of peace and tolerance among young people that discourages their participation in acts of violence, terrorism, xenophobia, racial discrimination, gender-based discrimination, foreign occupation and trafficking in arms and drugs;
- (c) Institute education to promote a culture of peace and dialogue in all schools and training centres at all levels;
- (d) Condemn armed conflict and prevent the participation, involvement, recruitment and sexual slavery of young people in armed conflict;
- (e) Take all feasible measures to protect the civilian population, including youth, who are affected and displaced by armed conflict;
- (f) Mobilize youth for the reconstruction of areas devastated by war, bringing help to refugees and war victims and promoting peace, reconciliation and rehabilitation activities;
- (g) Take appropriate measures to promote physical and psychological recovery and social reintegration of young victims of armed conflict and war by providing access to education and skills development such as vocational training to resume social and economic life.

Article 18 Law Enforcement

1. Every young person accused or found guilty of having infringed the penal law shall have the right to be treated with humanity and with respect for the inherent dignity of the human person.
2. States Parties shall, in particular:
 - (a) Ensure that youth who are detained or imprisoned or in rehabilitation centres are not subjected to torture, inhumane or degrading treatment or punishment;

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- (b) Ensure that accused minors shall be segregated from convicted persons and shall be subject to separate treatment appropriate to their status;
- (c) Build rehabilitation facilities for accused and imprisoned youth who are still minors and house them separately from adults;
- (d) Provide induction programmes for imprisoned youth that are based on reformation, social rehabilitation and reintegration into family life;
- (e) Make provisions for the continued education and skills development of imprisoned young people as part of the restorative justice process;
- (f) Ensure that accused and convicted young people are entitled to a lawyer.

Article 19

Sustainable Development and Protection of the Environment

1. States Parties shall ensure the use of sustainable methods to improve the lives of young people such that measures instituted do not jeopardize opportunities for future generations.
2. States Parties shall recognize the vested interest of young people in protecting the natural environment as the inheritors of the environment. In this regard, they shall:
 - (a) Encourage the media, youth organizations, in partnership with national and international organizations, to produce, exchange and disseminate information on environmental preservation and best practices to protect the environment;
 - (b) Train youth in the use of technologies that protect and conserve the environment;
 - (c) Support youth organizations in instituting programmes that encourage environmental preservation such as waste reduction, recycling and tree planting programmes;
 - (d) Facilitate youth participation in the design, implementation and evaluation of environmental policies including the conservation of African natural resources at local, national, regional and international levels;
 - (e) Develop realistic and flexible strategies for the regeneration of forests;
 - (f) Initiate intensive actions to prevent the expansion of deserts.

Article 20

Youth and Culture

1. States Parties shall take the following steps to promote and protect the morals and traditional values recognized by the community:
 - (a) Eliminate all traditional practices that undermine the physical integrity and dignity of women;
 - (b) Recognize and value beliefs and traditional practices that contribute to development;
 - (c) Establish institutions and programmes for the development, documentation, preservation and dissemination of culture;

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- (d) Work with educational institutions, youth organizations, the media and other partners to raise awareness of and teach and inform young people about African culture, values and indigenous knowledge;
- (e) Harness the creativity of youth to promote local cultural values and traditions by representing them in a format acceptable to youth and in a language and in forms to which youth are able to relate;
- (f) Introduce and intensify teaching in African languages in all forms of education as a means to accelerate economic, social, political and cultural development;
- (g) Promote intercultural awareness by organizing exchange programmes between young people and youth organizations within and across States Parties.

2. States Parties recognize that the shift towards a knowledge-based economy is dependent on information and communication technology which in turn has contributed towards a dynamic youth culture and global consciousness. In this regard, they shall:

- (a) Promote widespread access to information and communication technology as a means for education, employment creation, interacting effectively with the world and building understanding, tolerance and appreciation of other youth cultures;
- (b) Encourage the local production of and access to information and communication technology content;
- (c) Engage young people and youth organizations to understand the nexus between contemporary youth culture and traditional African culture, and enable them to express this fusion through drama, art, writing, music and other cultural and artistic forms;
- (d) Help young people to use positive elements of globalization such as science and technology and information and communication technology to promote new cultural forms that link the past to the future.

Article 21 Youth in the Diaspora

States Parties shall recognize the right of young people to live anywhere in the world. In this regard, they shall:

- (a) Promote the equivalence of degrees between African educational institutions to enable the youth to study and work in State Parties;
- (b) Promote the recruitment of African youth with specialized skills, in the spirit of African solutions for African problems, according to national policies and priorities;
- (c) Facilitate youth organizations to liaise and collaborate with the African youth diaspora;
- (d) Establish structures that encourage and assist the youth in the diaspora to return to and fully reintegrate into the social and economic life in Africa;
- (e) Promote and protect the rights of young people living in the diaspora;
- (f) Encourage young people in the diaspora to engage themselves in development activities in their country of origin.

Article 22 Leisure, Recreation, Sportive and Cultural Activities

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1. Young people shall have the right to rest and leisure and to engage in play and recreational activities that are part of a healthy lifestyle as well as to participate freely in sport, physical education, drama, the arts, music and other forms of cultural life. In this regard, States Parties shall:

- (a) Make provision for equal access for young men and young women to sport, physical education, cultural, artistic, recreational and leisure activities;
- (b) Put in place adequate infrastructure and services in rural and urban areas for youth to participate in sport, physical education, cultural, artistic, recreational and leisure activities.

Article 23 Girls and Young Women

1. States Parties acknowledge the need to eliminate discrimination against girls and young women according to obligations stipulated in various international, regional and national human rights conventions and instruments designed to protect and promote women's rights. In this regard, they shall:

- (a) Introduce legislative measures that eliminate all forms of discrimination against girls and young women and ensure their human rights and fundamental freedoms;
- (b) Ensure that girls and young women are able to participate actively, equally and effectively with boys at all levels of social, educational, economic, political, cultural, civic life and leadership as well as scientific endeavours;
- (c) Institute programmes to make girls and young women aware of their rights and of opportunities to participate as equal members of society;
- (d) Guarantee universal and equal access to and completion of a minimum of nine years of formal education;
- (e) Guarantee equal access to and completion of vocational, secondary and higher education in order to effectively address the existing imbalance between young men and women in certain professions;
- (f) Ensure that educational material and teaching practices are gender sensitive and encourage girls and young women to undertake studies in the sciences;
- (g) Provide educational systems that do not impede girls and young women, including married and/or pregnant young women, from attending;
- (h) Take steps to provide equal access to health-care services and nutrition for girls and young women;
- (i) Protect girls and young women from economic exploitation and from performing work that is hazardous, takes them away from education or that is harmful to their mental or physical health;
- (j) Offer equal access to young women to employment and promote their participation in all sectors of employment;
- (k) Introduce special legislation and programmes of action that make available opportunities to girls and young women including access to education as a prerequisite and a priority for rapid social and economic development;
- (l) Enact and enforce legislation that protect girls and young women from all forms of violence, genital mutilation, incest, rape, sexual abuse, sexual exploitation, trafficking, prostitution and pornography;

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- (m) Develop programmes of action that provide legal, physical and psychological support to girls and young women who have been subjected to violence and abuse such that they can fully reintegrate into social and economic life;
- (n) Secure the right for young women to maternity leave.

Article 24

Mentally and Physically Challenged Youth

1. States Parties recognize the right of mentally and physically challenged youth to special care and shall ensure that they have equal and effective access to education, training, health-care services, employment, sport, physical education, cultural and recreational activities.
2. State Parties shall work towards eliminating any obstacles that may have negative implications for the full integration of mentally and physically challenged youth into society including the provision of appropriate infrastructure and services to facilitate easy mobility.

Article 25

Elimination of Harmful Social and Cultural Practices

State Parties shall take all appropriate steps to eliminate harmful social and cultural practices that affect the welfare and dignity of youth, in particular:

- (a) Customs and practices that harm the health, life or dignity of the youth;
- (b) Customs and practices discriminatory to youth on the basis of gender, age or other status.

Article 26

Responsibilities of Youth

Every young person shall have responsibilities towards his family and society, the State, and the international community. Youth shall have the duty to:

- (a) Become the custodians of their own development;
- (b) Protect and work for family life and cohesion;
- (c) Have full respect for parents and elders and assist them anytime in cases of need in the context of positive African values;
- (d) Partake fully in citizenship duties including voting, decision-making and governance;
- (e) Engage in peer-to-peer education to promote youth development in areas such as literacy, use of information and communication technology, HIV/AIDS prevention, violence prevention and peacebuilding;
- (f) Contribute to the promotion of the economic development of States Parties and Africa by placing their physical and intellectual abilities at its service;
- (g) Espouse an honest work ethic and reject and expose corruption;
- (h) Work towards a society free from substance abuse, violence, coercion, crime, degradation, exploitation and intimidation;

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- (i) Promote tolerance, understanding, dialogue, consultation and respect for others regardless of age, race, ethnicity, colour, gender, ability, religion, status or political affiliation;
- (j) Defend democracy, the rule of law and all human rights and fundamental freedoms;
- (k) Encourage a culture of voluntarism and human rights protection as well as participation in civil society activities;
- (l) Promote patriotism towards and unity and cohesion of Africa;
- (m) Promote, preserve and respect African traditions and cultural heritage and pass on this legacy to future generations;
- (n) Become the vanguard of representing cultural heritage in languages and in forms to which youth are able to relate;
- (o) Protect the environment and conserve nature.

Article 27

Popularization of the Charter

States Parties shall have the duty to promote and ensure through teaching, education and publication, the respect of rights, responsibilities and freedoms contained in the present Charter and to see to it that these freedoms, rights and responsibilities as well as corresponding obligations and duties are understood.

Article 28

Duties of the African Union Commission

The African Union Commission shall ensure that States Parties respect the commitments made and fulfil the duties outlined in the present Charter by:

- (a) Collaborating with governmental, non-governmental institutions and development partners to identify best practices on youth policy formulation and implementation and encouraging the adaptation of principles and experiences among States Parties;
- (b) Inviting States Parties to include youth representatives as part of their delegations to the ordinary sessions of the African Union and other relevant meetings of the policy organs to broaden the channels of communication and enhance the discussion of youth-related issues;
- (c) Instituting measures to create awareness of its activities and make information on its activities more readily available and accessible to youth;
- (d) Facilitating exchange and cooperation between youth organizations across national borders in order to develop regional youth solidarity, political consciousness and democratic participation in collaboration with development partners.

Part 2

Final Provisions

Article 29

Savings Clause

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Nothing in this Charter shall be taken as minimizing higher standards and values contained in other relevant human rights instruments ratified by States concerned or national law or policies.

Article 30

Signature, Ratification or Adherence

1. The present Charter shall be open to signature by all the Member States. The present Charter shall be subject to ratification or accession by Member States. The instrument of ratification or accession to the present Charter shall be deposited with the Chairperson of the Commission.
2. The present Charter shall come into force thirty (30) days after the deposit with the Chairperson of the Commission of the instruments of ratification of fifteen (15) Member States.

Article 31

Amendment and Revision of the Charter

1. The present Charter may be amended or revised if any Member State makes a written request to that effect to the Chairperson of the Commission, provided that the proposed amendment is not submitted to the Assembly of the Union for consideration until all Member States have been duly notified of it.
2. An amendment shall be approved by a simple majority of the Member States. Such amendment shall come into force for each Member State that has ratified or acceded to it on the date of the deposit of its instrument of ratification.

9.

PROTOCOL TO THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS ON THE RIGHTS OF OLDER PERSONS IN AFRICA

Adopted in Addis Ababa, Ethiopia, on 30 January 2016.

The Protocol shall enter into force thirty days after the deposit of the instruments of ratification by fifteen Member States.

We, the Member States of the African Union,

Considering that Article 66 of the African Charter on Human and Peoples' Rights provides for special protocols or agreements, if necessary, to supplement the provisions of that Charter,

Considering that the African Charter makes specific provisions for the protection of the rights of older persons, under Article 18, paragraph 4, which stipulates that, "The aged and the disabled shall also have the right to special measures of protection in keeping with their physical or moral needs",

Noting Article 2 of the African Charter which states that, "Every individual shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in the present Charter without distinction of any kind such as race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status",

Recalling Article 22 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa which provides for the special protection of elderly women,

Considering recommendation (1) contained in paragraph 4.1 of the African Union Policy Framework and Plan of Action on Ageing (2002) which states that "Member States recognize the fundamental rights of older persons and commit themselves to abolish all forms of discrimination based on age; that they undertake to ensure that the

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rights of older persons are protected by appropriate legislation; including the right to organize themselves in groups and to representation in order to advance their interests",

Considering recommendation (1) (a) contained in paragraph 4.1 of the same Policy Framework and Plan of Action which calls for the elaboration and adoption of "an additional Protocol to the African Charter on Human and Peoples' Rights relating to the rights of older persons",

Considering further paragraph 20 of the Kigali Declaration on Human Rights (2003), which "calls upon States Parties to develop a Protocol on the protection of the rights of the elderly and persons with disabilities",

Recalling section 2.2.11 of the African Union Social Policy Framework (2009) which calls for the implementation of all the tenets of the AU Policy Framework and Plan of Action on Ageing (2002), other international instruments that deal with the issues of ageing and older persons, the 1991 United Nations Principles for Older Persons, the 1992 United Nations Proclamation on Ageing, and the 2002 Madrid International Plan of Action on Ageing which promotes the rights of older persons,

Considering also the World Population Plan of Action (1974), the Declaration of Principles of the United Nations Conference on Human Settlements (HABITAT) of 1996 and 1999, the International Labour Organization (ILO) Convention No. 102 of 1952 concerning Minimum Standards of Social Security, Convention No. 128 and Recommendation No. 131 of 1967 on Invalidity, Old Age and Survivors' Benefits, Recommendation No. 162 of 1980 concerning Older Workers, and Convention No. 157 concerning Maintenance of Social Security Rights of 1982,

Considering the various international declarations, conventions and instruments including, but not limited to, the International Convention on the Elimination of All Forms of Racial Discrimination of 1966, the International Covenant on Civil and Political Rights of 1966, the International Covenant on Economic, Social and Cultural Rights of 1966, the Convention on the Elimination of all Forms of Discrimination against Women of 1979, the United Nations Plan of Action on Ageing of 1982, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment of 1984, the United Nations Declaration on the Right to Development of 1986, the United Nations Principles for Older Persons of 1991, the United Nations Proclamation on Ageing of 1992, and the Madrid Plan of Action on Ageing of 2002,

Taking into consideration the virtues of African traditions, values and practices which should inspire and characterize the provision of mutual social and communal care and support, respect for older members of society and the passing of knowledge to younger population groups,

Noting that the increase in the number and needs of older persons in Africa calls for African Governments to institute urgent measures aimed at addressing these needs such as access to regular incomes, equitable distribution of resources, employment opportunities; access to appropriate health services; access to basic social services such as food, water, clothing and shelter; access to good care and support from the family, the State, civil society and private organizations; recognition of their contribution towards the care of persons with AIDS and orphans; respect and recognition of the role and contribution that older persons make to society; and a recognition of their special needs in emergency situations,

Have agreed as follows:

Article 1 Definitions

For purposes of this Protocol:

"African Charter" means the African Charter on Human and Peoples' Rights;

"African Commission" means the African Commission on Human and Peoples' Rights;

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"Ageing" means the process of getting old from birth to death and in this Protocol, it shall also refer to issues concerned with older persons;

"Assembly" means the Assembly of Heads of State and Government of the African Union;

"AU" means the African Union;

"Commission" means the African Union Commission;

"Constitutive Act" means the Constitutive Act of the African Union;

"Harmful traditional practices" means traditional beliefs, attitudes and practices which violate the fundamental rights of older persons such as their right to life, dignity and physical integrity;

"ICT" means information communication and technology;

"Member States" means the Member States of the African Union;

"Older persons" means those persons aged sixty (60) years and above, as defined by the United Nations Plan of Action on Ageing (1982) and the AU Policy Framework and Plan of Action on Ageing (2002);

"Residential care" means long-term care, including geriatric care, given to older persons in a residential setting rather than their home;

"States Parties" means Member States of the African Union that have ratified or acceded to this Protocol and deposited the instruments of ratification or accession with the Chairperson of the African Union Commission;

"The Advisory Council on Ageing" means a Council established in accordance with the AU Policy Framework and Plan of Action on Ageing (2002);

The words "the aged", "seniors", "senior citizens" and "the elderly" shall be construed to have the same meaning as "older persons".

Article 2

Obligations of States Parties

1. States Parties shall recognize the rights and freedoms enshrined in this Protocol and shall undertake to adopt legislative or other measures to give effect to them.
2. States Parties shall ensure that the 1991 United Nations Principles of Independence, Dignity, Self-fulfilment, Participation and Care of Older Persons are included in their national laws and are legally binding as the basis for ensuring their rights.

Article 3

Elimination of Discrimination Against Older Persons

States Parties shall:

1. Prohibit all forms of discrimination against older persons and encourage the elimination of social and cultural stereotypes which marginalize older persons;

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2. Take corrective measures in those areas where discrimination and all forms of stigmatization against older persons continue to exist in law and in fact; and

3. Support and enforce local, national, regional, continental and international customs, traditions and initiatives directed at eradicating all forms of discrimination against older persons.

Article 4

Access to Justice and Equal Protection Before the Law

States Parties shall:

1. Develop and review existing legislation to ensure that older persons receive equal treatment and protection;

2. Ensure the provision of legal assistance to older persons in order to protect their rights; and

3. Ensure that law enforcement organs at all levels are trained to effectively interpret and enforce policies and legislation to protect the rights of older persons.

Article 5

Right to Make Decisions

States Parties shall:

1. Ensure that appropriate legislation exists that recognizes the rights of older persons to make decisions regarding their own well-being without undue interference from any person or entity, and that older persons have the right to appoint a party of their choice to carry out their wishes and instructions;

2. Ensure that, in the event of incapacity, older persons shall be provided with legal and social assistance in order to make decisions that are in their best interests and well-being; and

3. Enact legislation and take other measures that protect the right of older persons to express opinions and participate in social and political life.

Article 6

Protection Against Discrimination in Employment

States Parties shall:

1. Take measures to eliminate work place discrimination against older persons with regard to access to employment taking into consideration occupational requirements; and

2. Ensure appropriate work opportunities for older persons taking into account their medical and physical abilities, skills and experience.

Article 7

Social Protection

States Parties shall:

1. Develop policies and legislation that ensure that older persons who retire from their employment are provided with adequate pensions and other forms of social security;

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2. Ensure that universal social protection mechanisms exist to provide income security for those older persons who did not have the opportunity to contribute to any social security provisions;
3. Ensure that the processes and procedures of accessing pensions are decentralized, simple and dignified;
4. Take legislative and other measures to enable individuals to prepare for income security in old age; and
5. Take legislative and other measures that facilitate the rights of older persons to access services from State service providers.

Article 8

Protection from Abuse and Harmful Traditional Practices

States Parties shall:

1. Prohibit and criminalize harmful traditional practices targeted at older persons; and
2. Take all necessary measures to eliminate harmful traditional practices, including witchcraft accusations, which affect the welfare, health, life and dignity of older persons, particularly older women.

Article 9

Protection of Older Women

States Parties shall:

1. Ensure the protection of the rights of older women from violence, sexual abuse and discrimination based on gender;
2. Put in place legislation and other measures that guarantee protection of older women against abuses related to property and land rights; and
3. Adopt appropriate legislation to protect the right of inheritance of older women.

Article 10

Care and Support

States Parties shall:

1. Adopt policies and legislation that provide incentives to family members who provide home care for older persons;
2. Identify, promote and strengthen traditional support systems to enhance the ability of families and communities to care for older family members; and
3. Ensure the provision of preferential treatment in service delivery for older persons.

Article 11

Residential Care

States Parties shall:

1. Enact or review existing legislation to ensure that residential care is optional and affordable for older persons;

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2. Ensure that older persons in residential care facilities are provided with care that meets the national minimum standards provided that such standards comply with regional and international standards; and
3. Ensure that older persons in palliative care receive adequate care and pain management medication.

Article 12

Support for Older Persons Taking Care of Vulnerable Children

States Parties shall:

1. Adopt measures to ensure that indigent older persons who take care of orphans and vulnerable children are provided with financial, material and other support; and
2. Ensure that when children are left in the care of older persons, any social or other benefits designed for the children, are remitted to the older persons.

Article 13

Protection of Older Persons With Disabilities

States Parties shall:

1. Adopt legislation and other measures to protect the rights of older persons with disabilities;
2. Ensure that such legislation and measures comply with regional and international standards; and
3. Ensure that older persons with disabilities have access to assistive devices and specialized care, which respond to their needs within their communities.

Article 14

Protection of Older Persons in Conflict and Disaster Situations

States Parties shall:

1. Ensure that, in situations of risk, including natural calamities, conflict situations, during civil strife or wars, older persons shall be among those to enjoy access, on a priority basis, to assistance during rescue efforts, settlement, repatriation and other interventions; and
2. Ensure that older persons receive humane treatment, protection and respect at all times and are not left without needed medical assistance and care.

Article 15

Access to Health Services

States Parties shall:

1. Guarantee the rights of older persons to access health services that meet their specific needs;
2. Take reasonable measures to facilitate access to health services and medical insurance coverage for older persons within available resources; and
3. Ensure the inclusion of geriatrics and gerontology in the training of health-care personnel.

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Article 16 Access to Education

States Parties shall provide opportunities for older persons to have access to education and to acquire ICT skills.

Article 17 Participation in Programmes and Recreational Activities

States Parties shall develop policies that ensure the rights of older persons to enjoy all aspects of life, including active participation in socio-economic development, cultural programmes, leisure and sports.

Article 18 Accessibility

States Parties shall take measures to ensure that older persons have access to infrastructure, including buildings, public transport and are accorded seating priority.

Article 19 Awareness on Ageing and Preparation for Old Age

States Parties shall:

1. Adopt measures to encourage the development of awareness-raising programmes to educate the younger population groups on ageing and older persons to combat negative attitudes against older persons; and
2. Adopt measures to develop training programmes that prepare older persons for the challenges faced in old age, including retirement.

Article 20 Duties of Older Persons

Older persons have responsibilities towards their families, communities, the wider society, the State and the international community. In this regard, they shall:

1. Mentor and pass on knowledge and experience to the younger generations;
2. Foster and facilitate intergenerational dialogue and solidarity within their families and communities; and
3. Play a role in mediation and conflict resolution.

Article 21 Coordination and Data Collection

States Parties shall:

1. Ensure the systematic collection and analysis of national data on older persons;
2. Develop a national mechanism on ageing with responsibility to assess, monitor, evaluate and coordinate the integration and implementation of older persons' rights in national policies, strategies and legislation; and
3. Support the Advisory Council on Ageing, as a continental mechanism of the African Union, to facilitate the implementation and follow-up of the continental policies and plans on ageing.

9. PROTOCOL ON THE RIGHTS OF OLDER PERSONS

Article 22 Implementation

1. States Parties shall ensure the implementation of this Protocol, and shall indicate in their periodic reports submitted to the African Commission in accordance with Article 62 of the African Charter, the legislative and other measures undertaken for the full realization of the rights recognized in this Protocol.
2. In the implementation of this Protocol, the African Commission shall have the mandate to interpret the provisions of the Protocol in accordance with the African Charter.
3. The African Commission may refer matters of interpretation and enforcement or any dispute arising from the application or implementation of this Protocol to the African Court on Human and Peoples' Rights.
4. Where applicable, the African Court on Human and Peoples' Rights shall have the mandate to hear disputes arising from the application or implementation of this Protocol.

Article 23 Popularization of the Protocol

States Parties shall take all appropriate measures to ensure the widest possible dissemination of this Protocol in accordance with the relevant provisions and procedures of their respective constitutions.

Article 24 Safeguard Clause

1. No provision in this Protocol shall be interpreted as derogating from the principles and values contained in other relevant instruments for the realization of the rights of older persons in Africa.
2. In the event of a contradiction between two or more provisions of this Protocol, the interpretation which favours the rights of older persons and protects their legitimate interests shall prevail.

Article 25 Signature, Ratification and Accession

1. This Protocol shall be open to Member States of the Union for signature, ratification or accession.
2. The instrument of ratification or accession to the present Protocol shall be deposited with the Chairperson of the Commission who shall notify all Member States of the dates of the deposit of the instruments of ratification or accession.

Article 26 Entry into Force

1. This Protocol shall enter into force thirty (30) days after the deposit of the fifteenth (15th) instrument of ratification by a Member State.
2. The Chairperson of the Commission shall notify all Members States of the African Union of the entry into force of the present Protocol.
3. For any Member State of the African Union acceding to the present Protocol, the Protocol shall come into force in respect of that State on the date of the deposit of its instrument of accession.

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Article 27 Reservations

1. A State Party may, when ratifying or acceding to this Protocol, submit in writing a reservation with respect to any of the provisions of this Protocol. Reservations shall not be incompatible with the object and purpose of this Protocol.
2. Unless otherwise provided, a reservation may be withdrawn at any time.
3. The withdrawal of a reservation must be submitted in writing to the Chairperson of the Commission who shall notify other States Parties of the withdrawal accordingly.

Article 28 Depositary

This Protocol shall be deposited with the Chairperson of the African Union Commission, who shall transmit a certified true copy of the Protocol to the Government of each signatory State.

Article 29 Registration

The Chairperson of the Commission, upon the entry into force of this Protocol, shall register this Protocol with the Secretariat of the United Nations in conformity with Article 102 of the Charter of the United Nations.

Article 30 Withdrawal

1. At any time after three years from the date of entry into force of this Protocol, a State Party may withdraw by giving written notification to the depositary.
2. Withdrawal shall be effective one year after receipt of notification by the depositary, or on such later date as may be specified in the notification.
3. Withdrawal shall not affect any obligation of the withdrawing State Party prior to the withdrawal.

Article 31 Amendment and Revision

1. Any State Party may submit proposal(s) for the amendment or revision of this Protocol. Such proposal(s) shall be adopted by the Assembly.
2. Proposals for amendment or revision shall be submitted to the Chairperson of the Commission who shall transmit such proposals to the Assembly at least six months before the meeting at which it shall be considered for adoption.
3. Amendments or revisions shall be adopted by the Assembly by consensus or, failing which, by a two-thirds majority.
4. The amendment or revision shall enter into force in accordance with the procedures outlined in Article 26 of this Protocol.

Article 32 Authentic Texts

10. LEGAL AID FUND

This Protocol is drawn up in four original texts, in Arabic, English, French and Portuguese languages, all four texts being equally authentic.

10.

STATUTE ON THE ESTABLISHMENT OF THE LEGAL AID FUND OF HUMAN RIGHTS ORGANS OF THE AFRICAN UNION

Adopted in Addis Ababa, Ethiopia, on 30 January 2016.

The Statute entered into force upon adoption on 30 January 2016.

Preamble

We, the Members States of the African Union,

Recalling the objectives and principles enunciated in the Constitutive Act of the African Union, adopted on 11 July 2000 in Lomé, Togo, in particular the commitment to settle their disputes amicably,

Also recalling the African Union Ministerial Conferences of 1999 in Mauritius and 2003 in Rwanda calling for the establishment of a Human Rights Fund in Africa,

Considering Article 3 of the African Charter on Human and Peoples' Rights on equality before the law and equal protection of the law,

Recalling Article 7 of the African Charter on Human and Peoples' Rights on the right to have one's cause heard,

Further recalling the right to free legal representation as enshrined under Article 10, paragraph 2, of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights,

Mindful of Resolution 41 of the African Commission on Human and Peoples' Rights on the Right to Fair Trial and Legal Aid in Africa,

Acknowledging the Principles and Guidelines on the Right to a Fair Trial and Legal Assistance in Africa,

Recalling the Decision of the African Court on Human and Peoples' Rights at its Twenty-fifth Ordinary Session calling for the formulation and establishment of a legal aid scheme for the Court,

Bearing in mind Decision EX.CL/Dec.865 (XXVI) of the Executive Council at its Twenty-sixth Ordinary Session authorizing the Court to establish a judicial assistance fund within the framework of resources already allocated to it and the mobilization of voluntary resources of Member States,

Convinced that the attainment of the objectives of the African Union requires the creation of a Legal Aid Fund,

Have agreed as follows:

General Provisions

Article 1

Definitions

In this Statute, the following definitions shall apply:

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"African Commission" means the African Commission on Human and Peoples' Rights;

"Assembly" means the Assembly of Heads of State and Government of the African Union;

"Board" means the Board of Trustees of the Fund;

"Chairperson" means the Chairperson of the Board;

"Charter" means the African Charter on Human and Peoples' Rights;

"Commission" means the African Union Commission;

"Committee" means the African Committee of Experts on the Rights and Welfare of the Child;

"Court" means the African Court on Human and Peoples' Rights;

"Executive Council" means the Executive Council of the African Union;

"Fund" means the Legal Aid Fund of Human Rights Organs of the African Union;

"Human Rights Organs of the African Union" means the African Court on Human and Peoples' Rights, the African Commission on Human and Peoples' Rights and the African Committee of Experts on the Rights and Welfare of the Child and any other body as may be established;

"Indigent applicant" means an applicant for legal assistance who is determined as such by the Fund pursuant to its policy on legal assistance;

"Member" means member of the Board;

"Member State" means a Member State of the African Union;

"Statute" means the present Statute;

"Union" means the African Union established by the Constitutive Act of the African Union.

Article 2

Establishment and Legal Capacity of the Legal Aid Fund

1. The Fund is hereby established as an independent fund of the Union to provide legal assistance to indigent applicants before Human Rights Organs of the African Union.

2. The Fund shall possess full juridical personality and capacity to contract, acquire and dispose of immovable and moveable property and institute legal proceedings in accordance with African Union rules and regulations.

Article 3

Objectives

The Fund shall have the following objectives:

(a) To mobilize and receive resources to finance the Legal Aid Scheme of the Human Rights Organs of the African Union;

10. LEGAL AID FUND

- (b) To foster cooperation and coordination among all relevant stakeholders, notably, Member States, various organs and institutions of the African Union, international organizations, civil society organizations, lawyers associations and the private sector, and within the provision of legal aid;
- (c) To engage in activities and projects that will further the objectives of this Statute.

Article 4 Principles of the Legal Aid Fund

To achieve its objectives, the Fund shall in the exercise of its functions respect and observe the following principles:

- (a) Effective, sustainable, credible and accessible legal aid system;
- (b) Availability of resources and a need-based legal aid system.

Article 5 Management of the Fund

1. The Fund shall be managed by a Board of Trustees charged with supervising the operations, financial management, accounting and its treasury.
2. The Board shall:
 - (a) Provide strategic leadership and oversight of the Fund;
 - (b) Recruit the Secretary of the Fund;
 - (c) Draw up the required or appropriate operational rules in conformity with the present Statute;
 - (d) Evaluate the functioning of the Fund;
 - (e) Manage and oversee the resources and assets of the Fund;
 - (f) Set up guidelines for the judicious investment of the finances of the Fund;
 - (g) Manage the Fund in accordance with the African Union Financial Rules and Regulations;
 - (h) Recruit a manager(s) of investments charged with the management of the Fund's investments, in compliance with the existing African Union guidelines on investments;
 - (i) Approve the annual report of the Fund for submission to the Chairperson of the Commission;
 - (j) Approve the annual budget of the Fund;
 - (k) Recruit an external auditor; and
 - (l) Carry out any other duties, which may be necessary or appropriate for the proper functioning of the Fund.
3. In the exercise of its functions, the Fund shall be assisted by a Secretariat.

Article 6

VI. HUMAN AND PEOPLES' RIGHTS

Composition of the Board

1. The Board shall consist of:
 - (a) Five (5) members appointed by the Chairperson of the Commission from the five (5) AU regions taking into account equitable gender balance; and
 - (b) One (1) member representing each of the Human Rights Organs of the African Union.
2. Within sixty (60) days of entry into force of this Statute, the Chairperson of the Commission shall invite each region to submit, in writing, a maximum of five (5) candidates, for consideration for appointment to the Board.
3. Members of the Board, where applicable, shall serve in their personal capacity and shall be persons of high moral character, impartiality and integrity and who have recognized competence in one or more of the following areas: legal assistance, fundraising, fund management, banking, commerce, finance and communications or outreach.
4. No two (2) members shall be nationals of the same State.

Article 7

Term of Office of Members of the Board

1. Members, other than representatives of Human Rights Organs of the African Union, shall be appointed for a non-renewable period of five (5) years.
2. A member appointed to replace a member whose term of office has not yet expired shall be from the same region and shall hold office for the remainder of the predecessor's term.

Article 8

Remuneration

Members of the Board of Trustees shall not receive any remuneration for serving on the Board other than reimbursement for eligible expenses associated with attending to the business of the Board in accordance with the AU Financial Rules and Regulations.

Article 9

Resignation, Suspension and Removal from Office

1. A Board member may resign by addressing a letter of resignation to the Chairperson of the Board who shall transmit the letter to the Chairperson of the Commission.
2. A member may be suspended or removed from office on the recommendation of two thirds of the other members on the grounds that the member no longer meets the requisite conditions specified in this Statute.
3. The Chairperson of the Board shall bring the recommendation for suspension or removal of a member from office to the attention of the Chairperson of the Commission. Suspension or removal from office shall be carried out in conformity with the Fund's Rules of Procedure.

Article 10

Vacancies

1. A seat on the Board shall be vacant under the following circumstances:

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- (a) Death;
- (b) Resignation;
- (c) Removal from office in accordance with Article 9 above.

2. In the event of death, resignation or removal from office of a member, the Chairperson of the Board, through the Chairperson of the Commission, shall immediately inform the Member States in writing. Thereafter, the Chairperson of the Commission shall declare the seat vacant.

3. The same procedure for the appointment of members shall be followed in filling vacancies.

Article 11

Election of the Chairperson and Vice-Chairperson of the Board

1. The members of the Board shall elect from among themselves the Chairperson and the Vice-Chairperson, who shall serve for a non-renewable term of two (2) years.

2. The modalities for the election of the Chairperson and the Vice-Chairperson as well as their duties shall be defined in the Fund's Rules of Procedure.

Article 12

Sessions of the Board

1. Board members shall perform their functions on a part-time basis.

2. The Board shall meet once a year in ordinary session. It may meet in extraordinary sessions at the request of the Chairperson or six (6) of the members, if necessary and subject to the availability of resources.

3. The duration of the sessions shall be determined by the Rules of Procedure of the Fund.

4. Sessions of the Board shall be held at the seat of the Fund, or at any other place to be determined by the members.

Article 13

Quorum

The quorum for a meeting of the Board shall be five (5) members, with at least one (1) being a representative of the Human Rights Organs of the African Union.

Article 14

Secretariat of the Fund

1. The Secretariat shall assist the Board in carrying out its oversight duties as well as be in charge of the day-to-day management and operations of the Fund.

2. The Secretariat shall be headed by a Secretary to the Fund, who may be assisted by other members of staff.

3. The Secretary to the Fund shall:

- (a) Manage the day-to-day operations of the Fund;

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- (b) Prepare and submit to the Board the capital and operating annual budget of the Fund;
- (c) Employ staff and engage the services of consultants in accordance with applicable rules;
- (d) Submit to the Board a financial statement of the Fund during the preceding fiscal year as audited by the external auditor;
- (e) Represent the Fund in relation to third parties; and
- (f) Perform any other functions as may be assigned by the Board from time to time.

Article 15 Code of Conduct

The Code of Ethics and Conduct of the African Union shall apply to the Fund.

Article 16 Resources of the Fund

1. The resources of the Fund shall consist of:
 - (a) Voluntary contributions of Member States;
 - (b) Contributions from African Union partners; and
 - (c) Income derived from operations of the Fund or otherwise accruing to the Fund.
2. The Fund shall only accept grants, gifts or other material benefit, which are in conformity with the objectives of the Union.
3. Financing of the Fund shall be governed by considerations of economy, efficiency and cost-effectiveness and the need to safeguard the independence and sustainability of the Human Rights Organs of the African Union.

Article 17 Seat

The Fund shall be located at the seat of the Court.

Article 18 Privileges and Immunities

1. The Fund, its representatives and staff shall enjoy in the territory of each Member State, the privileges and immunities stipulated in the 1965 General Convention on Privileges and Immunities of the Organization of African Unity and other relevant international instruments.
2. The Host Agreement, which shall be concluded between the Fund and Host Country of the seat of the Court, shall govern the relations between the Fund and Host Country.

Article 19 Cooperation with Human Rights Organs of the African Union and other Institutions of the Union

11. PROTOCOL ON THE RIGHTS OF PERSONS WITH DISABILITIES IN AFRICA

1. Upon entry into force of this Statute, the Fund shall enter into an agreement with the Human Rights Organs of the African Union, specifying the mode of cooperation and collaboration between the institutions.

2. The Fund may, if it deems it necessary, consult with any organ or institution of the Union on any subject, which is within the competence of each organ or institution. All documents circulated to Member States by the Fund shall also be circulated to interested organs or institutions of the Union for their information, comments, proposals or necessary action.

Article 20

Cooperation with Other Institutions

In order to broaden its operational base, the Fund may consult with intergovernmental international or national organizations, civil society organizations, bar associations and law societies and any other institution that it may consider relevant, on any subject entrusted to it, if it believes that such procedure might aid it in the performance of its functions.

Article 21

Amendments

The present Statute may be amended on the recommendation of the Board and upon adoption by the Assembly.

Article 22

Entry into Force

The present Statute and any amendment thereof shall enter into force upon adoption by the Assembly.

11.

PROTOCOL TO THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS ON THE RIGHTS OF PERSONS WITH DISABILITIES IN AFRICA

Adopted in Addis Ababa, Ethiopia, on 29 January 2018.

The Protocol shall enter into force 30 days after the deposit of the fifteenth instrument of ratification by a Member State.

Preamble

We, the Heads of State and Government of the Member States of the African Union,

Considering that Article 66 of the African Charter on Human and Peoples' Rights of 27 June 1981 provides that special protocols or agreements, if necessary, may supplement the provisions of the African Charter,

Further considering that Article 18, paragraph 4, of the African Charter on Human and Peoples' Rights of 27 June 1981 provides that persons with disabilities shall have the right to special measures of protection in keeping with their physical or moral needs,

Noting that the Constitutive Act of the African Union of 11 July 2000 identifies respect for democratic principles, human rights, the rule of law and good governance as essential principles for the proper functioning of the African Union,

Recognizing that the African Union and its agencies as well as States Parties to the African Charter have made various efforts towards ensuring the rights of persons with disabilities,

Noting that Articles 6 and 61 of the African Charter on Human and Peoples' Rights of 27 June 1981 recognize regional and international human rights instruments and African practices consistent with international norms on

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human and peoples' rights as important reference points for the application and interpretation of the African Charter,

Further noting that human rights and fundamental freedoms are universal, indivisible, interdependent and interrelated, and that the rights of every individual are recognized in international human rights instruments, including the Universal Declaration of Human Rights of 10 December 1948, the International Covenant on Economic, Social and Cultural Rights of 16 December 1966 and the International Covenant on Civil and Political Rights of 16 December 1966,

Recalling that the rights of persons with disabilities are affirmed in the Convention on the Rights of Persons with Disabilities of 13 December 2006,

Further recalling that various African Union human rights instruments, including the African Charter on the Rights and Welfare of the Child of 11 July 1990, the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa of 11 July 2003, the African Youth Charter of 2 July 2006, the African Charter on Democracy, Elections and Governance of 30 January 2007, and the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa of 23 October 2009 make provisions for the rights of persons with disabilities,

Considering further paragraph 20 of the Kigali Declaration on Human Rights of 8 May 2003, which "calls upon States Parties to develop a Protocol on the protection of the rights of the elderly and persons with disabilities",

Recalling that the Decision 750 (XXII) of the Executive Council at its Twenty-second Ordinary Session held in Addis Ababa, Ethiopia, from 21 to 25 January 2013, endorsed the African Union Disability Architecture (AUDA), of which a Protocol on the Rights of Persons with Disabilities to the African Charter is a central legal pillar,

Acknowledging that persons with disabilities have inherent dignity and individual autonomy including the freedom to make one's own choices,

Cognizant of the importance of full and effective participation and inclusion of persons with disabilities in society,

Recognizing the diversity of persons with disabilities,

Appreciating the value of persons with disabilities, including those with high support needs, as full members of society,

Noting that persons with disabilities experience extreme levels of poverty,

Concerned that persons with disabilities continue to experience human rights violations, systemic discrimination, social exclusion and prejudice within political, social and economic spheres,

Gravely concerned by the harmful practices that persons with disabilities often experience,

Alarmed, in particular, by the maiming or killing of persons with albinism in many parts of the continent,

Concerned at the multiple forms of discrimination, high levels of poverty and the great risk of violence, exploitation, neglect and abuse that women and girls with disabilities face,

Recognizing that families, guardians, caregivers and community play essential roles in the lives of persons with disabilities,

Concerned that adequate effective measures have not been taken to ensure that persons with disabilities may exercise their full rights on an equal basis with others,

11. PROTOCOL ON THE RIGHTS OF PERSONS WITH DISABILITIES IN AFRICA

Recalling the lack of a substantive binding African normative and institutional framework for ensuring, protecting and promoting the rights of persons with disabilities,

Conscious of the need to establish a firm legal African Union framework as a basis for laws, policies, administrative actions and resources to ensure the rights of persons with disabilities,

Determined that the rights and dignity of persons with disabilities should be promoted and protected to enable them to enjoy fully and equally all their human rights and fundamental freedoms,

Have agreed as follows:

Article 1 Definitions

For the purposes of the present Protocol:

"African Charter" means the African Charter on Human and Peoples' Rights adopted by the Heads of State and Government of the Organization of African Unity (OAU) in Banjul, Gambia, in June 1981;

"African Commission" means the African Commission on Human and Peoples' Rights established by the African Charter on Human and Peoples' Rights adopted by the Heads of State and Government of the Organization of African Unity (OAU) in Banjul, Gambia, in June 2000;

"African Court" means the African Court on Human and Peoples' Rights or any successor court including the African Court of Justice and Human Rights established by the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights adopted by the Heads of State and Government of the Organization of African Unity (OAU) in Ouagadougou, Burkina Faso, in June 1998;

"Assembly" means the Assembly of Heads of State and Government of the African Union;

"AU" or "Union" means the African Union established by the Constitutive Act of the African Union adopted by the Heads of State and Government of the Organization of African Unity (OAU) in Lomé, Togo, in July 2000;

"Commission" means the Commission of the African Union;

"Deaf culture" means the way deaf people interact, it includes a set of social beliefs, behaviours, art, literary traditions, history, values, and shared institutions of communities that are influenced by deafness and which use sign languages as the main means of communication;

"Discrimination on the basis of disability" means any distinction, exclusion or restriction on the basis of disability which has the purpose or effect of impairing or nullifying the recognition, enjoyment or exercise, on an equal basis with others, of all human and peoples' rights in the political, economic, social, cultural, civil or any other field. Discrimination on the basis of disability shall include denial of reasonable accommodation;

"Habilitation" means inpatient or outpatient health care services such as physical therapy, occupational therapy, speech-language pathology, and audiology that address the competencies and abilities needed for optimal functioning and interaction with their environments to enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social, and vocational ability, full inclusion and participation in all aspects of life;

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"Harmful practices" include behaviour, attitudes and practices based on tradition, culture, religion, superstition or other reasons, which negatively affect the human rights and fundamental freedoms of persons with disabilities or perpetuate discrimination;

"Legal capacity" means the ability to hold rights and duties and to exercise those rights and duties;

"Persons with disabilities" include those who have physical, mental, psychosocial, intellectual, neurological, developmental or other sensory impairments which, in interaction with environmental, attitudinal or other barriers, hinder their full and effective participation in society on an equal basis with others;

"Protocol" means the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa;

"Reasonable accommodation" means necessary and appropriate modifications and adjustments, where needed in a particular case, to ensure to persons with disabilities the enjoyment or exercise on an equal basis with others of all human and peoples' rights;

"Rehabilitation" means inpatient or outpatient health care services such as physical therapy, occupational therapy, speech-language pathology and psychiatric rehabilitation services that help a person keep, restore or improve skills and functioning for daily living and skills related to communication that have been lost or impaired because a person was sick, injured or disabled;

"Ritual killings" means the killing of persons motivated by cultural, religious or superstitious beliefs that the use of a body or a body part has medicinal value, possesses supernatural powers and brings good luck, prosperity and protection to the killer;

"Situations of risk" means any situation that poses a grave risk to the general population, including disasters and all forms of armed conflict;

"States Parties" means any Member State of the African Union which has ratified or acceded to this Protocol and deposited the instrument of ratification or accession with the Chairperson of the African Union Commission;

"Universal design" means the design of products, environments, programmes and services to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design, and shall not exclude assistive devices for particular groups of persons with disabilities where this is needed;

"Youth" means every person between the ages of 15 and 35 years.

Article 2

Purpose

The purpose of this Protocol is to promote, protect and ensure the full and equal enjoyment of all human and peoples' rights by all persons with disabilities, and to ensure respect for their inherent dignity.

Article 3

General Principles

This Protocol shall be interpreted and applied in accordance with the following general principles:

- (a) Ensuring respect for and protection of the inherent dignity, privacy, individual autonomy, including the freedom to make one's own choices, and independence of persons;
- (b) Non-discrimination;

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- (c) Full and effective participation and inclusion in society;
- (d) Respect for difference and acceptance of persons with disabilities as part of human diversity and humanity;
- (e) Equality of opportunity;
- (f) Accessibility;
- (g) Reasonable accommodation;
- (h) Equality between men and women;
- (i) The best interests of the child;
- (j) Respect for the evolving capacities of children with disabilities and respect for the right of children with disabilities to preserve their identities.

Article 4 General Obligations

States Parties shall take appropriate and effective measures, including policy, legislative, administrative, institutional and budgetary steps, to ensure, respect, promote, protect and fulfil the rights and dignity of persons with disabilities, without discrimination on the basis of disability, including by:

- (a) Adopting appropriate measures for the full and effective implementation of the rights recognized in the present Protocol;
- (b) Mainstreaming disability in policies, legislation, development plans, programmes and activities and in all other spheres of life;
- (c) Providing in their constitutions and other legislative instruments and taking other measures to modify or abolish existing policies, laws, regulations, customs and practices that constitute discrimination against persons with disabilities;
- (d) Modifying, outlawing, criminalizing or campaigning against, as appropriate, any harmful practice applied to persons with disabilities;
- (e) Promoting positive representations and empowerment of persons with disabilities through training and advocacy;
- (f) Taking measures to eliminate discrimination on the basis of disability by any person, organization or private enterprise;
- (g) Refraining from engaging in any act or practice that is inconsistent with the present Protocol and ensuring that public authorities, institutions and private entities act in conformity with the Protocol;
- (h) Providing assistance and support as necessary and appropriate to enable the realization of the rights set out in the present Protocol;
- (i) Putting in place adequate resources, including through budget allocations, to ensure the full implementation of this Protocol;

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(j) Ensuring effective participation of persons with disabilities or their representative organizations, including women and children with disabilities, in all decision-making processes including the development and implementation of legislation, policies and administrative processes to this Protocol;

(k) Ensuring, where persons with disabilities are lawfully deprived of any rights or freedoms contained in this Protocol, that they are on an equal basis with others, entitled to guarantees in accordance with international human rights law and the objects and principles of the present Protocol.

Article 5

Non-discrimination

1. Every person with a disability shall be entitled to the enjoyment of the rights and freedoms recognized and guaranteed in this Protocol without distinction of any kind on any ground including, race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or any status.

2. States Parties shall:

(a) Prohibit discrimination on the basis of disability and guarantee to persons with disabilities equal and effective legal protection against discrimination on all grounds;

(b) Take steps to ensure that specific measures, as appropriate, are provided to persons with disabilities in order to eliminate discrimination and such measures shall not be considered discrimination;

(c) Take effective and appropriate measures to protect the parents, children, spouses, other family members closely related to the persons with disabilities, caregivers or intermediaries from discrimination on the basis of their association with persons with disabilities.

Article 6

Right to Equality

1. Every person with a disability is equal before the law and has the right to equal protection and benefit of the law.

2. Equality includes the full and equal enjoyment of all human and peoples' rights.

3. States Parties shall take all appropriate legislative, administrative, budgetary and other measures in order to promote equality for persons with disabilities.

Article 7

Equal Recognition before the Law

1. States Parties shall recognize that persons with disabilities are equal before and under the law and are entitled without any discrimination to the equal protection and equal benefit of the law.

2. States Parties shall take all appropriate and effective measures to ensure that:

(a) Persons with disabilities enjoy legal capacity on an equal basis with others in all aspects of life;

(b) Non-State actors and other individuals do not violate the right to exercise legal capacity by persons with disabilities;

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- (c) Persons with disabilities are provided with effective legal protection and the support they may require in enjoying their legal capacity consistent with their rights, will and specific needs;
- (d) Appropriate and effective safeguards are put in place to protect persons with disabilities from abuses that may result from measures that relate to the enjoyment of their legal capacity;
- (e) Policies and laws which have the purpose or effect of limiting or restricting the enjoyment of legal capacity by persons with disabilities are reviewed or repealed;
- (f) Persons with disabilities have the equal right to hold documents of identity and other documents that may enable them to exercise their right to legal capacity;
- (g) Persons with disabilities have the equal right to own or inherit property and are not arbitrarily dispossessed of their property;
- (h) Persons with disabilities have equal rights to control their own financial affairs and to have equal access to bank loans, mortgages and other forms of financial credit.

Article 8 Right to Life

- 1. Every person with a disability has the inherent right to life and integrity.
- 2. States Parties shall take effective and appropriate measures to ensure:
 - (a) Protection, respect for life and the dignity of persons with disabilities, on an equal basis with others;
 - (b) That persons with disabilities have access to services, facilities and devices to enable them to live with dignity and to realize fully their right to life.

Article 9 Right to Liberty and Security of Person

- 1. Every person with a disability has the right to liberty and security of person.
- 2. States Parties shall take appropriate and effective measures to ensure that persons with disabilities, on an equal basis with others:
 - (a) Enjoy the right to liberty and security of person and are not deprived of their liberty unlawfully or arbitrarily;
 - (b) Are not forcibly confined or otherwise concealed by any person or institution;
 - (c) Are protected, both within and outside the home, from all forms of exploitation, violence and abuse.
- 3. States Parties shall take appropriate measures to prevent deprivation of liberty to persons with disabilities, to prosecute perpetrators of such abuse and to provide effective remedies for the victims.
- 4. Where persons with disabilities are lawfully deprived of their liberty, States Parties shall ensure that they are on an equal basis with others entitled to guarantees in accordance with international human rights law and the objects and principles of the present Protocol.
- 5. The existence of a disability or perceived disability shall in no case justify deprivation of liberty.

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Article 10

Freedom from Torture or Cruel, Inhuman or Degrading Treatment or Punishment

1. Every person with a disability shall have the right to the respect of his/her inherent dignity and to be free from torture or cruel, Inhuman or degrading treatment, slavery, forced labour or unlawful punishment.
2. States Parties shall take appropriate and effective measures to ensure that persons with disabilities, on an equal basis with others:
 - (a) Are not subjected to torture or cruel, inhuman or degrading treatment or punishment;
 - (b) Are not subjected without their free, prior and informed consent to medical or scientific experimentation or intervention;
 - (c) Are not subjected to sterilization or any other invasive procedure without their free, prior and informed consent;
 - (d) Are protected, both within and outside the home, from all forms of exploitation, violence and abuse.
3. States Parties shall take appropriate measures to prosecute perpetrators of such abuse and to provide remedies for the victims.

Article 11

Harmful Practice

1. States Parties shall take all appropriate measures and offer appropriate support and assistance to victims of harmful practices, including legal sanctions, educational and advocacy campaigns, to eliminate harmful practices perpetrated on persons with disabilities, including witchcraft, abandonment, concealment, ritual killings or the association of disability with omens.
2. States Parties shall take measures to discourage stereotyped views on the capabilities, appearance or behaviour of persons with disabilities, and they shall prohibit the use of derogatory language against persons with disabilities.

Article 12

Situations of Risk

States Parties shall:

- (a) Take specific measures to ensure the protection and safety of persons with disabilities in situations of risk, including situations of armed conflict, forced displacements, humanitarian emergencies and natural disasters;
- (b) Ensure that persons with disabilities are consulted and participate in all aspects of planning, implementation and monitoring of pre- and post-conflict reconstruction and rehabilitation.

Article 13

Right to Access Justice

1. States Parties shall take measures to ensure that persons with disabilities have access to justice on an equal basis with others, including through the provision of procedural, age and gender-appropriate accommodations, in order to facilitate their effective roles as participants in all legal proceedings.

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2. States Parties shall take reasonable steps to ensure that customary law processes are inclusive and should not be used to deny persons with disabilities their right to access appropriate and effective justice.

3. All law enforcement and justice personnel shall be trained at all levels to effectively engage with and ensure the rights of persons with disabilities are recognized and implemented without discrimination.

4. States Parties shall ensure legal assistance including legal aid to persons with disabilities.

Article 14 Right to Live in the Community

1. Every person with a disability has the right to live in the community with choices on an equal basis with others.

2. States Parties shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of the right to live in the community, on an equal basis with others, including by ensuring that:

(a) Persons with disabilities have the opportunity to choose their place of residence and where and with whom they live;

(b) Persons with disabilities who require intensive support and their families have adequate and appropriate facilities and services, including caregivers and respite services;

(c) Persons with disabilities have access to a range of in-home, residential and other community support services necessary to support living and inclusion in the community;

(d) Persons with disabilities have personal mobility with the greatest possible independence;

(e) Community-based rehabilitation services are provided in ways that enhance the participation and inclusion of persons with disabilities in the community;

(f) Community living centres organized or established by persons with disabilities are supported to provide training, peer support, personal assistance services and other services to persons with disabilities; and

(g) Community services and facilities for the general population, including health, transportation, housing, water, social and educational services, are available on an equal basis to persons with disabilities and are responsive to their needs.

Article 15 Accessibility

1. Every person with a disability has the right to barrier free access to the physical environment, transportation, information, including communications technologies and systems, and other facilities and services open or provided to the public.

2. States Parties shall take reasonable and progressive step measures to facilitate full enjoyment by persons with disabilities of this right, and such measures shall, among others, apply to:

(a) Rural and urban settings and shall take account of population diversities;

(b) Buildings, roads, transportation and other indoor and outdoor facilities, including schools, housing, medical facilities and workplaces;

VI. HUMAN AND PEOPLES' RIGHTS

- (c) Information, communications, sign languages and tactile interpretation services, braille, audio and other services, including electronic services and emergency services;
- (d) Quality and affordable mobility aids, assistive devices or technologies and forms of live assistance and intermediaries; and
- (e) The modification of all inaccessible infrastructure and the universal design of all new infrastructure.

Article 16 Right to Education

1. Every person with a disability has the right to education.
2. States Parties shall ensure to persons with disabilities the right to education on an equal basis with others.
3. States Parties shall take reasonable, appropriate and effective measures to ensure that inclusive quality education and skills training for persons with disabilities is realized fully, including by:
 - (a) Ensuring that persons with disabilities can access free, quality and compulsory basic and secondary education;
 - (b) Ensuring that persons with disabilities are able to access general tertiary education, vocational training, adult education and lifelong learning without discrimination and on an equal basis with others, including by ensuring the literacy of persons with disabilities above compulsory school age;
 - (c) Ensuring reasonable accommodation of the individual's requirements is provided, and that persons with disabilities receive the support required to facilitate their effective education;
 - (d) Providing reasonable, progressive and effective individualized support measures in environments that maximize academic and social development, consistent with the goal of full inclusion;
 - (e) Ensuring appropriate schooling choices are available to persons with disabilities who may prefer to learn in particular environments;
 - (f) Ensuring that persons with disabilities learn life and social development skills to facilitate their full and equal participation in education and as members of the community;
 - (g) Ensuring that multidisciplinary assessments are undertaken to determine appropriate reasonable accommodation and support measures for learners with disabilities, early intervention, regular assessments and certification for learners are undertaken regardless of their disabilities;
 - (h) Ensuring educational institutions are equipped with the teaching aids, materials and equipment to support the education of students with disabilities and their specific needs;
 - (i) Training education professionals, including persons with disabilities, on how to educate and interact with children with specific learning needs; and
 - (j) Facilitating respect, recognition, promotion, preservation and development of sign languages.
4. The education of persons with disabilities shall be directed to:
 - (a) The full development of human potential, sense of dignity and self-worth;

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- (b) The development by persons with disabilities of their personality, talents, skills, professionalism and creativity, as well as their mental and physical abilities, to their fullest potential;
- (c) Educating persons with disabilities in a manner that promotes their participation and inclusion in society; and
- (d) The preservation and strengthening of positive African values.

Article 17 Right to Health

1. Every person with a disability has the right to the highest attainable standard of health.
2. States Parties shall take appropriate and effective measures to ensure persons with disabilities have, on an equal basis with others, access to health services, including sexual and reproductive health, such as by:
 - (a) Providing persons with disabilities with the same range, quality and standard of free or affordable health care and programmes as provided to other persons;
 - (b) Providing those health services needed by persons with disabilities specifically because of their disabilities or health services designed to minimize or prevent further disability, the provision of medicines including pain relieving drugs;
 - (c) Prohibiting discrimination against persons with disabilities by providers of health services or providers of insurance;
 - (d) Ensuring that all health services are provided on the basis of free, prior and informed consent;
 - (e) Providing persons with disabilities with health care in the community;
 - (f) Ensuring that health-care services are provided using accessible formats and that communication between service providers and persons with disabilities is effective;
 - (g) Ensuring that persons with disabilities are provided with support in making health decisions when needed;
 - (h) Ensuring that health campaigns include disability specific needs, but in a manner which does not stigmatize persons with disabilities, and designing services to minimize and prevent further disability; and
 - (i) Ensuring that the training of health-care providers takes account of the disability specific needs and rights of persons with disabilities, and ensuring that formal and informal health services do not violate the rights of persons with disabilities.

Article 18 Habilitation and Rehabilitation

States Parties shall take effective and appropriate measures, including peer support, to enable persons with disabilities to attain and maintain maximum independence, full physical, mental, social and vocational ability, and full inclusion and participation in all aspects of life, including by:

- (a) Organizing, strengthening and extending comprehensive habilitation and rehabilitation services and programmes, particularly in the areas of health, employment, education and social services;

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- (b) Promoting the development of initial and continuing training for professionals and staff working in habilitation and rehabilitation services;
- (c) Promoting the availability, knowledge and use of appropriate, suitable and affordable assistive devices and technologies;
- (d) Supporting the design, development, production, distribution and servicing of assistive devices and equipment for persons with disabilities, adapted to local conditions;
- (e) Developing, adopting and implementing standards, including regulations on accessibility and universal design, suitable to local conditions.

Article 19 Right to Work

1. Every person with a disability has the right to decent work, to just and favourable conditions of work, to protection against unemployment, to protection against exploitation and to protection from forced or compulsory labour.
2. States Parties shall take effective and appropriate measures to facilitate full enjoyment by persons with disabilities of this right on an equal basis with others, including by:
 - (a) Prohibiting discrimination on the basis of disability with regard to all matters concerning all forms of employment, including employment opportunities, vocational training, conditions of recruitment, hiring and employment, continuance of employment, promotion, career advancement, and safe and healthy conditions;
 - (b) Protecting the rights of persons with disabilities, on an equal basis with others, to just and favourable conditions of work and the right by persons with disabilities to exercise their labour and trade union rights;
 - (c) Promoting opportunities for persons with disabilities to initiate self-employment, entrepreneurship and to access financial services;
 - (d) Employing persons with disabilities in the public sector, including by reserving and enforcing minimum job quotas for employees with disabilities;
 - (e) Promoting the employment of persons with disabilities in the private sector through appropriate policies and measures, including through the use of specific measures such as tax incentives;
 - (f) Ensuring that reasonable accommodation is provided to persons with disabilities in the workplace;
 - (g) Ensuring that employees with disabilities or those who become disabled are not unfairly dismissed from employment on the basis of their disability.
3. States Parties shall take legislative, administrative and budgetary measures to ensure that the principle of equal pay for equal work is not used to undermine the right to work for persons with disabilities.
4. States Parties shall take appropriate measures to recognize the social and cultural value of the work of persons with disabilities.

Article 20 Right to Adequate Standard of Living

11. PROTOCOL ON THE RIGHTS OF PERSONS WITH DISABILITIES IN AFRICA

1. Persons with disabilities have the right to an adequate standard of living for themselves and their families, including adequate food, access to safe drinking water, housing, sanitation and clothing, to the continuous improvement of living conditions and to social protection.
2. States Parties shall take appropriate and effective measures to facilitate full enjoyment by persons with disabilities of this right, on the basis of equality, including by:
 - (a) Ensuring that persons with disabilities shall access appropriate and affordable services, devices and other assistance for disability-related needs, including accessible housing and other social amenities, mobility aids and caregivers;
 - (b) Ensuring access by persons with disabilities to social protection programmes;
 - (c) Putting financial measures in place to cover disability-related expenses, including through the use of tax exemptions or concessions, cash transfers, duty waivers and other subsidies; and
 - (d) Facilitating provision of assistance, including interpreters, guides, auxiliary and augmentative supporters and caregivers, while respecting the rights, will and preferences of persons with disabilities.

Article 21

Right to Participate in Political and Public Life

1. Every person with a disability has the right to participate in political and public life.
2. States Parties shall take all appropriate policy, legislative and other measures to ensure this right, on the basis of equality, including through:
 - (a) Undertaking or facilitating systematic and comprehensive civic education to encourage full participation of persons with disabilities in democracy and development processes, including by ensuring civic and voter education materials are availed in accessible formats;
 - (b) Encouraging the effective participation of persons with disabilities in political and public life including as members of political parties, electors and holders of political and public offices in accordance with national laws;
 - (c) Putting in place reasonable accommodation and other support measures consistent with the secrecy of the ballot, including as appropriate, by ensuring accessibility to polling stations and facilitating assisted voting, for persons with disabilities to enable their effective participation in political and public life in accordance with national laws;
 - (d) Realizing increased and effective representation and participation of persons with disabilities on an equitable basis as members of regional, subregional, national and local legislative bodies;
 - (e) Repealing or amending laws that on the basis of disability restrict the right of persons with disabilities to vote, stand for or remain in public office.

Article 22

Self-representation

States Parties shall recognize and facilitate the right of persons with disabilities to represent themselves in all spheres of life, including by promoting an environment that enables persons with disabilities to:

- (a) Form and participate in the activities of organizations of and for persons with disabilities at national, regional and international levels;

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- (b) To build relationships and networks at national, regional and international levels;
- (c) Form and participate in the activities of non-governmental organizations and other associations;
- (d) Effectively advocate for their rights and inclusion in their societies;
- (e) Gain and enhance capacities, knowledge and skills for effectively articulating and engaging in issues of disability including through direct collaboration with organizations for persons with disabilities and academic institutions and other organizations;
- (f) Be actively consulted and involved in the development and implementation of all legislation, policies, programmes and budgets that impact persons with disabilities.

Article 23

Right to Freedom of Expression and Opinion

1. Every person with a disability has the right to freedom of expression and opinion including the freedom to seek, receive and impart information and ideas through all forms of communication of their choice.
2. States Parties shall take policy, legislative, administrative and other measures to ensure that persons with disabilities can exercise these rights, on an equal basis with others.

Article 24

Access to Information

1. Every person with a disability has the right to access information.
2. States Parties shall take policy, legislative, administrative and other measures to ensure that persons with disabilities can exercise these rights, on the basis of equality, including by:
 - (a) Providing information intended for the general public as well as information required for official interactions to persons with disabilities in accessible formats and technologies appropriate to different kinds of disabilities in a timely manner, and without additional cost to persons with disabilities;
 - (b) Requiring private entities that provide services to the general public, including through print and electronic media, to provide information and services in accessible and usable formats for persons with disabilities;
 - (c) Recognizing and promoting the use of sign languages and deaf culture; and
 - (d) Ensuring that persons with visual impairments or with other print disabilities have effective access to published works including by using information and communication technologies.

Article 25

Right to Participate in Sports, Recreation and Culture

1. Every person with a disability has the right to participate in sports, recreation and cultural activities.
2. States Parties shall take effective and appropriate policy, legislative, budgetary, administrative and other measures to ensure this right, on the basis of equality, including through:

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- (a) Ensuring that persons with disabilities have access to sports, recreational and cultural services and facilities, including access to stadia and other sporting facilities, theatres, monuments, entertainment establishments, museums, libraries and other historical sites;
- (b) Encouraging and promoting the participation, to the fullest extent possible, of persons with disabilities in mainstream sporting activities at all levels;
- (c) Promoting disability-specific sporting and recreational activities and ensuring provision of appropriate infrastructure;
- (d) Facilitating funding, research and other measures aimed at promoting the participation of persons with disabilities both in disability-specific and mainstream sporting and recreational activities;
- (e) Enabling children with disabilities to participate in play within the learning environment;
- (f) Facilitating access to audio, video, print and media technologies and services including theatre, television, film and other cultural performances and activities;
- (g) Discouraging negative representations and stereotyping of persons with disabilities in both traditional and modern cultural activities and through the media;
- (h) Encouraging and supporting creativity and talent among persons with disabilities for their own and the society's benefit;
- (i) Putting in place measures to mitigate barriers that hinder access to cultural materials in accessible formats; and
- (j) Recognizing and supporting the cultural and linguistic identities of persons with disabilities, including deaf-blind and deaf culture, and sign languages.

Article 26 Right to Family

1. Everyone with a disability has a right to marry and form a family with their full, prior and informed consent.
2. States Parties shall take all necessary and appropriate measures to eliminate discrimination against persons with disabilities, including negative stereotypes, in matters with regard to family, marriage, parenthood, guardianship, adoption and relationships, on an equal basis with others, in order to ensure that:
 - (a) Persons with disabilities may decide on the number and spacing of their children, and have access to family planning, and sexual and reproductive health education and services;
 - (b) Persons with disabilities have the right to keep their children and not be deprived of their children on account of their disability.

Article 27 Women and Girls with Disabilities

States Parties shall ensure that women and girls with disabilities have full enjoyment of human and peoples' rights on an equal basis with other persons, including by ensuring that:

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- (a) Women and girls with disabilities participate in social, economic and political decision-making and activities;
- (b) Barriers that hinder the participation of women with disabilities in society are eliminated;
- (c) Women with disabilities are included in mainstream women's organizations and programmes;
- (d) Women and girls with disabilities are protected from discrimination based on disability and enjoy the right to be treated with dignity;
- (e) Women with disabilities have access to information, communication and technology;
- (f) Women with disabilities have access to employment and to professional and vocational training;
- (g) Programmes to overcome social and economic isolation and removing systemic barriers in the labour market for women with disabilities are developed;
- (h) Women with disabilities have access to income generating opportunities and credit facilities;
- (i) Specific measures are developed and implemented to facilitate full and equal participation for women and girls with disabilities in sports, culture and technology;
- (j) Women with disabilities are protected from sexual and gender-based violence and are provided with rehabilitation and psychosocial support against sexual and gender-based violence;
- (k) The sexual and reproductive health rights of women with disabilities are guaranteed, and women with disabilities have the right to retain and control their fertility; and are not sterilized without their consent;
- (l) Disability inclusive gender perspectives are integrated in policies, legislation, plans, programmes, budgets and activities in all spheres that affect women with disabilities.

Article 28 Children with Disabilities

1. States Parties shall ensure that children with disabilities have full enjoyment of human and peoples' rights on an equal basis with other children.
2. States Parties shall respect and promote the right of children with disabilities, in particular, their right to preserve their identities and to enjoy a full and decent life, in conditions which ensure dignity, promote self-reliance and facilitate the child's active participation in the community.
3. States Parties shall ensure that the best interests of the child are the primary consideration in all actions undertaken by any person or authority concerning children with disabilities.
4. States Parties shall ensure the rights and welfare of children with disabilities by taking policy, legislative and other measures aimed at:
 - (a) Ensuring children with disabilities have the right to express their views freely on all matters affecting them, their views being given due weight in accordance with their age and maturity, on an equal basis with other children;
 - (b) Providing children with disabilities, disability, age and gender-appropriate assistance to realize their rights;

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- (c) Ensuring the life, survival, protection and development of children with disabilities;
- (d) Ensuring children with disabilities have a name, a nationality and that they are registered immediately after birth;
- (e) Ensuring children with disabilities are not abducted, sold or trafficked for any purpose or in any form for, sexual exploitation, child labour and harvesting organs;
- (f) Ensuring that children with disabilities are protected from all forms of sexual exploitation, abuse and forced labour;
- (g) Protecting children from being separated from their parents, caregivers and guardians merely on the basis that either the children or their parents have a disability;
- (h) Taking specific measures to protect children with disabilities who require more intensive support;
- (i) Ensuring children with disabilities have effective access to education, training and recreational opportunities in settings most conducive for them to achieve the fullest possible social inclusion, individual development and cultural and moral development;
- (j) Fostering in all children from an early age an attitude of respect for the rights of persons with disabilities;
- (k) Protecting children with disabilities from exploitation, violence and abuse within family, institutional and other settings;
- (l) Ensuring that under no circumstances may children on account of their disabilities be sterilized.

Article 29

Youth with Disabilities

1. States Parties shall ensure that youth with disabilities have full enjoyment of human and peoples' rights on an equal basis with other youth.
2. States Parties shall take policy, legislative, administrative and other measures to ensure that all the rights of youth with disabilities are fully respected, including by:
 - (a) Promoting full, inclusive and accessible education for youth with disabilities;
 - (b) Promoting the inclusion of youth with disabilities in mainstream youth organizations, programmes, including training for leadership and governance skills for their participation at national, regional and international levels;
 - (c) Removing barriers that hinder or discriminate against the participation of youth with disabilities in society;
 - (d) Promoting training and access to information, communication and technology for youth with disabilities;
 - (e) Developing programmes to overcome social and economic isolation, and removing systemic barriers in the labour market for youth with disabilities;
 - (f) Ensuring access to credit facilities for youth with disabilities;

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- (g) Developing and implementing specific measures to facilitate full and equal participation of youth with disabilities in sports, culture, science and technology;
- (h) Promoting sexual and reproductive health education for youth with disabilities;
- (i) Promoting the participation of youth with disabilities in political decision-making and activities.

Article 30

Older Persons with Disabilities

1. States Parties shall ensure that older persons with disabilities have full enjoyment of human and peoples' rights on an equal basis with other older persons.
2. States Parties shall ensure that all the rights of older persons with disabilities are fully protected by taking policy, legislative and other measures, including for:
 - (a) Ensuring that older persons with disabilities, on an equal basis with others, have access to social protection programmes;
 - (b) Taking account of age and gender-related aspects of disability in programming and resourcing in accordance with the present Protocol;
 - (c) Ensuring that older persons with disabilities exercise their legal capacity on an equal basis with others, and that appropriate measures and safeguards are put in place to provide older persons with all the support they may require to exercise their legal capacity;
 - (d) Ensuring that older persons with disabilities have access to appropriate services that respond to their needs within the community;
 - (e) Ensuring that older persons with disabilities are protected from neglect, violence, including violence on the basis of accusations or perceptions of witchcraft;
 - (f) Ensuring that older persons with disabilities have access to appropriate sexual and reproductive health information and services.

Article 31

Duties of Persons with Disabilities

1. States Parties shall recognize that persons with disabilities have duties on an equal basis with other person as elaborated in the African Charter.
2. States Parties shall ensure that persons with disabilities are rendered the forms of assistance and support, including reasonable accommodations, which they may require in performance of such duties.

Article 32

Statistics, Data and Other Surveys

States Parties shall ensure the systematic collection, analysis, storage and dissemination of national statistics and data covering disability to facilitate the protection and promotion of the rights of persons with disabilities. Towards this end, States Parties shall:

- (a) Disaggregate statistics and data, as appropriate, on the basis of disability, gender, age and other relevant variables, including by ensuring that the national population census and other surveys capture data on disability;

11. PROTOCOL ON THE RIGHTS OF PERSONS WITH DISABILITIES IN AFRICA

- (b) Disseminate statistics and data in forms accessible to all persons including persons with disabilities;
- (c) Ensure that the collection, analysis, storage and dissemination of statistics and data on persons with disabilities comply with acceptable ethical, confidentiality and privacy standards;
- (d) Ensure effective involvement and participation of persons with disabilities in the design, collection and dissemination of data.

Article 33 Cooperation

States Parties shall:

- (a) Cooperate at the international, continental, subregional and bilateral levels on capacity-building on issues of persons with disabilities, including by sharing research, technical, human and financial resources, information and good practices to support the implementation of this Protocol;
- (b) Ensure that regional and subregional cooperation programmes and institutions support the implementation of this Protocol and are accessible to persons with disabilities;
- (c) Ensure full and effective participation of persons with disabilities in the implementation and monitoring of this Protocol;
- (d) Support the African Union Commission to set up an Advisory Council on Disability as an ad hoc mechanism to facilitate the implementation and follow up of the continental policies and plans on disability.

Article 34 Implementation

1. States Parties shall ensure the implementation of this Protocol, and shall indicate in their periodic reports submitted to the African Commission in accordance with Article 62 of the African Charter, the legislative and other measures undertaken for the full realization of the rights recognized in this Protocol.
2. States Parties shall establish or designate national mechanisms, including independent national institutions, to monitor the implementation of the rights of persons with disabilities.
3. In the implementation of this Protocol, the African Commission shall have the mandate to interpret the provisions of the Protocol in accordance with the African Charter.
4. The African Commission may refer matters of interpretation and enforcement or any dispute arising from the application or implementation of this Protocol to the African Court on Human and Peoples' Rights.
5. In accordance with Article 5 and Article 34, paragraph 6, of the Protocol Establishing the African Court, the African Court on Human and Peoples' Rights shall have the mandate to hear any dispute arising from the application or implementation of this Protocol.

Article 35 Popularization of the Protocol

States Parties shall take all appropriate measures to ensure the widest possible dissemination of this Protocol in accordance with the relevant provisions and procedures of their respective constitutions.

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Article 36 Safeguard Clause

1. No provision in this Protocol shall be interpreted as derogating from the principles and values contained in other relevant instruments for the realization of the rights of persons with disabilities in Africa.
2. In the event of a contradiction between two or more provisions of this Protocol, the interpretation which favours the rights of persons with disabilities and protects their legitimate interests shall prevail.

Article 37 Signature, Ratification and Accession

1. This Protocol shall be open to Member States of the Union for signature, ratification or accession.
2. The instrument of ratification or accession to the present Protocol shall be deposited with the Chairperson of the Commission who shall notify all Member States of the dates of the deposit of the instruments of ratification or accession.

Article 38 Entry into force

1. This Protocol shall enter into force 30 days after the deposit of the fifteenth instrument of ratification by a Member State.
2. The Chairperson of the Commission shall notify all Members States of the African Union of the entry into force of the present Protocol.
3. For any Member State of the African Union acceding to the present Protocol, the Protocol shall come into force in respect of that State on the date of the deposit of its instrument of accession.

Article 39 Reservations

1. A State Party may, when ratifying or acceding to this Protocol, submit in writing a reservation with respect to any of the provisions of this Protocol. Reservations shall not be incompatible with the object and purpose of this Protocol.
2. Unless otherwise provided, a reservation may be withdrawn at any time.
3. The withdrawal of a reservation must be submitted in writing to the Chairperson of the Commission who shall notify other States Parties of the withdrawal accordingly.

Article 40 Depositary

This Protocol shall be deposited with the Chairperson of the African Union Commission, who shall transmit a certified true copy of the Protocol to the government of each signatory State.

Article 41 Registration

The Chairperson of the Commission upon the entry into force of this Protocol shall register this Protocol with the United Nations Secretariat in conformity with Article 102 of the Charter of the United Nations.

12. PROTOCOL ON RIGHTS OF CITIZENS TO SOCIAL PROTECTION AND SOCIAL SECURITY

Article 42 Withdrawal

1. At any time after three years from the date of entry into force of this Protocol, a State Party may withdraw by giving written notification to the depositary.
2. Withdrawal shall be effective one year after receipt of notification by the depositary, or on such later date as may be specified in the notification.
3. Withdrawal shall not affect any obligation of the withdrawing State Party prior to the withdrawal.

Article 43 Amendment and Revision

1. Any State Party may submit proposal(s) for the amendment or revision of this Protocol. Such proposal(s) shall be adopted by the Assembly.
2. Proposals for amendment or revision shall be submitted to the Chairperson of the Commission who shall transmit such proposals to the Assembly at least six months before the meeting at which it shall be considered for adoption.
3. Amendments or revisions shall be adopted by the Assembly by consensus or, failing which, by a two-thirds majority.
4. The amendment or revision shall enter into force in accordance the procedures outlined in Article 26 of this Protocol.

Article 44 Authentic Texts

This Protocol is drawn up in four original texts, in the Arabic, English, French and Portuguese languages, all four texts being equally authentic.

12.

PROTOCOL TO THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS ON THE RIGHTS OF CITIZENS TO SOCIAL PROTECTION AND SOCIAL SECURITY

Adopted in Addis Ababa, Ethiopia, on 6 February 2022.

The Protocol shall enter into force thirty days after the deposit of the fifteenth instrument of ratification or accession.

Preamble

We, the Heads of State and Government of the African Union,

Reaffirming that the right to social protection is a human right,

Considering that Article 66 of the African Charter on Human and Peoples' Rights (African Charter) provides that special protocols or agreements, if necessary, may supplement the provisions of the African Charter,

Recalling Executive Council Decision EX.CL/Dec.876 (XXVII) adopted in Johannesburg, South Africa, whereby the Executive Council requested the African Union Commission, in collaboration with the African Commission on

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Human and Peoples' Rights, to develop an Additional Protocol to the African Charter on Human and Peoples' Rights on the Rights of Citizens to Social Protection and Social Security,

Taking into account the provisions of Articles 5, 16, 17 and 18 of the African Charter on Human and Peoples' Rights, spelling out the rights of every individual and the commitment made by Member States of the African Union in Article 1 of the African Charter on Human and Peoples' Rights to recognize the human and peoples' rights enshrined in the Charter and to adopt legislative or other measures to give effect to them,

Recalling that the provisions of Articles 60 and 61 of the African Charter on Human and Peoples' Rights recognize regional and international human rights instruments and African practices consistent with international norms on human and peoples' rights as being important reference points for its application and interpretation,

Mindful of Articles 5, 13, 16, 18 and 19 of the African Charter on the Rights and Welfare of the Child, Articles III, IV, X, XIII, XXII, XXIII, and XXIV of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, Articles 8, 15, 16, 17, 18, 19 and 20 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disabilities in Africa, Articles 6, 7, 10, 11, 12, 13, 15, 16 and 17 of the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Older Persons in Africa, in relation to social protection, Articles 3, 4 and 5 of the African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa, Article 5 of the OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, and Article 2 of the African Charter on Maritime Security and Safety and Development in Africa (Lomé Charter), ratified by Member States,

Acknowledging the provisions of the Treaty Establishing the African Economic Community, the Protocol to the Treaty Establishing the African Economic Community Relating to Free Movement of Persons, Right of Residence and Right of Establishment, and Aspiration 2 of the AU Agenda 2063 which calls for "An integrated continent, politically united, based on the ideals of Pan-Africanism and the vision of Africa's renaissance", and the embedded principle of an African citizenship,

Taking into account Aspiration 1 of the AU Agenda 2063 which projects "A prosperous Africa, based on inclusive growth and social development," and calls for "A high standard of living, quality of life and well-being for all citizens" and envisages social security and social protection as a priority area,

Bearing in mind the Tunis Declaration of the Assembly of Heads of State and Government on Social Development (1994), the African Common Position on Human and Social Development in Africa (1994), the Livingstone Call for Action (2006), the AU Social Policy Framework for Africa (2009), the Yaoundé Tripartite Declaration on the Implementation of the Social Protection Floors (2010), the Principles and Guidelines on the Interpretation of Economic, Social and Cultural Rights in the African Charter on Human and Peoples' Rights (2010), and the revised Ouagadougou Plan of Action on Employment Promotion and Poverty Alleviation (2014),

Having regard to the Universal Declaration of Human Rights, in particular Articles 22 and 25, the International Covenant on Economic, Social and Cultural Rights, in particular Articles 9, 11 and 12, and the Convention on the Rights of the Child (CRC) and its Optional Protocols, in particular CRC Articles 26, 27 and 32,

In view of the ILO social security standards, in particular the Social Security (Minimum Standards) Convention, 1952 (Number 102), the Recommendation concerning National Floors of Social Protection Recommendation, 2012 (Number 202), and the Recommendation concerning the Transition from the Informal to the Formal Economy, 2015 (Number 204),

Realizing the pillars of the Decent Work Agenda which are: employment creation, social protection, rights at work and social dialogue,

Recognizing the virtues of African traditions, values and practices of social and national solidarity which should inspire and characterize the provision of mutual social and communal care and support,

12. PROTOCOL ON RIGHTS OF CITIZENS TO SOCIAL PROTECTION AND SOCIAL SECURITY

Concerned that the vast majority of people in Africa are not appropriately covered by formal social protection provisions,

Have agreed as follows:

Article 1 Definitions

1. For the purpose of the present Protocol:

- (a) "African Charter" means the African Charter on Human and Peoples' Rights;
- (b) "African Commission" means the African Commission on Human and Peoples' Rights;
- (c) "African Court" means the African Court on Human and Peoples' Rights;
- (d) "Assembly" means the Assembly of Heads of State and Government of the African Union;
- (e) "AU" means the African Union;
- (f) "Blue economy" means sustainable economic development of oceans that use such technique as regional development to integrate the use of seas and oceans, coasts, lakes, rivers, and underground water for economic purposes, including but without being limited to, fisheries, mining, energy, aquaculture and maritime transport, while protecting the sea to improve social well-being;
- (g) "Citizen" means any natural person who, in accordance with the laws of an African Union Member State, is a national of that Member State;
- (h) "Commission" means the Secretariat of the African Union as provided by the Constitutive Act;
- (i) "Family" means a unit that consists of a man, a woman or women and, other persons who can be defined as such by national laws of States Parties;
- (j) "Individual" means all natural persons in States Parties, including non-nationals;
- (k) "Informal economy" means all economic activities by workers and economic units that are – in law or in practice – not covered or insufficiently covered by laws and policies;
- (l) "Kafala system" means a voluntary commitment made by a person (kafeel), according to the national law of the State Party, to undertake responsibility for the protection, upbringing and care of a child, in the same way as a parent would do for his or her own child;
- (m) "Member States" means the Member States of the African Union;
- (n) "Minimum package" refers to social protection provisions that cover essential basic benefits and services and which provide the platform for broadening, extending social protection and creation of more fiscal space;
- (o) "Social assistance" is a form of social security, funded from government revenue, which provides assistance in cash or in kind to persons who lack the means to support themselves and their dependants. It also includes payments financed from government revenue which are granted to designated categories deemed to have exceptional needs;

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- (p) "Social allowances" means universal payments financed from government revenue which are granted to designated categories deemed to have exceptional needs (such as children, older persons and persons with disabilities). These benefits are not means tested;
- (q) "Social insurance" refers to a contributory form of social security designed to protect income earners and their dependants against a reduction or loss of income as a result of exposure to risks;
- (r) "Social protection" refers to public and private measures, or to mixed public and private measures, designed to protect individuals against life-cycle crises that curtail their capacity to meet their needs, and includes all forms of social security, and strategies and programmes aimed at supporting and ensuring a minimum standard of livelihood and access to essential social services and care for all people;
- (s) "Social security" includes the social protection concept, social assistance, social insurance and social allowances, public and private measures, or mixed public and private measures, designed to protect individuals and families against income insecurity caused by contingencies such as unemployment, employment injury, maternity, sickness, poor health, disability, old age, maintenance of children and death of a family member;
- (t) "States Parties" means Member States of the African Union that have ratified or acceded to this Protocol and deposited the instruments of ratification or accession with the Chairperson of the African Union Commission.

Article 2

Guiding Principles for Social Protection and State Obligations to Guarantee the Right to Social Protection and Social Security

In accordance with the principles enshrined in this Protocol, States Parties shall:

1. Ensure good governance and coordination among institutions responsible for the delivery of social protection;
2. Protect the rights of individuals to human dignity and the special rights of children to survival, development and protection, and subject to the provisions of this Protocol, to equal treatment in relation to social protection;
3. Provide social protection benefits;
4. Develop policies, legislation and programmes that improve the standard of life of individuals and address the needs of vulnerable groups, including but not limited to children, persons with disabilities, women and older persons;
5. Ensure that social protection is human rights-based, follows a lifecycle approach, addresses vulnerability and inequality, and is inclusive, leaving no one behind;
6. Ensure continual progress in relation to the realization of the rights, obligations and commitments contained in this Protocol, and take immediate steps, within its means;
7. Adhere to the principle of non-discrimination, namely that every individual shall be entitled to the enjoyment of the rights recognized and guaranteed in this Protocol without distinction of any kind such as age, disability, race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status;
8. Ensure that the provisions of this Protocol shall apply to all citizens and comply with their international obligations in relation to social protection;

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9. Develop an integrated and comprehensive social protection system, which:

- (a) Ensures meaningful coverage in terms of, among others, social insurance schemes, social assistance measures and social services;
- (b) Protects against special and collective risks, including political conflict, climate change and natural disasters;
- (c) Prevents poverty, deprivation and livelihood loss;
- (d) Integrates and, when necessary, reintegrates persons, including workers in the labour force and into society;
- (e) Provides for social protection in national legislation in order to ensure an appropriate mandate for government to act, and for clarity and certainty of the rights, obligations and functions of all social protection stakeholders.

Article 3

Right to Social Protection and State Obligations

- 1. Every citizen has the right to social protection.
- 2. States Parties have the obligation to ensure that social protection is available, accessible, adequate, affordable and transparent.
- 3. To comply with the obligation provided under paragraph 2, States Parties shall progressively:
 - (a) Develop, maintain and expand an appropriate regulatory, institutional and operational framework for the provision of social protection and ensure good and democratic governance of social protection schemes and arrangements;
 - (b) Establish and maintain a system of social protection in accordance with the provisions of this Protocol;
 - (c) Provide a minimum package of essential social protection, which should at least cover the basic needs of all;
 - (d) Ensure that every citizen who has insufficient means of subsistence to support themselves and their dependants is entitled to adequate social assistance and other services provided by the State;
 - (e) Increase coverage of social protection and raise systems of social protection to a higher level, in accordance with the provisions of this Protocol and in accordance with the ratio of economic growth and the relevant national laws;
 - (f) Encourage and regulate private and public sector participation, with regard to the provision and management of social protection.

Article 4

Social Insurance

States Parties shall:

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1. Review and adopt legislation that compels all employers to enrol all employees into social insurance schemes;
2. Establish health insurance schemes that cover all sections of the population;
3. Put in place measures that enable everyone, especially the youth, to prepare for retirement, and that give expression to the need to contribute to social insurance schemes;
4. Carry out periodic reviews of social insurance benefits to ensure that they are in line with inflation and prevailing economic conditions;
5. Adopt legislative and other measures to ensure that persons can benefit from their contributions even when they move between similar schemes or to other countries (portability of benefits);
6. Ensure the protection of social insurance benefits for those covered by bilateral or multilateral agreements;
7. Adopt legislative and other measures to ensure the sound management and administration of social insurance arrangements, the protection of social insurance funds against mismanagement, diversion for other purposes, cyclical fluctuations and market failure.

Article 5 Informal and Rural Economies

In order to regulate and provide sufficient social protection to the informal and rural sectors, States Parties shall:

1. Ensure the participation of representatives of the informal and rural economy in the design, development and implementation of social protection policies and programmes;
2. Adopt a regulatory framework promoting appropriate and adequate social security of informal and rural workers, through the inclusion of these workers in general social security schemes adapted to suit the context of these workers, the provision or recognition of appropriate formal and informal social insurance and micro-insurance mechanisms, social assistance measures, and dedicated savings instruments;
3. Develop and implement social security contribution modalities, qualifying conditions and benefits that are suited to the context of informal and rural workers;
4. Ensure access to a minimum package of social protection to informal and rural workers and their families;
5. Ensure that the special context of women is appropriately accommodated in social protection systems and, in particular, that maternity and health protection is extended to working mothers in the informal and rural economies to enable a better conciliation of work, family and care responsibilities;
6. Facilitate access to markets and credit for informal and rural workers to sustain their livelihood support and income-generating potential;
7. Ensure progressive formalization of the informal economy through enabling a legal and regulatory environment for sustainable enterprises, skills development, and progressive extension of labour and social protection;
8. Put in place measures to protect income earned from informal and rural activities and encourage workers in those sectors to enrol in social protection programmes.

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Article 6

Unemployment and Underemployment

States Parties shall:

1. Adopt proactive policies and legislative measures to promote inclusive economic and social development so as to eradicate poverty and absorb the majority of the labour force into productive employment and income generating activities;
2. Progressively provide unemployment benefits for all citizens, in particular by taking steps to establish unemployment insurance schemes, in accordance with national laws;
3. Adopt measures to increase investment in education and training, especially technical and vocational training, and stimulate and support job creation initiatives;
4. Introduce measures to engage those who can work but are not employed, and shall consider for this purpose, among others, public employment schemes and employment guarantee schemes;
5. Promote a culture of entrepreneurship to provide support structures, innovative, sex-sensitive training and skills development programmes, such as apprenticeship programmes, mentorship and business incubators;
6. Provide support structures to be set up to assist entrepreneurs in the establishment and development of small- and medium-sized enterprises and provide effective social protection coverage to workers in those enterprises;
7. Afford preferential employment opportunities to vulnerable groups, especially the youth, women, older persons and persons with disabilities, in accordance with national laws;
8. Significantly and progressively reduce the unemployment rate among, and increase participation in gainful employment of, women, persons with disabilities and young people, in accordance with national laws;
9. Take concrete steps to address the underemployment of workers, to align skills demand with skills supply and to strengthen the links between education, skills training and the labour market;
10. Formulate strategies to enhance productivity as key to the efforts to reduce underemployment and poverty;
11. Ensure adequate protection against loss of employment, including protection against arbitrary and/or unfair dismissal.

Article 7

Cross-Border Migrants and Internally Displaced Persons

States Parties shall:

1. Adopt legislative, administrative and other measures to ensure that their citizens who are migrants, including migrant workers, are provided with social protection benefits;
2. In accordance with their capacities and national laws, introduce measures to facilitate the coordination and portability of social security entitlements and benefits, especially through the adoption of appropriate bilateral and multilateral agreements providing for equality of treatment between individuals from countries of origin and countries of destination, aggregation of insurance periods, maintenance of acquired rights and benefits, portability of benefits, pro-rata sharing of financial liability, institutional cooperation, and the avoidance of double taxation;

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3. Develop mechanisms, services and effective financial products to facilitate the affordable transfer of remittances by migrants;
4. Ensure that displaced persons are included in social protection schemes or measures that are responsive to their needs and contexts.

Article 8 Women and Girls

States Parties shall:

1. Abolish all discriminatory laws, policies, customs and harmful traditional practices based on sex in their respective social protection systems and ensure that women and girls are also included in their own right in social protection schemes targeting the formal, informal and rural sectors;
2. Provide social protection to vulnerable women and girls, including those that are heads of families, from marginalized population groups and in the blue economy, and provide an environment suitable to their condition and their special physical, economic and social needs;
3. Adopt and promote policies that ensure that workers, particularly female workers, are able to balance occupational and family obligations;
4. Promote equal access to employment, equal pay for work of equal value and social protection;
5. Provide social assistance to girls and protect them against early marriages and other harmful practices;
6. Promote the provision of social protection schemes that support the enrolment and retention of girls in schools and other training institutions and the organization of programmes for women and girls who leave school prematurely;
7. Provide technical and financial assistance to women, as applicable, who embark on agriculture and improve their access to land, credit, including microfinance, training and invest in their financial empowerment;
8. Make available social protection to women and girls exposed to gender-based violence.

Article 9 Family

States Parties shall:

1. Ensure that the family, as a fundamental unit of society and the natural environment for the growth and well-being of all its members and particularly children, is appropriately assisted and protected. Member States should promote the legal, economic and social protection of family life;
2. Empower the family and enhance its capacity to enable it to meet its socio-economic needs through appropriate social protection in interventions;
3. Ensure that social protection systems and programmes reflect the reality and importance of the extended family, as understood in the national context;
4. Develop, integrate and implement effective social policies, programmes and strategies to address the social protection needs of families in vulnerable and crisis situations;

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5. Adopt measures to promote and support community associations or networks which support families in times of need;
6. Provide a framework for the extension of appropriate family benefits;
7. Promote family reunification.

Article 10 Older Persons

States Parties shall:

1. Develop policies and legislation that ensure that older persons are provided with adequate pensions and other forms of social security, including post-retirement health coverage and disability benefits;
2. Adopt mechanisms for the transfer of social assistance or social security mechanisms in order to ensure security of income for older persons who did not have the possibility of subscribing to a pension scheme;
3. Promote independent living and support institutional, residential, family, community and home-based care for older persons;
4. Establish, operationalize and implement national long-term care policies or strategies, including through appropriate complaint mechanisms and redress for care recipients;
5. Promote policies to encourage productive and dignified ageing and ensure that employment undertaken after retirement does not entail discrimination against older workers in relation to labour standards, conditions of employment and rates of remuneration;
6. Recognize and encourage the participation of organizations representing older persons, and national consultative councils of older persons according to relevant national laws.

Article 11 Children, Adolescents and Youth

States Parties shall:

1. Ensure that social protection programmes are sensitive to the needs of children and contribute to the fulfilment of their right to registration at birth, nationality and a standard of living adequate for the child's physical, mental, spiritual, moral and social development in accordance with relevant national laws;
2. Provide social protection services and transfers in cash and in kind to ensure that the basic needs of children are met;
3. Recognize the right for every child to benefit from social security, including social insurance, taking into account the resources and the circumstances of the child and persons having responsibility for the maintenance of the child as appropriate;
4. Adopt measures to provide social protection schemes aimed at protecting children in conflict situations, orphans, children of mothers in prison and other vulnerable children;
5. Adopt specific protection measures in relation to the employment of children, including minimum age for admission to employment, and appropriate regulation of the hours and conditions of employment;

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6. Support measures to protect, reintegrate and rehabilitate children in conflict with the law;
7. Invest in social protection schemes that contribute to early childhood development, including attention to adequate nutrition, good health, safety and protection, opportunities for early learning and responsive caregiving;
8. Put in place effective measures and provision for adequate care of children, among others, through kinship care, care under the kafala system, foster-care and adoption arrangements in accordance with relevant national laws;
9. Facilitate mentoring and support of child-headed households;
10. Ensure free primary and secondary education and institute clear steps to progressively extend access to free education beyond primary and secondary schooling, including pre-primary education;
11. Adopt social protection measures that contribute to ending child labour, exploitation, neglect and violence, child marriages, trafficking in persons, including child trafficking, and child soldiering;
12. Ensure that children and the youth participate in developing social protection programmes.

Article 12 Persons with Disabilities

States Parties shall:

1. Adopt legislative policy and other measures and implement measures that will ensure the extension of social protection to all persons with disabilities so that they enjoy an adequate standard of living for themselves and their families, as well as care and support;
2. Ensure that social protection schemes provided to persons with disabilities improve their social and professional inclusion, including through measures such as habilitation, rehabilitation, vocational training, accessibility and mobility, provision of assistive devices and technologies, means of transport and housing and the appropriate organization of work and the working environment;
3. Ensure that social protection schemes guarantee equality of access and coverage to and reasonable accommodation of persons with disabilities;
4. Mainstream access to social services for persons with disabilities;
5. Facilitate personal assistance to persons with disabilities to live independently and participate in the community;
6. Involve persons with disabilities, their families and their representative organizations in the revision, planning and design of national social protection strategies;
7. Initiate legal and policy reforms to promote adequate and flexible combination of income and disability related support for economic empowerment;
8. Raise awareness to persons with disabilities and their families on the existence of social protection programmes to ensure their participation.

Article 13 Maternity and Paternity

12. PROTOCOL ON RIGHTS OF CITIZENS TO SOCIAL PROTECTION AND SOCIAL SECURITY

States Parties shall:

1. Ensure that reproductive, maternity and paternity rights are protected in all social protection programmes in accordance with national laws;
2. Provide social protection measures that protect women against discrimination and dismissal in relation to maternity, and guarantee adequate and paid pre- and post-natal maternity leave, of at least fourteen weeks' duration, in both the private and public sectors;
3. Ensure that fathers are enabled to share responsibilities in pre- and post-natal care, including the granting of appropriate paternity leave;
4. Establish and strengthen existing pre-natal, delivery and post-natal health and nutritional services, including hospitalization for women;
5. Ensure that, unless universal coverage and financing are provided for, maternity and paternity benefits shall be financed through compulsory social insurance paid by both the employer and the employees, without distinction of gender, through social assistance or social allowances. Appropriate provision shall be made for maternity benefits in the case of those involved in the informal economy.

Article 14

Health Care, Protection and Sickness Benefits

States Parties shall:

1. Develop social protection programmes that ensure that every citizen has equal access to adequate, affordable and quality health care, including comprehensive sexual and reproductive health services and facilities for current, previous and future users of psychiatric services;
2. Put in place legislative policy and other measures to achieve universal health coverage and financing, and shall ensure that every citizen is covered by health insurance schemes;
3. Ensure that health care shall be preventive, curative, rehabilitative and promotive, and shall include primary, secondary and tertiary health care and provision of essential pharmaceutical supplies;
4. Put in place palliative care and support to the terminally ill;
5. Adopt measures to regulate sickness and invalidity cash benefits;
6. Ensure relevant social protection to support the poorest families in their efforts to mitigate the economic and social impacts of epidemics and crises;
7. Put in place special measures to address the impact of the HIV/AIDS pandemic, malaria, tuberculosis, and other diseases;
8. Adopt and develop social protection measures to support survivors of rape and sexual abuse and harassment;
9. Reduce morbidity and end preventable mortality from communicable and non-communicable diseases and other health conditions in Africa;
10. Facilitate access to free medical and rehabilitative services for persons with disabilities;

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11. Facilitate access to free detoxification services, including rehabilitation services, for persons in need of treatment for drug and alcohol dependence;
12. Put in place a legislative policy and institutional framework for the development and provision of safe traditional and other medicines.

Article 15

Occupational Health, Safety and Employment Injury

States Parties shall:

1. Take measures towards achieving progressively a safe, secure and healthy working environment;
2. Ensure that the organization of occupational safety and health shall be on the basis of cooperation involving all stakeholders at the national level;
3. Ensure that all workers are covered by employment injury benefit schemes and arrangements;
4. Adopt measures in accordance with international labour standards to ensure that workers shall be entitled to work-related illness and injury prevention, detection and rehabilitation services, adequate health care, as well as reasonable job security after illness and injury, and shall be entitled to reasonable compensation.

Article 16

Death and Survivor's Benefits

States Parties shall, in accordance with their capacities and national laws, ensure that social protection schemes provide protection in the event of death of a breadwinner so that non-discriminatory benefits become payable to beneficiaries and survivors, including a death grant, funeral costs and – subject to qualifying conditions – survivors' benefits, which should be in the form of periodical payments, aimed at the upkeep of survivors.

Article 17

Care and Support in Other Contexts

States Parties shall, in accordance with their capacities and national laws:

1. Adopt social protection measures including special care services for children and women exposed to violence and exploitation, in all its forms, and aftercare services to ex-prisoners as well as drug users and substance abusers for their social reintegration;
2. Collectively and individually ensure that their social protection systems adequately provide appropriate individual and collective preventive measures within and across the borders of States Parties, and shall also provide for effective measures of relief, rehabilitation, reconstruction, reintegration and revival for communities so affected;
3. Adopt measures, at regional and national levels, to provide prevention, relief, reconstruction and rehabilitation in crisis and natural disaster contexts;
4. Develop a framework for training and support of caregivers;
5. Develop and implement a framework to plan, develop and support the workforce in the social service system.

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Article 18 Education

States Parties shall, in accordance with their capacities and national laws:

1. Adopt measures to progressively provide free and equitable access to quality inclusive education;
2. Support access to free adult education for marginalized groups, including indigenous persons, women, older persons and persons with disabilities;
3. Ensure an education, training, life-long learning and skills development system, supported by technology, that is sensitive to the objective of rationalizing admission requirements to education and training institutions and accreditation of qualifications, and which simultaneously addresses the needs for employability and sustainable human development;
4. Where appropriate, provide age appropriate and culturally sensitive comprehensive education on rights to sexual and reproductive health for adolescents and youth while involving parents and communities;
5. Encourage the introduction of special training programmes for teachers and instructors of persons with disabilities;
6. Develop and implement programmes that extend and expand:
 - (i) Early childhood education;
 - (ii) Primary health care to all school children; and
 - (iii) School feeding programmes to all primary school children;
7. Ensure the provision of education on the history of Africa focusing on its past greatness and prosperity as an inspiration for social protection.

Article 19 Food and Nutrition

States Parties shall, in accordance with their capacities and national laws:

1. Provide social protection programmes that contribute to improved nutrition;
2. Establish mechanisms for developing and retaining adequate technical capacity in nutrition to implement effective nutrition programmes;
3. Support social protection programmes that boost agricultural productivity such as input subsidy schemes and crop insurance schemes;
4. Enact and implement legislation to preserve land for food crops and promote production of drought resistant crops, protection of intellectual property in traditional food crops, commercial farming, crop diversification for long-term food security, and marketing services;
5. Enhance the production, storage, transportation, availability, accessibility, utilization, safety and quality of food;

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6. Improve the productivity of smallholder agriculture and livestock through extension of technological support, small-scale irrigation schemes, agri-business development, rural infrastructure, credit, subsidies and tax exemptions;
7. Provide support to female farmers and improve women's access to credit, including microfinance, and invest in training to ensure their empowerment, including in their financial literacy;
8. Enhance food and nutrition information dissemination, including information on genetically modified foods, through education and communication activities with the participation of the public.

Article 20 Water, Sanitation and Hygiene

States Parties shall, in accordance with their capacities and national laws:

1. Ensure universal, affordable and reliable access to clean and safe drinking water in a sustainable manner;
2. Establish efficient and effective water management systems;
3. Put in place measures to ensure adequate and inclusive sanitation and hygiene in all human dwellings.

Article 21 Housing, Shelter and Property

States Parties shall, in accordance with their capacities and national laws:

1. Facilitate social protection measures that contribute to the affordability of and access to adequate and inclusive housing and shelter;
2. Take all necessary legislative, administrative and other measures to prohibit the evictions that are not in conformity with regional and international human rights treaties ratified by States Parties;
3. Ensure that the rights of any person to property are protected;
4. Ensure that adequate and effective legal or other appropriate remedies are available to any person whose property rights have been violated.

Article 22 Environment and Climate Change

States Parties shall, in accordance with their capacities and national laws:

1. Support measures to mitigate the effects of climate change and environmental degradation through social protection schemes;
2. Enhance investments for resilience-building initiatives, including social protection for rural workers and other vulnerable social groups, as well as vulnerable ecosystems, including the blue economy;
3. Support initiatives to grow crops that adapt to climate change in order to enhance food security.

Article 23 Governance and Administration of National Social Protection Systems

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States Parties shall, in accordance with their capacities and national laws:

1. Take steps to include provisions in their constitutions and other national laws, in accordance with this Protocol, to ensure that an adequate framework for social protection is provided for;
2. Ensure inclusive and democratic governance of social protection institutions;
3. Improve management and coordination of social protection at all levels through a variety of methods, including the establishment of social registries and other social protection management information systems and frameworks;
4. Enhance the technical, infrastructural and institutional capacities of ministries responsible for social protection;
5. Create sound governance structures for all social protection programmes, at local and national levels, as appropriate, to guarantee the protection of beneficiaries;
6. Create appropriate legal and institutional frameworks for sound investment, auditing and risk management;
7. Put in place mechanisms to ensure that delivery and payment systems are efficient and effective;
8. Ensure the active participation of all stakeholders in the formulation of social protection policies, programme design, implementation, and monitoring and impact evaluation.

Article 24 Financing

States Parties shall, in accordance with their capacities and national laws:

1. Conduct periodic actuarial assessments to ensure the adequate funding of social protection systems through domestic financing by allocating specific and transparent budget lines and taking into account contributory capacities of different population groups;
2. Develop and operationalize costed national plans for social protection to guarantee the provision of services and benefits;
3. Develop flexible feasibility, costing and sustainable funding strategies, combining contributory and non-contributory funding modalities for nationally defined programmes, to ensure sufficient funding for social protection programmes;
4. Commit themselves to progressively allocate a minimum percentage of public resources to social protection expenditure, in particular expenditure that will ensure universal access;
5. Ensure coordination and strengthening of development partner support for sustainable financing of social protection;
6. Take measures to avoid excessive administrative costs, and prevent fraud, illicit financial flows, tax evasion, non-payment of contributions and misuse of social protection funds.

Article 25 Data Management

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States Parties shall:

1. Adopt and implement mechanisms to collect, analyze, compile and publish social protection disaggregated data, statistics and indicators, with due regard to the need for data protection and an individual's right to privacy;
2. Ensure that social protection information/data is appropriately disaggregated (also with reference to sex, age, disability and migration status), collected and reported to facilitate planning and implementation.

Article 26

Complaint and Appeal Mechanisms

States Parties shall:

1. Ensure that every claimant has the right to complain to the institution that took a decision affecting the claimant and, should the claimant be dissatisfied with the outcome of the complaint, the right to appeal to an independent institution, with regard to any violations of the rights established in this Protocol;
2. Develop and implement complaint and appeal mechanisms which accommodate both individual and collective complaints, in all social protection programmes;
3. Ensure that complaint and appeal mechanisms provide procedural guarantees for a fair hearing, are impartial, transparent, effective, simple, rapid, accessible and inexpensive, are completed within reasonable time limits, and ensure timely feedback to affected parties;
4. Ensure access to internal review, and independent adjudication institutions that have the power to finally determine social protection disputes;
5. Ensure that domestic remedies are exhausted;
6. Ensure that final resolutions of disputes are binding and shall be complied with;
7. Ensure that legal aid is available to any person whose rights have been violated.

Article 27

Duties

Individuals have responsibilities towards their families, their communities, the wider society and the State. In this regard, they shall:

1. Participate in social protection schemes that are designed to protect them and their families against risks;
2. Use the benefits derived as a result of this Protocol in a responsible manner;
3. Provide support and protection to family members as required by the State Party's legal system.

Article 28

Implementation and Monitoring

States Parties shall:

12. PROTOCOL ON RIGHTS OF CITIZENS TO SOCIAL PROTECTION AND SOCIAL SECURITY

1. Ensure the implementation of this Protocol and shall indicate in their periodic reports submitted to the African Commission in accordance with Article 62 of the African Charter, the legislative and other measures undertaken for the full realization of the rights recognized in this Protocol;
2. Establish or designate national mechanisms, including independent national institutions, to monitor the implementation of the rights enshrined in this Protocol;
3. Monitor and review the uptake, design and impact of social protection programmes for all vulnerable persons.

Article 29 Interpretation

1. The African Commission shall be seized with matters of interpretation arising from the implementation of this Protocol.
2. The African Court shall be seized with matters of interpretation and application of this Protocol only for the States Parties to the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights.

Article 30 Popularization of the Protocol

States Parties shall take all appropriate measures to ensure the widest possible popularization of this Protocol in accordance with the relevant national laws.

Article 31 Safeguard Clause

1. No provision in this Protocol shall be interpreted as derogating from the principles and values contained in other relevant instruments for the realization of the rights of persons covered under this Protocol.
2. In the event of seemingly contradictory provisions of this Protocol, the interpretation which favours the rights of citizens and protects their legitimate interests shall prevail.

Article 32 Signature, Ratification and Accession

1. This Protocol shall be open to Member States for signature, ratification and accession.
2. The instruments of ratification or accession to the present Protocol shall be deposited with the Chairperson of the Commission who shall notify all Member States of the dates of the deposit of the instruments of ratification or accession.

Article 33 Entry into Force

1. This Protocol shall enter into force thirty (30) days after the deposit of the fifteenth (15) instrument of ratification or accession by a Member State.
2. The Chairperson of the African Union Commission shall notify all Member States of the entry into force of the present Protocol.

VI. HUMAN AND PEOPLES' RIGHTS

3. For any Member State ratifying or acceding to the present Protocol after its entry into force the Protocol shall come into force in respect of that State on the date of the deposit of its instrument of ratification or accession.

Article 34 Reservations

1. A State Party may, when, ratifying or acceding to this Protocol, submit in writing a reservation with respect to any of the provisions of this Protocol.
2. Reservations should not be incompatible with the object of the present Protocol.
3. Unless otherwise provided, a reservation may be withdrawn at any time.
4. The withdrawal of a reservation must be submitted in writing to the Chairperson of the Commission who shall notify other States Parties of the withdrawal accordingly.

Article 35 Depositary

This Protocol shall be deposited with the Chairperson of the Commission, who shall transmit a certified true copy of the Protocol to the Government of each Member State.

Article 36 Registration

The Chairperson of the Commission upon the entry into force of this Protocol shall register this Protocol with the United Nations Secretary-General in conformity with Article 102 of the Charter of the United Nations.

Article 37 Withdrawal

1. At any time after three (3) years from the date of entry into force of this Protocol, a State Party may withdraw at any time by giving written notification to the custodian.
2. Withdrawal shall be effective one (1) year after receipt of notification by the depositary, or on such later date as may be specified in the notification.
3. Withdrawal shall not affect any obligation of the withdrawing State Party prior to the withdrawal.

Article 38 Amendment or Revision

1. Any State Party may submit proposal(s) for the amendment or revision of this Protocol. Such proposal(s) shall be adopted by the Assembly.
2. Proposals for amendment or revision shall be submitted, in writing, to the Chairperson of the Commission who shall transmit such proposals to the Assembly at least six (6) months before the meeting at which they shall be considered for adoption.
3. Amendments or revisions shall be adopted by consensus or, failing which, by a two-thirds majority.

12. PROTOCOL ON RIGHTS OF CITIZENS TO SOCIAL PROTECTION AND SOCIAL SECURITY

4. The amendment or revision shall enter into force in accordance with the procedures outlined in Articles 33 and 34 of this Protocol.

Article 39 Authentic Texts

This Protocol is drawn up in five (5) original texts, in the Arabic, English, French, Portuguese, and Spanish languages, and all five (5) texts being equally authentic.

PART VII
INTERNATIONAL CRIMINAL LAW

1. AGREEMENT ON THE ESTABLISHMENT OF THE EXTRAORDINARY AFRICAN CHAMBERS

1.

AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF SENEGAL AND THE AFRICAN UNION ON THE ESTABLISHMENT OF THE EXTRAORDINARY AFRICAN CHAMBERS WITHIN THE COURTS OF SENEGAL*

Adopted in Dakar, Senegal, on 22 August 2012.

Implemented provisionally on the date of signature and entered into force upon ratification by Senegal.

Preamble

Recalling Decision Assembly/AU/Dec.401 (XVIII) adopted on 31 January 2012 by the Assembly of Heads of State and Government of the African Union requesting the Commission of the African Union and the Government of Senegal to examine the practical modalities as well as the legal and financial implications for the prosecution of international crimes committed in Chad during the period from 7 June 1982 to 1 December 1990,

Recalling the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted in New York on 10 December 1984 and ratified by Senegal on 21 August 1986,

Recalling Judgment ECW/CCJ/JUD/06/10 of 18 November 2010 of the Court of Justice of the Economic Community of West African States (ECOWAS),

Recalling the Judgment of 20 July 2012 of the International Court of Justice on Questions Relating to the Obligation to Prosecute or Extradite (Belgium v. Senegal),

Whereas the African Union represented by the Commission of the African Union (hereinafter referred to as the "Commission") and the Government of the Republic of Senegal (hereinafter referred to as the "Government") have conducted negotiations with a view to the establishment of the Extraordinary African Chambers within the courts of Senegal for the prosecution of international crimes committed in Chad from 7 June 1982 to 1 December 1990 (hereinafter referred to as the "Extraordinary African Chambers"),

The African Union and the Government of the Republic of Senegal have agreed as follows:

Article 1 Establishment

1. The Government and the Commission agree to establish, within the courts of Senegal, the Extraordinary African Chambers to prosecute the person or persons primarily responsible for the crimes and serious violations of international law, customary international law, and international conventions ratified by Chad and Senegal, committed in Chad from 7 June 1982 to 1 December 1990.

2. As part of the implementation of paragraph 1 of this article, the Government undertakes to adopt, as soon as possible, the necessary legislative, regulatory and administrative measures to establish the Extraordinary African Chambers within the Senegalese judicial system.

3. The Government and the Commission undertake to adopt a roadmap with a precise timetable for the establishment of the Extraordinary African Chambers and the start of prosecutions.

* Editor's note: The Agreement and annexed Statute were adopted in French. The unofficial English translation is provided for information purposes only.

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4. Of an international character, the Extraordinary African Chambers apply their Statute, international criminal law, the Criminal Code and the Criminal Procedure Code of Senegal and other relevant Senegalese laws.

5. The Statute of the Extraordinary African Chambers is annexed to this Agreement, of which it forms an integral part.

Article 2 Organization

The composition and the rules of procedure of the Extraordinary African Chambers are determined by the Statute of the Extraordinary African Chambers and Senegalese laws.

Article 3 Budget

1. The establishment and operation of the Extraordinary African Chambers are financed by the budget approved by the Round Table of 24 November 2010.

2. Additional financial resources may be mobilized when needed.

Article 4 Framework and Management of the Funds

The framework and the management of the funds are decided by the African Union, the Government and the donors concerned.

Article 5 Immunity of Funds, Assets and Other Property

The funds, assets and other property intended for the functioning of the Extraordinary African Chambers, wherever they are located and whoever the holder, enjoy immunity from jurisdiction and enforcement.

Article 6 Privileges and Immunities

1. Judges of the Extraordinary African Chambers of foreign nationality, as well as members of their families who form part of their households, enjoy the privileges and immunities, exemptions and facilities, including tax exemptions, granted to diplomatic agents in accordance with the 1961 Vienna Convention on Diplomatic Relations. They are exempt from taxes on their salaries, allowances and emoluments in Senegal.

2. Judges, prosecutors, clerks, the Administrator and other staff members of the Extraordinary African Chambers of Senegalese nationality enjoy, in accordance with the General Convention on the Privileges and Immunities of the Organization of African Unity (OAU) of 1965, the following privileges and immunities:

(a) Immunity from criminal and civil jurisdiction for all acts, including their words and writings, which they perform in the exercise of their functions. This immunity is maintained after they have left the service of the Extraordinary African Chambers;

(b) Exemption from all taxes on the salaries, allowances and emoluments paid to them as part of their participation in the Extraordinary African Chambers.

Article 7 Counsel

1. AGREEMENT ON THE ESTABLISHMENT OF THE EXTRAORDINARY AFRICAN CHAMBERS

1. The Government shall ensure that the counsel of a suspect, an accused recognized as such by the Extraordinary African Chambers or a civil party is not subjected to any measure likely to affect his freedom or independence in the exercise of his functions.
2. The Counsel enjoys, in particular:
 - (a) Immunity from arrest, detention for acts relating to the performance of his functions as counsel and from seizure of his personal effects;
 - (b) Inviolability for all documents relating to the performance of his functions as counsel to a suspect, an accused or a civil party;
 - (c) Immunity from criminal or civil jurisdiction for acts performed by him in his capacity as counsel, including his words and writings. This immunity is maintained after he ceases to act as counsel to a suspect, an accused or a civil party;
 - (d) Immunity from all immigration restrictions during his stay and during his outbound trip to reach Senegal and his return trip.

Article 8 Witnesses and Experts

1. The Government undertakes to facilitate the entry, stay and exit of experts and witnesses residing outside Senegalese territory.
2. These experts and witnesses are not subject to any measures that could prevent them from performing their functions in complete freedom and independence. The provisions of paragraph 2 (a) and (d) of Article 7 are applicable.

Article 9 Safety and Protection of the Persons Concerned

In this Agreement, the Government ensures, on its territory, the safety and the protection of the personnel of the Extraordinary African Chambers, suspects, accused, victims, witnesses, experts and civil parties participating in the trial in Senegal in accordance with Senegalese laws.

Article 10 Mutual Legal Assistance

The Commission shall facilitate the signing of any instrument of judicial cooperation between Senegal, Chad or any other State concerned within the framework of the implementation of this Agreement.

Article 11 Dispute Settlement

Any dispute between the Parties concerning the interpretation or application of this Agreement shall be settled by negotiation or by any other means agreed between the Parties.

Article 12 Amendment

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This Agreement may be amended by written agreement between the Parties. The amendments enter into force in accordance with the provisions of Article 13.

Article 13 Entry into force

This Agreement shall be implemented provisionally on the date of signature by both Parties. It enters into force definitively after its ratification by the Government in accordance with its constitutional procedures and the deposit of the instrument of ratification with the Chairperson of the Commission of the African Union.

Article 14 Termination of the Agreement

1. This Agreement is terminated once the judgments have been finalized by the Extraordinary African Chambers.
2. Either Party may terminate this Agreement after a written notice of six months. The termination takes effect from the date of expiry of the notice period.

Annex

Statute of the Extraordinary African Chambers within the Courts of Senegal for the Prosecution of International Crimes Committed in Chad During the Period from 7 June 1982 to 1 December 1990

Article 1 Purpose

The purpose of this Statute is to implement the decision of the African Union relating to the prosecution by the Republic of Senegal of the international crimes committed in Chad between 7 June 1982 and 1 December 1990, in accordance with Senegal's international commitments.

Article 2 Establishment of the Extraordinary African Chambers

The Extraordinary African Chambers are established within the courts of the Republic of Senegal as follows:

- (a) An Extraordinary African Investigation Chamber within the *Tribunal Régional Hors Classe de Dakar*;
- (b) An Extraordinary African Indictment Chamber at the Court of Appeals of Dakar;
- (c) An Extraordinary African Trial Chamber at the Court of Appeals of Dakar; and
- (d) An Extraordinary African Appeals Chamber within the Court of Appeals of Dakar.

Article 3 Jurisdiction

1. The Extraordinary African Chambers shall have the power to prosecute and try the person or persons principally responsible for crimes and serious violations of international law, customary international law and international conventions ratified by Chad, committed in Chad during the period from 7 June 1982 to 1 December 1990.

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2. The Extraordinary African Chambers may choose to prosecute the most serious crimes within their jurisdiction.

Article 4

Crimes within the Jurisdiction of the Extraordinary African Chambers

Under this Statute, the Extraordinary African Chambers have jurisdiction with regard to the following crimes:

- (a) The crime of genocide;
- (b) Crimes against humanity;
- (c) War crimes;
- (d) Torture.

Article 5

Crime of genocide

For the purposes of this Statute, the crime of genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

- (a) Killing members of the group;
- (b) Causing serious bodily or mental harm to members of the group;
- (c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;
- (d) Imposing measures intended to prevent births within the group;
- (e) Forcibly transferring children of the group to another group.

Article 6

Crimes against humanity

For the purposes of this Statute, a crime against humanity means one of the following acts when committed as part of a widespread or systematic attack directed against any civilian population:

- (a) Rape, sexual slavery, enforced prostitution, enforced sterilization, or any other form of sexual violence of comparable gravity;
- (b) Murder;
- (c) Extermination;
- (d) Deportation;
- (e) The crime of apartheid;
- (f) The enslavement or massive and systematic practice of summary executions, kidnapping of persons followed by their enforced disappearance;

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(g) Torture or inhumane acts intentionally causing great suffering or serious injury to body or to physical or mental health, on political, racial, national, ethnic, cultural, religious or gender grounds.

Article 7 War crimes

1. For the purposes of this Statute, a war crime means any of the following acts concerning members of the armed forces, prisoners of war, civilians or property protected by provisions of the Geneva Conventions of 12 August 1949:

- (a) Murder;
- (b) Torture or inhuman treatment, including biological experiments, or wilfully causing great physical or mental suffering;
- (c) Extensive destruction and appropriation of property, not justified by military necessity and carried out unlawfully and wantonly;
- (d) Compelling a prisoner of war or other protected person to serve in the armed forces;*
- (e) Depriving a prisoner of war or any other protected person of the rights of fair and regular trial;
- (f) Unlawful deportation or transfer or unlawful confinement;
- (g) Taking of hostages.

2. The Extraordinary African Chambers have jurisdiction to try persons who have committed serious violations of Common Article 3 of the Geneva Conventions of 12 August 1949 for the protection of victims in time of war and of Additional Protocol II to the said Conventions of 8 June 1977.* These violations include:

- (a) Violence to the life, health and physical or mental well-being of persons, in particular murder as well as cruel treatment such as torture, mutilation or any form of corporal punishment;
- (b) Collective punishments;
- (c) Taking of hostages;
- (d) Acts of terrorism;
- (e) Outrages upon personal dignity, in particular humiliating and degrading treatment, rape, enforced prostitution and any form of indecent assault;
- (f) Pillage;

* Editor's note: The Geneva Convention Relative to the Treatment of Prisoners of War of 12 August 1949 includes the grave breach of "compelling a prisoner of war to serve in the forces *of the hostile Power*" (emphasis added).

* Editor's note: Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II).

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(g) The passing of sentences and the carrying out of executions without previous judgment pronounced by a regularly constituted court, affording all the judicial guarantees which are recognized as indispensable by civilized peoples;

(h) Threats to commit any of the foregoing acts.

Article 8 Torture

For the purposes of this Statute, the term "torture" means any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession, punishing him for an act he or a third person has committed or is suspected of having committed, or intimidating or coercing him or a third person, or for any other reason based on discrimination of any kind, when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. It does include pain or suffering arising only from, inherent in or incidental to lawful sanctions. No exceptional circumstance whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.

Article 9 Non-Applicability of Statute of Limitations

The crimes within the jurisdiction of the Extraordinary African Chambers are not subject to any statute of limitations.

Article 10 Individual Criminal Responsibility and Irrelevance of Official Capacity

1. The Extraordinary African Chambers have jurisdiction over natural persons by virtue of this Statute.
2. Anyone who has committed, ordered, planned or instigated others to commit, or otherwise aided and abetted in planning, preparing or executing a crime referred to in Articles 5 to 8 of this Statute is individually responsible for such crime as a perpetrator or an accomplice.
3. The official position of an accused, as Head of State or Government or as a senior official, does not exempt a person from criminal responsibility under this Statute, nor does it constitute a ground for mitigation of the sentence.
4. The fact that any of the acts referred to in Articles 5 to 8 of this Statute has been committed by a subordinate does not exempt the superior from criminal responsibility if the superior knew or had reason to know that the subordinate was preparing to commit or had committed this act and the superior did not take the necessary and reasonable measures to prevent such act from being committed or to punish the perpetrators.
5. The fact that an accused acted pursuant to an order of a government or a superior does not exempt the accused from criminal responsibility but may be considered as a ground for mitigation of the sentence.

Article 11 Composition of the Extraordinary African Chambers and Appointment of Judges

1. The Extraordinary African Investigation Chamber within the *Tribunal Régional Hors Classe de Dakar* is composed of four investigating judges of Senegalese nationality and two alternate judges of Senegalese nationality appointed by the Chairperson of the Commission of the African Union on the proposal of the Minister of Justice of Senegal.

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2. The Extraordinary African Indictment Chamber within the Court of Appeals of Dakar is composed of three judges of Senegalese nationality and one alternate judge of Senegalese nationality appointed by the Chairperson of the Commission of the African Union on the proposal of the Minister of Justice of Senegal.

3. The Extraordinary African Trial Chamber within the Court of Appeals of Dakar is composed of a President, two judges of Senegalese nationality and two alternate judges of Senegalese nationality appointed by the Chairperson of the Commission of the African Union on the proposal of the Minister of Justice of Senegal. The President of the Chamber is a national of another Member State of the African Union.

4. The Extraordinary African Appeals Chamber is composed of a President, two judges of Senegalese nationality and two alternate judges of Senegalese nationality appointed by the Chairperson of the Commission of the African Union on the proposal of the Minister of Justice of Senegal. The President of the Chamber is a national of another Member State of the African Union.

5. The judges shall be chosen from among persons of high moral character, impartiality and integrity and who have served as judges for at least 10 years. The Presidents of the Extraordinary African Trial and Appeals Chambers must also meet the requirements in their respective States for the highest judicial offices.

Article 12

The Office of the Prosecutor

1. The Office of the Prosecutor is represented by the Prosecutor or the deputy prosecutors in the Extraordinary African Chambers. The Prosecutor and three deputy prosecutors of Senegalese nationality are appointed by the Chairperson of the Commission of the African Union on the proposal of the Minister of Justice of Senegal.

2. The prosecutors must have high moral character, impartiality and integrity, and must have at least 10 years of professional experience, and extensive experience in criminal investigations and prosecutions. Prosecutors exercise their functions in complete independence.

3. The Office of the Prosecutor conducts the prosecutions before the Extraordinary African Chambers unless otherwise provided in this Statute. To this end, the Office of the Prosecutor has the powers conferred on it by the Senegalese Code of Criminal Procedure.

Article 13

Registry

1. The Extraordinary African Chambers are assisted by one or more clerks whose responsibilities are determined in accordance with the Senegalese Code of Criminal Procedure.

2. The clerks of the Extraordinary African Chambers are appointed by the Minister of Justice of Senegal.

Article 14

General Principles Relating to the Participation of Victims as Civil Parties

1. The admission of a civil party may take place at any time during the investigation by written request from the victim or his successor to the Registry. The Registry communicates the request to the competent Chamber, as well as to the Office of the Prosecutor and the Defence.

2. Victims may form groups and decide to be represented by a jointly selected representative. When the interests of justice so require, the Extraordinary African Chambers may require victims or a group of victims to

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choose, if necessary, with the assistance of the Administrator, one or more joint representatives. The mandate thus given may be revoked at any time.

3. If the victims are unable to choose one or more joint representatives within the time limit set by the competent Chamber, the Chamber may ask the Administrator to appoint one or more representatives.

4. If a group of victims cannot afford to pay a joint representative, it may request the assistance of the Administrator who decides on the request.

5. Subject to the provisions of this Statute, the terms of victim participation are governed by the Senegalese Code of Criminal Procedure.

Article 15

Administration of the Extraordinary African Chambers

1. The Minister of Justice of the Republic of Senegal appoints an Administrator of the Extraordinary African Chambers. The Administrator is in charge of the non-judicial aspects of the administration and service of the Extraordinary African Chambers. The Administrator also manages the staff members of the Extraordinary African Chambers in collaboration with the Presidents of the Chambers and the Office of the Prosecutor. The Administrator is assisted, in the exercise of his functions, by the staff necessary for the functioning of the Extraordinary African Chambers.

2. The Administrator represents the Extraordinary African Chambers in their relations with the international community, including with the Management Committee established by the Final Document of the Round Table of Donors of 24 November 2010.

3. The Administrator of the Extraordinary African Chambers may enter into appropriate agreements to raise awareness and to inform Africa and the international community about the work of the Extraordinary African Chambers.

4. The Administrator is responsible for directing and assisting, in the appropriate manner, the witnesses and victims who appear before the Extraordinary African Chambers as well as other persons to whom the testimonies of these witnesses may pose a risk, as well as planning measures and arrangements to ensure their protection and safety. To this end, the Administrator shall coordinate with the Governments of Chad, Senegal and other States concerned.

5. The Administrator contributes to the establishment of a mechanism for judicial cooperation between Senegal and other States.

Article 16

Applicable Law

1. The Extraordinary African Chambers shall apply this Statute.

2. For cases not provided for in this Statute, they shall apply Senegalese law.

Article 17

Procedure and Initiation of Prosecutions

1. The Extraordinary African Chambers shall apply this Statute first and foremost, and for cases not provided for in the Statute, the Senegalese Code of Criminal Procedure.

2. The crimes referred to in Articles 5 to 8 of this Statute may not be the subject of a mediation procedure.

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3. Prosecutions can be initiated only by the Office of the Prosecutor at the Extraordinary African Chambers.

4. The Office of the Prosecutor may initiate investigations on its own or on the basis of information obtained from any source, including governments, international and non-governmental organizations, or complaints from victims without prejudice to their place of domicile.

Article 18

Previous Investigations and Judicial Proceedings

1. The Extraordinary African Chambers shall take all necessary measures for judicial cooperation, and when necessary, the receipt and use of the results of investigations carried out by the judicial authorities of other States for the crimes covered by this Statute.

2. They may request the transfer of any criminal proceedings and, in this context, validate the statements and evidence established by the competent authorities of the requested States.

Article 19

Ne bis in idem

1. Unless otherwise provided in this Statute, no one may be tried by the Extraordinary African Chambers for acts constituting crimes for which the person has already been convicted or acquitted.

2. No one may be tried by another court for the crimes referred to in Articles 5 to 8 for which the person has already been convicted or acquitted by the Extraordinary African Chambers.

3. Anyone who has been tried by another court for conduct also referred to in Articles 5, 6, 7 or 8 may only be tried by the Extraordinary African Chambers if the proceedings before the other court:

(a) Were intended to protect the person concerned from criminal responsibility for crimes falling within the jurisdiction of the Extraordinary African Chambers; or

(b) Were not conducted in an independent or impartial manner, with respect for the guarantees of a fair trial provided by international law, but in a manner which, in the circumstances, was inconsistent with the intention of bringing the person to justice.

Article 20

Amnesty

The amnesty granted to a person within the jurisdiction of the Extraordinary African Chambers for the crimes referred to in Articles 5 to 8 of this Statute does not preclude prosecution.

Article 21

Rights of the Accused

1. All accused persons are equal before the Extraordinary African Chambers.

2. Every accused has the right to a fair and public hearing, subject to the measures ordered by the Extraordinary African Chambers to ensure the protection of victims and witnesses.

3. Every accused is presumed innocent until proven guilty, in accordance with the provisions of this Statute.

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4. When considering the charges against the accused in accordance with this Statute, every accused person is entitled to the following minimum guarantees:

- (a) To be informed, promptly and in detail, in a language that the accused understands, of the nature and content of the charges against him;
- (b) To have adequate time and facilities to prepare his defence and to communicate freely with the counsel of his choice;
- (c) To be tried without undue delay;
- (d) To be present at the trial and to conduct the defence in person or through counsel of his choice, and if the accused does not have counsel, to be informed of the right to counsel, and, when the interests of justice so require, to be assigned counsel, free of charge, if the accused cannot afford to pay for it;
- (e) To examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as prosecution witnesses;
- (f) To have the free assistance of an interpreter if he cannot understand or speak the language used in the Extraordinary African Chambers;
- (g) To not be compelled to testify against himself or to confess guilt.

Article 22 Hearings

Hearings are public and matters relating to the conduct of hearings are governed by the Senegalese Code of Criminal Procedure.

Article 23 Sentence

1. The Extraordinary African Trial Chamber pronounces sentences and imposes penalties and sanctions on persons convicted of serious violations of human rights, international law and customary international law.

2. The sentence is rendered in public by a majority of the judges of the Extraordinary African Trial Chamber. The sentence is in writing and includes for the reasons for the sentence.

Article 24 Applicable Penalties

1. The Extraordinary African Chambers may impose on a person convicted of a crime referred to in Articles 5 to 8 of this Statute one of the following penalties:

- (a) Imprisonment for a maximum of 30 years; or
- (b) Life imprisonment, when justified by the extreme gravity of the crime and the individual circumstances of the convicted person.

2. In addition to imprisonment, the Extraordinary African Chambers may order:

- (a) Fines imposed under the criteria provided by Senegalese law;

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- (b) Forfeiture of profits, property and assets derived directly or indirectly from the crime, without prejudice to the rights of third parties in good faith.

Article 25 Appeal Procedures

1. The Extraordinary African Appeals Chamber is authorized to consider appeals from persons convicted by the Extraordinary African Trial Chamber, the Prosecutor, or civil parties with respect to their interests, on the following grounds:
 - (a) A procedural error;
 - (b) An error on a material question of law that invalidates the decision; including a jurisdictional error;
 - (c) An error of fact that leads to a miscarriage of justice.
2. The Extraordinary African Appeals Chamber may affirm, reverse or revise the decisions taken by the Extraordinary African Trial Chamber.
3. The judges of the Extraordinary African Appeals Chamber may consider the jurisprudence of international criminal courts or tribunals.
4. The judgments rendered by the Extraordinary African Appeals Chamber are final. They are not subject to appeal.

Article 26 Pre-Trial Detention and Enforcement of Sentences

1. Any pre-trial detention and imprisonment ordered by the Extraordinary African Chambers prior to the final judgment shall be carried out in Senegalese prisons in accordance with Senegalese law.
2. Imprisonment sentences are carried out in accordance with international standards. If the circumstances so require, the convicted person may serve the prison sentence in one of the Member States of the African Union which has concluded an enforcement agreement with Senegal.
3. The conditions of detention, whether in Senegal or in another Member State of the African Union, are governed by law of the enforcement State in accordance with international standards. The enforcement State is bound by the length of the sentence.
4. National courts will be in charge of all proceedings, particularly those relating to detention, that may arise after the dissolution of Extraordinary African Chambers.
5. The competent national authorities shall enforce fines and forfeiture measures ordered by the Extraordinary African Chambers under Article 24 of this Statute, in accordance with the laws of the State where the property and assets are located.

Article 27 Reparations

1. The reparations granted by the Extraordinary African Chambers are restitution, compensation and rehabilitation.

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2. The Extraordinary African Chambers may decide that the compensation awarded as reparation be paid through the fund referred to in Article 28 of this Statute.
3. Before making a decision under this article, the Extraordinary African Chambers may invite observations from the convicted person, the victims and other interested persons or States.
4. The provisions of this article are without prejudice to the rights of victims under national or international law.

Article 28

The Fund for the Benefit of Victims

1. A fund is created for the benefit of victims of crimes under the jurisdiction of the Extraordinary African Chambers and their beneficiaries. This fund is financed by voluntary contributions from foreign governments, international institutions, non-governmental organizations and other sources willing to provide support to victims.
2. Reparations may be awarded to victims, individually or collectively, whether or not they participated in proceedings before the Extraordinary African Chambers.

Article 29

Privileges and Immunities

1. Judges of foreign nationality, as well as members of their families who form part of their households, enjoy the privileges and immunities, exemptions and facilities, including tax exemptions, granted to diplomatic agents in accordance with the 1961 Vienna Convention on Diplomatic Relations. They are exempt from taxes on their salaries, allowances and emoluments in Senegal.
2. Judges, prosecutors, clerks, the Administrator and other staff members of the Extraordinary African Chambers of Senegalese nationality enjoy, in accordance with the General Convention on the Privileges and Immunities of the Organization of African Unity (OAU), the following privileges and immunities:
 - (a) Immunity from criminal and civil jurisdiction for all acts (including their words and writings) which they perform in the exercise of their functions. This immunity is maintained after they have left the service of the Extraordinary African Chambers.
 - (b) Exemption from any tax on the salaries, allowances and emoluments paid to them as part of their participation in the Extraordinary African Chambers.

Article 30

Working Language

The working language of the Extraordinary African Chambers is French.

Article 31

Practical Arrangements

1. The establishment of the Extraordinary African Chambers is carried out in the following chronological order:
 - (a) The Prosecutor and deputy prosecutors, the investigating judges of the Extraordinary African Indictment Chamber and the clerks are appointed during the first stage of the establishment of the Extraordinary African Chambers.

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(b) During the investigation phase, the judges of the Extraordinary African Indictment Chamber are convened and rule on any appeal that is referred to them under the Code of Criminal Procedure of Senegal. The decision of the Extraordinary African Indictment Chamber is final and without appeal.

(c) The judges of the Extraordinary African Trial Chamber take office at the end of the investigation stage. The judges of the Extraordinary African Appeals Chamber take office when an appeal is filed against a judgment of the Extraordinary African Trial Chamber.

2. The terms of the judges expire when their respective phases are completed.

Article 32 Budget

1. The establishment and operation of the Extraordinary African Chambers are financed by the budget approved by the Round Table of 24 November 2010.

2. Additional financial resources may be mobilized, when needed, at the appropriate time.

Article 33 Access to the Trial

All reasonable measures will be taken to ensure access to the trial for all parties concerned as well as representatives of the press, observers of the international community and the African Union and representatives of civil society.

Article 34 Protection of Parties and Witnesses at Trial

The Government of Senegal ensures, on its territory, the protection of the parties and witnesses at the trial throughout the duration of the proceedings.

Article 35 Protection of Witnesses and Experts

The protection of witnesses and experts for acts carried out during the proceedings before the Extraordinary African Chambers is governed by the Agreement between the Government of the Republic of Senegal and the African Union on the Establishment of the Extraordinary African Chambers within the Courts of Senegal.

Article 36 Recording of Hearings

The proceedings of the Extraordinary African Chambers are filmed and recorded for broadcast, under the supervision of the Prosecutor, unless this contravenes the measures necessary to protect witnesses and other participants.

Article 37 Duration of the Extraordinary African Chambers

1. The Extraordinary African Chambers are dissolved once all judgments are final.

2. The files are archived at the Registry of the Court of Appeals of Dakar once the Extraordinary African Chambers have been dissolved.

2. STATUTE OF THE TRUST FUND FOR VICTIMS OF HISSÈNE HABRÉ'S CRIMES

3. National courts are in charge of all matters that may arise after the dissolution of the Extraordinary African Chambers.

2.

STATUTE OF THE TRUST FUND FOR VICTIMS OF HISSÈNE HABRÉ'S CRIMES

Adopted in Addis Ababa, Ethiopia, on 29 January 2018.

Entered into force upon adoption.

Preamble

The Assembly,

Recalling Decision Assembly/AU/Dec.103 (VI) adopted by the Assembly of the Union in January 2006, in Khartoum, The Sudan, on the establishment of the Extraordinary African Chambers (EAC),

Recalling Decision Assembly/AU/Dec.401 (XVIII) adopted on 31 January 2012 by the Assembly of Heads of State and Government of the African Union requesting the African Union and the Government of Senegal to consider the practical modalities and the legal and financial implications of a trial for international crimes committed on Chadian territory during the period from 07 June 1982 to 1 December 1990,

Recalling Decision Assembly/AU/Dec.615 (XXVII) adopted by the Assembly of the Union in July 2016 in Kigali, Rwanda, on the establishment of a Trust Fund on reparations for the rightful victims of crimes within the jurisdiction of the Extraordinary African Chambers,

Recalling the Statute of the Extraordinary African Chambers within Senegalese jurisdiction for proceedings for international crimes committed on the territory of the Republic of Chad during the period from 7 June 1982 to 1 December 1990,

Noting the objectives and principles of the African Union on the respect of democratic principles, human rights, the rule of law and good governance,

Bearing in mind Articles 27 and 28 of the Statute of the Extraordinary African Chambers which provides for reparations and the establishment of a trust fund for victims,

Taking note of the judgments rendered by the Extraordinary African Chambers on 29 July 2016 and 27 April 2017 awarding reparations to the victims of Hissène Habré,

Have agreed as follows:

Article 1 Definitions

For the purpose of this Statute:

“African Union” or “Union” means the African Union established by the Constitutive Act adopted on 11 July 2000 and which entered into force on 26 May 2001;

“Assembly” means the Assembly of Heads of State and Government of the African Union;

“Board” means the Board of Directors of the Trust Fund;

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“Chairperson” means the Chairperson of the Board of Directors of the Trust Fund;

“Constitutive Act” means the Constitutive Act of the African Union;

“Executive Council” means the Executive Council of Ministers of the Union;

“Fund” means the Trust Fund for victims of Hissène Habré’s crimes;

“Member States” means Member States of the Union;

“Secretariat” means the Secretariat of the Trust Fund for victims of Hissène Habré’s crimes;

“Statute” means the Statute of the Trust Fund for victims of Hissène Habré’s crimes;

“Victim” means victim as defined in the ruling of the Extraordinary African Chambers of 27 April 2017.

Article 2 Establishment

1. The Trust Fund for victims of the crimes of Hissène Habré shall be established pursuant to Articles 27 and 28 of the Statute of the Extraordinary African Chambers and Decision Assembly/AU/Dec.615 (XXVII), adopted by the Assembly of the Union in July 2016 in Kigali, Rwanda.
2. The Fund shall have legal personality.

Article 3 Purpose

1. The purpose of this Statute is to establish an institutional framework for compensation and reparations for victims of Hissène Habré’s crimes.
2. The Trust Fund shall be established to serve as the implementing body for the decision on reparations pronounced by the Extraordinary African Chambers, in order to mobilize the necessary funds and pay the said reparations to the victims of Hissène Habré’s crimes.

Article 4 Principles

The principles of confidentiality, transparency, non-discrimination, impartiality, efficiency, independence, and equity shall guide the management and control structures for the disbursement of funds and the pursuit of activities within the scope of their respective mandates.

Article 5 Structure of the Fund

The governance structure of the Fund shall be as follows:

- (a) The Board of Directors; and
- (b) The Secretariat.

Article 6 Composition of the Board of Directors

2. STATUTE OF THE TRUST FUND FOR VICTIMS OF HISSÈNE HABRÉ'S CRIMES

1. The Board of Directors shall be composed of the following members:
 - (a) One representative of the African Union Commission (AUC);
 - (b) One representative of the Republic of Chad;
 - (c) One representative of victims from the three major victims' associations;
 - (d) One representative from a civil society organization with proven expertise, and ideally, accredited to the African Union.
2. The participation of members of victims' associations shall be based on rotation according to alphabetical order, for a period of six months, between the three victims' associations.
3. One or several representatives of contributors may be included on the Board. If necessary, coordination shall be organized between the contributors.
4. The Board of Directors may admit other members as observers. The two other representatives of non-member victims' associations shall be admitted to participate in deliberations as observers.
5. The Legal Counsel of the African Union or his/her representative shall attend Board meetings to provide any legal advice that may be necessary.
6. The Secretary of the Fund shall act as the Secretariat of the Board.
7. Members of the Board must demonstrate high standards of integrity, impartiality and proven skills in the area of compensation and reparations for victims within the meaning of the Statute.

Article 7 Functions of the Board

1. The functions of the Board shall be to:
 - (a) Decide on the allocation by the Secretariat of the proceeds of confiscated property and all other assets of the convicted person to the Fund;
 - (b) Direct the Secretariat on the necessary measures to be taken, particularly by the mechanism for judicial assistance, to locate and recover assets belonging to the convicted person, whose direct link to the latter can be established in implementation of the ruling on his case;
 - (c) Determine the guidelines and actions to be carried out by the Secretariat with a view to implementing collective and moral reparations, in collaboration with the Government of Chad, interested States and organizations, as well as the associations of civil parties;
 - (d) Consider the assets awarded as compensation under Articles 27 and 28 of the Statute of the Extraordinary African Chambers for receipt by the Secretariat;
 - (e) Consider requests for recognition of victim status from persons who did not participate in the proceedings and those whose requests were rejected pursuant to the ruling of the Extraordinary African Chambers of 27 April 2017;

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- (f) Decide on the organization by the Secretariat of donors' conferences with a view to collecting voluntary contributions to the Fund;
 - (g) Supervise the activities of the Secretariat relating to the collection of voluntary contributions and ensure that the Secretariat makes sustained efforts to raise funds;
 - (h) Approve the draft budget of the Fund for its functioning and activities related to its mandate;
 - (i) Decide on the disbursement and actual payment of reparations and compensation to victims and their beneficiaries;
 - (j) Carry out supervision and monitoring in order to ensure responsible and appropriate use of funds in conformity with the applicable regulations of the African Union;
 - (k) Adopt the Handbook of Procedures proposed by the Secretariat;
 - (l) Provide strategic guidelines for the Secretariat in conformity with the relevant rules and procedures of the African Union;
 - (m) Consider the reports and proposals of the Secretariat;
 - (n) Report to the Executive Council of the African Union through the Commission;
2. The Fund may call on the assistance of independent experts within the framework of its mandate.

Article 8 Chairperson of the Board

The Board shall be chaired by the representative of the African Union Commission.

Article 9 Meetings

1. The Board of Directors shall meet in ordinary sessions at least once every quarter during each year, at the headquarters of the Secretariat.
2. The Board may meet in extraordinary sessions when circumstances so require, and the Chairperson shall determine the start date, duration and venue of each extraordinary session. Extraordinary sessions may be held in person, by telephone, internet or video conference.
3. The Secretariat shall propose, in consultation with the Chairperson, the provisional agenda of ordinary and extraordinary sessions. The Secretariat may receive proposals for items to be included on the agenda from other Board members. Any proposed item shall be accompanied by an explanatory statement, and where possible, documents or a draft decision. All documents shall be circulated to Board members at least one month prior to the session. The provisional agenda shall be submitted for consideration by the Board of Directors at the beginning of the relevant session.
4. The Executive Secretary of the Fund shall attend sessions of the Board as a resource person.
5. The Board may invite other persons with relevant skills to attend some of its sessions, if need be, and make oral or written statements and advise on issues under consideration.

2. STATUTE OF THE TRUST FUND FOR VICTIMS OF HISSÈNE HABRÉ'S CRIMES

6. Meetings of the Board shall be held in closed sessions, unless it is decided otherwise. Decisions and minutes of the Board shall be made public, subject to confidentiality, and shall be communicated to interested parties. At the end of a meeting of the Board of Directors, the Chairperson may make a communication through his/her Secretariat.

7. The quorum for a Board meeting shall be a simple majority.

Article 10 Working Languages

1. The working languages of the Board shall be English and French.

2. The Board may decide that one of the other working languages of the African Union be used when the language is understood and spoken by the majority of persons concerned, and its use will facilitate the conduct of the deliberations of the Board.

Article 11 Decisions of the Board

1. Decisions of the Board shall be taken at ordinary or extraordinary sessions.

2. Every effort shall be made to reach decisions by consensus. If a consensus cannot be reached, all decisions shall be adopted by the simple majority of voting Board members.

3. The Board shall adopt its rules of procedure.

Article 12 Remuneration of Board Members

1. Members of the Board shall not receive any remuneration to serve on the Board, apart from the reimbursement of eligible expenses relating to activities of the Board, in conformity with the Handbook of Procedures of the Fund.

2. Reimbursements shall be made from voluntary contributions to the General Fund.

Article 13 Secretariat

1. The Chairperson of the Commission, on the recommendation of the Board, shall appoint the Chief Executive of the Secretariat.

2. The functions of the Secretariat shall be as follows:

(a) Provide the necessary assistance for the smooth functioning of the Board;

(b) Implement the reparations decided on by the Board, in conformity with the Handbook of Procedures;

(c) Allocate the proceeds of confiscated property or any other assets of the convicted person to the Fund in conformity with the decisions of the Board;

(d) Take all necessary measures, pursuant to decisions by the Board, particularly by the mechanism for legal assistance, to locate and recover assets belonging to the convicted person, whose direct link to the latter can be established in implementation of the ruling on his case;

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- (e) Seek, pursuant to the Board's decision, with the Government of Chad, interested States and organizations, as well as associations of civil parties, the realization and implementation of collective and moral reparations;
 - (f) Receive, pursuant to the Board's decision, the assets awarded as compensation under Articles 27 and 28 of the Statute of the Extraordinary African Chambers;
 - (g) Receive and submit to the Board for consideration, requests for recognition of victim status from persons who did not participate in the proceedings and those whose requests were rejected pursuant to the ruling of the Extraordinary African Chambers of 27 April 2017;
 - (h) Organize, pursuant to the Board's decision, donors conferences to obtain voluntary contributions for the Fund;
 - (i) Seek and collect voluntary contributions;
 - (j) Submit the draft budget of the Fund to the Board for adoption;
 - (k) Ensure the disbursement and actual payment of reparations and compensation to victims and their beneficiaries, in accordance with the decisions of the Board;
 - (l) Propose a Handbook of Procedures for adoption by the Board;
 - (m) Prepare regular reports for consideration by the Board.
3. The Secretariat may call on the assistance of independent experts within the framework of its mandate.
 4. The Headquarters of the Secretariat shall be based in

Article 14 Submission of Reports

The Secretariat shall submit half-yearly reports to the Board on:

- (a) Its activities;
- (b) The financial management of the Fund;
- (c) The implementation of decisions of the Board.

Article 15 Financing of the Fund

1. The Fund shall be financed from the recovering of the assets of persons sentenced in accordance with the verdict of the Extraordinary Chambers of Africa, including through the judicial mutual assistance mechanism and by the voluntary contributions of Member States, foreign governments, international institutions, non-governmental organizations and other entities willing to support the victims.
2. The Board shall, within the framework of its annual report to the Executive Council of the African Union on the activities and projects of the Fund, appeal as many times as necessary, for voluntary contributions to the Fund.

2. STATUTE OF THE TRUST FUND FOR VICTIMS OF HISSÈNE HABRÉ'S CRIMES

3. All other voluntary contributions received by the Fund should emanate from sources that conform to the Financial Rules and Regulations of the AU.
4. The Fund shall accept only subsidies, donations or other benefits that conform to the objectives of the AU.
5. The Board shall develop mechanisms that would enhance the verification of the origin of money received by the Fund.
6. Voluntary contributions from governments shall not be transferred. Voluntary contributions emanating from other sources may be transferred by the donor to a maximum of one third of the contribution, to another activity of the Fund when requested by the donor:
 - (a) For victims and, when individuals are concerned, to their families;
 - (b) Will not lead to discrimination based on race, colour, gender, language, religion, political leaning or other, nationality, ethnic group or other, assets, birth or any other status, on condition that the contributions are intended to assist those who are enjoying a specific protection in accordance with international law are not considered as discriminatory.
7. When a contribution is transferred and where the corresponding objective cannot be attained, the Board shall transfer the contribution to its general account subject to the consent of the donor.
8. When a contribution is transferred and where the corresponding objective cannot be attained, the Board shall transfer the contribution to its general account subject to the consent of the donor.
9. The Board shall not accept voluntary contributions:
 - (a) That are deemed incompatible with the objectives and activities of the Fund;
 - (b) That are deemed to have been transferred in a manner that does not conform to the provisions of paragraph 6. Before turning down such a contribution, the Board shall request from the donor the possibility of cancelling the transfer or to modify it in order to make it acceptable;
 - (c) Which would compromise the independence of the Fund;
 - (d) Whose distribution would lead to a clearly unequal distribution of the Fund and available assets to the various groups of victims.

Article 16 Functioning of the Fund

1. The bank accounts of the Fund shall be opened in accordance with the Financial Rules and Regulations of the African Union and with the Procedural Handbook of the Fund.
2. The accounting system of the Fund shall enable the separation of funds in order to facilitate the introduction of transferred contributions.
3. The Fund shall be audited in accordance with the Financial Rules and Regulations of the AU.
4. The Secretariat shall receive the resources that the Extraordinary African Chambers may decide to transfer to the Fund. It shall take note of the sources and the amounts received as well as all other information relating to the use of the money.

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Article 17 Beneficiaries

The resources of the Fund shall serve to compensate:

- (a) The victims of the crimes of Hissène Habré that fall under the jurisdiction of the Extraordinary African Chambers, as set out in the verdict of the Extraordinary African Chambers;
- (b) People who did not participate in the procedure and those whose applications have been rejected, in accordance with the verdict of the Extraordinary African Chambers of 27 April 2017.

Article 18 General Principles

- 1. The Board of Directors may decide to consult the victims and, in the case of individuals, their families as well as their legal representatives and may consult any competent expert or any organization of experts within the framework of the conduct of its activities and projects.
- 2. For the purposes of this Statute and in accordance with the Procedural Handbook and the verdict of the Extraordinary African Chambers, the Fund shall be considered as seized when the Board of Directors shall deem it necessary to offer a physical or psychological reparation or material support to victims and their families.

Article 19 Sensitization

- 1. Once the Fund goes operational, the Chairman of the Board of Directors shall issue a statement through his/her Secretariat.
- 2. The statement may indicate the basis of its activities and its projects, and if need be, provide any additional information. An appeal for voluntary contributions may accompany the statement.
- 3. The Board of Directors shall launch a sensitization and information campaign which it shall deem appropriate with a view to increasing voluntary contributions. The Board may, in this regard, solicit assistance from the Secretariat.

Article 20 Verification

- 1. The Secretariat shall ensure that all persons who submit applications to the Fund are part of the beneficiaries, in accordance with the principles set out in the verdict of the Extraordinary African Chambers.
- 2. Subject to the stipulations set out in the verdict of the Extraordinary African Chambers, the Board of Directors shall define the norms provided for the verification exercise, taking into account the current situation of the group of beneficiaries and available evidence.

Article 21 Disbursement of Reparations

- 1. The Fund shall define the modalities for the disbursement of reparations to beneficiaries taking into account their current situation and their place of residence, in accordance with the principles set out in Article 4.

2. STATUTE OF THE TRUST FUND FOR VICTIMS OF HISSÈNE HABRÉ'S CRIMES

2. The Fund may decide to resort to the services of middlemen in order to facilitate the disbursement of reparations, if need be, provided it would facilitate access to groups of beneficiaries and avoid conflicts of interests. The middlemen may be national or international non-governmental organizations working in close proximity with groups of beneficiaries and representatives of beneficiaries.

3. The Secretariat should put in place procedures that would ensure that reparation allowances have been duly received by beneficiaries, in accordance with the implementation plan of a disbursement programme. The beneficiaries shall be bound to acknowledge receipt of the reparation in writing or by other means of identification and these registers should be preserved by the Secretariat. Additional random checks and the monitoring of the reparation register should be executed in order to avoid unexpected difficulties or the risk of fraud and corruption.

Article 22 Information Requirements

1. The Board of Directors shall submit an annual written report on the activities of the Fund to the Executive Council through the Commission.

2. The annual report of the Board of Directors shall be made public, subject to confidentiality.

Article 23 Privileges and Immunities

1. The Funds, its representatives and its staff shall enjoy, on the territory of each Member State, the privileges and immunities provided for in the 1965 General Convention on Privileges and Immunities of the Organization of African Unity and other relevant international instruments.

2. The Headquarters Agreement concluded between the Fund and the host country of the Fund, shall govern the relations between the Fund and the host country.

Article 24 Amendments

Amendments to this Statute may be proposed by the Board of Directors and shall enter into force upon adoption by the Assembly of the Union.

Article 25 Entry into Force

This Statute shall enter into force upon its approval by the Assembly of the Union.

PART VIII
MOVEMENT OF PERSONS

1. RESOLUTION ON THE PROBLEM OF REFUGEES IN AFRICA
2. DECLARATION ON THE PROBLEM OF SUBVERSION

1.

**RESOLUTION ON THE PROBLEM OF REFUGEES IN AFRICA
(AHG/Res.26 (II))**

Adopted in Accra, Ghana, in October 1965.

The Assembly of Heads of State and Government meeting in its Second Ordinary Session in Accra, Ghana, from 21 to 25 October 1965,

Considering the gravity of the refugee situation in Africa and the complex problems it causes for the countries of origin as well as the host countries,

Recalling the recommendations already adopted by the Assembly and the principles laid down in this respect by the Organization of African Unity,

1. *Reaffirming its desire* to give all possible assistance to refugees from any Member State on a humanitarian and fraternal basis;
2. *Recalls* that Member States have pledged themselves to prevent refugees living on their territories from carrying out by any means whatsoever any acts harmful to the interests of other States Members of the Organization of African Unity;
3. *Requests* all Member States never to allow the refugee question to become a source of dispute among them;
4. *Notes with appreciation* the assistance provided by the United Nations High Commissioner's Office to African Governments in their programmes of aid to refugees;
5. *Requests* the African States that are members of the Economic and Social Council to secure an increase in African representation on the Executive Committee of the High Commissioner's Programme;
6. *Asks* members of the Refugee Commission established by resolution CM/Res.19 (II) to provide legal experts at the highest level possible to re-examine the draft OAU convention on the status of refugees having regard to the views expressed by the Assembly at its present session and to report back to the Assembly;
7. *Requests* Member States of the Organization of African Unity, if they have not already done so, to ratify the United Nations Convention relating to the Status of Refugees and to apply meanwhile the provisions of the said Convention to refugees in Africa.

2.

**DECLARATION ON THE PROBLEM OF SUBVERSION
(AHG/Res.27 (II))**

Adopted in Accra, Ghana, in October 1965.

The Assembly of Heads of State and Government meeting in its Second Ordinary Session in Accra, Ghana, from 21 to 25 October 1965,

Desirous of consolidating the fraternal links that unite us,

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Solemnly undertake,

1. *Not to tolerate*, in conformity with Article III, paragraph 5, of the Charter of the Organization of African Unity, any subversion originating in our countries against another Member State of the Organization of African Unity;
2. *Not to tolerate* the use of our territories for any subversive activity directed from outside Africa against any Member State of the Organization of African Unity;
3. *To oppose* collectively and firmly by every means at our disposal every form of subversion conceived, organized or financed by foreign powers against Africa, the Organization of African Unity or its Member States individually;
4. (a) *To resort* to bilateral or multilateral consultation to settle all differences between two or more Member States of the Organization of African Unity;
(b) *To refrain* from conducting any press or radio campaign against any Member States of the Organization of African Unity, and to resort instead to the procedure laid down in the Charter and the Protocol of Mediation, Conciliation and Arbitration of the Organization of African Unity;
5. (a) *Not to create* dissension within or among Member States by fomenting or aggravating racial, religious, linguistic, ethnic or other differences;
(b) *To combat* all forms of activity of this kind;
6. *To observe strictly* the principles of international law with regard to all political refugees who are nationals of any Member States of the Organization of African Unity;
7. *To endeavor to promote*, through bilateral and multilateral consultations, the return of refugees to their countries of origin with the consent of both the refugees concerned and their governments;
8. *To continue to guarantee* the safety of political refugees from non-independent African territories, and to support them in their struggle to liberate their countries.

3.

OAU CONVENTION GOVERNING THE SPECIFIC ASPECTS OF REFUGEE PROBLEMS IN AFRICA

Adopted in Addis Ababa, Ethiopia, on 10 September 1969.

Entered into force on 20 June 1974.

Preamble

We, the Heads of State and Government assembled in the city of Addis Ababa, Ethiopia, from 6 to 10 September 1969,

Noting with concern the constantly increasing numbers of refugees in Africa and desirous of finding ways and means of alleviating their misery and suffering as well as providing them with a better life and future,

Recognizing the need for an essentially humanitarian approach towards solving the problems of refugees,

Aware, however, that refugee problems are a source of friction among many Member States, and desirous of eliminating the source of such discord,

3. OAU CONVENTION ON SPECIFIC ASPECTS OF REFUGEE PROBLEMS IN AFRICA

Anxious to make a distinction between a refugee who seeks a peaceful and normal life and a person fleeing his country for the sole purpose of fomenting subversion from outside,

Determined that the activities of such subversive elements should be discouraged, in accordance with the Declaration on the Problem of Subversion and the Resolution on the Problem of Refugees adopted at Accra, Ghana, in 1965,

Bearing in mind that the Charter of the United Nations and the Universal Declaration of Human Rights have affirmed the principle that human beings shall enjoy fundamental rights and freedoms without discrimination,

Recalling Resolution 2312 (XXII) of 14 December 1967 of the United Nations General Assembly, relating to the Declaration on Territorial Asylum,

Convinced that all the problems of our continent must be solved in the spirit of the Charter of the Organization of African Unity and in the African context,

Recognizing that the United Nations Convention Relating to the Status of Refugees of 28 July 1951, as modified by the Protocol Relating to the Status of Refugees of 31 January 1967, constitutes the basic and universal instrument relating to the status of refugees and reflects the deep concern of States for refugees and their desire to establish common standards for their treatment,

Recalling Resolutions 26 and 104 of the OAU Assembly of Heads of State and Government, calling upon Member States of the Organization who had not already done so to accede to the United Nations Convention of 1951 and to the Protocol of 1967 relating to the Status of Refugees, and meanwhile to apply their provisions to refugees in Africa,

Convinced that the efficiency of the measures recommended by the present Convention to solve the problem of refugees in Africa necessitates close and continuous collaboration between the Organization of African Unity and the Office of the United Nations High Commissioner for Refugees,

Have agreed as follows:

Article 1 Definition of the Term "Refugee"

1. For the purposes of this Convention, the term "refugee" shall mean every person who, owing to well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion, is outside the country of his nationality and is unable or, owing to such fear, is unwilling to avail himself of the protection of that country, or who, not having a nationality and being outside the country of his former habitual residence as a result of such events is unable or, owing to such fear, is unwilling to return to it.
2. The term "refugee" shall also apply to every person who, owing to external aggression, occupation, foreign domination or events seriously disturbing public order in either part or the whole of his country of origin or nationality, is compelled to leave his place of habitual residence in order to seek refuge in another place outside his country of origin or nationality.
3. In the case of a person who has several nationalities, the term "a country of which he is a national" shall mean each of the countries of which he is a national, and a person shall not be deemed to be lacking the protection of the country of which he is a national if, without any valid reason based on well-founded fear, he has not availed himself of the protection of one of the countries of which he is a national.
4. This Convention shall cease to apply to any refugee if:

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- (a) He has voluntarily re-availed himself of the protection of the country of his nationality;
- (b) Having lost his nationality, he has voluntarily reacquired it;
- (c) He has acquired a new nationality, and enjoys the protection of the country of his new nationality;
- (d) He has voluntarily re-established himself in the country which he left or outside which he remained owing to fear of persecution;
- (e) He can no longer, because the circumstances in connection with which he was recognized as a refugee have ceased to exist, continue to refuse to avail himself of the protection of the country of his nationality;
- (f) He has committed a serious non-political crime outside his country of refuge after his admission to that country as a refugee; or
- (g) He has seriously infringed the purposes and objectives of this Convention.

5. The provisions of this Convention shall not apply to any person with respect to whom the country of asylum has serious reasons for considering that:

- (a) He has committed a crime against peace, a war crime, or a crime against humanity, as defined in the international instruments drawn up to make provision in respect of such crimes;
- (b) He committed a serious non-political crime outside the country of refuge prior to his admission to that country as a refugee;
- (c) He has been guilty of acts contrary to the purposes and principles of the Organization of African Unity;
- (d) He has been guilty of acts contrary to the purposes and principles of the United Nations.

6. For the purposes of this Convention, the Contracting State of Asylum shall determine whether an applicant is a refugee.

Article 2 Asylum

1. Member States of the OAU shall use their best endeavours consistent with their respective legislation to receive refugees and to secure the settlement of those refugees who, for well-founded reasons, are unable or unwilling to return to their country of origin or nationality.

2. The grant of asylum to refugees is a peaceful and humanitarian act and shall not be regarded as an unfriendly act by any Member State.

3. No person shall be subjected by a Member State to measures such as rejection at the frontier, return or expulsion, which would compel him to return to or remain in a territory where his life, physical integrity or liberty would be threatened for the reasons set out in Article 1, paragraphs 1 and 2.

4. Where a Member State finds difficulty in continuing to grant asylum to refugees, such Member State may appeal directly to other Member States and through the OAU, and such other Member States shall in the spirit of African solidarity and international cooperation take appropriate measures to lighten the burden of the Member State granting asylum.

3. OAU CONVENTION ON SPECIFIC ASPECTS OF REFUGEE PROBLEMS IN AFRICA

5. Where a refugee has not received the right to reside in any country of asylum, he may be granted temporary residence in any country of asylum in which he first presented himself as a refugee pending arrangement for his resettlement in accordance with the preceding paragraph.

6. For reasons of security, countries of asylum shall, as far as possible, settle refugees at a reasonable distance from the frontier of their country of origin.

Article 3

Prohibition of Subversive Activities

1. Every refugee has duties to the country in which he finds himself, which require in particular that he conforms with its laws and regulations as well as with measures taken for the maintenance of public order. He shall also abstain from any subversive activities against any Member State of the OAU.

2. Signatory States undertake to prohibit refugees residing in their respective territories from attacking any State Member of the OAU, by any activity likely to cause tension between Member States, and in particular by use of arms, through the press, or by radio.

Article 4

Non-Discrimination

Member States undertake to apply the provisions of this Convention to all refugees without discrimination as to race, religion, nationality, membership of a particular social group or political opinions.

Article 5

Voluntary Repatriation

1. The essentially voluntary character of repatriation shall be respected in all cases and no refugee shall be repatriated against his will.

2. The country of asylum, in collaboration with the country of origin, shall make adequate arrangements for the safe return of refugees who request repatriation.

3. The country of origin, on receiving back refugees, shall facilitate their resettlement and grant them the full rights and privileges of nationals of the country, and subject them to the same obligations.

4. Refugees who voluntarily return to their country shall in no way be penalized for having left it for any of the reasons giving rise to refugee situations. Whenever necessary, an appeal shall be made through national information media and through the Administrative Secretary-General of the OAU, inviting refugees to return home and giving assurance that the new circumstances prevailing in their country of origin will enable them to return without risk and to take up a normal and peaceful life without fear of being disturbed or punished, and that the text of such appeal should be given to refugees and clearly explained to them by their country of asylum.

5. Refugees who freely decide to return to their homeland, as a result of such assurances or on their own initiative, shall be given every possible assistance by the country of asylum, the country of origin, voluntary agencies and international and intergovernmental organizations, to facilitate their return.

Article 6

Travel Documents

1. Subject to Article 3, Member States shall issue to refugees lawfully staying in their territories travel documents in accordance with the United Nations Convention relating to the Status of Refugees and the schedule and annex thereto, for the purpose of travel outside their territory, unless compelling reasons of national security

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or public order otherwise require. Member States may issue such a travel document to any other refugee in their territory.

2. Where an African country of second asylum accepts a refugee from a country of first asylum, the country of first asylum may be dispensed from issuing a document with a return clause.

3. Travel documents issued to refugees under previous international agreements by States Parties thereto shall be recognized and treated by Member States in the same way as if they had been issued to refugees pursuant to this article.

Article 7

Cooperation of the National Authorities with the Organization of African Unity

In order to enable the Administrative Secretary-General of the Organization of African Unity to make reports to the competent organs of the Organization of African Unity, Member States undertake to provide the Secretariat in the appropriate form with information and statistical data requested concerning:

- (a) The condition of refugees;
- (b) The implementation of this Convention; and
- (c) Laws, regulations and decrees which are, or may hereafter be, in force relating to refugees.

Article 8

Cooperation with the Office of the United Nations High Commissioner for Refugees

- 1. Member States shall cooperate with the Office of the United Nations High Commissioner for Refugees.
- 2. The present Convention shall be the effective regional complement in Africa of the 1951 United Nations Convention on the Status of Refugees.

Article 9

Settlement of Disputes

Any dispute between States signatories to this Convention relating to its interpretation or application, which cannot be settled by other means, shall be referred to the Commission for Mediation, Conciliation and Arbitration of the Organization of African Unity, at the request of any one of the parties to the dispute.

Article 10

Signature and Ratification

- 1. This Convention is open for signature and accession by all Member States of the Organization of African Unity and shall be ratified by signatory States in accordance with their respective constitutional processes. The instruments of ratification shall be deposited with the Administrative Secretary-General of the Organization of African Unity.
- 2. The original instrument, done if possible in African languages, and in English and French, all texts being equally authentic, shall be deposited with the Administrative Secretary-General of the Organization of African Unity.
- 3. Any independent African State, Member of the Organization of African Unity, may at any time notify the Administrative Secretary-General of the Organization of African Unity of its accession to this Convention.

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Article 11 Entry into Force

This Convention shall come into force upon deposit of instruments of ratification by one third of the Member States of the Organization of African Unity.

Article 12 Amendment

This Convention may be amended or revised if any Member State makes a written request to the Administrative Secretary-General to that effect, provided however that the proposed amendment shall not be submitted to the Assembly of Heads of State and Government for consideration until all Member States have been duly notified of it and a period of one year has elapsed. Such an amendment shall not be effective unless approved by at least two thirds of the Member States Parties to the present Convention.

Article 13 Denunciation

1. Any Member State Party to this Convention may denounce its provisions by a written notification to the Administrative Secretary-General.
2. At the end of one year from the date of such notification, if not withdrawn, the Convention shall cease to apply with respect to the denouncing State.

Article 14 Registration

Upon entry into force of this Convention, the Administrative Secretary-General of the OAU shall register it with the Secretariat of the United Nations, in accordance with Article 102 of the Charter of the United Nations.

Article 15 Notifications by the Administrative Secretary-General of the Organization of African Unity

The Administrative Secretary-General of the Organization of African Unity shall inform all Members of the Organization of:

- (a) Signatures, ratifications and accessions in accordance with Article 10;
- (b) Entry into force, in accordance with Article 11;
- (c) Requests for amendments submitted under the terms of Article 12;
- (d) Denunciations, in accordance with Article 13.

4.

AFRICAN UNION CONVENTION FOR THE PROTECTION AND ASSISTANCE OF INTERNALLY DISPLACED PERSONS IN AFRICA (KAMPALA CONVENTION)

**Adopted in Kampala, Uganda, on 23 October 2009.
Entered into force on 6 December 2012.**

Preamble

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We, the Heads of State and Government of the Member States of the African Union,

Conscious of the gravity of the situation of internally displaced persons as a source of continuing instability and tension for African States,

Also conscious of the suffering and specific vulnerability of internally displaced persons,

Reiterating the inherent African custom and tradition of hospitality by local host communities for persons in distress and support for such communities,

Committed to sharing our common vision of providing durable solutions to situations of internally displaced persons by establishing an appropriate legal framework for their protection and assistance,

Determined to adopt measures aimed at preventing and putting an end to the phenomenon of internal displacement by eradicating the root causes, especially persistent and recurrent conflicts as well as addressing displacement caused by natural disasters, which have a devastating impact on human life, peace, stability, security, and development,

Considering the 2000 Constitutive Act of the African Union and the 1945 Charter of the United Nations,

Reaffirming the principle of the respect for the sovereign equality of States Parties, their territorial integrity and political independence as stipulated in the Constitutive Act of the African Union and the United Nations Charter,

Recalling the 1948 Universal Declaration of Human Rights, the 1948 Convention on the Prevention and Punishment of the Crime of Genocide, the 1949 Four Geneva Conventions and the 1977 Additional Protocols to the Geneva Conventions, the 1951 United Nations Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees, the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa, the 1979 Convention on the Elimination of All Forms of Discrimination Against Women, the 1981 African Charter on Human and Peoples' Rights and the 2003 Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa, the 1990 African Charter on the Rights and Welfare of the Child, the 1994 Addis Ababa Document on Refugees and Forced Population Displacement in Africa, and other relevant United Nations and African Union human rights instruments, and relevant Security Council resolutions,

Mindful that Member States of the African Union have adopted democratic practices and adhere to the principles of non-discrimination, equality and equal protection of the law under the 1981 African Charter on Human and Peoples' Rights, as well as under other regional and international human rights law instruments,

Recognizing the inherent rights of internally displaced persons as provided for and protected in international human rights and humanitarian law and as set out in the 1998 United Nations Guiding Principles on Internal Displacement, which are recognized as an important international framework for the protection of internally displaced persons,

Affirming our primary responsibility and commitment to respect, protect and fulfil the rights to which internally displaced persons are entitled, without discrimination of any kind,

Noting the specific roles of international organizations and agencies within the framework of the United Nations inter-agency collaborative approach to internally displaced persons, especially the protection expertise of the Office of the United Nations High Commissioner for Refugees and the invitation extended to it by the Executive Council of the African Union in Decision EX/CL.413 (XIII) of July 2008 at Sharm El Sheikh, Egypt, to continue and reinforce its role in the protection of and assistance to internally displaced persons, within the United Nations coordination mechanism, and noting also the mandate of the International Committee of the Red Cross to protect

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and assist persons affected by armed conflict and other situations of violence, as well as the work of civil society organizations, in conformity with the laws of the country in which they exercise such roles and mandates,

Recalling the lack of a binding African and international legal and institutional framework specifically for the prevention of internal displacement and the protection of and assistance to internally displaced persons,

Reaffirming the historical commitment of the AU Member States to the protection of and assistance to refugees and displaced persons and, in particular, the implementation of Executive Council Decisions EX.CL/Dec.129 (V) and EX.CL/127 (V) of July 2004 adopted in Addis Ababa, Ethiopia, to the effect that that the specific needs of internally displaced persons (IDPs) such as protection and assistance should be addressed through a separate legal instrument, and to collaborate with relevant cooperating partners and other stakeholders to ensure that internally displaced persons are provided with an appropriate legal framework to ensure their adequate protection and assistance as well as with durable solutions, respectively,

Convinced that the present Convention for the Protection and Assistance of Internally Displaced Persons in Africa presents such a legal framework,

Have agreed as follows:

Article 1 Definitions

For the purpose of the present Convention:

- (a) "African Charter" means the African Charter on Human and Peoples' Rights;
- (b) "African Commission" means the African Commission on Human and Peoples' Rights;
- (c) "African Court of Justice and Human Rights" means the African Court of Justice and Human Rights;
- (d) "Arbitrary displacement" means arbitrary displacement as referred to in Article 4, paragraph 4 (a) to (h);
- (e) "Armed groups" means dissident armed forces or other organized armed groups that are distinct from the armed forces of the State;
- (f) "AU" means the African Union;
- (g) "AU Commission" means the Secretariat of the African Union, which is the depositary of the regional instruments;
- (h) "Child" means every human being below the age of 18 years;
- (i) "Constitutive Act" means the Constitutive Act of the African Union;
- (j) "Harmful practices" means all behaviour, attitudes and/or practices which negatively affect the fundamental rights of persons, such as but not limited to their right to life, health, dignity, education, mental and physical integrity and education;
- (k) "Internally displaced persons" (IDPs) means persons or groups of persons who have been forced or obliged to flee or to leave their homes or places of habitual residence, in particular as a result of or in order to avoid the effects of armed conflict, situations of generalized violence, violations of human rights or natural or human-made disasters, and who have not crossed an internationally recognized State border;

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- (l) "Internal displacement" means the involuntary or forced movement, evacuation or relocation of persons or groups of persons within internationally recognized State borders;
- (m) "Member State" means a Member State of the African Union;
- (n) "Non-State actors" means private actors who are not public officials of the State, including other armed groups not referred to in subparagraph (d) above, and whose acts cannot be officially attributed to the State;
- (o) "OAU" means the Organization of African Unity;
- (p) "Women" mean persons of the female gender, including girls;
- (q) "Sphere standards" mean standards for monitoring and evaluating the effectiveness and impact of humanitarian assistance; and
- (r) "States Parties" means African States which have ratified or acceded to this Convention.

Article 2 Objectives

The objectives of this Convention are to:

- (a) Promote and strengthen regional and national measures to prevent or mitigate, prohibit and eliminate root causes of internal displacement as well as provide for durable solutions;
- (b) Establish a legal framework for preventing internal displacement, and protecting and assisting internally displaced persons in Africa;
- (c) Establish a legal framework for solidarity, cooperation, promotion of durable solutions and mutual support between the States Parties in order to combat displacement and address its consequences;
- (d) Provide for the obligations and responsibilities of States Parties, with respect to the prevention of internal displacement and protection of, and assistance, to internally displaced persons;
- (e) Provide for the respective obligations, responsibilities and roles of armed groups, non-State actors and other relevant actors, including civil society organizations, with respect to the prevention of internal displacement and protection of, and assistance to, internally displaced persons.

Article 3 General Obligations Relating to States Parties

- 1. States Parties undertake to respect and ensure respect for the present Convention. In particular, States Parties shall:
 - (a) Refrain from, prohibit and prevent arbitrary displacement of populations;
 - (b) Prevent political, social, cultural and economic exclusion and marginalization, that are likely to cause displacement of populations or persons by virtue of their social identity, religion or political opinion;
 - (c) Respect and ensure respect for the principles of humanity and human dignity of internally displaced persons;

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- (d) Respect and ensure respect and protection of the human rights of internally displaced persons, including humane treatment, non-discrimination, equality and equal protection of law;
- (e) Respect and ensure respect for international humanitarian law regarding the protection of internally displaced persons;
- (f) Respect and ensure respect for the humanitarian and civilian character of the protection of and assistance to internally displaced persons, including ensuring that such persons do not engage in subversive activities;
- (g) Ensure individual responsibility for acts of arbitrary displacement, in accordance with applicable domestic and international criminal law;
- (h) Ensure the accountability of non-State actors concerned, including multinational companies and private military or security companies, for acts of arbitrary displacement or complicity in such acts;
- (i) Ensure the accountability of non-State actors involved in the exploration and exploitation of economic and natural resources leading to displacement;
- (j) Ensure assistance to internally displaced persons by meeting their basic needs as well as allowing and facilitating rapid and unimpeded access by humanitarian organizations and personnel;
- (k) Promote self-reliance and sustainable livelihoods among internally displaced persons, provided that such measures shall not be used as a basis for neglecting the protection of and assistance to internally displaced persons, without prejudice to other means of assistance.

2. States Parties shall:

- (a) Incorporate their obligations under this Convention into domestic law by enacting or amending relevant legislation on the protection of, and assistance to, internally displaced persons in conformity with their obligations under international law;
- (b) Designate an authority or body, where needed, responsible for coordinating activities aimed at protecting and assisting internally displaced persons and assign responsibilities to appropriate organs for protection and assistance, and for cooperating with relevant international organizations or agencies, and civil society organizations, where no such authority or body exists;
- (c) Adopt other measures as appropriate, including strategies and policies on internal displacement at national and local levels, taking into account the needs of host communities;
- (d) Provide, to the extent possible, the necessary funds for protection and assistance without prejudice to receiving international support;
- (e) Endeavour to incorporate the relevant principles contained in this Convention into peace negotiations and agreements for the purpose of finding sustainable solutions to the problem of internal displacement.

Article 4

Obligations of States Parties Relating to Protection from Internal Displacement

1. States Parties shall respect and ensure respect for their obligations under international law, including human rights and humanitarian law, so as to prevent and avoid conditions that might lead to the arbitrary displacement of persons.

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2. States Parties shall devise early warning systems, in the context of the continental early warning system, in areas of potential displacement, establish and implement disaster risk reduction strategies, emergency and disaster preparedness and management measures and, where necessary, provide immediate protection and assistance to internally displaced persons.
3. States Parties may seek the cooperation of international organizations or humanitarian agencies, civil society organizations and other relevant actors.
4. All persons have a right to be protected against arbitrary displacement. The prohibited categories of arbitrary displacement include but are not limited to:
 - (a) Displacement based on policies of racial discrimination or other similar practices aimed at or resulting in altering the ethnic, religious or racial composition of the population;
 - (b) Individual or mass displacement of civilians in situations of armed conflict, unless the security of the civilians involved or imperative military reasons so demand, in accordance with international humanitarian law;
 - (c) Displacement intentionally used as a method of warfare or due to other violations of international humanitarian law in situations of armed conflict;
 - (d) Displacement caused by generalized violence or violations of human rights;
 - (e) Displacement as a result of harmful practices;
 - (f) Forced evacuations in cases of natural or human-made disasters or other causes if the evacuations are not required by the safety and health of those affected;
 - (g) Displacement used as a collective punishment;
 - (h) Displacement caused by any act, event, factor, or phenomenon of comparable gravity to all of the above and which is not justified under international law, including human rights and international humanitarian law.
5. States Parties shall endeavour to protect communities with special attachment to, and dependency, on land due to their particular culture and spiritual values from being displaced from such lands, except for compelling and overriding public interests.
6. States Parties shall declare as offences punishable by law acts of arbitrary displacement that amount to genocide, war crimes or crimes against humanity.

Article 5

Obligations of States Parties Relating to Protection and Assistance

1. States Parties shall bear the primary duty and responsibility for providing protection of and humanitarian assistance to internally displaced persons within their territory or jurisdiction without discrimination of any kind.
2. States Parties shall cooperate with each other upon the request of the concerned State Party or the Conference of States Parties in protecting and assisting internally displaced persons.
3. States Parties shall respect the mandates of the African Union and the United Nations, as well as the roles of international humanitarian organizations in providing protection and assistance to internally displaced persons, in accordance with international law.

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4. States Parties shall take measures to protect and assist persons who have been internally displaced due to natural or human made disasters, including climate change.
5. States Parties shall assess or facilitate the assessment of the needs and vulnerabilities of internally displaced persons and of host communities, in cooperation with international organizations or agencies.
6. States Parties shall provide sufficient protection and assistance to internally displaced persons, and where available resources are inadequate to enable them to do so, they shall cooperate in seeking the assistance of international organizations and humanitarian agencies, civil society organizations and other relevant actors. Such organizations may offer their services to all those in need.
7. States Parties shall take necessary steps to effectively organize relief action that is humanitarian, and impartial in character, and guarantee security. States Parties shall allow rapid and unimpeded passage of all relief consignments, equipment and personnel to internally displaced persons. States Parties shall also enable and facilitate the role of local and international organizations and humanitarian agencies, civil society organizations and other relevant actors, to provide protection and assistance to internally displaced persons. States Parties shall have the right to prescribe the technical arrangements under which such passage is permitted.
8. States Parties shall uphold and ensure respect for the humanitarian principles of humanity, neutrality, impartiality and independence of humanitarian actors.
9. States Parties shall respect the right of internally displaced persons to peacefully request or seek protection and assistance, in accordance with relevant national and international laws, a right for which they shall not be persecuted, prosecuted or punished.
10. States Parties shall respect, protect and not attack or otherwise harm humanitarian personnel and resources or other materials deployed for the assistance or benefit of internally displaced persons.
11. States Parties shall take measures aimed at ensuring that armed groups act in conformity with their obligations under Article 7.
12. Nothing in this article shall prejudice the principles of sovereignty and territorial integrity of States.

Article 6

Obligations Relating to International Organizations and Humanitarian Agencies

1. International organizations and humanitarian agencies shall discharge their obligations under this Convention in conformity with international law and the laws of the country in which they operate.
2. In providing protection and assistance to internally displaced persons, international organizations and humanitarian agencies shall respect the rights of such persons in accordance with international law.
3. International organizations and humanitarian agencies shall be bound by the principles of humanity, neutrality, impartiality and independence of humanitarian actors, and ensure respect for relevant international standards and codes of conduct.

Article 7

Protection and Assistance to Internally Displaced Persons in Situations of Armed Conflict

1. The provisions of this article shall not, in any way whatsoever, be construed as affording legal status or legitimizing or recognizing armed groups and are without prejudice to the individual criminal responsibility of the members of such groups under domestic or international criminal law.

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2. Nothing in this Convention shall be invoked for the purpose of affecting the sovereignty of a State or the responsibility of the Government, by all legitimate means, to maintain or re-establish law and order in the State or to defend the national unity and territorial integrity of the State.
3. The protection and assistance to internally displaced persons under this article shall be governed by international law and in particular international humanitarian law.
4. Members of armed groups shall be held criminally responsible for their acts which violate the rights of internally displaced persons under international law and national law.
5. Members of armed groups shall be prohibited from:
 - (a) Carrying out arbitrary displacement;
 - (b) Hampering the provision of protection and assistance to internally displaced persons under any circumstances;
 - (c) Denying internally displaced persons the right to live in satisfactory conditions of dignity, security, sanitation, food, water, health and shelter; and separating members of the same family;
 - (d) Restricting the freedom of movement of internally displaced persons within and outside their areas of residence;
 - (e) Recruiting children or requiring or permitting them to take part in hostilities under any circumstances;
 - (f) Forcibly recruiting persons, kidnapping, abduction or hostage-taking, engaging in sexual slavery and trafficking in persons especially women and children;
 - (g) Impeding humanitarian assistance and passage of all relief consignments, equipment and personnel to internally displaced persons;
 - (h) Attacking or otherwise harming humanitarian personnel and resources or other materials deployed for the assistance or benefit of internally displaced persons and shall not destroy, confiscate or divert such materials; and
 - (i) Violating the civilian and humanitarian character of the places where internally displaced persons are sheltered and shall not infiltrate such places.

Article 8

Obligations Relating to the African Union

1. The African Union shall have the right to intervene in a Member State pursuant to a decision of the Assembly in accordance with Article 4, subparagraph (h), of the Constitutive Act in respect of grave circumstances, namely: war crimes, genocide, and crimes against humanity.
2. The African Union shall respect the right of States Parties to request intervention from the Union in order to restore peace and security in accordance with Article 4, subparagraph (j), of the Constitutive Act and thus contribute to the creation of favourable conditions for finding durable solutions to the problem of internal displacement.
3. The African Union shall support the efforts of the States Parties to protect and assist internally displaced persons under this Convention. In particular, the Union shall:

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- (a) Strengthen the institutional framework and capacity of the African Union with respect to protection and assistance to internally displaced persons;
- (b) Coordinate the mobilization of resources for protection and assistance to internally displaced persons;
- (c) Collaborate with international organizations and humanitarian agencies, civil society organizations and other relevant actors in accordance with their mandates, to support measures taken by States Parties to protect and assist internally displaced persons;
- (d) Cooperate directly with African States and international organizations and humanitarian agencies, civil society organizations and other relevant actors, with respect to appropriate measures to be taken in relation to the protection of and assistance to internally displaced persons;
- (e) Share information with the African Commission on Human and Peoples' Rights on the situation of displacement, and the protection and assistance accorded to internally displaced persons in Africa; and
- (f) Cooperate with the Special Rapporteur of the African Commission on Human and Peoples' Rights for Refugees, Returnees, IDPs and Asylum Seekers in addressing issues of internally displaced persons.

Article 9

Obligations of States Parties Relating to Protection and Assistance During Internal Displacement

1. States Parties shall protect the rights of internally displaced persons regardless of the cause of displacement by refraining from, and preventing, the following acts, among others:
 - (a) Discrimination against such persons in the enjoyment of any rights or freedoms on the grounds that they are internally displaced persons;
 - (b) Genocide, crimes against humanity, war crimes and other violations of international humanitarian law against internally displaced persons;
 - (c) Arbitrary killing, summary execution, arbitrary detention, abduction, enforced disappearance or torture and other forms of cruel, inhuman or degrading treatment or punishment;
 - (d) Sexual and gender-based violence in all its forms, notably rape, enforced prostitution, sexual exploitation and harmful practices, slavery, recruitment of children and their use in hostilities, forced labour and human trafficking and smuggling; and
 - (e) Starvation.
2. States Parties shall:
 - (a) Take necessary measures to ensure that internally displaced persons are received, without discrimination of any kind, and live in satisfactory conditions of safety, dignity and security;
 - (b) Provide internally displaced persons to the fullest extent practicable and with the least possible delay, with adequate humanitarian assistance, which shall include food, water, shelter, medical care and other health services, sanitation, education, and any other necessary social services, and where appropriate, extend such assistance to local and host communities;
 - (c) Provide special protection for and assistance to internally displaced persons with special needs, including separated and unaccompanied children, female heads of households, expectant mothers, mothers with young children, the elderly, and persons with disabilities or with communicable diseases;

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- (d) Take special measures to protect and provide for the reproductive and sexual health of internally displaced women as well as appropriate psychosocial support for victims of sexual and other related abuses;
- (e) Respect and ensure the right to seek safety in another part of the State and to be protected against forcible return to or resettlement in any place where their life, safety, liberty and/or health would be at risk;
- (f) Guarantee the freedom of movement and choice of residence of internally displaced persons, except where restrictions on such movement and residence are necessary, justified and proportionate to the requirements of ensuring security for internally displaced persons or maintaining public security, public order and public health;
- (g) Respect and maintain the civilian and humanitarian character of the places where internally displaced persons are sheltered and safeguard such locations against infiltration by armed groups or elements and disarm and separate such groups or elements from internally displaced persons;
- (h) Take necessary measures, including the establishment of specialized mechanisms, to trace and reunify families separated during displacement and otherwise facilitate the re-establishment of family ties;
- (i) Take necessary measures to protect individual, collective and cultural property left behind by displaced persons as well as in areas where internally displaced persons are located, either within the jurisdiction of the States Parties, or in areas under their effective control;
- (j) Take necessary measures to safeguard against environmental degradation in areas where internally displaced persons are located, either within the jurisdiction of the States Parties, or in areas under their effective control;
- (k) Consult internally displaced persons and allow them to participate in decisions relating to their protection and assistance;
- (l) Take necessary measures to ensure that internally displaced persons who are citizens in their country of nationality can enjoy their civic and political rights, particularly public participation, the right to vote and to be elected to public office; and
- (m) Put in place measures for monitoring and evaluating the effectiveness and impact of the humanitarian assistance delivered to internally displaced persons in accordance with relevant practice, including the sphere standards.

3. States Parties shall discharge these obligations, where appropriate, with assistance from international organizations and humanitarian agencies, civil society organizations, and other relevant actors.

Article 10

Displacement Induced by Projects

- 1. States Parties, as much as possible, shall prevent displacement caused by projects carried out by public or private actors.
- 2. States Parties shall ensure that the stakeholders concerned will explore feasible alternatives, with full information and consultation of persons likely to be displaced by projects.
- 3. States Parties shall carry out a socio-economic and environmental impact assessment of a proposed development project prior to undertaking such a project.

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Article 11

Obligations of States Parties Relating to Sustainable Return, Local Integration or Relocation

1. States Parties shall seek lasting solutions to the problem of displacement by promoting and creating satisfactory conditions for voluntary return, local integration or relocation on a sustainable basis and in circumstances of safety and dignity.
2. States Parties shall enable internally displaced persons to make a free and informed choice on whether to return, integrate locally or relocate by consulting them on these and other options and ensuring their participation in finding sustainable solutions.
3. States Parties shall cooperate, where appropriate, with the African Union and international organizations or humanitarian agencies and civil society organizations, in providing protection and assistance in the course of finding and implementing solutions for sustainable return, local integration or relocation and long-term reconstruction.
4. States Parties shall establish appropriate mechanisms providing for simplified procedures, where necessary, for resolving disputes relating to the property of internally displaced persons.
5. States Parties shall take all appropriate measures, whenever possible, to restore the lands of communities with special dependency and attachment to such lands upon the communities' return, reintegration, and reinsertion.

Article 12

Compensation

1. States Parties shall provide persons affected by displacement with effective remedies.
2. States Parties shall establish an effective legal framework to provide just and fair compensation and other forms of reparations, where appropriate, to internally displaced persons for damage incurred as a result of displacement, in accordance with international standards.
3. A State Party shall be liable to make reparation to internally displaced persons for damage when such a State Party refrains from protecting and assisting internally displaced persons in the event of natural disasters.

Article 13

Registration and Personal Documentation

1. States Parties shall create and maintain an updated register of all internally displaced persons within their jurisdiction or effective control. In doing so, States Parties may collaborate with international organizations or humanitarian agencies or civil society organizations.
2. States Parties shall ensure that internally displaced persons shall be issued with relevant documents necessary for the enjoyment and exercise of their rights, such as passports, personal identification documents, civil certificates, birth certificates and marriage certificates.
3. States Parties shall facilitate the issuance of new documents or the replacement of documents lost or destroyed in the course of displacement, without imposing unreasonable conditions, such as requiring return to one's area of habitual residence in order to obtain these or other required documents. The failure to issue internally displaced persons with such documents shall not in any way impair the exercise or enjoyment of their human rights.

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4. Women and men as well as separated and unaccompanied children shall have equal rights to obtain such necessary identity documents and shall have the right to have such documentation issued in their own names.

Article 14 Monitoring Compliance

1. States Parties agree to establish a Conference of States Parties to this Convention to monitor and review the implementation of the objectives of this Convention.
2. States Parties shall enhance their capacity for cooperation and mutual support under the auspices of the Conference of States Parties.
3. States Parties agree that the Conference of States Parties shall be convened regularly and facilitated by the African Union.
4. States Parties shall, when presenting their reports under Article 62 of the African Charter on Human and Peoples' Rights as well as, where applicable, under the African Peer Review Mechanism indicate the legislative and other measures that have been taken to give effect to this Convention.

Final Provisions

Article 15 Application

1. States Parties agree that except where expressly stated in this Convention, its provisions apply to all situations of internal displacement regardless of its causes.
2. States Parties agree that nothing in this Convention shall be construed as affording legal status or legitimizing or recognizing armed groups and that its provisions are without prejudice to the individual criminal responsibility of their members under domestic or international criminal law.

Article 16 Signature, Ratification and Membership

1. This Convention shall be open to signature, ratification or accession by Member States of the AU in accordance with their respective constitutional procedures.
2. The instruments of ratification or accession shall be deposited with the Chairperson of the African Union Commission.

Article 17 Entry into Force

1. This Convention shall enter into force thirty (30) days after the deposit of the instruments of ratification or accession by fifteen (15) Member States.
2. The Chairperson of the AU Commission shall notify Member States of the coming into force of this Convention.

Article 18 Amendment and Revision

1. States Parties may submit proposals for the amendment or revision of this Convention.

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2. Proposals for amendment or revision shall be submitted, in writing, to the Chairperson of the Commission of the AU who shall transmit the same to the States Parties within thirty (30) days of receipt thereof.
3. The Conference of States Parties, upon advice of the Executive Council, shall examine these proposals within a period of one (1) year following notification of States Parties, in accordance with the provisions of paragraph 2 of this article.
4. Amendments or revision shall be adopted by the Conference of States Parties by a simple majority of the States Parties present and voting.
5. Amendments shall come into force thirty (30) days following the depositing of the fifteenth (15th) instrument of ratification by the States Parties with the Chairperson of the AU Commission.

Article 19 Denunciation

1. A State Party may denounce this Convention by sending a written notification addressed to the Chairperson of the AU Commission indicating the reasons for such a denunciation.
2. The denunciation shall take effect one (1) year from the date when the notification was received by the Chairperson of the AU Commission, unless a subsequent date has been specified.

Article 20 Saving Clause

1. No provision in this Convention shall be interpreted as affecting or undermining the right of internally displaced persons to seek and be granted asylum within the framework of the African Charter on Human and Peoples' Rights, and to seek protection, as a refugee, within the purview of the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa or the 1951 United Nations Convention Relating to the Status of Refugees as well as the 1967 Protocol Relating to the Status of Refugees.
2. This Convention shall be without prejudice to the human rights of internally displaced persons under the African Charter on Human and Peoples' Rights and other applicable instruments of international human rights law or international humanitarian law. Similarly, it shall in no way be understood, construed or interpreted as restricting, modifying or impeding existing protection under any of the instruments mentioned herein.
3. The right of internally displaced persons to lodge a complaint with the African Commission on Human and Peoples' Rights or the African Court of Justice and Human Rights, or any other competent international body shall in no way be affected by this Convention.
4. The provisions of this Convention shall be without prejudice to the individual criminal responsibility of internally displaced persons, within the framework of national or international criminal law and their duties by virtue of the African Charter on Human and Peoples' Rights.

Article 21 Reservations

States Parties shall not make or enter reservations to this Convention that are incompatible with the object and purpose of this Convention.

Article 22 Settlement of Disputes

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1. Any dispute or differences arising between the States Parties with regard to the interpretation or application of this Convention shall be settled amicably through direct consultations between the States Parties concerned. In the event of failure to settle the dispute or differences, either State may refer the dispute to the African Court of Justice and Human Rights.

2. Until such time as and when the latter shall have been established, the dispute or differences shall be submitted to the Conference of States Parties, which will decide by consensus or, failing which, by a two-thirds (2/3) majority of the States Parties present and voting.

Article 23 Depositary

1. This Convention shall be deposited with the Chairperson of the AU Commission, who shall transmit a certified true copy of the Convention to the Government of each signatory State.

2. The Chairperson of the AU Commission shall register this Convention with the Secretariat of the United Nations as soon as it comes into force.

3. This Convention is drawn up in four (4) original texts; in the Arabic, English, French and Portuguese languages, all four (4) being equally authentic.

5.

PROTOCOL TO THE TREATY ESTABLISHING THE AFRICAN ECONOMIC COMMUNITY RELATING TO FREE MOVEMENT OF PERSONS, RIGHT OF RESIDENCE AND RIGHT OF ESTABLISHMENT

Adopted in Addis Ababa, Ethiopia, on 29 January 2018.

The Protocol shall enter into force thirty days after the deposit of the fifteenth instrument of ratification.

Preamble

We, the Heads of State and Government of the Member States of the African Union,

Recalling our commitment to conclude a protocol on the free movement of persons, right of residence and right of establishment, under Article 43, paragraph 2, of the Treaty Establishing the African Economic Community, which was adopted in Abuja, Nigeria, on 3 June 1991 and entered into force on 12 May 1994,

Mindful of Article 3, subparagraph (a), of the Constitutive Act of the African Union which promotes the achievement of greater unity and solidarity between the African countries and the people of Africa, and the Treaty Establishing the African Economic Community which promotes economic, social and cultural development and the integration of African economies,

Reiterating our shared values which promote the protection of human and peoples' rights as provided in the Universal Declaration of Human Rights of 1948 and the African Charter on Human and Peoples' Rights of 1981 which guarantees the right of an individual to freedom of movement and residence,

Guided by our common vision for an integrated, people-centred and politically united continent and our commitment to free movement of people, goods and services among the Member States as an enduring dedication to Pan-Africanism and African integration as reflected in Aspiration 2 of the African Union Agenda 2063,

5. PROTOCOL RELATING TO THE FREE MOVEMENT OF PERSONS

Recalling our commitment under Article 4, paragraph 2 (i), of the Treaty Establishing the African Economic Community, to gradually remove obstacles to the free movement of persons, goods, services and capital and the right of residence and establishment among Member States,

Bearing in mind the strategies of the Migration Policy Framework for Africa adopted in Banjul, The Gambia, in 2006 which encourage the Regional Economic Communities and their Member States to consider the adoption and implementation of appropriate protocols in order to progressively achieve the free movement of persons and to ensure the enjoyment of the right of residence, establishment and access to gainful employment in the host countries,

Recognizing the contribution and building on the achievements of the Regional Economic Communities and other intergovernmental organizations towards progressively achieving the free movement of persons and ensuring the enjoyment of the right of residence and the right of establishment by citizens of Member States,

Aware of the challenges of implementing the free movement of persons in the Regional Economic Communities which are at different levels of implementing the frameworks providing for free movement of persons,

Envisaging that the free movement of persons, capital, goods and services will promote integration, Pan-Africanism, enhance science, technology, education, research and foster tourism, facilitate intra-Africa trade and investment, increase remittances within Africa, promote mobility of labour, create employment, improve the standards of living of the people of Africa and facilitate the mobilization and utilization of the human and material resources of Africa in order to achieve self-reliance and development,

Aware of the need to ensure that effective measures are put in place in order to prevent situations whereby upholding the freedom of movement of people will not lead to situations whereby the arrival and settlement of migrants in a given host country will create or exacerbate inequalities or will constitute challenges to peace and security,

Noting that the free movement of persons in Africa will facilitate the establishment of the Continental Free Trade Area endorsed by the African Union Assembly of Heads of State and Government at its Eighteenth Ordinary Session,

Noting further the decision of the Peace and Security Council adopted at its 661st meeting (PSC/PR/COMM.1 (DCLXI) held on 23 February 2017, in Addis Ababa, Ethiopia, in which the Council acknowledged that the benefits of free movement of people, goods and services far outweigh the real and potential security and economic challenges that may be perceived or generated,

Recalling further the decision of the Peace and Security Council adopted at its 661st meeting (PSC/PR/COMM.1 (DCLXI) held on 23 February 2017 in Addis Ababa, Ethiopia, in which the Council underlined the need to ensure a phased approach in implementing AU policy decisions on free movement of people and goods, mindful of the variances in the legitimate security concerns of Member States,

Reaffirming our belief in our common destiny, shared values and the affirmation of the African identity, the celebration of unity in diversity and the institution of the African citizenship as expressed in the Solemn Declaration on the Fiftieth Anniversary adopted by the Assembly of Heads of State and Government at its Twenty-first Ordinary Session in Addis Ababa, Ethiopia, on 23 May 2013,

Determined to enhance the economic development of Member States through a prosperous and integrated continent,

Mindful of the decision of the Assembly adopted in July 2016 in Kigali, Rwanda, (Assembly/AU/Dec.607 (XXVII) welcoming the launch of the African passport and urging Member States to adopt the African passport and to work

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closely with the African Union Commission to facilitate the processes towards its issuance at the citizen level based on international, continental and citizen policy provisions and continental design and specifications,

Have agreed as follows:

Part I Definitions

Article 1 Definitions

For the purpose of this Protocol:

"Assembly" means the Assembly of Heads of State and Government of the African Union;

"Commission" means the Commission of the African Union;

"Dependant" means a child or other person who, a national of a Member State is required to support and maintain as defined by the laws of the host Member State;

"Executive Council" means the Executive Council of Ministers of the Union;

"Free movement of persons" means the right of nationals of a Member State to enter, move freely, and reside in another Member State in accordance with the laws of the host Member State and to exit the host Member State in accordance with the laws and procedures for exiting that Member State;

"Member State" means a Member State of the African Union;

"Regional arrangement" means agreements, measures or mechanisms on free movement of persons developed and implemented by the Regional Economic Communities;

"Right of entry" means the right of a national of a Member State to enter and move freely in another Member State in accordance with the laws of the host Member State;

"Right of establishment" means the right of a national of a Member State to take up and pursue the economic activities specified in Article 17, paragraph 2, in the territory of another Member State;

"Right of residence" means the right of a national of one Member State to reside and seek employment in another Member State other than their Member State of origin in accordance with the national law of the host Member State ;

"States Parties" means Member States of the African Union which have ratified, or acceded to this Protocol and deposited the instrument of ratification or accession with the Chairperson of the African Union Commission;

"Territory" means the land, airspace and waters belonging to or under the jurisdiction of a Member State;

"Travel document" means a passport which complies with the International Civil Aviation Organization standards for travel documents, or any other travel document identifying a person issued by or on behalf of a Member State or by the Commission which is recognized by the host Member State;

"Treaty" means the Treaty Establishing the African Economic Community that was adopted in Abuja, Nigeria, on 3 June 1991 and entered into force on 12 May 1994;

5. PROTOCOL RELATING TO THE FREE MOVEMENT OF PERSONS

"Union" means the African Union established by the Constitutive Act of the African Union;

"Vehicle" means any means in or by which a person travels, is carried or conveyed by land into the territory of a Member State;

"Visa" means the authority granted to a national of a Member State to enter into the territory of the host Member State.

Part II Objective and Principles of the Protocol

Article 2 Objective

The objective of this Protocol is to facilitate the implementation of the Treaty Establishing the African Economic Community by providing for the progressive implementation of free movement of persons, right of residence and right of establishment in Africa.

Article 3 Principles

1. The free movement of persons, right of residence and right of establishment in Member States shall be guided by the principles guiding the African Union provided in Article 4 of the Constitutive Act.
2. In addition to the principles in paragraph 1, the implementation of this Protocol shall be guided by:
 - (a) Non-discrimination;
 - (b) Respect for laws and policies on the protection of national security, public order, public health, the environment, and any other factors that would be detrimental to the host State; and
 - (c) Transparency.

Article 4 Non-Discrimination

1. States Parties shall not discriminate against nationals of another Member State entering, residing or established in their territory, on the basis of their nationality, race, ethnic group, colour, sex, language, religion, political or any other opinion, national and social origin, fortune, birth or other status as provided by Article 2 of the African Charter on Human and Peoples' Rights.
2. It shall not be discrimination for a States Party, as a result of reciprocity or deeper integration, to give more favourable treatment to nationals of another States Party or region, in addition to the rights provided for in this Protocol.
3. A citizen of another State Party entering, residing or established in a State Party in accordance with the provisions of this Protocol, shall enjoy the protection of the law of the host State Party, in accordance with the relevant national policies and laws of the host State Party.

Article 5 Progressive Realization

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1. The free movement of persons, right of residence and right of establishment shall be achieved progressively through the following phases:

- (a) Phase one, during which States Parties shall implement the right of entry and abolition of visa requirements;
- (b) Phase two, during which States Parties shall implement the right of residence;
- (c) Phase three, during which States Parties shall implement the right of establishment.

2. The Roadmap annexed to this Protocol serves as a guideline to help, as appropriate, with the implementation of the above phases.

3. Nothing in this Protocol shall:

- (a) Affect more favourable provisions for the realization of the free movement of persons, right of residence and right of establishment contained in national legislation, regional or continental instruments; or
- (b) Prevent the accelerated implementation of any phase of free movement of persons, right of residence and right of establishment by a Regional Economic Community, subregion or Member State before the time set by this Protocol or the Assembly for the implementation of that phase.

Part III Free Movement of Persons

Article 6 Right of Entry

1. In accordance with this Protocol, nationals of a Member State shall have the right to enter, stay, move freely and exit the territory of another Member State in accordance with the laws, regulations and procedures of the host Member State.

2. Member States shall implement the right of entry by permitting nationals of Member States to enter into their territory without the requirement of a visa.

3. The right to enter the territory of a Member State shall be enjoyed in accordance with Article 7.

4. A Member State permitting a national of another Member State to enter into their territory shall permit that national to move freely or stay for a maximum period of ninety (90) days from the date of entry or such further period determined by Member States or through bilateral or regional arrangements.

5. A national of a Member State who wishes to stay in the host Member State beyond the period provided in paragraph 4 shall seek an extension of stay in accordance with the procedures established by the host Member State.

Article 7 Entry in Member State

1. Entry into the territory of a Member State shall be permitted for a person:

- (a) Entering the Member State through a designated point or official port of entry;
- (b) With a recognized and valid travel document as defined in Article 1; and

5. PROTOCOL RELATING TO THE FREE MOVEMENT OF PERSONS

(c) Who is not prohibited from entering the Member State by the laws of that Member State for the protection of national security, public order or public health.

2. A host Member State may impose other conditions, which are not inconsistent with this Protocol, according to which a national of a Member State may be refused entry into the territory of the host Member State.

Article 8

Designated or Official Points of Entry And Exit

1. Member States shall designate and share with other Member States information relating to their official entry and exit points or ports.

2. Member States shall in line with national or regional procedures keep the designated official entry and exit points open to facilitate the free movement of persons, subject to reciprocity and the protection measures a Member State may take.

Article 9

Travel Documents

1. Member States shall issue to their nationals valid travel documents to facilitate free movement.

2. Member States shall mutually recognize and exchange specimens of the valid travel documents issued by the Member State.

3. Member States shall cooperate in the process of identification and issuance of travel documents.

Article 10

African Passport

1. States Parties shall adopt a travel document called "African passport" and shall work closely with the Commission to facilitate the processes towards the issuance of this passport to their citizens.

2. The Commission shall provide technical support to Member States to enable them to produce and issue the African passport to their citizens.

3. The African passport shall be based on international, continental and national policy provisions and standards and on a continental design and specifications.

Article 11

Use of Vehicles

1. States Parties shall permit nationals of another Member State using vehicles to enter into their territory and move freely for a maximum period of ninety (90) days from the date of entry, upon presentation of the following valid documents to the competent authorities in the host Member State:

- (a) A driver's license;
- (b) Evidence of ownership or registration of the vehicle;
- (c) Certificate of roadworthiness;
- (d) Certificate of axle load limit;

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- (e) An insurance policy in respect of the vehicle by the host Member State.
- 2. The use of vehicles by persons in the territory of a host Member State shall be subject to the laws of the host Member State.
- 3. Member States shall establish and contribute to a continental database on registration of vehicles to facilitate the use of vehicles in the free movement of persons.

Article 12

Free Movement of Residents of Border Communities

- 1. States Parties shall through bilateral or regional agreements establish measures to identify and facilitate the free movement of residents of border communities without compromising the security or public health of host Member States.
- 2. States Parties shall endeavour to amicably resolve any legal, administrative, security, cultural or technical impediment likely to hamper the free movement of border communities.

Article 13

Free Movement of Students and Researchers

- 1. States Parties shall permit nationals of another Member State who are holders of registration or preregistration documents, to take up education or research in their territory in accordance with the policies and laws of the host Member State.
- 2. A host State Party shall in accordance with national or regional policies issue student permits or passes to nationals of other Member States who are admitted to pursue studies in the host Member State.
- 3. States Parties shall develop, promote and implement programmes to facilitate exchange of students and researchers among Member States.

Article 14

Free Movement of Workers

- 1. Nationals of a Member State shall have the right to seek and accept employment without discrimination in any other Member State in accordance with the laws and policies of the host Member State.
- 2. A national of a Member State accepting and taking up employment in another Member State may be accompanied by a spouse and dependants.

Article 15

Permits or Passes

- 1. A host State Party shall issue residence permits, work permits, or other appropriate permits or passes to nationals of other Member States seeking and taking up residence or work in the host Member State.
- 2. Permits and passes shall be issued in accordance with the immigration procedures applicable to persons seeking or taking up residence or work in the host Member State.
- 3. The procedures referred to in paragraph 2 shall include the right of a national of another Member State to appeal against a decision denying them a permit or pass.

5. PROTOCOL RELATING TO THE FREE MOVEMENT OF PERSONS

Part IV

Right of Residence and Right of Establishment

Article 16

Right of Residence

1. Nationals of a Member State shall have the right of residence in the territory of any Member State in accordance with the laws of the host Member State.
2. A national of a Member State taking up residence in another Member State may be accompanied by a spouse and dependants.
3. States Parties shall gradually implement favourable policies and laws on residence for nationals of other Member States.

Article 17

Right of Establishment

1. Nationals of a Member State shall have the right of establishment within the territory of another Member State in accordance with the laws and policies of the host Member State.
2. The right of establishment shall include the right to set up in the territory of the host Member State:
 - (a) A business, trade, profession, vocation; or
 - (b) An economic activity as a self-employed person.

Part V

General Provisions

Article 18

Mutual Recognition of Qualifications

1. States Parties shall individually or through bilateral, multilateral or regional arrangements, mutually recognize academic, professional and technical qualifications of their nationals to promote the movement of persons among the Member States.
2. States Parties shall establish a continental qualifications framework to encourage and promote the free movement of persons.

Article 19

Portability of Social Security Benefits

States Parties shall, through bilateral, regional or continental arrangements, facilitate the portability of social security benefits to nationals of another Member State residing or established in that Member State.

Article 20

Mass Expulsion

1. The mass expulsion of non-nationals shall be prohibited.
2. Mass expulsion shall be that which is aimed at national, racial, ethnic or religious groups.

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Article 21

Expulsion, Deportation and Repatriation

1. A national of a Member State lawfully admitted into the territory of a host Member State may only be expelled, deported or repatriated from the host Member State by virtue of a decision taken in accordance with the law in force in the host Member State.
2. A host State Party shall notify the national of a Member State and the Government of that national of the decision to expel, deport or repatriate that citizen from the territory of the host Member State.
3. The expenses relating to:
 - (a) The expulsion or deportation shall be borne by the Member State expelling or deporting a person;
 - (b) Repatriation shall be borne by the person being repatriated or by the State of origin.
4. Where entry into a territory of a Member State is refused, the person responsible for transportation, shall at the request of competent border authorities reroute the persons denied entry back to the point of embarkment, or where this is not possible, to the Member State that issued the citizen's travel documents or any other place where the admission of the citizen will be accepted.

Article 22

Protection of Property Acquired in Host Member State

1. A national of a Member State entering, residing or established in the territory of another Member State, may acquire property in the host Member State in accordance with the laws, policies and procedures of the host Member State.
2. Property lawfully acquired by a national of a Member State in the host Member State, shall not be nationalized, expropriated, confiscated or acquired by the host Member State except in accordance with the law and after fair compensation being paid to that national.
3. Property lawfully acquired by a national of a Member State shall be protected by the host Member State in the event of a dispute between the Member State where the national originates and the host Member State.
4. A host State Party shall not deprive a national of another Member State who is expelled, deported or repatriated by the host Member State, of his/her property lawfully acquired by that national in the host Member State except in accordance with the laws and procedures of the host Member State.

Article 23

Remittances

States Parties shall through, bilateral, regional, continental or international agreements facilitate the transfer of earnings and savings of nationals of other Member States working, residing or established in their territory.

Article 24

Procedures for Movement of Specific Groups

1. States Parties may in addition to the measures provided for by international, regional and continental instruments, establish specific procedures for the movement of specific vulnerable groups including refugees, victims of human trafficking and smuggled migrants, asylum seekers and pastoralists.

5. PROTOCOL RELATING TO THE FREE MOVEMENT OF PERSONS

2. Procedures established by a Member State under this article shall be consistent with the obligations of that Member State under the international, regional and continental instruments relating to the protection of each group of persons referred to in paragraph 1.

Part VI Implementation

Article 25 Cooperation Between Member States

1. States Parties shall in accordance with the African Union Convention on Cross-Border Cooperation coordinate their border management systems in order to facilitate the free and orderly movement of persons.
2. States Parties shall record, document, and upon request, make available all forms of aggregated migration data at the ports or points of entry or exit from their territory.
3. States Parties shall through bilateral or regional arrangements cooperate with each other by exchanging information related to the free movement of persons and the implementation of this Protocol.

Article 26 Coordination and Harmonization

1. In accordance with Article 88 of the Abuja Treaty and guided, as appropriate, by the Implementation Roadmap annexed to this Protocol, States Parties shall harmonize and coordinate the laws, policies, systems and activities of the Regional Economic Communities of which they are members which relate to free movement of persons with the laws, policies, systems and activities of the Union.
2. States Parties shall harmonize their national policies, laws and systems with this Protocol guided, as appropriate, by the Implementation Roadmap annexed to this Protocol.

Article 27 Role of Member States

1. States Parties shall be responsible for implementing this Protocol.
2. States Parties shall adopt necessary legislative and administrative measures to implement and give effect to this Protocol.
3. States Parties shall harmonize all laws, policies, agreements and immigration procedures and other procedures to ensure compliance with this Protocol.

Article 28 Role of Regional Economic Communities

1. Regional Economic Communities shall be the focal points for promoting, following up and evaluating implementation of this Protocol and reporting the progress towards free movement of persons in their respective regions.
2. Each Regional Economic Community shall submit periodic reports to the Commission on the progress of implementation of this Protocol within their respective region.
3. Regional Economic Communities shall harmonize their protocols, policies and procedures on free movement of persons with this Protocol.

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Article 29 Role of the Commission

1. The Commission shall follow up and evaluate the implementation of this Protocol by the Member States and shall through the relevant Specialized Technical Committees submit periodic reports to the Executive Council on the status of implementation of this Protocol.
2. The Commission shall in coordination with Member States develop and apply a continental follow up and coordinating mechanism for assessing the status of implementing this Protocol.
3. The follow-up and coordinating mechanism shall include the collection and analysis of data nationally and regionally in order to assess the state of the free movement of persons.

Article 30 Remedies

1. States Parties shall provide appropriate administrative and judicial remedies in their national laws for nationals of other Member States affected by decisions of a Member State relating to the implementation of this Protocol.
2. A national of a Member State who is denied the enjoyment of the right of entry, residence, establishment or other related rights provided in this Protocol, having exhausted all legal remedies in the host Member State, may refer the matter to the African Commission on Human and Peoples' Rights.

Part VII Final Provisions

Article 31 Settlement of Disputes

1. Any dispute or difference arising between States Parties with regard to the interpretation, application and implementation of this Protocol shall be settled by mutual consent between States concerned, including through negotiations, mediation, conciliation or other peaceful means.
2. In the event of failure by the disputing parties to settle the dispute or difference, the disputing parties may:
 - (a) By mutual consent, refer the dispute to an Arbitration Panel of three (3) arbitrators whose decision shall be binding on the parties; or
 - (b) Refer the dispute to the African Court of Justice, Human Rights and Peoples' Rights, when operational.
3. The appointment of the Panel of Arbitrators shall be as follows:
 - (a) The parties to the dispute shall each appoint one arbitrator; and
 - (b) The Chairperson of the Commission shall appoint the third arbitrator who shall be the President of the Panel.
4. Pending the operationalization of the Court referred to in paragraph 2 (a) above, the decision of the Panel of Arbitrators shall be binding.

5. PROTOCOL RELATING TO THE FREE MOVEMENT OF PERSONS

Article 32

Signature, Ratification and Accession

1. This Protocol shall be open to Member States of the Union for signature, ratification or accession.
2. The instrument of ratification or accession to the present Protocol shall be deposited with the Chairperson of the Commission who shall notify all Member States of the dates of the deposit of the instruments of ratification or accession.

Article 33

Entry into Force

1. The Protocol shall enter into force thirty (30) days after the date of receipt by the Chairperson of the Commission of the fifteenth (15th) instrument of ratification.
2. Any Member State may, at the time of adoption of the Protocol by the Assembly, declare that it will apply provisionally the provisions of the Protocol pending its entry into force.
3. For any Member State that deposits its instrument of ratification, acceptance or accession subsequent to the entry into force of this Protocol, this Protocol shall enter into force for that State thirty (30) days following the date of the deposit of its instrument of acceptance or accession.

Article 34

Reservations

1. A State Party may, when ratifying or acceding to this Protocol, submit in writing a reservation with respect to any of the provisions of this Protocol. Reservations shall not be incompatible with the object and purpose of this Protocol.
2. Unless otherwise provided, a reservation may be withdrawn at any time.
3. The withdrawal of a reservation must be submitted in writing to the Chairperson of the Commission who shall notify other States Parties of the withdrawal accordingly.

Article 35

Depositary

This Protocol shall be deposited with the Chairperson of the African Union Commission, who shall transmit a certified true copy of the Protocol to the Government of each signatory State.

Article 36

Registration

The Chairperson of the Commission upon the entry into force of this Protocol shall register this Protocol with the Secretariat of the United Nations in conformity with Article 102 of the Charter of the United Nations.

Article 37

Suspension and Withdrawal

1. Any State Party may suspend, temporarily, the implementation of the provisions of the present Protocol in case of grave threats to national security, public order and public health.

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2. At any time after three years from the date of entry into force of this Protocol, a State Party may withdraw by giving written notification to the depositary.

3. Withdrawal shall be effective one year after receipt of notification by the depositary, or on such later date as may be specified in the notification.

4. Withdrawal shall not affect any obligation of the withdrawing State Party prior to the withdrawal.

Article 38 Amendment and Revision

1. Any State Party may submit proposal(s) for the amendment or revision of this Protocol. Such proposal(s) shall be adopted by the Assembly.

2. Proposals for amendment or revision shall be submitted to the Chairperson of the Commission who shall transmit such proposals to the Assembly at least six months before the meeting at which it shall be considered for adoption.

3. Amendments or revisions shall be adopted by the Assembly by consensus or, failing which, by a two-thirds majority.

4. The amendment or revision shall enter into force in accordance with the procedures outlined in Article 33 of this Protocol.

Article 39 Authentic Texts

This Protocol is drawn up in four (4) original texts, in Arabic, English, French and Portuguese languages, all four (4) texts being equally authentic.

6.

STATUTE OF THE AFRICAN CENTRE FOR THE STUDY AND RESEARCH ON MIGRATION

Adopted in Addis Ababa, Ethiopia, on 10 February 2020.

The Statute entered into force upon its adoption on 10 February 2020.

Preamble

We, the Member States of the African Union,

Guided by the Executive Council Decision EX.CL/987 (XXXII) of January 2018 which requests the Commission in collaboration with the Government of the Republic of Mali to expedite the process towards the establishment of the Centre by submitting to the relevant AU organs the administrative, financial and legal implications of the establishment of the Centre,

Recalling the 2006 Executive Council and Assembly Decision EX.CL/314 (IX) which endorsed the establishment of the African Centre for the Study and Research on Migration in Mali, and requested the Commission in collaboration with the Government of Mali to monitor the implementation of this decision and oversee the process of establishing the Centre,

6. STATUTE OF THE AFRICAN CENTRE FOR THE STUDY AND RESEARCH ON MIGRATION

Considering the 2017 Evaluation of the 2006 AU Migration Policy Framework for Africa and its finding on the lack of reliable and up-to-date data on migration which is hindering informed national, regional and continental policy-making on migration,

Reaffirming the 2018 African Union Migration Policy Framework for Africa which recommends the establishment and strengthening of continental arrangements/capacities for migration research, data collection, analysis and sharing,

Further considering that evidence-based policy making is critical for effective governance of migration on the continent,

Underscoring that the Centre shall be a Specialized Technical Office of the AUC, with a continent-wide mandate,

Noting the decision of the Executive Council EX.CL/195 (VII) Rev.1 Annex III on the Criteria for Hosting AU Organs,

Recognizing the commitment of the Republic of Mali to host the African Centre for the Study and Research on Migration in line with the General Convention on the Privileges and Immunities of the Organization of African Unity (OAU) adopted by the Assembly of Heads of State and Government of the OAU on 25 October 1965 in Accra, Ghana, and the supplementary Host Country Agreement concluded between the African Union and the Republic of Mali in Addis Ababa, Ethiopia, on 11 February 2019,

Agree as follows:

Chapter One Definition, Objectives and Core Functions of the Centre

Article 1 Definitions

For the purpose of this Statute, the following terms and expressions shall have the meaning assigned to them:

“Archives” includes records, correspondence, documents, manuscripts, still and motion pictures, films and sound recordings, electronic records, belonging to, or held by the African Centre for the Study and Research on Migration in furtherance of its official functions;

“Assembly” means the Assembly of Heads of State and Government of the African Union as provided by the Constitutive Act of the AU;

“AU” means the African Union as established by the Constitutive Act of the African Union adopted on 11 July 2000, which entered into force on 26 May 2001;

“Board” means the Board of the African Centre for the Study and Research on Migration;

“Centre” means the African Centre for the Study and Research on Migration, which serves as a Specialized Technical Office of the Commission;

“Commission” means the Secretariat of the African Union as provided by the Constitutive Act of the AU;

“Development partners” means the multilateral institutions, development agencies, donors, and foundations that have contribute financially or otherwise to the Centre;

“Executive Council” means the Executive Council of Ministers of the African Union, as provided by the Constitutive Act of the AU;

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“Experts” mean individuals, other than officials, who owing to their special qualifications are recruited in accordance with the Staff Rules and Regulations on a temporary basis to perform specific assignments for the Centre;

“General Convention” means the General Convention on the Privileges and Immunities of the Organization of African Unity (OAU) adopted by the Assembly of Heads of State and Government of the OAU on 25 October 1965 in Accra, Ghana;

“Host Country Agreement” means the Agreement between the Government of the Republic of Mali and the African Union Commission on the hosting of the African Centre for the Study and Research on Migration;

“Host country” or “Government” means the Government of the Republic of Mali;

“Member State” means a Member State of the African Union;

“Migration governance” means “the combined frameworks of legal norms, laws and regulations, policies and traditions as well as organizational structures (subnational, national, regional and international) and the relevant processes that shape and regulate States’ approaches with regard to migration in all its forms, addressing rights and responsibilities and promoting international cooperation;”

“Migration” means the movement of a person or group of persons from one geographical unit to another across an administrative or political border, with the intention of settling indefinitely or temporarily in a place other than their place of origin. It involves the crossing of one or several international borders, resulting in a change in the legal status of the individual concerned. Migration may be ‘temporary’ or ‘permanent,’ depending on the duration of absence from the place of origin and the duration of stay in the place of destination” (International Organization for Migration);

“Regional Economic Communities (RECs)” means the regional integration blocs recognized by the African Union;

“Secretariat” means the management body of the Centre;

“Statute” means the present legal instrument that defines the mandate of the African Centre for the Study and Research on Migration;

“STC” means the AU Specialized Technical Committee on Migration, Refugees and Internally Displaced Persons (IDPs);

“Vienna Convention” means the 1961 Vienna Convention on Diplomatic Relations.

In this Statute, words expressed in the singular term shall be construed to include the plural and vice versa.

Article 2 Legal Status of the Centre

1. The Centre is hereby established as a Specialized Technical Office of the Commission.
2. The Centre shall possess in the territory of host country legal capacity necessary for the fulfilment of its objectives, and exercise of its functions, including the capacity:
 - (a) To enter into contracts;
 - (b) To acquire and dispose of immovable and movable property; and

6. STATUTE OF THE AFRICAN CENTRE FOR THE STUDY AND RESEARCH ON MIGRATION

- (c) To enter and to respond to legal proceedings.

Article 3 Purpose and Objectives

1. Purpose

Undertake studies and research to improve the overall migration governance regime in Africa.

2. Objectives

The Centre shall have the following objectives:

- (a) Advance the knowledge base of the African continent on migration and mobility issues;
- (b) Contribute to evidence-based interventions on migration in Africa; and
- (c) Support the other existing initiatives on migration notably the African Migration Observatory, the Continental Operational Centre in Sudan for Combating Irregular Migration, and migration research hubs in Africa and beyond.

Article 4 Principles

The Centre shall function in accordance with the following principles:

- 1. Non-interference in the internal affairs of any Member State, respect for the sovereignty and national laws of Members States of the AU;
- 2. Respect for democratic principles, human rights, the rule of law and good governance in accordance with the Constitutive Act, the African Charter on Human and Peoples' Rights, the Universal Declaration on Human Rights and other relevant instruments;
- 3. Respect for the ethics of law enforcement agencies of Members States of the AU, the principles of neutrality, integrity and the presumption of innocence;
- 4. Respect and recognition of African ownership of the Centre.

Article 5 Core Functions and Activities of the Centre

- 1. In order to attain the above objectives, the Centre shall function in accordance with the provisions of this Statute.
- 2. Working collaboratively with the African Migration Observatory, the Continental Operational Centre in Sudan for Combating Irregular Migration and migration research institutions in Africa and beyond, the Centre shall have the following core functions:
 - (a) Interpret migration data and compile periodic reports on migration trends and patterns in Africa and between Africa and other regions;

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- (b) Undertake empirical, applied research on all aspects of migration and mobility and facilitate actionable migration policy formulation and implementation for Member States and RECs;
- (c) Prepare and disseminate a journal and periodic reports on the state of migration and migration governance in Africa;
- (d) Prepare draft position papers on migration and mobility for consideration by the relevant policy organs of the AU;
- (e) Promote policies that foster the development impact of migration and address its negative impacts on the continent;
- (f) Evaluate the implementation of migration policies on the continent;
- (g) Establish a platform for sharing and disseminating information on migration;
- (h) Provide technical assistance, training and capacity-building on migration;
- (i) Provide a platform for experts and the political, diplomatic and academic communities to debate migration and mobility issues on the continent;
- (j) Serve as an interface between Member States, RECs, African/African Diaspora think tanks and civil society organizations on the migration debate; and
- (k) Build the capacity on study and research for Member States and RECs in the area of migration management.

Chapter Two Governance and Structure of the Centre

Article 6 Governance of the Centre

1. The Centre shall comprise the following bodies:
 - (a) The Board of Directors (the Board);
 - (b) The Secretariat.

Article 7 Functions of the Board of Directors

1. Reporting through the Commission to the relevant policy organ, the Board shall be the highest governance body of the Centre, and shall have overall oversight of the Centre.
2. The functions of the Board shall be to:
 - (a) Oversee the overall governance of the Centre;
 - (b) Provide strategic guidance to the Secretariat;
 - (c) Consider and approve the Centre's strategic plans, annual action plans and budgets;

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- (d) Oversee the implementation of strategic plans, including financial and budgetary issues;
- (e) Recommend amendments to the Statute of the Centre;
- (f) Assist the Secretariat in mobilizing resources to ensure that the Centre fulfills its mandate; and
- (g) Submit annual reports through the Commission to the AU policy organs on implemented activities and achievements of the Centre.

Article 8

Board Composition and Tenure of Office

1. The Board shall be composed as follows:
 - (a) Two (2) experts on migration, from each of the five (5) regions of the AU for non-renewable term of two (2) years, with full voting rights. The experts shall be nominated by the STC on Migration, Refugees and Internally Displaced Persons, following consultations;
 - (b) One (1) representative of Member States of each REC, with full voting powers;
 - (c) One (1) representative of the host country with full voting powers;
 - (d) One (1) representative of the Commission (Department of Social Affairs) (non-voting ex-officio);
 - (e) The Director of the African Migration Observatory (1) (non-voting ex-officio);
 - (f) The Director of the African Centre for the Study and Research on Migration (or his/her Deputy) who shall act as the Secretary of the Board (non-voting ex-officio);
 - (g) The Director of the Continental Operational Centre in Sudan for Combating Irregular Migration (non-voting ex-officio);
 - (h) The Executive Director of the African Union Institute for Statistics - STATAFRIC (non-voting ex-officio); and
 - (i) The Legal Counsel of the Commission or his/her representative who shall provide legal advice as may be required (non-voting ex-officio).
2. The Board may invite such expertise from relevant professionals to sit at its meetings on an ad hoc basis as may be necessary.
3. The Chairperson of the Board shall be elected from Member States represented in the Board.

Article 9

Meetings, Quorum and Decision-Making Procedures of the Board

1. The Board shall meet in ordinary session once every year.
2. The Board may be convened in extraordinary session, in conformity with its rules of procedure, subject to availability of funds at the request of:
 - (i) One half of its members; or
 - (ii) The policy organs of the African Union.

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3. The quorum for Board meetings shall be two thirds of the total membership of the Board.

Article 10 The Secretariat

1. The Secretariat shall be responsible for day-to-day execution of the strategies and activities of the Centre.
2. The Secretariat shall be headed by a Director. In the absence of the Director, the Deputy Director shall act in his/her stead.
3. The Director and the Deputy Director shall be appointed by the Commission on the approval of the Board of Directors in line with African Union Staff Rules and Regulations and shall be regular staff members of the AU.

Article 11 The Director

1. The Director is the chief executive officer of the Centre.
2. Under the supervision of the Commissioner for Social Affairs of the Commission, the functions of the Director shall be to:
 - (a) Implement directives of the Board and the Commission as may be applicable;
 - (b) Organize, coordinate, direct and supervise the overall day-to-day operations and management of the Centre in accordance with the strategic plans and policies approved by the Board and the AU;
 - (c) Plan, develop, and implement the Centre's policy and programme objectives, plans, and evaluate progress while ensuring efficiency and cost effectiveness;
 - (d) Provide strategic planning, overall management and institutional representation of the Centre in fulfillment of its mission, goals, and strategic objectives;
 - (e) Prepare and submit to the Board and the Commission strategic and operational plans, budgets, financial statements and operational reports of the Centre;
 - (f) Ensure the vision, mission and guiding values of the Centre are developed, communicated, and implemented at all levels;
 - (g) Propose to the Board strategic alliances and partnerships for the joint execution of programmes and activities with development partners;
 - (h) Act as Secretary of the Board to effectively carry out the Board's governance roles;
 - (i) Serve as the spokesperson and official representative of the Centre in continental and international partnerships and gatherings;
 - (j) Promote an accountable, ethical, informed and transparent organizational culture;
 - (k) Ensure coordination of the Centre's activities in collaboration with other multilateral, continental, regional and national institutions and partners;

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- (l) Advocate on behalf of the Board and the Centre at large to ensure that the positions and actions of the Centre are successfully presented to all interested parties;
- (m) Represent the Centre at all meetings, conferences or similar venues where the Centre seeks to be recognized to advance its mission and strategic goals;
- (n) Provide expert advice to the Board, the African Union and its Member States, key stakeholders and partners;
- (o) Ensure the Centre has an annual workplan in place, in line with the financial resources necessary to achieve its core functions, outcome-oriented goals, and objectives;
- (p) Oversee the execution of the host country Agreement;
- (q) Oversee all legal agreements and seek guidance, in this regard, from the Board and the Commission when necessary;
- (r) Ensure compliance with all legal and regulatory requirements emanating from Host Government and other bodies;
- (s) Propose the annual budget to the Board and Commission in keeping with established processes and timelines; and
- (t) Perform any other functions as may be assigned by the Board in line with the mandate of the Centre.

Article 12 The Deputy Director

Reporting to the Director, the duties and responsibilities of the Deputy Director include the following:

- (a) Advise and guide the Centre's management on programmatic, finance and administrative operations, including workplans, operational policies, procedures and systems, supporting critical and routine programme operations;
- (b) Facilitate programme management support, including financial management, human resources management, procurement, information technology networks and equipment, travel, facilities management and other functions executed at both headquarters and the Centre;
- (c) Supervise the development of programme objectives and workplans of staff;
- (d) Ensure the implementation of the strategic goals and objectives and workplans by staff;
- (e) Supervise reports by staff and prepare executive reports for management;
- (f) Work with staff to ensure overall agency compliance to AU Staff Rules and Regulations and Financial Rules and Regulations, including established documentation and procedures for transacting administrative support functions processed by AU service divisions;
- (g) Ensure periodic staff appraisals;
- (h) Facilitate and support the overall institutional accountability functions - including those necessary for auditing, budgeting, financial analysis, procurement, capital assets and property management and payroll and

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other operational systems and procedures - are implemented and monitored in accordance with the AU and the Centre's internal controls;

- (i) Serve as the principal manager of the Centre's budget;
- (j) Develop and manage budget frameworks and coordinate implementation and execution of these tools, keeping senior management informed as appropriate;
- (k) Serve as agency's point of contact with AU service divisions to resolve issues and problems preventing end-to-end service provision;
- (l) Review and process approvals for routine actions within multiple agency administrative systems, e.g., procurement and travel;
- (m) Oversee staff providing a full range of logistics support, procurement and travel; and
- (n) Perform other duties as assigned by the Director.

Article 13 Other Staff

The Centre will have other staff members, in charge of, among others, surveys/data collection, analysis, publications, finance, human resource development, administration, events and seminars management, networking and operations who shall be hired by the Commission in accordance with the AU Staff Rules and Regulations within the approved structure and budget.

Article 14 Budget and Budget Contributions

1. The regular budget of Centre shall be within the budget of the AU.
2. In addition to the regular budget of the AU, other sources of funding the Centre may include:
 - (a) Voluntary contributions from AU Member States;
 - (b) Contributions from development partners of the African Union and the Commission;
 - (c) Contributions from the private sector;
 - (d) Contributions from national and regional institutions; and
 - (e) Any other source of funding in accordance with AU Financial Rules and Regulations.
3. The budget calendar of the Centre shall be that of the AU.
4. Staff remuneration, administrative expenses and related budgets of the Centre shall be covered by the AU.
5. Programmes of the Centre shall be funded by resources from the AU, voluntary contributions by other Member States, or funding from development partners.
6. The budget of the Centre shall be prepared and considered in line with the AU Financial Rules and Regulations.

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Article 15 Headquarters of Centre

1. The headquarters of the Centre shall be in Bamako, the Republic of Mali.
2. In the event a Member State offers to host the meetings and conferences of the Centre, it shall be responsible for all extra expenses incurred by the Centre as a result of the session being held outside the host country.

Article 16 Code of Conduct

1. In the performance of their duties, the Director and other staff of the Centre shall not accept nor receive instructions from any government or any authority other than the African Union.
2. Each Member State shall undertake to respect the exclusive nature of the responsibilities of the Director and any other staff member of the Centre, and shall not influence or seek to influence them in the performance of their duties.
3. The Director and the other staff of the Centre shall not, in the discharge of their duties, engage in any activity or conduct incompatible with the proper discharge of their duties. They shall avoid conflict between professional and personal interests or obligations sufficient to influence the impartial exercise of their official duties or responsibilities.
4. Where the Director of the Centre fails to comply with his/her obligations, an ad hoc committee approved by the Board shall conduct an inquiry and provide an appropriate report and recommendations for its consideration and decision.
5. Where a staff member fails to comply with his/her obligations, the internal procedures referred to in the Statute and the AU Staff Rules and Regulations shall be applied. The staff member concerned shall have the right of appeal in accordance with the Staff Rules and Regulations of the African Union.
6. The Director and other staff of Centre may accept, on behalf of the Commission, gifts, bequests and other donations made to the Centre, provided that such donations are consistent with the objectives and principles of the Centre and shall remain the property of the Centre. The Director shall report to the relevant policy organs on such donations.

Article 17 Role of the Department of Social Affairs and the Relation with Member States, Development Partners and Other Stakeholders

1. The Department of Social Affairs as the focal department on the subject matter shall ensure synergy between the Centre and the Commission.
2. In carrying out its functions, the African Union shall dedicate necessary resources to building partnerships aimed at improving the effectiveness of its operations.
3. Within the African continent, the Centre shall maintain working ties with development partners and stakeholders, particularly with recognized think tanks, RECs, civil society organizations and other relevant organs of the African Union, and technical offices (especially the African Migration Observatory and the Continental Operational Centre for Combating Irregular Migration) in pursuit of its mandate.

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4. The Centre shall develop partnerships with Member States and shall also coordinate its operations with regional and continental institutions that implement migration projects across Africa.
5. In pursuance of its objectives, the Centre shall closely cooperate with African Diaspora think tanks and other international think tanks working on migration issues, and such cooperation shall strive to ensure synergy and partnership.
6. The Centre may be requested by Member States, the RECs, the Commission, other organs of the African Union, and international organizations to provide technical assistance in any field within its competence.

Article 18 Privileges and Immunities

1. The Centre shall enjoy in the territory of the host country, the privileges and immunities specified in the General Convention and the Vienna Convention.
2. The Host Country Agreement and applicable international law shall supplement the General Convention.

Chapter Three Final Provisions

Article 19 Rules of Procedure

The Rules of Procedure of the Centre shall be approved by the Board and the Commission in conformity with AU rules and procedures.

Article 20 Amendment

1. The Statute may be amended upon the recommendation of:
 - (a) The Executive Council;
 - (b) The STC; or
 - (c) The Board or the AUC.
2. The amendments shall enter into force upon their adoption by the Assembly.

Article 21 Working Languages

The working languages of the Centre shall be those of the AU.

Article 22 Authentic Text

This Statute is drawn up in four (4) original texts in Arabic, English, French and Portuguese, all four texts being equally authentic.

Article 23 Entry into Force

7. STATUTE OF THE AFRICAN MIGRATION OBSERVATORY

The Statute shall enter into force upon its adoption by the Assembly.

7.

STATUTE OF THE AFRICAN MIGRATION OBSERVATORY

Adopted in Addis Ababa, Ethiopia, on 10 February 2020.

The Statute entered into force upon its adoption on 10 February 2020.

Preamble

We, the Member States of the African Union,

Guided by the objectives and principals enshrined in the Constitutive Act of the African Union,

Noting that about two thirds of migration occurs on the continent, and less than 22 percent of migrants from Africa emigrate outside of Africa, with less than 15 percent of African migrants emigrating to Europe or North America,

Considering that since a great portion of African migration takes place on the continent, the need for up-to-date information on migration trends and patterns is critical for evidence-based interventions for the coherent management of the phenomenon for the benefit of Africa,

Acknowledging that the informal character of the majority of migratory movements, the porosity of borders, and the complexity of collecting data on human mobility at the continental level have rendered the management of migratory movements difficult,

Noting the 2017 Evaluation of the 2006 AU Migration Policy Framework for Africa and its finding on the lack of reliable and up-to-date data on migration which is hindering informed national, regional and continental policy-making on migration,

Acknowledging that well-managed migration can benefit Member States and the continent at large, and that the availability of quality and up-to-date migration data has the potential to facilitate a coherent migration regime on the continent,

Recognizing the commitment of the Kingdom of Morocco under the leadership of His Majesty King Mohammed VI, Champion of the AU on Migration, to improve migration governance in Africa,

Considering that the African Agenda on Migration presented by the Kingdom of Morocco to the Thirtieth Ordinary Session of the AU Conference proposed the creation of the African Observatory on Migration and the appointment of a Special Envoy for Migration in order to promote a better management of migration in the continent,

Noting Assembly Decision on the Establishment of the African Migration Observatory (Assembly/AU/Dec.695 (XXXI) and reiterating its concern on the migration situation in Africa, and endorsed the decision of the PSC at its 771st meeting held on 11 May 2018, which proposed the establishment of the African Migration Observatory in Morocco,

Recalling the Decision of the Assembly of Heads of State and Government of the African Union (Assembly/AU/Dec.695 (XXXI), which endorsed the establishment of the African Migration Observatory in the Kingdom of Morocco, following the proposal of His Majesty Mohammed VI, King of Morocco and AU Champion for Migration,

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Reaffirming the 2018 AU Migration Policy Framework for Africa which recommends the establishment and strengthening of continental arrangements/capacities for migration research, data collection, analysis and sharing,

Recalling the Global Compact on migration in its subparagraph (f) related to objective 1, which recommended the need to collect and utilize accurate and disaggregated data as a basis for evidence-based policies by establishing and strengthening regional centres/observatories on migration, such as the African Migration Observatory,

Recalling the Assembly Decision Assembly/AU/Dec.730 (XXXII) which requested the Commission to expedite the elaboration of legal, structural and financial implications as well as the statute of the AMO and welcoming the progress made by the Commission in collaboration with the Government of the Kingdom of Morocco in this regard,

Underscoring that the Observatory shall be a Specialized Technical Office of the AU Commission with a continent-wide mandate,

Noting the decision of the Executive Council EX.CL/195 (VII) Rev.1 Annex III on the Criteria for Hosting AU Organs,

Recognizing the commitment of the Government of the Kingdom of Morocco to host the African Migration Observatory in line with the General Convention on the Privileges and Immunities of the Organization of African Unity (OAU) adopted by the Assembly of Heads of State and Government of the OAU on 25 October 1965 in Accra, Ghana, and the supplementary Host Country Agreement concluded between the African Union and the Government of the Kingdom of Morocco in Marrakech on 10 December 2018,

Agree as follows:

Chapter One

Article 1 Definitions

For the purpose of this Statute, the following terms and expressions shall have the meaning assigned to them:

“AMO” means the African Migration Observatory or the “Observatory”, which serves as a Specialized Technical Office of the Commission;

“Assembly” means the Assembly of Heads of State and Government of the African Union, as provided by the Constitutive Act of the African Union;

“AU” means the African Union as established by the Constitutive Act of the African Union adopted on 11 July 2000, which entered into force on 26 May 2001;

“Board” means the Board of the African Migration Observatory;

“Commission” means the Secretariat of the African Union, as provided by the Constitutive Act of the AU;

“Development partners” means the multilateral institutions, development agencies, donors and foundations that contribute financially or otherwise to the Observatory;

“Executive Council” means the Executive Council of Ministers of the African Union as provided by the Constitutive Act of the AU;

“Experts” means individuals, other than officials, who owing to their special qualifications are recruited in accordance with the Staff Rules and Regulations on a temporary basis to perform specific assignments for the Observatory;

7. STATUTE OF THE AFRICAN MIGRATION OBSERVATORY

“General Convention” means the General Convention on the Privileges and Immunities of the Organization of African Unity (OAU) adopted by the Assembly of Heads of State and Government of the OAU on 25 October 1965 in Accra, Ghana;

“Government” means the Government of the Kingdom of Morocco;

“Host Country Agreement” means the Host Country Agreement between the Government of the Kingdom of Morocco and the African Union on the hosting of the African Migration Observatory;

“Host country” means the Kingdom of Morocco;

“Member State” means a Member State of the African Union;

“Migration governance” means “the combined frameworks of legal norms, laws and regulations, policies and traditions as well as organizational structures (subnational, national, regional and international) and the relevant processes that shape and regulate States’ approaches with regard to migration in all its forms, addressing rights and responsibilities and promoting international cooperation;”

“Migration” means “the movement of a person or group of persons from one geographical unit to another across an administrative or political border, with the intention of settling indefinitely or temporarily in a place other than their place of origin. It involves the crossing of one or several international borders, resulting in a change in the legal status of the individual concerned. Migration may be ‘temporary’ or ‘permanent,’ depending on the duration of absence from the place of origin and the duration of stay in the place of destination” (International Organization for Migration);”

“Observatory” means the African Migration Observatory;

“Regional Economic Communities (RECs)” means the regional integration blocs recognized by the African Union;

“Secretariat” means the management body of the Observatory;

“Statute” means the present legal instrument that defines the mandate of the Observatory;

“STC” means the AU Specialized Technical Committee on Migration, Refugees and Internally Displaced Persons (IDPs); and

“Vienna Convention” means the 1961 Vienna Convention on Diplomatic Relations.

In this Statute, words expressed in the singular term shall be construed to include the plural and vice versa.

Article 2

Legal Status of the Observatory Centre

1. The Observatory is hereby established as a Specialized Technical Office of the Commission.
2. The Observatory shall possess in the territory of host country legal capacity for the fulfilment of its objectives, and exercise of its functions, including the capacity:
 - (a) To enter into contracts;
 - (b) To acquire and dispose of immovable and movable property; and

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- (c) To enter and to respond to legal proceedings.

Article 3 Purpose and Objectives

1. Purpose

- (a) To improve overall migration governance in Africa; and
- (b) To work towards addressing migration data deficiencies and guide African countries in the elaboration of migration policies.

2. Objectives

The Observatory shall have the following objectives:

- (a) To provide the continent with a centralized, unified source of data on migration for further research;
- (b) To advance the knowledge base of the African continent on migration and mobility;
- (c) To contribute to evidence-based policies and interventions on migration in the AU; and
- (d) To support the other existing initiatives on migration notably the African Centre for the Study and Research on Migration, the Continental Operational Centre in Sudan for Combating Irregular Migration, the African Union Institute for Statistics (STATAFRIC), Member State's national bureaux of statistics and migration data hubs in Africa and beyond.

Article 4 Principles

The Observatory shall function in accordance with the following principles:

1. Non-interference in the internal affairs of any Member State, respect for the sovereignty and national laws of Members States of the AU;
2. Respect for democratic principles, human rights, the rule of law and good governance in accordance with the Constitutive Act, the African Charter on Human and Peoples' Rights, the Universal Declaration on Human Rights and other relevant instruments;
3. Respect for the ethics of law enforcement agencies of Members States of the AU, the principles of neutrality, integrity and the presumption of innocence; and
4. Respect and recognition of African ownership of the Observatory.

Article 5 Core Functions and Activities of the Observatory

1. In order to attain the above objectives, the Observatory shall have the following core functions:
 - (a) Monitor migratory flows through data collection, analysis and their sharing, and to that purpose develop migration tools;
 - (b) Set up a network of national African statisticians responsible of collecting migration data;

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- (c) Harmonize data and improve their availability for a better understanding of interdependence between migration and development;
- (d) Establish regional migration data hubs in the RECs recognized by the African Union;
- (e) Establish an information system through the creation of a network between the Observatory and the RECs, in order to share regularly data and information;
- (f) Provide technical assistance, training and capacity-building on migration data collection, analysis and elaboration of migratory policies;
- (g) Promote the integration of migrants in the strategies for the reduction of poverty and in development plans;
- (h) Encourage the protection of personal data of migrants for their respect, dignity and well-being;
- (i) Prepare and disseminate reports on the state of migration in Africa and establish a permanent African System for the Elaboration of Reports on Migration;
- (j) Establish a network of existing research centres in Africa in order to provide policymakers with harmonized and credible data and analysis on intraregional and interregional migration; and
- (k) Create an African Portal on Migration offering access to updated data on intra- and extra-African migratory movements.

Chapter Two Governance and Structure of the Observatory

Article 6 Governance of the Observatory

1. The Observatory shall comprise the following bodies:
 - (a) The Board of Directors (the Board); and
 - (b) The Secretariat.

Article 7 Functions of the Board

1. Reporting through the Commission to the relevant policy organ, the Board shall be the highest governance body of, and shall have overall oversight of the Observatory.
2. The functions of the Board shall be to:
 - (a) Oversee the overall governance of the Observatory;
 - (b) Provide strategic guidance to the Secretariat;
 - (c) Consider and approve the Observatory's strategic plans, annual action plans and budgets;
 - (d) Oversee the implementation of strategic plans, including financial and budgetary issues;

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- (e) Recommend amendments to the Statute of the Observatory;
- (f) Assist the Secretariat in mobilizing resources to ensure that the Observatory fulfils its mandate; and
- (g) Submit annual reports through the Commission to the AU policy organs on the activities of the Observatory.

Article 8

Board Composition and Tenure of Office

1. The Board shall be composed as follows:
 - (a) Two (2) experts on migration, from each of the five (5) regions of the AU for non-renewable term of two (2) years, with full voting rights. The experts shall be nominated by the STC on Migration, Refugees and Internally Displaced Persons, following consultations;
 - (b) One (1) representative of Member States of each REC, with full voting powers;
 - (c) One (1) representative of the host country with full voting powers;
 - (d) Two (2) representatives of the Commission (Department of Social Affairs, and Department of Economic Affairs) (non-voting, ex-officio);
 - (e) The Director of the African Migration Observatory (or his/her Deputy) who shall act as the Secretary of the Board (non-voting, ex-officio);
 - (f) The Director of the African Centre for the Study and Research on Migration (non-voting, ex-officio);
 - (g) The Director of the Continental Operational Centre in Sudan for Combating Irregular Migration (non-voting, ex-officio);
 - (h) The Executive Director of the African Union Institute for Statistics - STATAFRIC (non-voting, ex-officio); and
 - (i) The Legal Counsel of the Commission or his/her representative who shall provide legal advice as may be required, and shall be a non-voting member (1) (non-voting, ex-officio).
2. The Board may invite such expertise from relevant professionals to sit at its meetings on an ad hoc basis as may be necessary.
3. The Chairperson of the Board shall be elected from Member States represented in the Board.

Article 9

Meetings, Quorum and Decision-Making Procedures of the Board

1. The Board shall meet in ordinary session once every year.
2. The Board may be convened in extraordinary session, in conformity with its rules of procedure, subject to availability of funds at the request of:
 - (i) One half of its members; or
 - (ii) The policy organs of the African Union.

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3. The quorum for Board meetings shall be two thirds of the total membership of the Board.

Article 10 The Secretariat

1. The Secretariat shall be responsible for the day-to-day execution of the strategies and activities of the Observatory.
2. The Secretariat shall be headed by a Director. In the absence of the Director, the Deputy Director shall act in his/her stead.
3. The Director and the Deputy Director shall be appointed by the Commission on the approval of the Board in line with African Union Staff Rules and Regulations and shall be a regular staff members of the Commission.

Article 11 The Director

1. The Director is the Chief Executive Officer of the Observatory.
2. Under the supervision of the Commissioner for Social Affairs of the Commission, the functions of the Director shall be to:
 - (a) Implement directives of the Board and the Commission as may be applicable;
 - (b) Organize, coordinate, direct and supervise the overall day-to-day operations and management of the Centre in accordance with the strategic plans and policies approved by the Board and the AU;
 - (c) Plan, develop, and implement the Observatory's policy and programme objectives, plans, and evaluate progress while ensuring efficiency and cost effectiveness;
 - (d) Provide strategic planning, overall management and institutional representation of the Centre in fulfilment of its mission, goals, and strategic objectives;
 - (e) Prepare and submit to the Board and the Commission strategic and operational plans, budgets, financial statements and operational reports of the Observatory;
 - (f) Ensure the vision, mission and guiding values of the Observatory are developed, communicated, and implemented at all levels;
 - (g) Propose to the Board strategic alliances and partnerships for the joint execution of programmes and activities with development partners;
 - (h) Act as Secretary of the Board to effectively carry out the Board's governance roles;
 - (i) Serve as the spokesperson for the Observatory, and represent the Observatory in continental and international partnerships and gatherings;
 - (j) Promote an accountable, ethical, informed and transparent organizational culture;
 - (k) Ensure coordination of the Observatory's activities in collaboration with other multilateral, continental, regional and national migration statistics institutions and partners;

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- (l) Advocate on behalf of the Board and the Observatory at large to ensure that the positions and actions of the Observatory are successfully presented to all interested parties;
- (m) Represent the Observatory at all meetings, conferences or similar venues where the Observatory seeks to be recognized to advance its mission and strategic goals;
- (n) Provide expert advice to the Board, the African Union and its Member States, key stakeholders and partners;
- (o) Ensure the Observatory has an annual workplan in place, in line with the financial resources necessary to achieve its core functions, outcome-oriented goals, and objectives;
- (p) Oversee the execution of the Host Country Agreement;
- (q) Oversee all legal agreements and seek guidance, in this regard, from the Board and the Commission when necessary;
- (r) In partnership with the Board, provide leadership and direction in efforts to identify and secure technical assistance support for the Observatory's programmes and initiatives;
- (s) Propose the annual budget to the Board and African Union Commission in keeping with established processes and timelines; and
- (t) Perform any other functions in line with the objectives of the Observatory and as entrusted by the Commission.

Article 12 The Deputy Director

Reporting to the Director, the functions of the Deputy Director include the following:

1. The Deputy Director reports to the Director and supervises and provides guidance on programmatic, finance and administrative operations of the AMO;
2. The Deputy Director is responsible for ensuring implementation of high-quality business operation of the AMO by coordinating the daily work of staff, and ensuring compliance with AU rules and regulations as appropriate;
3. His/her major responsibilities shall be to:
 - (a) Advise and guide the Observatory's management on programmatic, finance and administrative operations, including workplans, operational policies, procedures and systems, supporting critical and routine programme operations;
 - (b) Facilitate programme management support, including financial management, human resources management, procurement, information technology networks and equipment, travel, facilities management and other functions executed at both headquarters and the Observatory;
 - (c) Supervise the development of programme objectives and workplans of staff;
 - (d) Ensure the implementation of the strategic goals and objectives and workplans by staff;
 - (e) Supervise reports by staff and prepare executive reports for management;

7. STATUTE OF THE AFRICAN MIGRATION OBSERVATORY

- (f) Work with staff to ensure overall agency compliance with AU rules and regulations, including established documentation and procedures for transacting administrative support functions processed by AU service divisions;
- (g) Ensure periodic staff appraisals;
- (h) Facilitate and support the overall institutional accountability functions - including those necessary for auditing, budgeting, financial analysis, procurement, capital assets and property management and payroll and other operational systems and procedures - are implemented and monitored in accordance with the AU and the Observatory's internal controls;
- (i) Serve as the principal manager of the Observatory's budget;
- (j) Develop and manage budget frameworks and coordinate implementation and execution of these tools, keeping senior management informed as appropriate;
- (k) Serve as the agency's point of contact with AU service divisions to resolve issues and problems preventing end-to-end service provision;
- (l) Review and process approvals for routine actions within multiple agency administrative systems, e.g., procurement and travel;
- (m) Oversee staff, providing a full range of logistics support, procurement and travel; and
- (n) Perform other duties as assigned by the Director.

Article 13 Other Staff

The Observatory will have other staff members, in charge of, among others, surveys/data collection, analysis, publications, finance, human resource development, administration, events and seminars management, networking and operations who shall be hired by the Commission in accordance with the AU Staff Rules and Regulations and within the approved structure and budget.

Article 14 Budget and Contributions

1. The regular budget of the Observatory shall be within the budget of the AU.
2. In addition to the regular budget of the African Union, other sources of funding the Observatory, in accordance with AU rules and regulations, may include:
 - (a) Voluntary contributions from AU Member States;
 - (b) Contributions from development partners of the African Union and the Commission;
 - (c) Contributions from the private sector;
 - (d) Contributions from national and regional institutions; and
 - (e) Any other source of funding in accordance with the AU Financial Rules and Regulations.
3. The budget calendar of the Centre shall be that of the African Union.

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4. Staff remuneration, administrative expenses and related budgets of the Centre shall be covered by the African Union.
5. Programmes of the Centre shall be funded by resources from the AU, voluntary contributions by other Member States, or funding from development partners.
6. The budget shall be prepared and considered in line with the African Union Financial Rules and Regulations.

Article 15 Headquarters of Observatory

1. The headquarters of the Observatory shall be in Rabat, the Kingdom of Morocco.
2. If a Member State offers to host the meetings and conferences of the Observatory, it shall be responsible for all extra expenses incurred by the Observatory as a result of the session being held outside the host country.

Article 16 Code of Conduct

1. In the performance of their duties, the Director and other staff of the Observatory shall not accept nor receive instructions from any government or any authority other than the African Union.
2. Each Member State shall undertake to respect the exclusive nature of the responsibilities of the Director and any other staff member of the Observatory, and shall not influence or seek to influence them in the performance of their duties.
3. The Director and the other staff of the Observatory shall not, in the discharge of their duties, engage in any activity or conduct incompatible with the proper discharge of their duties. They shall avoid conflict between professional and personal interests or obligations sufficient to influence the impartial exercise of their official duties or responsibilities.
4. Where the Director of the Observatory fails to comply with his/her obligations, an ad hoc Committee approved by the Board shall conduct an inquiry and provide an appropriate report and recommendations for its consideration and decision.
5. Where a staff member fails to comply with his/her obligations, the internal procedures referred to in the Statute and the AU Staff Rules and Regulations shall be applied. The staff member concerned shall have the right of appeal in accordance with the Staff Rules and Regulations of the African Union.
6. The Director and other staff of the Observatory may accept, on behalf of the Commission, gifts, bequests and other donations made to the Observatory, provided that such donations are consistent with the objectives and principles of the Observatory and shall remain the property of the Observatory. The director shall report to the relevant policy organs on such donations.

Article 17 Role of the Department of Social Affairs and the Relationship of the AMO with Member States, Development Partners and Other Stakeholders

1. The Department of Social Affairs as the focal department on the subject matter shall ensure synergy between the Observatory and the Commission.

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2. In carrying out its functions, the African Union shall dedicate the necessary resources to building partnerships aimed at improving the effectiveness of its operations.

3. Within the African continent, the Observatory shall maintain working ties with development partners and stakeholders, particularly with recognized think tanks, RECs, civil society organizations and other relevant organs of the African Union and technical offices (especially the Africa Research and Study Centre on Migration and the Continental Operational Centre for Combating Irregular Migration) in pursuit of its mandate.

4. The Observatory shall develop partnerships with Member States and RECs, and shall also coordinate its operations with regional and continental institutions that collect migration data across Africa.

5. In pursuit of its objectives, the Observatory shall closely cooperate with African diaspora think tanks and other international think tanks working on migration data issues, and such cooperation shall strive to ensure synergy and partnership.

6. The Observatory may be requested by Member States, the RECs, the Commission, other organs of the African Union, and international organizations to provide technical assistance in any field within its competence.

Article 18 Privileges and Immunities

1. The Observatory shall enjoy in the territory of the host country, the privileges and immunities specified in the General Convention and the Vienna Convention.

2. The Host Country Agreement and applicable international law shall supplement the General Convention.

Chapter Three Final Provisions

Article 19 Rules of Procedure

The Rules of Procedure of the Observatory shall be approved by the Board and the Commission in conformity with AU rules and procedures.

Article 20 Amendment

1. The Statute may be amended upon the recommendation of:

- (a) The Executive Council;
- (b) The STC; or
- (c) The Board or the AUC.

2. The amendments shall enter into force upon their adoption by the Assembly.

Article 21 Working Languages

The working languages of the Observatory shall be those of the AU.

VIII. MOVEMENT OF PERSONS

Article 22 Authentic Text

This Statute is drawn up in four (4) original texts in Arabic, English, French and Portuguese, all four texts being equally authentic.

Article 23 Entry into Force

The present Statute shall enter into force upon its adoption by the Assembly.

8.

STATUTE OF THE CONTINENTAL OPERATIONAL CENTRE IN SUDAN FOR COMBATING IRREGULAR MIGRATION

Adopted in Addis Ababa, Ethiopia, on 10 February 2020.

Entered into force upon adoption.

Preamble

We, Member States of the African Union,

Recalling the objectives and principles enshrined in the Constitutive Act of the African Union,

Motivated by a common political will to strengthen our collective efforts to contribute to security and development in Africa, as well as to intensify cooperation among Member States, and integration of the continent,

Recalling the Solemn Declaration on a Common African Defence and Security Policy (CADSP) which recognizes that organized cross-border crimes and human trafficking are factors that engender insecurity, and that security of one African country is inseparably linked to the security of other African countries, and the African continent as a whole, and calls for the integration and harmonization of continental initiatives on defence and security issues,

Concerned about the growing scale of irregular migration on the continent which is mainly facilitated through human trafficking and migrant smuggling,

Cognizant of the increasing sophistication of, and links between transnational organized criminal networks involved in human trafficking/migrant smuggling and other forms of criminal activities including arms and drug trafficking, terrorism, kidnapping-for-ransom, and money laundering,

Guided by the various instruments on the fight against transnational organized crime and human trafficking adopted by AU Member States,

Recalling the February 2019 decision of the Assembly Decision AU/Dec.728 (XXXII) of the Thirty-second Ordinary Session of the Assembly, which endorsed the establishment of the Continental Operational Centre in Sudan for combating irregular migration and requested the Commission to expedite the elaboration of the structural, financial and legal implications, as well as, the Statute establishing the Centre,

Noting the Fourth EU-Africa Summit Joint Declaration adopted in April 2014 in Brussels, Belgium, on Migration and Mobility to address trafficking in human beings, notably by strengthening partnership and cooperation on prevention, protection and prosecution,

Recognizing the importance and need for greater cooperation of police and security agencies in combating transnational organized crime, including human trafficking and migrant smuggling through the exchange of information and intelligence between and among Member States,

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Noting the establishment of the Africa-Arab Technical and Coordination Committee on Migration (TCCM) through Resolution 4 of the Third Africa-Arab Heads of State Summit on Strengthening Africa-Arab Partnership (November 2013) which among others seeks to address migration between Africa and the Arabian Peninsula on the eastern migratory route,

Convinced of the need to collaborate and create synergies between and among similar initiatives and programmes on the continent to enhance the relevance of the outcome and benefits to all member countries,

Determined to establish an operational centre as a continental cooperation mechanism for the exchange of information among security agencies of Member States of the AU and between the Continental Operational Centre and other similar initiatives and processes on the continent and beyond (for example the AU-Horn of Africa Initiative, the Africa-Arab Technical Coordination Committee on Migration, the Khartoum Process, the Rabat Process, etc.) in combating human trafficking and migrant smuggling,

Noting the decision of the Executive Council EX.CL/195 (VII) Rev.1 Annex III on the Criteria for Hosting AU Organs,

Agree as follows:

Chapter One Definitions, Objectives and Core Functions of the Centre

Article 1 Definitions

For the purpose of this Statute, the following terms and expressions shall have the meaning assigned to them:

“Archives” includes records, correspondence, documents, manuscripts, still and motion pictures, films and sound recordings, electronic records, belonging to or held by the Continental Operational Centre in Sudan for Combating Irregular Migration in furtherance of its official functions;

“Assembly” means the Assembly of Heads of State and Government of the African Union;

“AU” means the African Union established by the Constitutive Act of the African Union adopted on 11 July 2000, which entered into force on 26 May 2001;

“Centre” means the Continental Operational Centre in Sudan for Combating Irregular Migration;

“Commission” means the Secretariat of the African Union, as provided by the Constitutive Act of the AU;

“Constitutive Act” means the Constitutive Act of the African Union;

“Cross-border crime” means any serious crime with a cross-border dimension committed at or along, or which is related to, the external borders that adversely affects the security of the external borders of Member States;

“Development partners” means the multilateral institutions, development agencies, donors, and foundations that contribute financially or otherwise to the Centre;

“Executive Council” means the Executive Council of Ministers of the African Union as provided by the Constitutive Act of the AU;

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“Experts” mean individuals, other than officials, who owing to their special qualifications are recruited, in accordance with the Staff Rules and Regulations, on a temporary basis to perform a specific assignment for the Centre;

“General Convention” means the General Convention on the Privileges and Immunities of the Organization of African Unity (OAU) adopted by the Assembly of Heads of State and Government of the OAU on 25 October 1965 in Accra, Ghana;

“Government” means the Government of the Republic of the Sudan;

“Host Country Agreement” means the Agreement between the Government of the Republic of the Sudan and the African Union on the hosting of the Centre;

“Host country” means the Republic of the Sudan;

“Human trafficking” means the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation (Art. 3 (a), United Nations Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Organized Crime, 2000);

“Member State” means a Member State of the African Union;

“Migrant smuggling” means the procurement, in order to obtain, directly or indirectly, a financial or other material benefit, of the illegal entry of a person into a State Party of which the person is not a national or a permanent resident (Art. 3 (a), United Nations Protocol Against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention against Transnational Organized Crime, 2000). Smuggling contrary to trafficking does not require an element of exploitation, coercion, or violation of human rights;

“Migration governance regime” means “the combined frameworks of legal norms, laws and regulations, policies and traditions as well as organizational structures (subnational, national, regional and international) and the relevant processes that shape and regulate States’ approaches with regard to migration in all its forms, addressing rights and responsibilities and promoting international cooperation” (International Organization for Migration, Glossary on Migration, 3rd Edition, 2018);

“Migration” means “the movement of a person or group of persons from one geographical unit to another across an administrative or political border, with the intention of settling indefinitely or temporarily in a place other than their place of origin. It involves the crossing of one or several international borders, resulting in a change in the legal status of the individual concerned. Migration may be ‘temporary’ or ‘permanent,’ depending on the duration of absence from the place of origin and the duration of stay in the place of destination” (International Organization for Migration);

“Premises” means the areas designated as offices of the Khartoum Centre or any space, buildings, structures, equipment and other installations and facilities as well as surrounding ground occupied temporarily or permanently by the Centre and recognized as such by the Government;

“Regional Economic Communities (RECs)” means the regional integration blocs recognized by the African Union;

“Secretariat” means the management body and Permanent Technical and Operational Office of the Centre;

“Statute” means the present legal instrument that defines the mandate of the Centre;

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“STC” means the Specialized Technical Committee on Migration, Refugees and Internally Displaced Persons or its successor;

“Parties” means the African Union and the Government of the Republic of the Sudan;

“Transnational organized crime” means organized criminal activities coordinated across national borders, involving groups or networks of individuals working in more than one country to plan and execute illegal business ventures;

“Vienna Convention” means the 1961 Vienna Convention on Diplomatic Relations.

In this Statute, words expressed in the singular term shall be construed to include the plural and vice versa.

Article 2 Legal Status of the Centre

1. The Centre is hereby established as a Specialized Technical Office of the Commission.
2. The Centre shall possess legal capacity necessary for the fulfilment of its objectives, and exercise of its functions and activities in accordance with this Statute, including the capacity:
 - (a) To enter into contracts;
 - (b) To acquire and dispose of immovable and movable property; and
 - (c) To enter and to respond to legal proceedings.

Article 3 Purpose and Objectives

1. Purpose

To improve the overall migration governance regime in Africa, specifically the management of irregular migration and other transnational organized crimes.

2. Objectives

The Centre shall have the following objectives:

- (a) To provide a platform for sharing information on transnational organized crime, in particular human trafficking and migrant smuggling;
- (b) To support the other existing initiatives on migration notably the African Centre for the Study and Research on Migration, the African Migration Observatory, the AU-Horn of Africa Initiative, the Africa-Arab Technical Coordination Committee on Migration, the Khartoum Process, the Rabat Process, etc.) and other similar initiatives and processes in Africa and beyond in combating human trafficking and migrant smuggling.

Article 4 Principles

The Centre shall function in accordance with the following principles:

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1. Non-interference in the internal affairs of any Member State, respect for the sovereignty and national laws of Members States of the AU;
2. Respect for democratic principles, human rights, the rule of law and good governance in accordance with the Constitutive Act, the African Charter on Human and Peoples' Rights, the Universal Declaration of Human Rights and other relevant instruments;
3. Respect for the ethics of law enforcement agencies of Members States of the AU, the principles of neutrality, integrity and the presumption of innocence; and
4. Respect and recognition of African ownership of the Centre.

Article 5

Core Functions and Activities of the Centre

The core functions and activities of the Centre shall be to:

1. Establish and provide a platform for cooperation and sharing of information and intelligence on human trafficking, and migrant smuggling and cross-border crimes among law enforcement agencies of Member States of the AU in accordance with national laws of the Member States;
2. Enhance coordination with similar initiatives on the continent and beyond in sharing information on transnational organized crime, in particular human trafficking and migrant smuggling;
3. Work towards the prevention, detection and investigation of human trafficking and migrant smuggling in collaboration with national, regional, continental and international law enforcement agencies;
4. Develop and facilitate mutual legal assistance, extradition arrangements and harmonized continental strategies between and among Member States to fight transnational organized crime, in particular human trafficking and migrant smuggling within the framework of relevant international and African Union policies;
5. Assist Member States of the AU to develop or improve good practices in the collection, analysis and dissemination of information on transnational organized crime, in particular human trafficking and migrant smuggling;
6. Commission research on trends in transnational organized crime, in particular human trafficking and migrant smuggling among Member States of the AU;
7. Carry out any other functions as requested by the relevant AU policy organs; and
8. Provide capacity-building and technical assistance in combating irregular migration (in human trafficking and migrant smuggling) and border management.

Chapter Two

Governance and Structure of the Centre

Article 6

Governance of the Centre

1. The Centre shall comprise the following bodies:
 - (a) The Board of Directors (the Board); and

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- (b) The Secretariat.

Article 7 Functions of the Board

1. Reporting through the Commission to the relevant policy organ, the Board shall be the highest governance body of the Centre, and shall have overall oversight of the Centre.
2. The functions of the Board shall be to:
 - (a) Oversee the overall governance of the Centre;
 - (b) Provide strategic guidance to the Secretariat;
 - (c) Consider and approve the Centre's strategic plans, annual action plans and budgets;
 - (d) Oversee the implementation of strategic plans, including financial and budgetary issues;
 - (e) Recommend amendments to the Statute of the Centre;
 - (f) Assist the Secretariat in mobilizing resources to ensure that the Centre fulfills its mandate; and
 - (g) Submit annual reports through the Commission to the AU policy organs on implemented activities and achievements of the Centre.

Article 8 Board Composition and Tenure of Office

1. The Board shall be composed as follows:
 - (a) Two (2) experts on migration, from each of the five (5) regions of the AU for non-renewable term of two (2) years, with full voting rights. The experts shall be nominated by the STC on Migration, Refugees and Internally Displaced Persons, following consultations;
 - (b) One (1) representative of Member States of each REC, with full voting powers;
 - (c) The host country with full voting powers;
 - (d) One (1) representative of the Commission (Department of Social Affairs) (non-voting ex-officio);
 - (e) The Director of the Continental Operational Centre in Sudan for Combating Irregular Migration (or his/her Deputy) who shall act as the Secretary of the Board (non-voting ex-officio);
 - (f) The Director of African Observatory on Migration (non-voting ex-officio);
 - (g) The Director of African Centre for the Study and Research on Migration (non-voting ex-officio);
 - (h) The Executive Director of the African Union Institute for Statistics - STATAFRIC (non-voting ex-officio);
 - (i) One (1) representative of AFRIPOL; and

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(j) The Legal Counsel of the Commission or his/her representative who shall provide legal advice as may be required (non-voting ex-officio).

2. The Board may invite such expertise from relevant professionals to sit at its meetings on an ad hoc basis as may be necessary.

3. The Chairperson of the Board shall be elected from Member States represented in the Board.

Article 9

Meetings, Quorum and Decision-Making Procedures of the Board

1. The Board shall meet in ordinary session once every year.

2. The Board may be convened in extraordinary session, in conformity with its rules of procedure, subject to availability of funds at the request of:

(i) One half of its members; or

(ii) The policy organs of the African Union.

3. The quorum for Board meetings shall be two thirds of the total membership of the Board.

Article 10

The Secretariat

1. The Secretariat shall be responsible for day-to-day execution of the strategies and activities of the Centre.

2. The Secretariat shall be headed by a Director. In the absence of the Director the Deputy Director shall act.

3. The Director and the Deputy Director shall be appointed by the Commission on the approval of the Board in line with African Union Staff Rules and Regulations and shall be regular staff members of the AU.

Article 11

The Director

1. The Director is the Chief Executive Officer of the Centre.

2. Under the supervision of the Commissioner in charge of Social Affairs of the Commission, the functions of the Director shall be to:

(a) Implement directives of the Board and the Commission as may be applicable;

(b) Organize, coordinate, direct and supervise the overall day-to-day operations and management of the Centre in accordance with the strategic plans and policies approved by the Board and the AU;

(c) Plan, develop, and implement the Centre's policy and programme objectives, plans, and evaluate progress while ensuring efficiency and cost effectiveness;

(d) Provide strategic planning, overall management and institutional representation of the Centre in fulfillment of its mission, goals, and strategic objectives;

(e) Prepare and submit to the Board and the Commission strategic and operational plans, budgets, financial statements and operational reports of the Centre;

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- (f) Ensure the vision, mission and guiding values of the Centre are developed, communicated, and implemented at all levels;
- (g) Propose to the Board strategic alliances and partnerships for the joint execution of programmes and activities with development partners;
- (h) Act as Secretary of the Board;
- (i) Serve as the spokesperson and official representative of the Centre in continental and international partnerships and gatherings;
- (j) Promote an accountable, ethical, informed and transparent organizational culture;
- (k) Ensure coordination of the Centre's activities in collaboration with other multilateral, continental, regional and national institutions and partners;
- (l) Advocate on behalf of the Board and the Centre at large to ensure that the positions and actions of the Centre are successfully presented to all interested parties;
- (m) Represent the Centre at all meetings, conferences or similar venues where the Centre seeks to be recognized to advance its mission and strategic goals;
- (n) Provide expert advice to the Board, the African Union and its Member States, key stakeholders and partners;
- (o) Ensure the Centre has an annual workplan in place, in line with the financial resources necessary to achieve its core functions, outcome-oriented goals, and objectives;
- (p) Oversee the execution of the Host Country Agreement;
- (q) Oversee all legal agreements and seek guidance, in this regard, from the Board and the Commission when necessary;
- (r) Ensure compliance with all legal and regulatory requirements emanating from the Host Government and other bodies;
- (s) Propose the annual budget to the Board and African Union Commission in keeping with established processes and timelines; and
- (t) Perform any other functions as may be assigned by the Board in line with the mandate of the Centre.

Article 12 The Deputy Director

Reporting to the Director, the functions of the Deputy Director include the following:

1. Advise the Centre's management on programmatic, finance and administrative operations, including workplans, operational policies, procedures and systems, supporting critical and routine programme operations;
2. Facilitate programme management support, including financial management, human resources management, procurement, information technology networks and equipment, travel, facilities management and other functions executed at both headquarters and the Centre;

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3. Supervise the development of programme objectives and workplans of staff;
4. Ensure the implementation of the strategic goals and objectives and workplans by staff;
5. Supervise reports by staff and prepare executive reports for management;
6. Work with staff to ensure overall agency compliance with AU rules and regulations, including established documentation and procedures for transacting administrative support functions processed by AU service divisions;
7. Ensure periodic staff appraisals;
8. Facilitate and support the overall institutional accountability functions - including those necessary for auditing, budgeting, financial analysis, procurement, capital assets and property management and payroll and other operational systems and procedures - are implemented and monitored in accordance with AU and the Centre's internal controls;
9. Serve as the principal manager of the Centre's budget;
10. Develop and manage budget frameworks and coordinate implementation and execution of these tools, keeping senior management informed as appropriate;
11. Serve as agency's point of contact with AU service divisions to resolve issues and problems preventing end-to-end service provision;
12. Review and process approvals for routine actions within multiple agency administrative systems;
13. Oversee staff providing a full range of logistics support, procurement and travel; and
14. Perform other duties as assigned by the Director.

Article 13 Other staff

The Centre will have other staff members, in charge of, among others, information exchange, finance and administration who shall be hired by the Commission in accordance with the AU rules and regulations within the approved structure and budget.

Article 14 Budget and Budget Contributions

1. The regular budget of the Centre shall be from the regular budget of the African Union.
2. In addition to the regular budget of the African Union, other sources of funding the Centre may include:
 - (a) Voluntary contributions from AU Member States;
 - (b) Contributions from development partners of the African Union and the Commission;
 - (c) Contributions from the private sector;
 - (d) Contributions from national and regional institutions; and

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- (e) Any other source of funding in accordance with AU Financial Rules and Regulations.
- 3. The budget calendar of the Centre shall be that of the African Union.
- 4. Staff remuneration, administrative expenses and related budgets of the Centre shall be covered by the African Union.
- 5. Programmes of the Centre shall be funded by resources from the AU, voluntary contributions by other Member States, or funding from development partners.
- 6. The budget of the Centre shall be prepared and considered in line with the African Union Financial Rules and Regulations.

Article 15 Headquarters of the Centre

- 1. The headquarters of the Centre shall be in Khartoum, the Republic of the Sudan.
- 2. If a Member State offers to host the meetings and conferences of the Centre, it shall be responsible for all extra expenses incurred by the Centre as a result of the session being held outside the host country.

Article 16 Code of Conduct

- 1. In the performance of their duties, the Director and other staff of the Centre shall not accept nor receive instructions from any government or any authority other than the Centre.
- 2. Each Member State shall undertake to respect the exclusive nature of the responsibilities of the Director and any other staff member of the Centre, and shall not influence or seek to influence them in the performance of their duties.
- 3. The Director and the other staff of the Centre shall not, in the discharge of their duties, engage in any activity or conduct incompatible with the proper discharge of their duties. They shall avoid conflict between professional and personal interests or obligations sufficient to influence the impartial exercise of their official duties or responsibilities.
- 4. Where the Director of the Centre fails to comply with his/her obligations, an ad hoc Committee approved by the Board shall conduct an inquiry and provide an appropriate report and recommendations for its consideration and decision.
- 5. Where a staff member fails to comply with his/her obligations, the internal procedures referred to in the Statute and the AU Staff Rules and Regulations shall be applied. The staff member concerned shall have the right of appeal in accordance with the Staff Rules and Regulations.
- 6. The Director and other staff of Centre may accept, on behalf of the Commission, gifts, bequests and other donations made to the Centre, provided that such donations are consistent with the objectives and principles of the Centre and shall remain the property of the Centre. The director shall report to the relevant policy organs on such donations.

Article 17 Role of the Department of social Affairs and the relation with Member States, Development Partners and Other Stakeholders

VIII. MOVEMENT OF PERSONS

1. The Department of Social Affairs as the focal department on the subject matter shall ensure synergy between the Centre and the Commission.
2. In carrying out its functions, the African Union shall dedicate necessary resources to building partnerships aimed at improving the effectiveness of its operations.
3. Within the African continent, the Centre shall maintain working ties with development partners and stakeholders, particularly with recognized think tanks, RECs, civil society organizations and other relevant organs of the African Union and technical offices (especially the African Migration Observatory, the African Union Institute for Statistics - STATAFRIC, and the African Centre for the Study and Research on Migration) in pursuit of its mandate.
4. The Centre shall develop partnerships with Member States and regional/continental police organizations, and shall also coordinate its operations with regional and continental institutions that combat irregular migration (especially human trafficking and migrant smuggling) across the continent, and such cooperation shall strive to ensure synergy and partnership.
5. In pursuit of its objectives, the Centre shall closely cooperate with African diaspora think tanks and other international think tanks working on migration data issues, and such cooperation shall strive to ensure synergy and partnership.
6. The Centre may be requested by Member States, the RECs, the Commission, other organs of the African Union, and international organizations to provide technical assistance in any field within its competence.

Article 18 Privileges and Immunities

1. The Centre shall enjoy in the territory of the host country, the privileges and immunities specified in the General Convention and the Vienna Convention.
2. The Host Country Agreement and applicable international law shall supplement the General Convention.

Chapter Three Final Provisions

Article 19 Rules of Procedure

The Rules of Procedure of the Centre shall be adopted by the Board and approved by the Commission in conformity with AU rules and procedures.

Article 20 Amendment

1. The Statute may be amended upon the recommendation of:
 - (a) The Executive Council;
 - (b) The STC; or
 - (c) The Board or the AUC.
2. The amendments shall enter into force upon their adoption by the Assembly.

9. MALABO DECLARATION OF THE HUMANITARIAN SUMMIT AND PLEDING CONFERENCE

Article 21 Working Languages

The working languages of the Centre shall be those of the AU.

Article 22 Authentic Text

This Statute is drawn up in four (4) original texts in Arabic, English, French and Portuguese, all four texts being equally authentic.

Article 23 Entry into Force

The present Statute shall enter into force upon its adoption by the Assembly.

9.

MALABO DECLARATION OF THE HUMANITARIAN SUMMIT AND PLEDGING CONFERENCE (Ext/Assembly/AU/Decl. (XV))

Adopted in Malabo, Equatorial Guinea, on 27 May 2022.

We, the Heads of State and Government, meeting at our Fifteenth Extraordinary Humanitarian Summit and Pledging Conference in Malabo, Equatorial Guinea, on 27 May 2022,

Recalling previous decisions, in which bold commitments to reinforce Africa's humanitarian architecture were made, particularly:

- (i) Decision Assembly/AU/Dec.828 (XXXV) of February 2022 on the dates and venue for the Extraordinary Humanitarian Summit and Pledging Conference,
- (ii) Declaration Assembly/AU/Decl.1 (XXXII) of February 2020, Addis Ababa, Ethiopia, which called on the Member States, the Regional Economic Communities (RECs), and the AU Commission to work closely with the AU leader of the 2019 Theme of the Year, H.E. Teodoro Obiang Nguema Mbasogo, President of Equatorial Guinea, in convening a continental high-level conference on the humanitarian situation in Africa linked to the AU theme for 2020 on silencing the guns,
- (iii) Decision Assembly/AU/Dec.719 (XXXII) of February 2019, Addis Ababa, Ethiopia, on the Fourth Report of the Peace and Security Council of the African Union on the Implementation of the African Union Master Road Map of Practical Steps for Silencing the Guns in Africa by the Year 2020,
- (iv) Declaration Assembly/AU/Decl.8 (XXXII) on the 2019 theme of the year: "The Year of Refugees, Returnees and Internally Displaced Persons: Towards Durable Solutions to Forced Displacement in Africa", and recommendations in addressing challenges of forced displacement on the continent,
- (v) The Kampala Solemn Declaration adopted during the first African Union Special Summit on Refugees, Returnees, and Internally Displaced Persons (IDPs), on 23 October 2009, in Kampala, Uganda,
- (vi) Decision Assembly/AU/Dec.604 (XXVI) of January 2016, establishing an African Humanitarian Agency,
- (vii) The Sirte Declaration AU/Decl.2 (XIII) adopted by the Assembly in July 2009 on Investing in Agriculture for

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Economic Growth and Food Security,

(viii) Decision Assembly/AU/Dec.351 (XVI) of January 2011, establishing the AU Centre for Post-Conflict Reconstruction and Development to enhance structural transformation to prevent relapse into conflicts,

(ix) Decision Assembly/AU/Dec.813 (XXXV) of February 2022, Addis Ababa, Ethiopia, during the Thirty-fifth Assembly of the African Union on the theme of the year 2022 on “Strengthening Resilience in Nutrition and Food Security on the African Continent: Strengthening Agro-Food Systems, Health and Social Protection Systems for the Acceleration of Human, Social and Economic Capital Development”,

Considering:

(i) Agenda 2063: The Africa We want Agenda, which encapsulates our aspirations for the future to boost the continent’s economic growth and development, and its emphasis on African solutions to African problems,

(ii) The Common African Position on Humanitarian Effectiveness, and its strategic priorities for the reform of Africa’s humanitarian action, to make it more effective, timely, and relevant,

(iii) The Africa Climate Change and Resilient Development Strategy and Plan of Action (2022-2032) and African Green Recovery Action Plan (2021-2027), which aim to counter the negative consequences of climate change, leverage the capacities, and opportunities to facilitate the attainment of the Agenda 2063 vision;

(iv) The Sendai Framework for Disaster Risk Reduction 2015-2030 which outlines clear targets and priorities for action to prevent new and reduce existing disaster risks: commitments by Member States and the AU Programme of Action 2015-2030,

(v) Resolution 48/13 of 2021 of the Human Rights Council, on consequences of climate change on millions of people, especially persons and groups in vulnerable situations,

(vi) The 2013 Abuja Declaration and its priority areas on health in the Post-2015 Development Agenda,

Deeply concerned by the increasing humanitarian needs and protracted displacements in Africa due, inter alia, to armed conflicts, the growing effects of climate change and natural disasters, terrorism, and violent extremism; amidst structural forces that shape the future of our continent, namely demographic evolution, economic evolution, environmental context and technological development,

Noting that protracted armed conflicts and violent extremism constitute one of the main causes of forced displacement of massive populations, causing considerable humanitarian tragedies that need our urgent attention as well as pose a threat to the development agenda stipulated in Africa’s Agenda 2063 and the United Nations Sustainable Development Goals by disrupting livelihoods, transport and health systems, social protection nets, markets, and other social amenities, impeding timely humanitarian assistance, and further aggravating the needs of the communities that are in most cases dealing with multilayered shocks and leading to increased poverty and humanitarian needs,

Acknowledge and appreciate the Member States hosting large numbers of refugees, asylum seekers and migrants on their territories and encourage them to continue supporting these vulnerable members of our societies, in the spirit of Ubuntu and African solidarity, while efforts are being made to deal with the root causes and find durable solutions to forced displacement in Africa. To this end, urge for increased burden sharing and deeper appreciation of the enormous challenges borne by host countries supporting large numbers of refugees,

Deplore human rights violations, including gender-based violence as well as exploitation and violence against children, which have been on the rise amid the increased humanitarian crises in which the most vulnerable groups, including women, children, elderly and persons with disabilities among others, are most affected,

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Additionally concerned regarding the discrimination against migrants and xenophobia, particularly in the context of pandemics and crisis,

Cognizant that climate disasters are increasing in frequency and magnitude contributing to vulnerability, human mobility, and displacement, and pose an increased risk to the livelihoods, well-being, and human rights of displaced persons, many of whom live in countries most affected by climate change,

Noting that the drought in the Horn of Africa and the Sahel region further exacerbate other existing shocks such as conflict, flash flooding, receding of lakes, rivers and the sea, desert locust infestations, leading to increased humanitarian needs, food insecurity and malnutrition,

Concerned over the series of climate-related disasters in recent years affecting the Southern African region, which vary in frequency and severity, including El Nino drought and tropical storms, floods and cyclones that have led to loss of lives, destructions of homes, properties, infrastructure, social amenities and relocation and displacements of people to safer areas,

Further noting with concern, the worsening food insecurity and rising food prices across the continent caused by the impact of climate disasters, conflicts, as well as socio-economic conditions due to the impact of COVID-19 and an outbreak of pests such as fall-army worm and desert locust; as well as including the recent conflict in Europe which further exacerbate the food insecurity and all forms of malnutrition nutrition security, especially for people in humanitarian crises,

Cognizant that the COVID-19 pandemic has, in particular, exacerbated humanitarian needs and stretched health systems and delivery of health services in humanitarian situations, this is in addition to Africa's already increasing burden of diseases as noted by the rising rates of non-communicable diseases, emerging and re-emerging infections, and endemic diseases,

Noting that the continent cannot achieve meaningful human capital and socio-economic development, integration, peace, and stability unless the root causes of forced displacement are decisively addressed,

Recognizing that refugees, IDPs who are mainly women and children and humanitarian operations have faced funding shortfalls over time, thereby increasing the burden on host countries especially for protracted caseloads,

Further recognize and appreciate the work of the national societies and volunteer networks on the ground who are auxiliary to governments and are involved in preparing and responding to disasters in Africa,

Acknowledging that financial resources allocated to address humanitarian concerns are inadequate to address increasing humanitarian needs caused by climate change, natural disasters, conflicts, and macro-economic conditions in Africa,

Urge Member States who have not done so to sign, ratify and implement the 1969 OAU Convention Governing the Specific Aspects of Refugee Problems in Africa; the 2009 Convention on Protection and Assistance to Internally Displaced Persons in Africa as well as implement the 2016 AU Common African Position in Humanitarian Effectiveness and the AU Humanitarian Policy Framework,

Reaffirm our commitment to effectively address the humanitarian challenges in Africa, through the establishment and speedy operationalization of the African Humanitarian Agency, and to provide it with all necessary resources, which will facilitate an effective and holistic African response towards the humanitarian needs on the continent,

Resolve to engage the international community and all stakeholders to support Africa's efforts in dealing with humanitarian challenges,

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Hereby declare to undertake the following:

1. On Humanitarian Challenges in Africa

- (a) *Increase* investments in preventive intervention through early warning and anticipatory actions as a means to save lives and protect livelihoods;
- (b) *Strengthen* the continental frameworks, tools and guidelines that will ensure protection, humanitarian assistance and sustainable solutions to climate induced displacements in Africa;
- (c) *Reinvigorate* creative measures for the achievement of durable solutions to protracted displacement situations, including the speedy signature, ratification and implementation of relevant AU and international legal instruments;
- (d) *Respect and ensure respect for* international humanitarian law in conflict situations both by States and non-State actors;
- (e) *Prioritize* the sensitization of military personnel in the treatment of the most vulnerable, especially women and children, as responders to humanitarian emergencies during conflict situations, especially in line with international humanitarian law standards, codes and conduct;
- (f) *Establish* clear and concise monitoring and evaluation, data collection and reporting frameworks, tools and guidelines for refugees, asylum seekers and IDPs;
- (g) *Ensure* timely and inclusive humanitarian response mechanisms to humanitarian crises when they occur and address the root causes of forced displacement including conflicts, terrorism, disasters, climate change and unconstitutional change of government;
- (h) *Conscious* of national security dynamics posed by the prolonged reception of refugee communities, as well as the environmental degradation and resource conflict that can be caused by large refugee population, and the debt crisis in Africa which limits the fiscal space available to African countries to provide safety nets for their own citizens as well as the large refugee population;
- (i) *Call for* the documentation of Africa's contributions on humanitarian action relevant to the preservation of international peace and security, and the creation of an African Humanitarian Support Index to monitor, evaluate, and record Africa's endeavour. Further calls for the definition of a compensatory index that values and aggregates host country's contributions to refugees/migrant situations;

2. On Climate Change, Disasters and Forced Displacement in Africa

- (a) *Demonstrate* strong commitments and establish governance systems at national, regional, and continental levels, including through the establishment of relevant frameworks, policies, guidelines and tools of a continental civilian capacity for disaster preparedness and response to address disasters and displacements of people affected by climate change;
- (b) *Enhance* the capacity of State institutions in preparedness and response efforts, given that humanitarian needs are expected to increase due to extreme weather events such as challenges of droughts in the Horn of Africa, the Sahel and the Southern region;
- (c) *Increase* investments in multi-hazard early warning and early response systems and prevention strategies focusing on disaster risk reduction as provided for in the Sendai Framework;
- (d) *Call on* Member States and other stakeholders to work towards multisector and well-coordinated

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approaches that reinforce complementarity and inclusive planning from all stakeholders;

(e) *Call upon* States parties to the international conventions and treaties on climate change including the UNFCCC, the Kyoto Protocol and the Paris Agreement to uphold their commitments in availing adaptation finance, technology transfer and means of implementation of climate actions, within the framework of common but differentiated responsibilities, to avoid any secondary consequences;

(f) *Welcome* the Arab Republic of Egypt's hosting COP27 on behalf of Africa in November 2022, extend full support and encourage Member States to use the opportunity to voice Africa's interest and highlight challenges of climate change and natural disasters and their impact on displacements in Africa;

(g) *Establish* an African alliance, based on experience sharing and coordinated actions, regionally and continentally, to address climate change through the implementation of relevant African initiatives to strengthen resilience measures and adaptation on the continent;

(h) *Engage* the various partners concerned to accelerate the reduction of greenhouse gas emissions and to ensure an adequate transfer of technologies within the framework of partnerships for a sustainable resilience of the continent in the face of the various physical effects of extreme weather events;

3. On Food Security and Nutrition Situation in Humanitarian Situations in Africa

(a) *Address* the underlying deep-rooted causes of food insecurity and malnutrition;

(b) *Prioritize* investments in food and nutrition security data and information systems;

(c) *Establish* social protection safety nets that are inclusive and nutrition-sensitive which should be adapted and strengthened to meet the needs of communities affected by crises;

(d) *Identify* preventive and adaptative approaches that focus on enabling communities to cope with the adverse effects of climate change, support small holder farmer support including women and youth as part of addressing agriculture inequalities, and transformation of the agricultural sector to provide continuous food supply and quality for Africa;

(e) *Actively engage* local actors at the community level in identifying the needs and durable solution to food security and nutrition challenges, including those that focus on building communities' resilience;

(f) *Promote* multifaceted approaches that focus on increased investment for nutrition as well as effective implementation of policies and strategies, that lead to long-term development including eradication of poverty;

(g) *Build* a sustainable and resilient agri-food system to ensure food sovereignty;

(h) *Revitalize* the Comprehensive African Agriculture Development Programme (CAADP) and mobilize resources to achieve the programme's goals in developing Member States' capacities in boosting agricultural productivity;

(i) *Encourage* the implementation of the Maputo and Malabo Declarations under the flagship of the CAADP for food sovereignty in Africa;

(j) *Call for* support for the operationalization of African adaptation initiatives, in particular the Adaptation of African Agriculture and the three climate commissions created on the side lines of COP22 in Marrakech, which are dedicated to conducting a continental policy of sustainable development to reduce the risks of disasters and develop early warning systems;

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4. On COVID-19 and Health Challenges in Humanitarian Space in Africa

- (a) *Implement* the many lessons learned from the COVID-19 and Ebola responses as well as other pandemics experienced in Africa. One of these lessons is that investment in healthcare systems is a critical instrument to secure economic development;
- (b) *Highlight* the importance of boosting the African continent infrastructure and capabilities in vaccine manufacturing and the technology transfer to enable the continent to face any upcoming future health emergencies;
- (c) *Strengthen* logistics and supply chain in humanitarian crises, in order to increase access to health services to migrants, displaced persons, and refugees in remote and difficult to reach areas;
- (d) *Ensure* that health systems are more “migrant-sensitive” by including refugees and displaced persons and provide an opportunity for multisectoral engagement;
- (e) *Ensure* that humanitarian health policies and health responses provide inclusive, equitable, affordable, and timely interventions for migrants, refugees and displaced persons as well as facilitate access to essential health services including health education, disease prevention, and palliative health services;
- (f) *Prioritize* maintaining a minimum information and health care package for reproductive health, maternal health care including emergency obstetric services, prenatal and postnatal care as well as prevention, treatment, care, and support for sexually transmitted infections including HIV, victims of human trafficking, specialized care for survivors of sexual violence among women and children as the most vulnerable displaced populations;
- (g) *Prioritize* social protections and health insurance as an important instrument to achieve universal access to key health and social services, including basic primary health care, health education, nutrition, and environmental health;
- (h) *Strengthen* the Africa CDC to respond to health crises, strengthen the public health workforce in humanitarian settings and strengthen community health systems;
- (i) *Support* the establishment of the Africa Medicines Agency (AMA) as an important agency that will ensure quality and safety of medical and pharmaceutical technologies/products as well as provide for equitable access and affordable medicine including to migrants, refugees, and displaced persons;
- (j) *Strengthen* health information systems through research, data collection and data analysis;
- (k) *Advocate* for greater financing for health in fragile settings and equitable supply of COVID-19 vaccines, vaccine manufacturing, and vaccine procurement from African vaccine manufacturers;
- (l) *Always ensure* that the safety of health care workers who are at the front line is paramount to the continuity of health services delivery to the society and even more so in the humanitarian context where communities are already faced with limited access to health care;
- (m) *Enhance* public health communications, community engagements and accountability approaches, that are vital to encourage acceptance of public health measures among communities;
- (n) *Ensure* that essential health services especially for women and children are fully gender sensitive and geared towards meeting their specific needs;

5. On Post-Conflict Reconstruction and Development for Refugees and Internally Displaced Persons in Africa

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- (a) *Ensure* that recovery and reconstruction efforts in post-conflict societies address the demobilization, disarmament, and reintegration of former combatants, the return and reintegration of displaced populations, and grassroots level reconciliation;
- (b) *Invigorate* measures for the achievement of durable solutions to protracted situations of displacement, including in tackling root causes of forced displacement, especially the growing challenges of terrorism and unconstitutional changes of government;
- (c) *Develop* regional emergency response plans for refugee and migrant hosting countries, including through their respective Regional Economic Communities, since most refugees' crises are a result of regional conflicts or directly impact the stability of the regions;
- (d) *Utilize* the capacities and skills of the affected people as innovative approaches in designing, implementing, monitoring and evaluating development-oriented humanitarian programmes;
- (e) *Strengthen* capacities of Member States faced with climate disasters to implement preventive measures and early warning responses to ensure that Africa remains a strong and resilient continent;
- (f) *Strengthen* the African Union Post-Conflict Reconstruction and Development (AU PCRD) Centre in Cairo, Egypt, to effectively implement AU PCRD programmes and projects addressing humanitarian and emergency responses on the continent;
- (g) *Promote* post-conflict reconstruction and development programmes that play a critical role in the humanitarian response with regard to saving lives and sustaining lives, maintaining basic human dignity, ensuring the ability of State institutions to protect civilians and deliver adequate social services, supporting the return and reintegration of displaced populations, and helping resuscitate socio-economic activities, particularly in the immediate post-conflict, stabilization and post-crisis situations;
- (h) *Mobilize* resources necessary for creating conducive conditions for supporting the return, readmission, rehabilitation, and reintegration of refugees voluntarily returning to their country of origin;
- (i) *Ensure* gender mainstreaming in PCRD initiatives, policies, programmes and activities at national, regional and continental levels;
- (j) *Stress* the importance of building bridges between humanitarian and development projects;
- (k) *Highlight* the legal responsibility of host countries in the process of registering refugees and internally displaced persons, in order to avoid any exploitation of refugees;

6. On Resource Mobilization and Financing for Humanitarian Action in Africa

- (a) *Allocate* sufficient resources for the African Humanitarian Agency to enable it to execute its strategic mandate and for effective and timely responses to humanitarian crisis situations and needs on the continent;
- (b) *Recall* Executive Council Decision EX.CL/567 (XVII) adopted during its Seventeenth Ordinary Session in July 2010 in Kampala, Uganda, to "increase Member States contribution to the Refugees and IDP's Fund from 2 per cent to 4 per cent of the operational budget of the Commission gradually with effect from 2023 and request the PRC through its Advisory Subcommittee on Administrative, Budgetary and Financial Matters to work out modalities for its implementation";
- (c) *Direct* humanitarian financing towards the humanitarian-development-peace nexus to address the needs by providing durable solutions that are focused on prevention strategies and sustainable development strategies at community, national, regional, and continental levels;

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- (d) *Promote* strategic partnerships in resource mobilization and burden sharing and identify other non-traditional financing mechanisms beyond the “traditional” mechanisms to complement the limited humanitarian resources;
- (e) *Strengthen* partnerships with the international and regional financial institutions and the private sector in humanitarian action with an aim of enhancing greater partnerships in resourcing of humanitarian products and services within Africa, promote intra-Africa trade and eventually lead to increased capacities of African manufacturers to produce high standard products;
- (f) *Use* the Malabo Pledging Conference and continue to mobilize predictable, reliable and sustainable resources for humanitarian action based on the spirit of Pan-Africanism and solidarity to support countries and communities’ large numbers of displaced populations and also to target the affected populations to enable them to cope and rebuild their lives during and after situations of displacement;
- (g) *Work* with the international community, United Nations agencies, multilateral development banks, donor countries and other partners to share the burden of humanitarian assistance, particularly for IDPs and refugees, by supporting Africa’s humanitarian, peace, and development strategies;

7. Follow-up

- (a) *Call on* the AU Commission to follow up on pledges made during the Fifteenth Extraordinary African Union Humanitarian Summit and Pledging Conference that took place on 27 May 2022, in Malabo, Equatorial Guinea, attached as an annex to this Declaration and report to the Thirty-sixth Ordinary Session of the Assembly;
- (b) *Establish* a humanitarian support index to monitor and illuminate the contributions of AU Member States and partners in addressing the growing humanitarian crises and hosting of refugees on the continent;
- (c) *Formulate* a plan of action for the implementation of the outcomes of this Extraordinary Humanitarian Summit and Pledging Conference and regularly report to the Assembly.

PART IX

DEMOCRACY AND GOOD GOVERNANCE

1. DECLARATION ON FUNDAMENTAL CHANGES IN THE WORLD

1.

DECLARATION ON THE POLITICAL AND SOCIO-ECONOMIC SITUATION IN AFRICA AND THE FUNDAMENTAL CHANGES TAKING PLACE IN THE WORLD (AHG/Decl.1 (XXVI))

Adopted in Addis Ababa, Ethiopia, on 11 July 1990.

1. We, the Heads of State and Government of the Organization of African Unity, meeting at the Twenty-sixth Ordinary Session of our Assembly in Addis Ababa, Ethiopia, from 9 to 11 July 1990, have undertaken a critical review of the political, social and economic situation of our continent, in the light of the rapid changes taking place in the world and their impact on Africa, as presented in the Report of the Secretary-General on the Fundamental Changes Taking Place in the World and Their Implications for Africa: Proposals for an African Response.

2. In particular, we have noted the changing East-West relations from confrontation to cooperation, the socio-economic and political changes in Eastern Europe, the steady move towards the political and monetary union of Western Europe, the increasing global tendency towards regional integration and the establishment of trading and economic blocks, as well as the advances in science and technology. These, we found, constitute major factors which should guide Africa's collective thinking about the challenges and options before her in the 1990s and beyond in view of the real threat of marginalization of our continent.

3. We noted with satisfaction the achievements of Africa in the struggle for the decolonization of the continent and in the fight against racism and apartheid as well as the positive role played by the OAU in this respect. The independence of Namibia has pushed further Africa's frontiers of freedom.

4. We took note of the measures taken by Mr. De Klerk, which provide ground for optimism. We cautioned, however, that these changes fall far short of our common objective of totally dismantling apartheid. Unless, and until, the racist minority government is irreversibly committed to the eradication of this anachronistic system, the international community must continue to exert all forms of pressure including, in particular, economic sanctions against South Africa. This, in our collective view, is also the desire of the national liberation movement of that country. We wish at the same time to confirm our solidarity with the oppressed people of South Africa and to assure them of our undivided support at this crucial phase in their struggle. At the same time, we urge them to close their ranks and unite their forces.

5. The socio-economic situation on our continent remains precarious today despite the many efforts made by our countries, individually and collectively. At our Second Extraordinary Assembly in Lagos, Nigeria, in April 1980, we adopted the Lagos Plan of Action for the economic development of Africa up to 2000 and the Final Act of Lagos. At the Twenty-first Ordinary Session of our Assembly held here in Addis Ababa in July 1985, we also adopted Africa's Priority Programme for Economic Recovery 1986-1990. Equally, in the face of the excruciating external debt burden, we convened the Third Extraordinary Session of our Assembly and adopted the African Common Position on Africa's External Debt Crisis. In all these endeavours, we were guided by the principle of collective self-reliance and self-sustaining development.

6. These represented our collective attempt to institute measures to arrest and reverse the steady decline in Africa's economic performance. Despite these attempts and strong political commitment to them, it has not, so far, been possible to achieve our objective of laying a firm foundation for self-sustained development of our countries. On the contrary, throughout the decade of the 1980s most of our productive and infrastructural facilities continued to deteriorate. The per capita incomes of our peoples fell drastically and so did the volumes of our exports as well as imports. There has been a sharp decline in the quality of life in our countries as spending on public health, housing and education and other social services had to be severely curtailed. Food production has also fallen compared to the expanding population. All this contrasted sharply with the alarming rise in Africa's external debt stock which shot up from about 60 billion US dollars in 1980 to about 257 billion US dollars by the

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end of 1989. As a result of this combination of acute economic problems and external indebtedness, the number of African Member States classified as least developed increased from 21 to 28 during the same period.

7. Our countries have made serious efforts to cope with the most adverse consequences of this difficult economic situation. Most of our countries have entered into structural adjustment programmes with the international financial and monetary institutions – mostly at heavy political and social costs. But we realize that these are short-term measures and are by themselves insufficient to completely restore our economies to sound footing and lay firm foundation for future growth. We are very much concerned that, in addition to these problems, there is an increasing tendency to impose conditionalities of a political nature for assistance to Africa.

8. We reaffirm that Africa's development is the responsibility of our governments and peoples. We are now more than ever before determined to lay solid foundation for self-reliant, human-centered and sustainable development on the basis of social justice and collective self-reliance, so as to achieve accelerated structural transformation of our economies. Within this context, we are determined to work assiduously towards economic integration through regional cooperation. We are also determined to take urgent measures to rationalize the existing economic groupings on our continent in order to increase their effectiveness in promoting economic integration and establishing an African Economic Community.

9. These are objectives we set for ourselves in Lagos in 1980. We reaffirm their continued validity as well as the fundamental principles of the Lagos Plan of Action and Africa's Priority Programme for Economic Recovery, including the sectoral priorities contained in them, in particular, the urgent need to attain self-sufficiency in food production, to promote science and technology for development and, to establish a viable industrial base on the continent. In this context, we commit ourselves to the pursuit of sound population and environmental policies conducive to economic growth and development of our continent.

10. We are fully aware that in order to facilitate this process of socio-economic transformation and integration, it is necessary to promote popular participation of our peoples in the processes of government and development. A permitting political environment, which guarantees human rights and the observance of the rule of law, would ensure high standards of probity and accountability, particularly on the part of those who hold public office. In addition, popular-based political processes would ensure the involvement of all including, in particular, women and youth in the development efforts. We accordingly recommit ourselves to the further democratization of our societies and to the consolidation of democratic institutions in our countries. We reaffirm the right of our countries to determine, in all sovereignty, their system of democracy on the basis of their sociocultural values, taking into account the realities of each of our countries and the necessity to ensure development and satisfy the basic needs of our peoples. We therefore assert that democracy and development should go together and should be mutually reinforcing.

11. We realize at the same time that the possibilities of achieving the objectives we have set will be constrained as long as an atmosphere of lasting peace and stability does not prevail in Africa. We therefore renew our determination to work together towards the peaceful and speedy resolution of all the conflicts on our continent. The resolution of conflicts will be conducive to the creation of peace and stability on the continent and will also have the effect of reducing expenditures on defence and security, thus releasing additional resources for socio-economic development. We are equally determined to make renewed efforts to eradicate the root causes of the refugee problem. It is only through the creation of stable conditions that Africa can fully harness its human and material resources and direct them to development.

12. At this crucial juncture when our continent is emerging, with difficulty, from a phase in its history that focused mainly on political liberation and nation-building, and is about to embark on a new era laying greater emphasis on economic development, we need to strengthen the Organization of African Unity so that it may also become a viable instrument in the service of Africa's economic development and integration. Consistent with this goal, we rededicate ourselves to the principles and objectives enshrined in its Charter, to our faith in ourselves and to our continent, with greater determination to be masters of our destiny. In this spirit, we reaffirm our commitment to revive the ideals of Pan-Africanism and commit ourselves, individually and collectively, on behalf

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of our governments and peoples to maintain and strengthen our unity and solidarity and. to pool our resources and wisdom in order to face the challenges of the decade of the 1990s and beyond, change the bleak socio-economic prospects of our continent and guarantee a better life for all our peoples and future generations yet unborn. These objectives are well within our capabilities. We, therefore, pledge to apply ourselves fully to the achievement of these objectives.

13. The achievement of these objectives will also require international cooperation and solidarity as well as fundamental changes in the international economic system. The continuing plummeting of the prices of Africa's commodities, skyrocketing of prices of manufactured goods and the growing burden of external debt and the attendant reverse flow of resources constitute external factors which severely constrain our efforts for economic recovery. The developed countries bear a major responsibility for the transformation of the present inequitable international system. On our part, we will continue to strive for the establishment of a just and equitable international economic system. In this connection, a revitalized Non-Aligned Movement can play a decisive role.

14. We recommit ourselves to strengthen the South-South cooperation and to play a leading role in this regard. We also wish to express our readiness to work in concert with other countries and regions of the developing world, to reactivate North-South dialogue and cooperation. We do believe that an increasingly interdependent world calls for greater international solidarity and that peace and prosperity should be shared for the common good of humanity.

15. We request the Secretary-General to monitor the implementation of this Declaration and to take all necessary actions in this respect, in collaboration with the United Nations Economic Commission for Africa, the African Development Bank and other African and international institutions. We also request him to ensure the widest possible dissemination of this Declaration and to sensitize African public opinion and the international community on its content.

2.

ALGIERS DECLARATION (AHG/Decl.1 (XXXV))

Adopted in Algiers, Algeria, in July 1999.

We, the Heads of State and Government of the Member States of the Organization of African Unity, meeting in Algiers, Algeria, from 12 to 14 July 1999, solemnly declare as follows:

The end of the second millennium represents for Africa, the demise of an era characterized by colonization and its tragic trail of domination, plunder and negation of the African personality. We welcome this development and affirm our resolve to strive towards ensuring that Africa and mankind as a whole are never again subjected to such an experience so demeaning to the human dignity.

Through huge sacrifices and heroic struggles, Africa has broken the colonial yoke, regained its freedom and embarked upon the task of nation building. This achievement constitutes for us a source of profound and legitimate pride, as these struggles have not only crystallized the determination of our peoples, who made the greatest sacrifices to assert their existence and their legitimate rights, but also have contributed significantly in inculcating in the peoples and nations of the continent the universal principles of the right of peoples to be the architect of their own destiny, the right to self-determination and independence, as well as the principle of the sovereign equality of States and their right to development.

It is therefore with the most profound respect that we bow to the memory of all the martyrs of Africa whose supreme sacrifice has paved the way for the continent to regain its freedom and dignity. We pay tribute to the sons and daughters of our continent who laid down their lives for its political and economic emancipation, and for the restoration of its identity and civilization, under conditions of extreme adversity.

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This is evidenced by the legacy of conflict situations which, like many time bombs, exist here and there on the continent, coupled with problems arising from an economic infrastructure geared exclusively to satisfying the needs of the colonial metropolis, problems emanating from a political/administrative organization rooted in authoritarianism and ethnic divisions, widespread illiteracy and extreme marginalization of the African peoples – so many problems whose magnitude has been exacerbated by the climate of the cold war and the negative impact of a basically unfair international economic system.

All these problems constitute an unwieldy heritage whose cumulative effects have been, and continue to be, for the most part, the root cause of the numerous conflicts, crises, poverty and underdevelopment weighing heavily on the overwhelming majority of the peoples of Africa.

We do not intend, by the aforesaid, to shirk our own responsibility for the problems and difficulties still bedeviling our countries and the continent in general; rather, we wish to underscore the immensity of the efforts exerted by our respective countries, individually and collectively, to overcome the problems inherited from colonization, ensure peace and stability on the continent, consolidate the hard-won national sovereignty, establish stable State institutions and promote an equitable and fair economic and social development in our countries.

Inspired by its intrinsic ancestral values, Africa was able to muster the strength and determination to assert its existence and take up all these challenges. Equally inspired by this same spirit and these same values, we commit ourselves to face up to the new and formidable challenges which today confront our continent.

We are deeply convinced that the Organization of African Unity has played an irreplaceable role in the affirmation of political identity and the realization of the unity of our continent. We hail the pioneering work of our founding fathers, and commit ourselves to further this accomplishment, and to continue to make the OAU the vital instrument of our collective action both within Africa and in our relations with the rest of the world.

Convinced that respect for the principle of inviolability of the borders inherited at independence contributed decisively to the preservation of peace and stability on our continent, we reaffirm its validity and permanence as a fundamental norm applicable in the settlement of border disputes.

We hail Africa's concerted action in ensuring that the process of decolonization of the continent is brought to a successful conclusion. In this regard, we reiterate our support for the speedy implementation of the United Nations-led Peace Plan in the Western Sahara in cooperation with the OAU.

We also reaffirm our determination to promote the use of peaceful means in the resolution of conflicts, in conformity with the principles of sovereign equality, non-interference, non-recourse to threats or the use of force, and of the independence, sovereignty and territorial integrity of States.

In this respect, we believe that the OAU Mechanism for Conflict Prevention, Management and Resolution is a valuable asset for our continent which must be nurtured and consolidated. This mechanism, which symbolizes the concrete resolve of our continent to fully assume its responsibilities, does not exonerate the United Nations from its obligations under the Charter of the United Nations as far as the maintenance of international peace and security is concerned.

We believe that youth and women's commitment and participation can contribute towards creating an enabling environment which conduces towards a culture of peace and tolerance.

To that end, we reiterate our commitment to the Global Plan of Action on Youth and the African Platform for Action, which is an integral part of the Global Platform for Action for the Advancement of Women, as an appropriate framework for creating a more egalitarian society.

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We also reaffirm our determination to work relentlessly towards the promotion of the rights and welfare of the child, and our commitment to combat all forms of child exploitation, and, in particular, put an end to the phenomenon of child soldier.

We believe that human rights have undergone major positive changes since the independence of African countries. The liberation movements of our peoples, the efforts of our countries and of the OAU to codify and implement these rights, as well as the current dynamic process of establishing new democratic spaces in Africa have contributed to a very large extent to these changes. The African Charter on Human and Peoples' Rights and the Protocol on the African Court on Human and Peoples' Rights as well as the Declaration and the Plan of Action, recently adopted in Mauritius, eloquently testify to Africa's contribution to the promotion and protection of the noble cause of human rights. We, however, recognize that much remains to be done to bring these developments to the level of our own expectations and the legitimate aspirations of our peoples. We are aware of these limitations and are determined not to relent in our efforts to transcend them.

In this spirit, we reiterate our commitment to the protection and promotion of human rights and fundamental freedoms. We emphasize the indivisibility, universality and interdependence of all human rights, be they political and civil or economic, social and cultural, or even individual or collective. We call upon the international community to ensure that they are not used for political purposes.

We are convinced that the increase in, and expansion of, the spaces of freedom and the establishment of democratic institutions that are representative of our peoples and receiving their active participation would further contribute to the consolidation of modern African States underpinned by the rule of respect for the fundamental rights and freedoms of the citizens and the democratic management of public affairs.

Despite the hopes generated by the end of the cold war and the attendant prospects of peace, development and integration in the world economy, we note that the post-cold war era is fraught with new and grave uncertainties, serious risks of marginalization and new challenges that pose numerous threats to our continent.

On the occasion of the Algiers summit, the last summit of this millennium, we would like to highlight the most important of these new challenges.

First, globalization is undoubtedly the most widespread of these challenges. Ushered in with promises of progress and prosperity for all, it has today aroused fears in that it poses serious threats to our sovereignty, cultural and historical identities as well as gravely undermining our development prospects. We believe that globalization should be placed within the framework of a democratically conceived dynamics, and implemented collectively to make it an institution capable of fulfilling the hope for a concerted development of mankind and prosperity shared by all peoples.

Secondly, we note with grave concern, the growing marginalization of the United Nations and its role under the Charter for the maintenance of international peace and security and the promotion of international cooperation for development. We declare that the unilateral use of force in international relations, outside the duly conferred mandate of the United Nations Security Council, opens the way to practices inimical to world peace and security.

We reaffirm our commitment to respect for the major role and responsibilities of the United Nations and its Security Council in the maintenance of international peace and security. In this connection, we, once again, call for a genuine democratization of international relations based on the active participation and a balanced consideration of the legitimate concerns of all nations. We call, in particular, for the democratization of the United Nations and its Security Council, and the recognition of Africa's legitimate place within this organ.

The need for democratization equally applies to other international institutions including, particularly, the International Monetary Fund and the International Bank for Reconstruction and Development.

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Thirdly, we believe that the nuclear disarmament issue and the elimination of other weapons of mass destruction remain a challenge and a crucial urgent problem facing the international community, and to which a definitive and lasting solution can be found only through general and comprehensive disarmament under strict and effective international control. Africa has always demonstrated its readiness to bring its contribution to bear on this process, as evidenced by the conclusion and implementation of the Pelindaba Treaty. This important step taken by Africa should be complemented by the establishment of a zone free of nuclear weapons in the Middle East taking into account the interdependence between the security in both regions.

We believe that illegal movement, proliferation and trafficking of light weapons constitute another threat to the peace and security of the continent, and we commit ourselves to combat this scourge and lend our support to the regional and international mechanisms charged with preventing and combating this phenomenon.

Fourthly, we underscore the fact that new forms of threat to the stability of societies and the life of individuals, such as terrorism, drug trafficking, and organized crime, also dangerously affect Africa and we call for a collective effort to address them. To this end, we call for the creation of appropriate mechanisms for the eradication of the phenomena of corruption, as well as arms and drug trafficking.

Indeed, terrorism, which is a transnational phenomenon, represents today a serious challenge to the values of civilization and a flagrant violation of human rights and fundamental freedoms. It also poses serious threats to the stability and security of States and their national institutions as well as to international peace and security. While reiterating our profound attachment to the struggle waged by peoples for freedom and self-determination, in conformity with the principles of international law, we call for an effective and efficient international cooperation which should be given concrete expression, under the auspices of OAU, through a speedy conclusion of a global international convention for the prevention and control of terrorism in all its forms and the convening of an international summit conference under the auspices of the United Nations to consider this phenomenon and the means to combat it. Africa wants to make its full contribution by adopting its own convention on this matter.

Fifthly, we note that the current trends in the world economy do not augur well for Africa or for the great majority of developing countries.

Thus, despite the tremendous efforts invested by our countries to reorganize and restructure their economics at a very high social cost, our economies are increasingly facing a serious deterioration of the terms of trade, a decline in international development cooperation, a continuous fall in official development aid, an exacerbation of the external debt problem and the resurgence of protectionism on the part of the developed countries.

We, for our part, strongly believe that the promotion of economic cooperation and integration for the establishment of the African Economic Community as provided for under the Abuja Treaty will help consolidate the efforts being deployed by our countries to revive and develop their economies and to address the major problems facing Africa, notably problems of refugees and poverty, illiteracy and pandemics including the scourge of AIDS, as well as environmental problems, namely, water and desertification-related issues and threats to biodiversity.

At the dawn of the third millennium, we the Heads of State and Government of Member States of the Organization of African Unity solemnly affirm our determination to fully assume our responsibilities to take up all these challenges. We recognize, however, that the solutions to these challenges depend, to a large extent, on the collective will and the pooling of efforts and resources of the entire international community.

In this connection, we call for a mutually beneficial and genuine international partnership; a partnership based on a balance of interests and mutual respect; a partnership, the most crucial and immediate ingredients of which are the genuine democratization of international relations, the renewal of multilateralism and consolidation of its instruments, the reorganization of international cooperation based on sustained interdependence and the decline in national egoism, and, lastly, the establishment of a security system designed and functioning with the participation and involvement of all nations.

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While expressing satisfaction at the various cooperation initiatives and approaches in favour of Africa, we reaffirm our readiness and willingness to promote, with all our partners, a genuine partnership devoid of any selfish calculations for influence; a partnership that respects the unity of the continent and aims at the development of Africa, rather than using it as a mere reservoir of raw materials and market for manufactured goods; a partnership that enables Africa to achieve its integration, ensure its development for the benefit of its peoples and occupy its rightful place on the international scene for the mutual and inclusive benefit of the international community as a whole.

Together, let us enter the third millennium with a genuine spirit of cooperation, with restored human dignity and a common hope in an interdependent future for mankind. In this process, Africa, which is prepared to be the master of its destiny, will shoulder its share of responsibility.

3.

LOMÉ DECLARATION (AHG/Decl.2 (XXXVI))

Adopted in Lomé, Togo, in July 2000.

We, the Heads of State and Government of the Organization of African Unity (OAU), meeting at the Thirty-sixth Ordinary Session of our Assembly in Lomé, Togo, from 10 to 12 July 2000,

Firmly committed to the fundamental principles and objectives of the OAU Charter adopted by the founding fathers, namely, political independence, respect for the sovereignty and territorial integrity of States, promotion of peace, security, cooperation, development and human and peoples' rights,

Conscious of the persistence of conflict situations and acts of violence which are seriously undermining the security and stability of our States, and gravely hampering our development efforts,

Convinced of the need to work towards the maintenance of regional and international peace and security, in accordance with the United Nations and OAU Charters,

Noting with concern that the reform of the Security Council aimed at aligning its membership and functioning to new exigencies is long overdue,

Deploring the fact that the international community has not always accorded due attention to conflict management in Africa, as it has consistently done in other regions of the world, and that the efforts exerted by Africans themselves in the area of peacekeeping, as provided for under Chapter VII of the United Nations Charter, are not given adequate financial and logistical support,

Gravely concerned by the growing number of refugees and displaced persons on the African continent, as a result of all these conflicts,

Also deploring the growing deterioration of the prices of raw materials and the obstacles militating against access of African countries to international trade,

Further gravely concerned by the negative effect of indebtedness on African economies and by the persistent decline of official development assistance (ODA) and investments in our countries,

Recognizing that Africa's progress and economic and social development are contingent upon the integration of African economies, as stipulated in the Abuja Treaty Establishing the African Economic Community,

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Considering the imperative need to strengthen African economies in order to enable them to benefit from the globalization process,

Stressing the importance of the international community's contribution to efforts by African States for sustainable development, a prerequisite for peace and security,

Further stressing the importance of technology transfer for Africa's industrial development,

Further recognizing that misery, poverty, hunger, disease, injustice, illiteracy and war constitute major impediments to the development and advancement of our peoples,

Recalling the importance of education, training and capacity-building in Africa's development process,

Also recognizing the preponderant place and role of African women in the economic, social, human and cultural development, as well as in the edification of a harmonious and prosperous African society,

Further considering that cross-border criminality, illicit proliferation, circulation and trafficking of small arms and light weapons, drug trafficking, corruption and terrorism constitute serious threats to security and stability, and hamper the harmonious economic and social development of the continent,

Bearing in mind our Decision AHG/Dec.137 (XXXV) of July 1999 on the illicit proliferation, circulation and trafficking of small arms and light weapons,

Further noting with concern that the plight of millions of African children is worsening by the day due to war, their conscription for armed conflicts and their abusive exploitation in many respects,

Further recalling the need to implement the United Nations Convention on the Rights of the Child and the African Charter on the Rights and Welfare of the Child,

Also gravely concerned by the widespread incidence of HIV/AIDS and the ravages caused by other pandemics, such as malaria, which seriously undermine Africa's development efforts,

Further concerned with the devastating effects of natural disasters in Africa on the lives of the peoples and on the national and regional economies,

Aware that development, democracy, respect for fundamental freedoms and human rights, good governance, tolerance, and a culture of peace are essential prerequisites for the establishment and maintenance of peace, security and stability,

Further convinced that cultural diversity and dialogue among civilizations are sources of enrichment and progress,

Reiterating our faith in the Sirte Declaration of 9 September 1999,

1. *Reaffirm* our strong resolve to make the year 2000, a year of peace, security and solidarity in Africa, in accordance with Declaration AHG/Decl.2 (XXXV) which we adopted at our Thirty-fifth Ordinary Session held in Algiers, Algeria, from 12 to 14 July 1999;
2. *Commit* ourselves to intensify our actions for peace, and to support efforts aimed at the peaceful settlement of conflicts in Africa, particularly through the strengthening of the OAU Mechanism for Conflict Prevention, Management and Resolution, and of African capacities for conflict management and the maintenance of peace and security;

3. LOMÉ DECLARATION

3. *Strongly advocate* cooperation in the area of peacekeeping and security between the United Nations, the Organization of African Unity and African regional organizations;
4. *Recognizing* the expansion of United Nations peacekeeping activities and the need for adequate resources for rapid and efficient deployment of peacekeeping operations, we affirm the importance of taking necessary steps to ensure an adequate system of financing for all United Nations peacekeeping activities;
5. *While recalling* that maintenance of international peace and security is the primary responsibility of the United Nations Security Council, we urge the United Nations and the international community to pay necessary attention to the management and resolution of conflicts in Africa and actively support the initiatives deployed under Chapter VII of the United Nations Charter;
6. *Reaffirm further* the need to pursue efforts aimed at achieving comprehensive and complete disarmament, including nuclear disarmament, as a means of attaining the objectives of regional and international peace and security;
7. *Commit ourselves further* to tackle the root causes of the problem of refugees and displaced persons, and to create conditions conducive to voluntary repatriation of refugees and return of displaced persons to their places of origin;
8. *Are determined* to preserve Africa as a nuclear-free zone in conformity with the Pelindaba Treaty signed in Cairo, Egypt, on 11 April 1996, and reaffirm our resolve to leave no stone unturned to ensure the early entry into force of this treaty;
9. *Commit ourselves also* to resolutely combat cross-border criminality, illicit proliferation, circulation and trafficking of small arms and light weapons, drug trafficking, corruption and terrorism;
10. *Welcome* the moratorium on import, export and manufacture of small arms and light weapons in Africa introduced by ECOWAS Member States and encourages the establishment of similar mechanisms in other regions;
11. *Emphasize* the need for African States to take an active part in the 2001 World Conference on Illicit Trade in Small Arms and Light Weapons in All Its Aspects;
12. *Solemnly appeal* to Member States to speed up the ratification process of the OAU Convention on the Prevention and Combating of Terrorism signed in Algiers, Algeria, on 14 July 1999;
13. *Reiterate* our determination to continue to promote respect and protection of human rights and fundamental freedoms, democracy, rule of law and good governance in our countries;
14. *Reaffirm also* the imperative need to accelerate the reform of the United Nations Security Council, and ensure that its membership is more reflective of the universality of the Organization, a prerequisite for its increased credibility;
15. *Are firmly resolved* to hasten the African integration process, particularly through:
 - Dynamic cooperation among the Regional Economic Communities;
 - Enhancement of intra and interregional trade, and
 - Rationalization and optimum use of the regional training and capacity-building centres in Africa in conformity with the 1991 Abuja Treaty Establishing the African Economic Community;

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16. *Recall with satisfaction* the successful holding from 3 to 4 April 2000, of the Africa-Europe Summit in Cairo, Egypt, as a historic effort to strengthen cooperation and develop a new strategic partnership between the two continents and urge that efforts be sustained to implement the decisions contained in the Cairo Declaration and Plan of Action;
17. *Further reaffirm* our commitment to the Libreville Summit Declaration and Plan of Action and the Social Summit of Copenhagen on the increase of poverty and its reduction in Africa and reiterate our pledge to implement this plan of action;
18. *Call on* the industrialized countries to take more purposeful and innovative initiatives aimed at the total cancellation of the debt owed by African countries;
19. *Agree* to reinvigorate the OAU Contact Group on Africa's External Debt in order to continue to search for suitable solutions to the excruciating debt burden;
20. *Further call on* the international community to do its utmost to ensure that globalization serves the interest of all countries without discrimination and, in particular, facilitate the effective participation of our countries in the global trade system, thereby helping us to lay the foundations for durable and equitable growth;
21. *Further reaffirm* our firm resolve to eliminate poverty, illiteracy and social inequalities in our countries, and, in this regard, support the efforts aimed at the establishment of a World Solidarity Fund;
22. *Call upon* Member States to strengthen the measures designed to implement the Programme of Action of the Decade of Education in Africa (1997-2006) and support the resolutions adopted by the Dakar UNESCO Conference on Education held from 24 to 28 April 2000;
23. *Advocate further* the establishment and promotion of the new communication and information technologies as invaluable tools for the promotion of culture, education and development;
24. *Reaffirm* finally our determination to implement all relevant United Nations and OAU declarations aimed at the rapid and definitive elimination of all forms of discrimination and violence against women and urge the greater participation of women at all levels of management of public affairs and development;
25. *Exhort* Member States to implement policies which contribute to the promotion and exercise of the rights of the child, as well as the full physical, intellectual and moral development of the child in an environment of peace, security and stability;
26. *Call on also* the international community to lend support to our efforts in the promotion of health care, particularly in the fight against malaria and AIDS, in accordance with the pertinent decisions and resolutions of the Assembly of Heads of State and Government and the Council of Ministers;
27. *Strongly support* the establishment of an African mechanism for the prevention and control of natural disasters and the strengthening of the relevant funds to mitigate their destructive effects in Africa;
28. *Reaffirming* that Africa's development devolves primarily on our governments and peoples, we are resolved to consolidate the foundations of equitable and sustainable development centred on humankind, and underpinned by viable economic policies, social justice, respect for human rights and effective management of public affairs, thereby ensuring the speedy structural transformation of our economies;
29. *To these ends*, we finally and solemnly commit ourselves to resolutely support all efforts geared to defending and promoting Africa's interests within the context of the African Union, as stipulated in the Sirte Declaration of 9 September 1999, thereby making Africa a more united, more prosperous and stronger continent, fully responsible for its own destiny.

4.

**DECLARATION ON THE FRAMEWORK FOR AN OAU RESPONSE TO
UNCONSTITUTIONAL CHANGES OF GOVERNMENT
(AHG/Decl.5 (XXXVI))**

Adopted in Lomé, Togo, in July 2000.

We, Heads of State and Government of the Organization of African Unity, meeting at the Thirty-sixth Ordinary Session of our Assembly in Lomé, Togo, from 10 to 12 July 2000 have undertaken a review of the political developments on the continent and, in particular, the state of consolidating democracy in Africa.

We express our grave concern about the resurgence of coup d'état in Africa. We recognize that these developments are a threat to the peace and security of the continent and they constitute a very disturbing trend and serious set back to the ongoing process of democratization on the continent.

We recognize that the phenomenon of coup d'état has resulted in flagrant violations of the basic principles of our continental Organization and of the United Nations. The phenomenon also contradicts and contravenes the position taken by our Organization in Harare in 1997 following the coup d'état in Sierra Leone, in which we unequivocally condemned and rejected any unconstitutional change of government. We reaffirm that coups are sad and unacceptable developments on our continent, coming at a time when our people have committed themselves to respect of the rule of law based on peoples will expressed through the ballot and not the bullet.

We recall our Decision AHG/Dec.141 (XXXV), adopted during the Thirty-fifth Ordinary Session of our Assembly, in which we unanimously rejected any unconstitutional change as an unacceptable and anachronistic act, which is in contradiction of our commitment to promote democratic principles and conditions.

We recall further the mandate by the Seventieth Ordinary Session of the Council of Ministers, held in Algiers, Algeria, in July 1997, to the Central Organ of the OAU Mechanism for Conflict Prevention, Management and Resolution to reactivate, as a matter of urgency, the subcommittee on unconstitutional change, in order to finalize its work in the light of the Harare discussions, particularly as regards the measures to apply in coup d'état situations occurring in Member States.

We reaffirm the provisions of the OAU Charter and the provisions of the African Charter on Human and Peoples' Rights.

We recognize that the principles of good governance, transparency and human rights are essential elements for building representative and stable governments and can contribute to conflict prevention.

Having reviewed the state of democracy on the continent, and bearing in mind all our previous decisions on this issue, as well as our strong determination to put an end to this unacceptable development.

We have agreed on the following elements of a Framework for an OAU Response to Unconstitutional Changes of Government:

- (a) A set of common values and principles for democratic governance;
- (b) A definition of what constitutes an unconstitutional change; and
- (c) Measures and actions that the OAU would progressively take to respond to an unconstitutional change of government; and
- (d) An implementation mechanism.

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We are of the view that there is need to provide a solid underpinning to the OAU's agenda of promoting democracy and democratic institutions in Africa. Beyond invoking relevant declarations issued by various sessions of our Assembly and the Council of Ministers, consideration could be given to the elaboration of a set of principles on democratic governance to be adhered to by all Member States of the OAU. These principles are not new; they are, as a matter of fact, contained in various documents adopted by our Organization. What is required here is to enumerate them in a coherent manner which will bear witness to our adherence to a common concept of democracy and will lay down the guiding principles for the qualification of a given situation as constituting an unconstitutional change. In this regard, and without being exhaustive, we have also agreed on the following principles as a basis for the articulation of common values and principles for democratic governance in our countries:

- (i) Adoption of a democratic constitution: its preparation, content and method of revision should be in conformity with generally acceptable principles of democracy;
- (ii) Respect for the constitution and adherence to the provisions of the law and other legislative enactments adopted by parliament;
- (iii) Separation of powers and independence of the judiciary;
- (iv) Promotion of political pluralism or any other form of participatory democracy and the role of the African civil society, including enhancing and ensuring gender balance in the political process;
- (v) The principle of democratic change and recognition of a role for the opposition;
- (vi) Organization of free and regular elections, in conformity with existing texts;
- (vii) Guarantee of freedom of expression and freedom of the press, including guaranteeing access to the media for all political stakeholders;
- (viii) Constitutional recognition of fundamental rights and freedoms in conformity with the Universal Declaration of Human Rights of 1948 and the African Charter on Human and Peoples' Rights of 1981;
- (ix) Guarantee and promotion of human rights.

We believe that the strict adherence to these principles and the strengthening of democratic institutions will considerably reduce the risks of unconstitutional change on our continent. Indeed, experience has shown that unconstitutional changes are sometimes the culmination of a political and institutional crisis linked to non-adherence to the above common values and democratic principles. Our Organization should therefore support all efforts aimed at promoting adherence to these principles.

In order to give practical effect to the principles we have enunciated, we have agreed on the following definition of situations that could be considered as situations of unconstitutional change of government:

- (i) Military coup d'état against a democratically elected government;
- (ii) Intervention by mercenaries to replace a democratically elected government;
- (iii) Replacement of democratically elected governments by armed dissident groups and rebel movements;
- iv) The refusal by an incumbent government to relinquish power to the winning party after free, fair and regular elections.

4. FRAMEWORK FOR OAU RESPONSE TO UNCONSTITUTIONAL CHANGES OF GOVERNMENT

We have also decided that:

Whenever an unconstitutional change, as provided for in the definition of unconstitutional change above, takes place in a Member State, our current Chairman of the OAU and our Secretary-General, on behalf of our Organization, should immediately and publicly condemn such a change and urge the speedy return to constitutional order. The current Chairman and the Secretary-General should also convey a clear and unequivocal warning to the perpetrators of the unconstitutional change that, under no circumstances, will their illegal action be tolerated or recognized by the OAU. In that regard, the current Chairman and the Secretary-General should urge consistency of action at the bilateral, inter-State, subregional and international levels. The Central Organ should thereafter convene, as a matter of urgency, to discuss the matter.

At the request of its Chairman, the Secretary-General or any OAU Member State, the Central Organ may be convened to consider any given situation that could be considered as constituting an unconstitutional change.

Following the initial response of condemning the unconstitutional change by the Central Organ:

(a) A period of up to six months should be given to the perpetrators of the unconstitutional change to restore constitutional order. During the six-month period, the government concerned should be suspended from participating in the policy organs of the OAU. Apart from the sanctions provided for under Article 115 of the OAU Financial Rules and Regulations, the governments concerned should not participate in meetings of the Central Organ and sessions of the Council of Ministers and the Assembly of Heads of State and Government. Its exclusion from participating in the OAU policy organs should not affect the country's membership in the OAU and therefore will not preclude it from honouring its basic obligations towards the Organization, including financial contributions to the OAU regular budget;

(b) The Secretary-General should, during this period, gather facts relevant to the unconstitutional change of Government and establish appropriate contacts with the perpetrators with a view to ascertaining their intentions regarding the restoration of constitutional order in the country; the Secretary-General should seek the contribution of African leaders and personalities in the form of discreet moral pressure on the perpetrators of the unconstitutional change in order to get them to cooperate with the OAU and facilitate the restoration of constitutional order in the Member State concerned; the Secretary-General should speedily enlist the collaboration of the regional grouping to which the "country in crisis" belongs.

At the expiration of the six months suspension period, a range of limited and targeted sanctions against the regime that stubbornly refuses to restore constitutional order should be instituted, in addition to the suspension from participation in the OAU policy organs. This could include visa denials for the perpetrators of an unconstitutional change, restrictions of government-to-government contacts, trade restrictions, etc. In implementing a sanctions regime, the OAU should enlist the cooperation of Member States, regional groupings and the wider international/donor communities. Careful attention should be exercised to ensure that the ordinary citizens of the concerned country do not suffer disproportionately on account of the enforcement of sanctions.

In order to give effect to these measures, we have decided that existing OAU mechanisms, particularly the Central Organ, at all its three levels, will be the instrument for implementing this Framework for an OAU Response to Unconstitutional Changes in Africa. In this regard, we request our Secretary-General to explore how best to enhance the capacity of that policy organ to enable it to implement, in an effective and credible manner, the principles contained in the Framework.

We have agreed on the establishment of a Central Organ sanctions subcommittee of five (5) members chosen on the basis of regional representation. The subcommittee will regularly monitor compliance with decisions taken on situations of unconstitutional changes and recommend appropriate review measures to the policy organs of the OAU.

5.

**DECLARATION ON THE NEW COMMON INITIATIVE (MAP AND OMEGA)
(AHG/Decl.1 (XXXVII))**

Adopted in Lusaka, Zambia, in July 2001.

1. *We, the Heads of State and Government of the Organization of African Unity*, meeting at the Thirty-seventh Session of the Assembly of Heads of State and Government in Lusaka, Zambia, from 9 to 11 July 2001, have undertaken an in-depth and critical review of the political, economic and social situation on our continent as presented in the report of the Secretary-General to the Seventy-fourth Session of the Council of Ministers;
2. *Are fully aware* of the fundamental changes, which have occurred in the world since the beginning of the 1990s. These include the establishment, enlargement as well as strengthening of economic and trading groupings, the conclusions of the Uruguay Round of Multilateral Trade Negotiations, the creation of the World Trade Organization (WTO), and the rapid progress in information and communication technology. Consequently, Africa needs to take urgent and effective steps to avoid marginalization and ensure that it becomes an active partner in the emerging world economic order. To this end, Africa must adopt a new vision for its revival and development, and translate this vision into an appropriate and coherent programme of action;
3. *Reaffirm* that the revival and development of Africa are primarily the responsibility of our governments and peoples. Consequently, we are determined to establish the conducive political, economic and social environment and create the required structural economic transformation in our countries with the objective of achieving a human-centered and sustainable development;
4. *Recall* the endorsement of the Fifth Extraordinary Summit of the OAU, held in Sirte, Libya, from 1 to 2 March 2001, of the work done regarding the revival and development of Africa by Presidents Mbeki of South Africa, Obasanjo of Nigeria, Bouteflika of Algeria, Hosni Mubarak of Egypt and Wade of Senegal, respectively;
5. *Commend* the efforts of the five Presidents for producing a single coordinated and inclusive plan for Africa's renewal based on the two initiatives, namely, the Millennium Partnership for the African Recovery Programme (MAP) and the OMEGA Plan, which complement each other;
6. *Reiterate* our commitment and determination to uplift the living conditions of our people through the promotion of collective self-reliance as stated in the Lagos Plan of Action, the Abuja Treaty and the Cairo Agenda for Action;
7. *Further commit* ourselves to the objectives of the Declaration which we adopted at the Fourth Extraordinary Session of our Assembly in Sirte, The Great Socialist People's Libyan Arab Jamahiriya on 9 September 1999 in which we decided to establish the African Union;
8. *Recognize* the need to reassert and revitalize the existing continental development strategies in order to achieve self-sustained development of our continent;
9. *Adopt* the Strategic Policy Framework of the New African Initiative as well as its Programme of Action and reaffirm our commitment to the provisions of the Treaty Establishing the African Economic Community and the Constitutive Act of the African Union;
10. *Decide* to present the consolidated Plan for African Revival and Development to the United Nations General Assembly in its session of September 2001 for endorsement and call upon the international community and particularly our development partners and the United Nations system to support this plan and to assist Africa in its implementation;

5. DECLARATION ON THE NEW COMMON INITIATIVE (MAP AND OMEGA)
6. DECLARATION ON PRINCIPLES GOVERNING DEMOCRATIC ELECTIONS

11. *Decide* to convene in Dakar, Senegal, from 15 to 17 November 2001, a Summit of Heads of State and Government with the participation of international economic and financial institutions as well as the private sector on the theme: Financing the New Common Initiative;

12. *Decide* to set up a follow-up committee comprising five (5) Heads of State, promoters of the New Common Initiative and ten (10) other Heads of State to ensure a continuous follow-up on this initiative, particularly the establishment of management institutions for the New African Initiative;

13. *Decide* to enlarge the African delegation to the Group of 8 (G8) with the inclusion of President Abdoulaye Wade of Senegal.

6.

**OAU/AU DECLARATION ON THE PRINCIPLES GOVERNING DEMOCRATIC ELECTIONS IN AFRICA
(AHG/Decl.1 (XXXVIII))**

Adopted in Durban, South Africa, in July 2002.

I. Preamble

We, the Heads of State and Government of the Organization of African Unity, meeting in Durban, South Africa, at the Thirty-eighth Ordinary Session of the Assembly of the OAU, have considered the report of the Secretary-General on strengthening the role of the OAU in election observation and monitoring and the advancement of the democratization process,

Considering the principles and objectives of the African Union enshrined in the Constitutive Act of the African Union, particularly in its Articles 3 and 4,

Reaffirming the Algiers Decision of July 1999 and the Lomé Declaration of July 2000 on the Framework for an OAU Response to Unconstitutional Changes of Government, which laid down a set of common values and principles for democratic governance,

Considering the Solemn Declaration on the Conference on Security, Stability, Development and Cooperation in Africa (CSSDCA) adopted by the Assembly of Heads of State and Government of the OAU in Lomé, Togo, in July 2000, which underpins the OAU's agenda of promoting democracy and democratic institutions in Africa,

Considering the New African Initiative (NAI) now referred to as the New Partnership for the Africa's Development (NEPAD) adopted by the Assembly of the Heads of State and Government in Lusaka, Zambia, in July 2001, by which, through the Democracy and Political Governance Initiative, African leaders undertook to promote and protect democracy and human rights in their respective countries and regions, by developing clear standards of accountability and participatory governance at the national and subregional levels,

Reaffirming the importance of the Universal Declaration of Human Rights adopted in December 1948, as well as the International Covenant on Civil and Political Rights adopted in December 1966, which recognized the will of the people expressed through free and fair elections as the basis of the authority of government,

Reaffirming also the significance of the African Charter on Human and Peoples' Rights adopted in Nairobi, Kenya, in June 1981, which recognized the right of every citizen to participate freely in the government of his or her country whether directly or through democratically elected representatives,

Recalling the Declaration of the Assembly of Heads of State and Government of the Organization of African Unity on the Political and Socio-Economic Situation in Africa and the Fundamental Changes Taking Place in the World,

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adopted in Addis Ababa, Ethiopia, in July 1990, wherein OAU Member States undertook to continue with the democratization of African societies and the consolidation of democratic institutions,

Recalling further the African Charter for Popular Participation in Development adopted in Addis Ababa, Ethiopia, in July 1990, which emphasized the need to involve the people of Africa in the spheres of economic and political governance,

Referring to the Cairo Agenda for Action adopted in Cairo, Egypt, in 1995, which stressed the imperative of ensuring good governance through popular participation based on the respect for human rights and dignity, free and fair elections, as well as on the respect of the principles of freedom of the press, speech, association and conscience,

Cognizant of the fact that each Member State has the sovereign right to choose its political system in accordance with the will of its people and in conformity with the Constitutive Act of the African Union and the universally accepted principles of democracy,

Considering the ever-growing role already played by the OAU in the observation/monitoring of elections and the need to strengthen the Organization's efforts in advancing democracy in Africa,

Agree and endorse the following Principles Governing Democratic Elections in Africa:

II. Principles of Democratic Elections

1. Democratic elections are the basis of the authority of any representative government;
2. Regular elections constitute a key element of the democratization process and therefore, are essential ingredients for good governance, the rule of law, the maintenance and promotion of peace, security, stability and development;
3. The holding of democratic elections is an important dimension in conflict prevention, management and resolution;
4. Democratic elections should be conducted:
 - (a) Freely and fairly;
 - (b) Under democratic constitutions and in compliance with supportive legal instruments;
 - (c) Under a system of separation of powers that ensures, in particular, the independence of the judiciary;
 - (d) At regular intervals, as provided for in national constitutions;
 - (e) By impartial, all-inclusive competent accountable electoral institutions staffed by well-trained personnel and equipped with adequate logistics.

III. Responsibilities of the Member States

We commit our Governments to:

- (a) Take necessary measures to ensure the scrupulous implementation of the above principles, in accordance with the constitutional processes of our respective countries;

6. DECLARATION ON PRINCIPLES GOVERNING DEMOCRATIC ELECTIONS

- (b) Establish where none exist, appropriate institutions where issues such as codes of conduct, citizenship, residency, age requirements for eligible voters, compilation of voters' registers, etc. would be addressed;
- (c) Establish impartial, all-inclusive, competent and accountable national electoral bodies staffed by qualified personnel, as well as competent legal entities, including effective constitutional courts to arbitrate in the event of disputes arising from the conduct of elections;
- (d) Safeguard the human and civil liberties of all citizens, including the freedom of movement, assembly, association, expression, and campaigning as well as access to the media on the part of all stakeholders, during electoral processes;
- (e) Promote civic and voters' education on the democratic principles and values in close cooperation with the civil society groups and other relevant stakeholders;
- (f) Take all necessary measures and precautions to prevent the perpetration of fraud, rigging or any other illegal practices throughout the whole electoral process, in order to maintain peace and security;
- (g) Ensure the availability of adequate logistics and resources for carrying out democratic elections, as well as ensure the adequate provision of funding for all registered political parties to enable them to organize their work, including participation in electoral process;
- (h) Ensure that adequate security is provided to all parties participating in elections;
- (i) Ensure the transparency and integrity of the entire electoral process by facilitating the deployment of representatives of political parties and individual candidates at polling and counting stations and by accrediting national and/or other observers/monitors;
- (j) Encourage the participation of African women in all aspects of the electoral process in accordance with the national laws.

IV. Elections: Rights and Obligations

We reaffirm the following rights and obligations under which democratic elections are conducted:

1. Every citizen shall have the right to participate freely in the government of his or her country, either directly or through freely elected representatives in accordance with the provisions of the law;
2. Every citizen has the right to fully participate in the electoral processes of the country, including the right to vote or be voted for, according to the laws of the country and as guaranteed by the Constitution, without any kind of discrimination;
3. Every citizen shall have the right to free association and assembly in accordance with the law;
4. Every citizen shall have the freedom to establish or to be a member of a political party or organization in accordance with the law;
5. Individuals or political parties shall have the right to freedom of movement, to campaign and to express political opinions with full access to the media and information within the limits of the laws of the land;
6. Individual or political parties shall have the right to appeal and to obtain timely hearing against all proven electoral malpractices to the competent judicial authorities in accordance with the electoral laws of the country;

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7. Candidates or political parties shall have the right to be represented at polling and counting stations by duly designated agents or representatives;
8. No individual or political party shall engage in any act that may lead to violence or deprive others of their constitutional rights and freedoms. Hence all stakeholders should refrain from, among others, using abusive language and/or incitement to hate or defamatory allegations and provocative language. These acts should be sanctioned by designated electoral authorities;
9. All stakeholders in electoral contests shall publicly renounce the practice of granting favours to the voting public for the purpose of influencing the outcome of elections;
10. In covering the electoral process, the media should maintain impartiality and refrain from broadcasting and publishing abusive language, incitement to hate, and other forms of provocative language that may lead to violence;
11. Every candidate and political party shall respect the impartiality of the public media by undertaking to refrain from any act which might constrain or limit their electoral adversaries from using the facilities and resources of the public media to air their campaign messages.
12. Every individual and political party participating in elections shall recognize the authority of the electoral commission or any statutory body empowered to oversee the electoral process and accordingly render full cooperation to such a commission/body in order to facilitate their duties;
13. Every citizen and political party shall accept the results of elections proclaimed to have been free and fair by the competent national bodies as provided for in the constitution and the electoral laws and accordingly respect the final decision of the competent electoral authorities or, challenge the result appropriately according to the law.

V. Election Observation and Monitoring by the OAU

We request the OAU to be fully engaged in the strengthening of the democratization process, particularly by observing and monitoring elections in our Member States, according to the following guidelines:

1. The observation and monitoring of elections shall be undertaken subject to a memorandum of understanding between the OAU General Secretariat and the host country in accordance with the principles enshrined in this Declaration and the laws of the host country;
2. In performing their obligations, the election observers or monitors shall be guided by detailed guidelines to be prepared by the General Secretariat drawing inspiration from the essential thrust of this Declaration, the specific mandates and terms of reference determined by the particular case in question as well as the wider legal framework of the country staging elections;
3. Member States should ensure that invitations to the OAU to participate in election observation or monitoring are sent at least two months before the date of the election;
4. Member States should refrain from imposing any fees and/or charges on OAU observers i.e. registration/accreditation fees, etc. and facilitate easy access of observers/monitors to locations of electoral events/activities and unhindered performance of their tasks;
5. The General Secretariat shall have the right to decline invitations to monitor elections which, in its considered opinion, do not measure up to the normative standards enunciated in this Declaration.

VI. Role and Mandate of the General Secretariat

7. NEPAD DECLARATION ON DEMOCRACY AND GOVERNANCE

Further request the OAU Secretary-General to take all necessary measures to ensure the implementation of this Declaration by undertaking, in particular, the following activities:

- (a) Strengthen its role in the observation and monitoring of elections within the legal framework of the host country, in accordance with the memorandum of understanding reached with that country;
- (b) Mobilize extrabudgetary funds to augment the General Secretariat resource base so as to facilitate the implementation of this Declaration;
- (c) Undertake a feasibility study on the establishment of a Democratization and Electoral Assistance Fund to facilitate a successful implementation of this Declaration;
- (d) Undertake a feasibility study on the establishment within the OAU General Secretariat of a Democratization and Election Monitoring Unit that will also discharge issues on good governance;
- (e) Compile and maintain a roster of African experts in the field of election observation and monitoring and democratization in general in order to deploy competent and professional observers and to avails itself of their services whenever necessary. Member States on their part are requested to assist by making the names of their experts available to the General Secretariat;
- (f) Work out better standards of procedures, preparations and treatment for personnel selected to serve on OAU observer missions;
- (g) Promote cooperation and work in partnership with African organizations and international organizations, as well as national institutions, non-governmental organizations and civil society groups involved in the elected monitoring and observation work;
- (h) Publish and make the General Secretariat reports on the observation/monitoring of elections and other related activities open to all Member States and the public at large, as a means of consolidating electoral and democratic processes on the continent.

7.

THE NEW PARTNERSHIP FOR AFRICA'S DEVELOPMENT (NEPAD) DECLARATION ON DEMOCRACY, POLITICAL, ECONOMIC AND CORPORATE GOVERNANCE (AHG/235 (XXXVIII))

Adopted in Durban, South Africa, in July 2002.

Preamble

1. We, the participating Heads of State and Government of the Member States of the African Union (AU), met in Durban, South Africa, at the inaugural Assembly of the African Union and considered the report of the New Partnership for Africa's Development (NEPAD) Heads of State and Government Implementation Committee established at the Organization of African Unity (OAU) Summit in Lusaka, Zambia, in July 2001.
2. In the general context of our meeting, we recalled our shared commitment underlying the establishment of NEPAD to eradicate poverty and to place our countries, individually and collectively, on a path of sustainable growth and development and, at the same time, to participate actively in the world economy and body politic on equal footing. We reaffirm this pledge as our most pressing duty.

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3. In reviewing the report of the NEPAD Heads of State and Government Implementation Committee and considering the way forward, we were also mindful of the fact that, over the years, successive OAU Summits have taken decisions aimed at ensuring stability, peace and security, promoting closer economic integration, ending unconstitutional changes of government, supporting human rights and upholding the rule of law and good governance. Among these decisions are:

- (a) The Lagos Plan of Action, and the Final Act of Lagos (1980);
- (b) The African (Banjul) Charter on Human and Peoples' Rights (1981);
- (c) The African Charter for Popular Participation in Development (1990);
- (d) The Declaration on the Political and Socio-Economic Situation in Africa and the Fundamental Changes Taking Place in the World (1990);
- (e) The African Charter on the Rights and Welfare of the Child (1990);
- (f) The Abuja Treaty establishing the African Economic Community (1991);
- (g) The Cairo Declaration Establishing the Mechanism for Conflict Prevention, Management and Resolution (1993);
- (h) The Protocol on the Establishment of an African Court on Human and Peoples' Rights (1998);
- (i) The Grand Bay (Mauritius) Declaration and Plan of Action for the Promotion and Protection of Human Rights (1999);
- (j) The Framework for an OAU Response to Unconstitutional Changes of Government adopted at the 2000 OAU Summit in Lomé, Togo, and based on the earlier decision of the 1999 Algiers OAU Summit;
- (k) The Conference on Security, Stability, Development and Cooperation (CSSDCA) Solemn Declaration (2000); and
- (l) The Constitutive Act of the African Union (2000).

4. We, Member States parties to the aforementioned instruments, reaffirm our full and continuing commitment to these and other decisions of our continental organization, as well as the other international obligations and undertakings into which we have entered in the context of the United Nations. Of particular significance in this context are the Charter of the United Nations and the Universal Declaration of Human Rights and all conventions relating thereto, especially the Convention on the Elimination of All Forms of Discrimination against Women and the Beijing Declaration.

5. Africa faces grave challenges and the most urgent of these are the eradication of poverty and the fostering of socio-economic development, in particular, through democracy and good governance. It is to the achievement of these twin objectives that the NEPAD process is principally directed.

6. Accordingly, we the participating Heads of State and Government of the Member States of the African Union have agreed to work together in policy and action in pursuit of the following objectives:

- Democracy and good political governance;
- Economic and corporate governance;

7. NEPAD DECLARATION ON DEMOCRACY AND GOVERNANCE

- Socio-economic development;
- African Peer Review Mechanism.

Democracy and Good Political Governance

7. At the beginning of the new century and millennium, we reaffirm our commitment to the promotion of democracy and its core values in our respective countries. In particular, we undertake to work with renewed determination to enforce:

- The rule of law;
- The equality of all citizens before the law and the liberty of the individual;
- Individual and collective freedoms, including the right to form and join political parties and trade unions, in conformity with the constitution;
- Equality of opportunity for all;
- The inalienable right of the individual to participate by means of free, credible and democratic political processes in periodically electing their leaders for a fixed term of office; and
- Adherence to the separation of powers, including the protection of the independence of the judiciary and of effective parliaments.

8. We believe in just, honest, transparent, accountable and participatory government and probity in public life. We therefore undertake to combat and eradicate corruption, which both retards economic development and undermines the moral fabric of society.

9. We are determined to increase our efforts in restoring stability, peace and security on the African continent, as these are essential conditions for sustainable development, alongside democracy, good governance, human rights, social development, protection of environment and sound economic management. Our efforts and initiatives will also be directed at seeking speedy peaceful solutions to current conflicts and at building Africa's capacity to prevent, manage and resolve all conflicts on the continent.

10. In the light of Africa's recent history, respect for human rights has to be accorded an importance and urgency all of its own. One of the tests by which the quality of a democracy is judged is the protection it provides for each individual citizen and for the vulnerable and disadvantaged groups. Ethnic minorities, women and children have borne the brunt of the conflicts raging on the continent today. We undertake to do more to advance the cause of human rights in Africa generally and, specifically, to end the moral shame exemplified by the plight of women, children, the disabled and ethnic minorities in conflict situations in Africa.

11. In Africa's efforts at democracy, good governance and economic reconstruction, women have a central role to play. We accept it as a binding obligation to ensure that women have every opportunity to contribute on terms of full equality to political and socio-economic development in all our countries.

12. To fulfil these commitments we have agreed to adopt the following action plan.

13. In support of democracy and the democratic process we will:

- Ensure that our respective national constitutions reflect the democratic ethos and provide for demonstrably accountable governance;

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- Promote political representation, thus providing for all citizens to participate in the political process in a free and fair political environment;
- Enforce strict adherence to the position of the African Union (AU) on unconstitutional changes of government and other decisions of our continental organization aimed at promoting democracy, good governance, peace and security;
- Strengthen and, where necessary, establish an appropriate electoral administration and oversight bodies, in our respective countries and provide the necessary resources and capacity to conduct elections which are free, fair and credible;
- Reassess and where necessary strengthen the AU and subregional election monitoring mechanisms and procedures; and
- Heighten public awareness of the African Charter on Human and Peoples' Rights, especially in our educational institutions.

14. In support of good governance, we have agreed to:

- Adopt clear codes, standards and indicators of good governance at the national, subregional and continental levels;
- Accountable, efficient and effective civil service;
- Ensure the effective functioning of parliaments and other accountability institutions in our respective countries, including parliamentary committees and anti-corruption bodies; and
- Ensure the independence of the judicial system that will be able to prevent abuse of power and corruption.

15. To promote and protect human rights we have agreed to:

- Facilitate the development of vibrant civil society organizations, including strengthening human rights institutions at the national, subregional and regional levels;
- Support the Charter, African Commission and Court on Human and People's Rights as important instruments for ensuring the promotion, protection and observance of human rights;
- Strengthen cooperation with the United Nations High Commission for Human Rights; and
- Ensure responsible free expression, inclusive of the freedom of the press.

Economic and Corporate Governance

16. Good economic and corporate governance including transparency in financial management are essential prerequisites for promoting economic growth and reducing poverty. Mindful of this, we have approved eight prioritized codes and standards for achieving good economic and corporate governance.

17. These prioritized codes and standards represent those "fundamental" internationally, regionally, and domestically accepted codes and standards that all African countries should strive to observe within their capacity capabilities. In other words, they are the codes and standards that need to be complied with as a minimum requirement, given a country's capacity to do so.

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18. We believe the eight prioritized and approved codes and standards set out below have the potential to promote market efficiency, to control wasteful spending, to consolidate democracy, and to encourage private financial flows – all of which are critical aspects of the quest to reduce poverty and enhance sustainable development. These codes and standards have been developed by a number of international organizations through consultative processes that involved the active participation of and endorsement by African countries. Thus, the codes and standards are genuinely global as they were agreed by experts from a vast spectrum of economies with different structural characteristics. They are the following:

- (a) Code of Good Practices on Transparency in Monetary and Financial Policies;
- (b) Code of Good Practices on Fiscal Transparency;
- (c) Best Practices for Budget Transparency;
- (d) Guidelines for Public Debt Management;
- (e) Principles of Corporate Governance;
- (f) International Accounting Standards;
- (g) International Standards on Auditing; and
- (h) Core Principles for Effective Banking Supervision.

19. We have also approved other key codes and standards in transparency and financial Management. These include:

- (a) Principles for Payment Systems;
- (b) Recommendations on Anti-money Laundering and;
- (c) Core Principles for Securities and Insurance Supervision and Regulation.

Socio-Economic Development

20. We believe that poverty can only be effectively tackled through the promotion of:

- Democracy, good governance, peace and security;
- The development of human and physical resources;
- Gender equality;
- Openness to international trade and investment;
- Allocation of appropriate funds to social sector; and
- New partnerships between governments and the private sector, and with civil society.

21. We reaffirm our conviction that the development of Africa is ultimately the responsibility of Africans themselves. Africa's development begins with the quality of its human resources. We, therefore, undertake to work towards the enhancement of our human resources through the provision of more and better education and

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training, especially in information and communications technology (ICT) and other skills central to a globalizing world; and better health care, with priority attention to addressing HIV/AIDS and other pandemic diseases.

22. The marginalization of women remains real despite the progress of recent years. We will, therefore, work with renewed vigour to ensure gender equality and ensure the full and effective integration of women in political and socio-economic development.

23. Globalization and liberalization do not mean that there should be no role for government in socio-economic development. It only means a different type of government. We, therefore, undertake to foster new partnerships between government and the private sector; a new division of labour in which the private sector will be the veritable engine of economic growth, while governments concentrate on the development of infrastructure and the creation of a macroeconomic environment. This includes expanding and enhancing the quality of human resources and providing the appropriate institutional framework to guide the formulation and execution of economic policy.

24. The Regional Economic Communities remain the building blocks for Africa's economic integration. We will, therefore, continue to strengthen them in every way practicable and to relate their evolution more closely to the development of the African Union.

25. We welcome the strong international interest in and support for NEPAD. It is our intention to build on this promising foundation, working with our development partners and the wider international community to:

- Forge new forms of international cooperation in which the benefits of globalization are more evenly shared;
- Create a stable international economic environment in which African countries can achieve growth through greater market access for their exports; the removal of trade barriers, especially non-tariff barriers and other forms of protectionism; increased flows of direct foreign investment; debt cancellation; a meaningful increase in official development assistance (ODA); and the diversification of their economies. Africa's prosperity will be a multiplier in world prosperity.

26. NEPAD is founded on a hardheaded assessment of the political and socio-economic realities in Africa today. We do not, therefore, underestimate the challenges involved in achieving NEPAD's objectives, but we share a common resolution to work together even more closely in order to end poverty on the continent and to restore Africa to a place of dignity in the family of nations.

27. No African country is a replica of another and no African society is a mirror image of another. However, we believe that the variety within our oneness can be enriching. It is part of the purpose of this Declaration to mobilize all those enriching qualities to build African unity, in respect of the specifics of our countries.

African Peer Review Mechanism

28. We have separately agreed to establish an African Peer Review Mechanism (APRM) on the basis of voluntary accession. The APRM seeks to promote adherence to and fulfilment of the commitments contained in this Declaration. The Mechanism spells out the institutions and processes that will guide future peer reviews, based on mutually agreed codes and standards of democracy, political, economic and corporate governance.

8.

DECLARATION ON THE IMPLEMENTATION OF THE NEW PARTNERSHIP FOR AFRICA'S DEVELOPMENT (NEPAD) (ASS/AU/Decl.1 (I))

Adopted in Durban, South Africa, on 8 July 2002.

8. DECLARATION ON NEPAD

1. *We, the Heads of State and Government of Member States of the Organization of African Unity*, meeting at the Thirty-eighth Session of our Assembly in Durban, South Africa, on 8 July 2002;*
2. *Recalling* our decision regarding the then New African Initiative taken at the Thirty-seventh Session of the Assembly of Heads of State and Government of the Organization of African Unity in Lusaka, Zambia, from 9 to 11 July 2001 (AHG/Decl.1 (XXXVII));
3. *Noting with appreciation* the report provided to us by the Chairperson of the New Partnership for Africa's Development (NEPAD) Heads of State and Government Implementation Committee, H.E. President O. Obasanjo of the Federal Republic of Nigeria, describing the developments in the NEPAD process over the course of the past year;
4. *Further noting* the document submitted to us by H.E. President Obasanjo entitled "Towards the Implementation of the New Partnership for Africa's Development (NEPAD) – Summary of Progress Report and Initial Action Plan" (hereinafter referred to as "Progress Report and Initial Action Plan"), elaborating the first phase for the implementation of NEPAD;
5. *Further noting* the Declaration on Democracy, Political, Economic and Corporate Governance submitted by H.E. President Obasanjo, which seeks to foster a strong statement of reaffirmation by African leaders of their commitment to the principles and core values of democracy and good political, economic and corporate governance;
6. *Further noting* the document submitted by H.E. President Obasanjo on the African Peer Review Mechanism (APRM) which is an instrument that will be voluntarily acceded to by Member States of the African Union for the purpose of self-monitoring, and which aims to foster the adoption of policies, standards and practices that will lead to political stability, high economic growth, sustainable development and accelerated regional integration on the continent;
7. *Emphasizing* the long-term nature of the NEPAD programme and our determination to use all available resources to ensure its successful implementation;
8. *Endorse* the Progress Report and Initial Action Plan and recommend that Member States wishing to do so, should submit written comments to the Chairman of HSIC;
9. *Call for* the detailed documents relating to each priority area of the Progress Report and Initial Action Plan to be distributed to all Member States of the African Union;
10. *Urge* that the programmes in each priority area be urgently implemented and that each Member State provide assistance in the further development and implementation of these programmes and in the continued popularization of NEPAD among all sectors of society on the African continent;
11. *Reaffirm* our commitment to the principles and core values contained in the Declaration on Democracy, Political, Economic and Corporate Governance;
12. *Encourage* all Member States of the African Union to adopt the Declaration on Democracy, Political, Economic and Corporate Governance and accede to the African Peer Review Mechanism;

* Editor's note: The final Thirty-eighth Session of the Organization of African Unity and the inaugural First Session of the African Union were both held in Durban, South Africa, on 8 July and from 9 to 10 July 2002, respectively. This Declaration refers to the Thirty-eighth Session of the OAU but is published in the Decisions and Declarations adopted by the First Ordinary Session of the Assembly of the African Union. The document symbol also refers to the AU rather than the OAU.

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13. *Mandate* the Heads of State and Government Implementation Committee of NEPAD and its Steering Committee to continue the vital task of further elaborating the NEPAD Framework and ensuring the implementation of the NEPAD Initial Action Plan until reviewed at the Second Assembly of the African Union in Maputo, Mozambique, in 2003;
14. *Decide* to increase the number of the members of the Implementation Committee by one per region of the African Union, thus bringing the total number of members of the Committee to twenty;
15. *Call upon* the international community to provide continued and enhanced support for our efforts to regenerate the continent.

9.

AFRICAN UNION CONVENTION ON PREVENTING AND COMBATING CORRUPTION

Adopted in Maputo, Mozambique, on 11 July 2003.

Entered into force on 5 August 2006.

Amended in Addis Ababa, Ethiopia, on 6 February 2022.

Preamble

The Member States of the African Union,

Considering that the Constitutive Act of the African Union recognizes that freedom, equality, justice, peace and dignity are essential objectives for the achievement of the legitimate aspirations of the African peoples,

Further considering that Article 3 of the said Constitutive Act enjoins Member States to coordinate and intensify their cooperation, unity, cohesion and efforts to achieve a better life for the peoples of Africa,

Cognizant of the fact that the Constitutive Act of the African Union, inter alia, calls for the need to promote and protect human and peoples' rights, consolidate democratic institutions and foster a culture of democracy and ensure good governance and the rule of law,

Aware of the need to respect human dignity and to foster the promotion of economic, social, and political rights in conformity with the provisions of the African Charter on Human and People's Rights and other relevant human rights instruments,

Bearing in mind the 1990 Declaration on the Fundamental Changes Taking Place in the World and their Implications for Africa, the 1994 Cairo Agenda for Action Relaunching Africa's Socio-Economic Transformation, and the Plan of Action Against Impunity adopted by the Nineteenth Ordinary Session of the African Commission on Human and Peoples Rights in 1996, as subsequently endorsed by the Sixty-fourth Ordinary Session of the Council of Ministers held in Yaoundé, Cameroon, in 1996, which, among others, underlined the need to observe principles of good governance, the primacy of law, human rights, democratization and popular participation by the African peoples in the processes of governance,

Concerned about the negative effects of corruption and impunity on the political, economic, social and cultural stability of African States and its devastating effects on the economic and social development of the African peoples,

Acknowledging that corruption undermines accountability and transparency in the management of public affairs as well as socio-economic development on the continent,

9. AFRICAN UNION CONVENTION ON PREVENTING AND COMBATING CORRUPTION

Recognizing the need to address the root causes of corruption on the continent,

Convinced of the need to formulate and pursue, as a matter of priority, a common penal policy aimed at protecting the society against corruption, including the adoption of appropriate legislative and adequate preventive measures,

Determined to build partnerships between governments and all segments of civil society, in particular, women, youth, media and the private sector in order to fight the scourge of corruption,

Recalling Resolution AHG-Dec 126 (XXXIV) adopted at the Thirty-fourth Ordinary Session of the Assembly of Heads of State and Government in June 1998 in Ouagadougou, Burkina Faso, requesting the Secretary-General to convene, in cooperation with the African Commission on Human and Peoples' Rights, a high-level meeting of experts to consider ways and means of removing obstacles to the enjoyment of economic, social and cultural rights, including the fight against corruption and impunity, and propose appropriate legislative and other measures,

Further recalling the decision of the Thirty-seventh Ordinary Session of the Assembly of Heads of State and Government of the Organization of African Unity held in Lusaka, Zambia, in July 2001, as well as the Declaration adopted at the First Session of the Assembly of the African Union held in Durban, South Africa, in July 2002, relating to the New Partnership for Africa's Development (NEPAD) which calls for the setting up of a coordinated mechanism to combat corruption effectively,

Have agreed as follows:

Article 1 Definitions

1. For the purposes of this Convention:

"Chairperson of the Commission" means Chairperson of the Commission of the African Union;

"Confiscation" means any penalty or measure resulting in a final deprivation of property, proceeds or instrumentalities ordered by a court of law following proceedings in relation to a criminal offence or offences connected with or related to corruption;

"Corruption" means the acts and practices including related offences proscribed in this Convention;

"Court of law" means a court duly established by a domestic law;

"Executive Council" means the Executive Council of the African Union;

"Illicit enrichment" means the significant increase in the assets of a public official or any other person which he or she cannot reasonably explain in relation to his or her income;

"Private sector" means the sector of a national economy under private ownership in which the allocation of productive resources is controlled by market forces, rather than public authorities and other sectors of the economy not under the public sector or government;

"Proceeds of corruption" means assets of any kind corporeal or incorporeal, movable or immovable, tangible or intangible and any document or legal instrument evidencing title to or interests in such assets acquired as a result of an act of corruption;

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"Public official" means any official or employee of the State or its agencies including those who have been selected, appointed or elected to perform activities or functions in the name of the State or in the service of the State at any level of its hierarchy;

"Requested State Party" means a State Party requested to extradite or to provide assistance under this Convention;

"Requesting State Party" means a State Party making a request for extradition or assistance in terms of this Convention;

"State Party" means any Member State of the African Union which has ratified or acceded to this Convention and has deposited its instruments of ratification or accession with the Chairperson of the Commission of the African Union.

2. In this Convention, the singular shall include the plural and vice versa.

Article 2 Objectives

The objectives of this Convention are to:

1. Promote and strengthen the development in Africa by each State Party, of mechanisms required to prevent, detect, punish and eradicate corruption and related offences in the public and private sectors;
2. Promote, facilitate and regulate cooperation among the States Parties to ensure the effectiveness of measures and actions to prevent, detect, punish and eradicate corruption and related offences in Africa;
3. Coordinate and harmonize the policies and legislation between States Parties for the purposes of prevention, detection, punishment and eradication of corruption on the continent;
4. Promote socio-economic development by removing obstacles to the enjoyment of economic, social and cultural rights as well as civil and political rights;
5. Establish the necessary conditions to foster transparency and accountability in the management of public affairs.

Article 3 Principles

The States Parties to this Convention undertake to abide by the following principles:

1. Respect for democratic principles and institutions, popular participation, the rule of law and good governance;
2. Respect for human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights and other relevant human rights instruments;
3. Transparency and accountability in the management of public affairs;
4. Promotion of social justice to ensure balanced socio-economic development;
5. Condemnation and rejection of acts of corruption, related offences and impunity.

9. AFRICAN UNION CONVENTION ON PREVENTING AND COMBATING CORRUPTION

Article 4 Scope of Application

1. This Convention is applicable to the following acts of corruption and related offences:
 - (a) The solicitation or acceptance, directly or indirectly, by a public official or any other person, of any goods of monetary value, or other benefit, such as a gift, favour, promise or advantage for himself or herself or for another person or entity, in exchange for any act or omission in the performance of his or her public functions;
 - (b) The offering or granting, directly or indirectly, to a public official or any other person, of any goods of monetary value, or other benefit, such as a gift, favour, promise or advantage for himself or herself or for another person or entity, in exchange for any act or omission in the performance of his or her public functions;
 - (c) Any act or omission in the discharge of his or her duties by a public official or any other person for the purpose of illicitly obtaining benefits for himself or herself or for a third party;
 - (d) The diversion by a public official or any other person, for purposes unrelated to those for which they were intended, for his or her own benefit or that of a third party, of any property belonging to the State or its agencies, to an independent agency, or to an individual, that such official has received by virtue of his or her position;
 - (e) The offering or giving, promising, solicitation or acceptance, directly or indirectly, of any undue advantage to or by any person who directs or works for, in any capacity, a private sector entity, for himself or herself or for anyone else, for him or her to act, or refrain from acting, in breach of his or her duties;
 - (f) The offering, giving, solicitation or acceptance directly or indirectly, or promising of any undue advantage to or by any person who asserts or confirms that he or she is able to exert any improper influence over the decision-making of any person performing functions in the public or private sector in consideration thereof, whether the undue advantage is for himself or herself or for anyone else, as well as the request, receipt or the acceptance of the offer or the promise of such an advantage, in consideration of that influence, whether or not the influence is exerted or whether or not the supposed influence leads to the intended result;
 - (g) Illicit enrichment;
 - (h) The use or concealment of proceeds derived from any of the acts referred to in this article; and
 - (i) Participation as a principal, co-principal, agent, instigator, accomplice or accessory after the fact, or in any other manner in the commission or attempted commission of, in any collaboration or conspiracy to commit, any of the acts referred to in this article.
2. This Convention shall also be applicable by mutual agreement between or among two or more States Parties with respect to any other act or practice of corruption and related offences not described in this Convention.

Article 5 Legislative and Other Measures

For the purposes set forth in Article 2 of this Convention, States Parties undertake to:

1. Adopt legislative and other measures that are required to establish as offences, the acts mentioned in Article 4, paragraph 1, of the present Convention;
2. Strengthen national control measures to ensure that the setting up and operations of foreign companies in the territory of a State Party shall be subject to the respect of the national legislation in force;

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3. Establish, maintain and strengthen independent national anti-corruption authorities or agencies;
4. Adopt legislative and other measures to create, maintain and strengthen internal accounting, auditing and follow-up systems, in particular, in the public income, custom and tax receipts, expenditures and procedures for hiring, procurement and management of public goods and services;
5. Adopt legislative and other measures to protect informants and witnesses in corruption and related offences, including protection of their identities;
6. Adopt measures that ensure citizens report instances of corruption without fear of consequent reprisals;
7. Adopt national legislative measures in order to punish those who make false and malicious reports against innocent persons in corruption and related offences;
8. Adopt and strengthen mechanisms for promoting the education of populations to respect the public good and public interest, and awareness in the fight against corruption and related offences, including school educational programmes and sensitization of the media, and the promotion of an enabling environment for the respect of ethics.

Article 6

Laundering of the Proceeds of Corruption

States Parties shall adopt such legislative and other measures as may be necessary to establish as criminal offences:

- (a) The conversion, transfer or disposal of property, knowing that such property is the proceeds of corruption or related offences for the purpose of concealing or disguising the illicit origin of the property or of helping any person who is involved in the commission of the offence to evade the legal consequences of his or her action;
- (b) The concealment or disguise of the true nature, source, location, disposition, movement or ownership of or rights with respect to property which is the proceeds of corruption or related offences;
- (c) The acquisition, possession or use of property with the knowledge at the time of receipt, that such property is the proceeds of corruption or related offences.

Article 7

Fight Against Corruption and Related Offences in the Public Service

In order to combat corruption and related offences in the public service, States Parties commit themselves to:

1. Require all or designated public officials to declare their assets at the time of assumption of office during and after their term of office in the public service;
2. Create an internal committee or a similar body mandated to establish a code of conduct and to monitor its implementation, and sensitize and train public officials on matters of ethics;
3. Develop disciplinary measures and investigation procedures in corruption and related offences with a view to keeping up with technology and increase the efficiency of those responsible in this regard;
4. Ensure transparency, equity and efficiency in the management of tendering and hiring procedures in the public service;

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5. Subject to the provisions of domestic legislation, any immunity granted to public officials shall not be an obstacle to the investigation of allegations against and the prosecution of such officials.

Article 8 Illicit Enrichment

1. Subject to the provisions of their domestic law, States Parties undertake to adopt necessary measures to establish under their laws an offence of illicit enrichment.

2. For States Parties that have established illicit enrichment as an offence under their domestic law, such offence shall be considered an act of corruption or a related offence for the purposes of this Convention.

3. Any State Party that has not established illicit enrichment as an offence shall, in so far as its laws permit, provide assistance and cooperation to the requesting State Party with respect to the offence as provided in this Convention.

Article 9 Access to Information

Each State Party shall adopt such legislative and other measures to give effect to the right of access to any information that is required to assist in the fight against corruption and related offences.

Article 10 Funding of Political Parties

Each State Party shall adopt legislative and other measures to:

- (a) Proscribe the use of funds acquired through illegal and corrupt practices to finance political parties; and
- (b) Incorporate the principle of transparency into funding of political parties.

Article 11 Private Sector

States Parties undertake to:

- 1. Adopt legislative and other measures to prevent and combat acts of corruption and related offences committed in and by agents of the private sector;
- 2. Establish mechanisms to encourage participation by the private sector in the fight against unfair competition, respect of the tender procedures and property rights;
- 3. Adopt such other measures as may be necessary to prevent companies from paying bribes to win tenders.

Article 12 Civil Society and Media

States Parties undertake to:

- 1. Be fully engaged in the fight against corruption and related offences and the popularization of this Convention with the full participation of the media and civil society at large;
- 2. Create an enabling environment that will enable civil society and the media to hold governments to the highest levels of transparency and accountability in the management of public affairs;

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3. Ensure and provide for the participation of civil society in the monitoring process and consult civil society in the implementation of this Convention;
4. Ensure that the media is given access to information in cases of corruption and related offences on condition that the dissemination of such information does not adversely affect the investigation process and the right to a fair trial.

Article 13 Jurisdiction

1. Each State Party has jurisdiction over acts of corruption and related offences when:
 - (a) The breach is committed wholly or partially inside its territory;
 - (b) The offence is committed by one of its nationals outside its territory or by a person who resides in its territory;
 - (c) The alleged criminal is present in its territory and it does not extradite such person to another country;
 - (d) When the offence, although committed outside its jurisdiction, affects, in the view of the State concerned, its vital interests or the deleterious or harmful consequences or effects of such offences impact on the State Party.
2. This Convention does not exclude any criminal jurisdiction exercised by a State Party in accordance with its domestic law.
3. Notwithstanding the provision of paragraph 1 of this article, a person shall not be tried twice for the same offence.

Article 14 Minimum Guarantees of a Fair Trial

Subject to domestic law, any person alleged to have committed acts of corruption and related offences shall receive a fair trial in criminal proceedings in accordance with the minimum guarantees contained in the African Charter on Human and Peoples' Rights and any other relevant international human rights instrument recognized by the concerned States Parties.

Article 15 Extradition

1. This article shall apply to the offences established by the States Parties in accordance with this Convention.
2. Offences falling within the jurisdiction of this Convention shall be deemed to be included in the internal laws of States Parties as crimes requiring extradition. States Parties shall include such offences as extraditable offences in extradition treaties existing between or among them.
3. If a State Party that makes extradition conditional on the existence of a treaty receives a request for extradition from a State Party with which it does not have such treaty, it shall consider this Convention as a legal basis for all offences covered by this Convention.

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4. A State Party that does not make extradition conditional on the existence of a treaty shall recognize offences to which this Convention applies as extraditable offences among themselves.

5. Each State Party undertakes to extradite any person charged with or convicted of offences of corruption and related offences, carried out on the territory of another State Party and whose extradition is requested by that State Party, in conformity with their domestic law, any applicable extradition treaties, or extradition agreements or arrangements existing between or among the States Parties.

6. Where a State Party in whose territory any person charged with or convicted of offences is present and has refused to extradite that person on the basis that it has jurisdiction over offences, the requested State Party shall be obliged to submit the case without undue delay to its competent authorities for the purpose of prosecution, unless otherwise agreed with the requesting State Party, and shall report the final outcome to the requesting State Party.

7. Subject to the provisions of its domestic law and any applicable extradition treaties, a requested State Party may, upon being satisfied that the circumstances so warrant and are urgent and at the request of the requesting State Party, take into custody a person whose extradition is sought and who is present in its territory, or take other appropriate measures to ensure that the person is present at the extradition proceedings.

Article 16

Confiscation and Seizure of the Proceeds and Instrumentalities of Corruption

1. Each State Party shall adopt such legislative measures as may be necessary to enable:

(a) Its competent authorities to search, identify, trace, administer and freeze or seize the instrumentalities and proceeds of corruption pending a final judgment;

(b) Confiscation of proceeds or property, the value of which corresponds to that of such proceeds, derived, from offences established in accordance with this Convention;

(c) Repatriation of proceeds of corruption.

2. The requested State Party shall, in so far as its law permits and at the request of the requesting State Party, seize and remit any object:

(a) Which may be required as evidence of the offence in question; or

(b) Which has been acquired as a result of the offence for which extradition is requested and which, at the time of arrest is found in possession of the persons accused or is discovered subsequently.

3. The objects referred to in paragraph 2 of this article may, if the requesting State Party so requests, be handed over to that State even if the extradition is refused or cannot be carried out due to death, disappearance or escape of the person sought.

4. When the said object is liable for seizure or confiscation in the territory of the requested State Party the latter may, in connection with pending or ongoing criminal proceedings, temporarily retain it or hand it over to the requesting State Party, on condition that it is returned to the requested State Party.

Article 17

Bank Secrecy

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1. Each State Party shall adopt such measures necessary to empower its courts or other competent authorities to order the confiscation or seizure of banking, financial or commercial documents with a view to implementing this Convention.
2. The requesting State Party shall not use any information received that is protected by bank secrecy for any purpose other than the proceedings for which that information was requested, unless with the consent of the requested State Party.
3. States Parties shall not invoke banking secrecy to justify their refusal to cooperate with regard to acts of corruption and related offences by virtue of this Convention.
4. States Parties commit themselves to enter into bilateral agreements to waive banking secrecy on doubtful accounts and allow competent authorities the right to obtain from banks and financial institutions, under judicial cover, any evidence in their possession.

Article 18

Cooperation and Mutual Legal Assistance

1. In accordance with their domestic laws and applicable treaties, States Parties shall provide each other with the greatest possible technical cooperation and assistance in dealing immediately with requests from authorities that are empowered by virtue of their national laws to prevent, detect, investigate and punish acts of corruption and related offences.
2. If two or several States Parties have established relations on the basis of uniform legislation or a particular regime, they may have the option to regulate such mutual relations without prejudice to the provisions of this Convention.
3. States Parties shall cooperate among themselves in conducting and exchanging studies and researches on how to combat corruption and related offences and to exchange expertise relating to preventing and combating corruption and related offences.
4. States Parties shall cooperate among themselves, where possible, in providing any available technical assistance in drawing up programmes, codes of ethics or organizing, where necessary and for the benefit of their personnel, joint training courses involving one or several States in the area of combating corruption and related offences.
5. The provisions of this article shall not affect the obligations under any other bilateral or multilateral treaty which governs, in whole or in part, mutual legal assistance in criminal matters.
6. Nothing in this article shall prevent States Parties from according one another more favourable forms of mutual legal assistance allowed under their respective domestic law.

Article 19

International Cooperation

In the spirit of international cooperation, States Parties shall:

1. Collaborate with countries of origin of multinationals to criminalize and punish the practice of secret commissions and other forms of corrupt practices during international trade transactions;
2. Foster regional, continental and international cooperation to prevent corrupt practices in international trade transactions;

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3. Encourage all countries to take legislative measures to prevent corrupt public officials from enjoying ill-acquired assets by freezing their foreign accounts and facilitating the repatriation of stolen or illegally acquired monies to the countries of origin;
4. Work closely with international, regional and subregional financial organizations to eradicate corruption in development aid and cooperation programmes by defining strict regulations for eligibility and good governance of candidates within the general framework of their development policy;
5. Cooperate in conformity with relevant international instruments on international cooperation on criminal matters for purposes of investigations and procedures in offences within the jurisdiction of this Convention.

Article 20 National Authorities

1. For the purposes of cooperation and mutual legal assistance provided under this Convention, each State Party shall communicate to the Chairperson of the Commission at the time of signing or depositing its instrument of ratification, the designation of a national authority or agency in application of offences established under Article 4, paragraph 1, of this Convention.
2. The national authorities or agencies shall be responsible for making and receiving the requests for assistance and cooperation referred to in this Convention.
3. The national authorities or agencies shall communicate with each other directly for the purposes of this Convention.
4. The national authorities or agencies shall be allowed the necessary independence and autonomy, to be able to carry out their duties effectively.
5. States Parties undertake to adopt necessary measures to ensure that national authorities or agencies are specialized in combating corruption and related offences by, among others, ensuring that the staff are trained and motivated to effectively carry out their duties.

Article 21 Relationship with Other Agreements

Subject to the provisions of Article 4, paragraph 2, this Convention shall in respect to those States Parties to which it applies, supersede the provisions of any treaty or bilateral agreement governing corruption and related offences between any two or more States Parties.

Article 22 Follow-Up Mechanism

1. There shall be an Advisory Board on preventing and combating corruption. It shall be called the African Union Advisory Board Against Corruption.*
2. The Board shall comprise 11 members elected by the Executive Council from among a list of experts of the highest integrity, impartiality, and recognized competence in matters relating to preventing and combating corruption and related offences, proposed by the States Parties. In the election of the members of the board, the Executive Council shall ensure adequate gender representation, and equitable geographical representation.

* Editor's note: Article 22, paragraph 1, was amended by the Assembly of Heads of State and Government of the African Union at its Thirty-fifth Ordinary Session in Addis Ababa, Ethiopia, on 6 February 2022 (Decision Assembly/AU/Dec.821 (XXXV)).

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3. The members of the Board shall serve in their personal capacity.
4. Members of the Board shall be appointed for a period of two years, renewable once.
5. The functions of the Board shall be to:
 - (a) Promote and encourage adoption and application of anti-corruption measures on the continent;
 - (b) Collect and document information on the nature and scope of corruption and related offences in Africa;
 - (c) Develop methodologies for analyzing the nature and extent of corruption in Africa, and disseminate information and sensitize the public on the negative effects of corruption and related offences;
 - (d) Advise governments on how to deal with the scourge of corruption and related offences in their domestic jurisdictions;
 - (e) Collect information and analyse the conduct and behaviour of multinational corporations operating in Africa and disseminate such information to national authorities designated under Article 18, paragraph 1, hereof;
 - (f) Develop and promote the adoption of harmonized codes of conduct of public officials;
 - (g) Build partnerships with the African Commission on Human and Peoples' Rights, African civil society, governmental, intergovernmental and non-governmental organizations to facilitate dialogue in the fight against corruption and related offences;
 - (h) Submit a report to the Executive Council on a regular basis on the progress made by each State Party in complying with the provisions of this Convention;
 - (i) Perform any other task relating to corruption and related offences that may be assigned to it by the policy organs of the African Union.
6. The Board shall adopt its own rules of procedure.
7. States Parties shall communicate to the Board within a year after the coming into force of the instrument, on the progress made in the implementation of this Convention. Thereafter, each State Party, through their relevant procedures, shall ensure that the national anti-corruption authorities or agencies report to the Board at least once a year before the ordinary sessions of the policy organs of the AU.

Final Clauses

Article 23

Signature, Ratification, Accession and Entry into Force

1. The present Convention shall be open for signature, ratification or accession by the Member States of the African Union.
2. The Convention shall enter into force thirty (30) days after the date of the deposit of the fifteenth instrument of ratification or accession.
3. For each State Party ratifying or acceding to the Convention after the date of the deposit of the fifteenth instrument of ratification, the Convention shall enter into force thirty (30) days after the date of the deposit by that State of its instrument of ratification or accession.

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Article 24 Reservations

1. Any State Party may, at the time of adoption, signature, ratification or accession, make reservations to this Convention provided that each reservation concerns one or more specific provisions and is not incompatible with the object and purposes of this Convention.
2. Any State Party which has made any reservation shall withdraw it as soon as circumstances permit. Such withdrawal shall be made by notification to the Chairperson of the Commission.

Article 25 Amendment

1. This Convention may be amended if any State Party makes a written request to the Chairperson of the Commission.
2. The Chairperson of the Commission shall circulate the proposed amendments to all States Parties. The proposed amendments shall not be considered by the States Parties until a period of six (6) months from the date of circulation of the amendment has elapsed.
3. The amendments shall enter into force when approved by a two-thirds majority of the Member States of the AU.

Article 26 Denunciation

1. Any State Party may denounce the present Convention by sending notification to the Chairperson of the Commission. This denunciation shall take effect six (6) months following the date of receipt of notification by the Chairperson of the Commission.
2. After denunciation, cooperation shall continue between States Parties and the State Party that has withdrawn on all requests for assistance or extradition made before the effective date of withdrawal.

Article 27 Depositary

1. The Chairperson of the Commission shall be the depositary of this Convention and the amendments thereto.
2. The Chairperson of the Commission shall inform all States Parties of the signatures, ratifications, accessions, entry into force, requests for amendments submitted by States and approvals thereof and denunciations.
3. Upon entry into force of this Convention, the Chairperson of the Commission shall register it with the Secretariat of the United Nations in accordance with Article 102 of the Charter of the United Nations.

Article 28 Authentic Texts

The original of this Convention, of which the Arabic, English, French and Portuguese texts are equally authentic, shall be deposited with the Chairperson of the Commission.

AFRICAN CHARTER ON DEMOCRACY, ELECTIONS AND GOVERNANCE

Adopted in Addis Ababa, Ethiopia, on 30 January 2007.

Entered into force on 15 February 2012.

Preamble

We, the Member States of the African Union,

Inspired by the objectives and principles enshrined in the Constitutive Act of the African Union, particularly Articles 3 and 4, which emphasize the significance of good governance, popular participation, the rule of law and human rights,

Recognizing the contributions of the African Union and the Regional Economic Communities to the promotion, nurturing, strengthening and consolidation of democracy and governance,

Reaffirming our collective will to work relentlessly to deepen and consolidate the rule of law, peace, security and development in our countries,

Guided by our common mission to strengthen and consolidate institutions for good governance, continental unity and solidarity,

Committed to promote the universal values and principles of democracy, good governance, human rights and the right to development,

Cognizant of the historical and cultural conditions in Africa,

Seeking to entrench on the continent a political culture of change of power based on the holding of regular, free, fair and transparent elections conducted by competent, independent and impartial national electoral bodies,

Concerned about the unconstitutional changes of governments that are one of the essential causes of insecurity, instability and violent conflict in Africa,

Determined to promote and strengthen good governance through the institutionalization of transparency, accountability and participatory democracy,

Convinced of the need to enhance the election observation missions in the role they play, particularly as they are an important contributory factor to ensuring the regularity, transparency and credibility of elections,

Desirous to enhance the relevant declarations and decisions of the Organization of African Unity (OAU)/African Union (AU), including the 1990 Declaration on the political and socio-economic situation in Africa and the fundamental changes taking place in the world, the 1995 Cairo Agenda for the Relaunching of Africa's Economic and Social Development, the 1999 Algiers Declaration on Unconstitutional Changes of Government, the 2000 Lomé Declaration for an OAU Response to Unconstitutional Changes of Government, the 2002 OAU/AU Declaration on Principles Governing Democratic Elections in Africa, the 2002 Protocol Relating to the Establishment of the Peace and Security Council of the African Union,

Committed to implementing Decision EX.CL/Dec.31 (III) adopted in Maputo, Mozambique, in July 2003 and Decision EX.CL/124 (V) adopted in Addis Ababa, Ethiopia, in May 2004, respectively, by the adoption of an African Charter on Democracy, Elections and Governance,

Have agreed as follows:

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Chapter 1 Definitions

Article 1

In this Charter, unless otherwise stated, the following expressions shall have the following meaning:

"AU" means the African Union;

"African Human Rights Commission" means the African Commission on Human and Peoples' Rights;

"African Peer Review Mechanism" APRM means the African Peer Review Mechanism;

"Assembly" means the Assembly of Heads of State and Government of the African Union;

"Commission" means the Commission of the Union;

"Constitutive Act" means the Constitutive Act of the Union;

"Charter" means the African Charter on Democracy, Elections and Governance;

"Member States" means the Member States of the African Union;

"National electoral body" means a competent authority, established by the relevant legal instruments of a State Party, responsible for organizing and supervising elections;

"NEPAD" means the New Partnership for Africa's Development;

"Peace and Security Council" means the Peace and Security Council of the African Union;

"Regional Economic Communities" means the regional integration blocs of the African Union;

"State Party" means any Member State of the African Union which has ratified or acceded to this Charter and deposited the instruments for ratification or accession with the Chairperson of the African Union Commission;

"Union" means the African Union.

Chapter 2 Objectives

Article 2

The objectives of this Charter are to:

1. Promote adherence, by each State Party, to the universal values and principles of democracy and respect for human rights;
2. Promote and enhance adherence to the principle of the rule of law premised upon the respect for, and the supremacy of, the constitution and constitutional order in the political arrangements of the States Parties;
3. Promote the holding of regular free and fair elections to institutionalize legitimate authority of representative government as well as democratic change of governments;

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4. Prohibit, reject and condemn unconstitutional change of government in any Member State as a serious threat to stability, peace, security and development;
5. Promote and protect the independence of the judiciary;
6. Nurture, support and consolidate good governance by promoting democratic culture and practice, building and strengthening governance institutions and inculcating political pluralism and tolerance;
7. Encourage effective coordination and harmonization of governance policies among States Parties with the aim of promoting regional and continental integration;
8. Promote States Parties' sustainable development and human security;
9. Promote the fight against corruption in conformity with the provisions of the AU Convention on Preventing and Combating Corruption adopted in Maputo, Mozambique, in July 2003;
10. Promote the establishment of the necessary conditions to foster citizen participation, transparency, access to information, freedom of the press and accountability in the management of public affairs;
11. Promote gender balance and equality in the governance and development processes;
12. Enhance cooperation between the Union, the Regional Economic Communities and the international community on democracy, elections and governance; and
13. Promote best practices in the management of elections for purposes of political stability and good governance.

Chapter 3 Principles

Article 3

States Parties shall implement this Charter in accordance with the following principles:

1. Respect for human rights and democratic principles;
2. Access to and exercise of State power in accordance with the constitution of the State Party and the principle of the rule of law;
3. Promotion of a system of government that is representative;
4. Holding of regular, transparent, free and fair elections;
5. Separation of powers;
6. Promotion of gender equality in public and private institutions;
7. Effective participation of citizens in democratic and development processes and in governance of public affairs;
8. Transparency and fairness in the management of public affairs;

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9. Condemnation and rejection of acts of corruption, related offences and impunity;
10. Condemnation and total rejection of unconstitutional changes of government;
11. Strengthening political pluralism and recognizing the role, rights and responsibilities of legally constituted political parties, including opposition political parties, which should be given a status under national law.

Chapter 4 Democracy, Rule of Law and Human Rights

Article 4

1. States Parties shall commit themselves to promote democracy, the principle of the rule of law and human rights.
2. States Parties shall recognize popular participation through universal suffrage as the inalienable right of the people.

Article 5

States Parties shall take all appropriate measures to ensure constitutional rule, particularly constitutional transfer of power.

Article 6

States Parties shall ensure that citizens enjoy fundamental freedoms and human rights taking into account their universality, interdependence and indivisibility.

Article 7

States Parties shall take all necessary measures to strengthen the organs of the Union that are mandated to promote and protect human rights and to fight impunity and endow them with the necessary resources.

Article 8

1. States Parties shall eliminate all forms of discrimination, especially those based on political opinion, gender, ethnic, religious and racial grounds as well as any other form of intolerance.
2. States Parties shall adopt legislative and administrative measures to guarantee the rights of women, ethnic minorities, migrants, people with disabilities, refugees and displaced persons and other marginalized and vulnerable social groups.
3. States Parties shall respect ethnic, cultural and religious diversity, which contributes to strengthening democracy and citizen participation.

Article 9

States Parties undertake to design and implement social and economic policies and programmes that promote sustainable development and human security.

Article 10

1. States Parties shall entrench the principle of the supremacy of the constitution in the political organization of the State.

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2. States Parties shall ensure that the process of amendment or revision of their constitution reposes on national consensus, obtained if need be, through referendum.

3. States Parties shall protect the right to equality before the law and equal protection by the law as a fundamental precondition for a just and democratic society.

Chapter 5 The Culture of Democracy and Peace

Article 11

The States Parties undertake to develop the necessary legislative and policy frameworks to establish and strengthen a culture of democracy and peace.

Article 12

States Parties undertake to implement programmes and carry out activities designed to promote democratic principles and practices as well as consolidate a culture of democracy and peace. To this end, States Parties shall:

1. Promote good governance by ensuring transparent and accountable administration;
2. Strengthen political institutions to entrench a culture of democracy and peace;
3. Create conducive conditions for civil society organizations to exist and operate within the law;
4. Integrate civic education in their educational curricula and develop appropriate programmes and activities.

Article 13

States Parties shall take measures to ensure and maintain political and social dialogue, as well as public trust and transparency between political leaders and the people, in order to consolidate democracy and peace.

Chapter 6 Democratic Institutions

Article 14

1. States Parties shall strengthen and institutionalize constitutional civilian control over the armed and security forces to ensure the consolidation of democracy and constitutional order.
2. States Parties shall take legislative and regulatory measures to ensure that those who attempt to remove an elected government through unconstitutional means are dealt with in accordance with the law.
3. States Parties shall cooperate with each other to ensure that those who attempt to remove an elected government through unconstitutional means are dealt with in accordance with the law.

Article 15

1. States Parties shall establish public institutions that promote and support democracy and constitutional order.

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2. States Parties shall ensure that the independence or autonomy of the said institutions is guaranteed by the constitution.

3. States Parties shall ensure that these institutions are accountable to competent national organs.

4. States Parties shall provide the above-mentioned institutions with resources to perform their assigned missions efficiently and effectively.

Article 16

States Parties shall cooperate at the regional and continental levels in building and consolidating democracy through exchange of experiences.

Chapter 7 Democratic Elections

Article 17

States Parties reaffirm their commitment to regularly holding transparent, free and fair elections in accordance with the Union's Declaration on the Principles Governing Democratic Elections in Africa. To this end, States Parties shall:

1. Establish and strengthen independent and impartial national electoral bodies responsible for the management of elections;

2. Establish and strengthen national mechanisms that redress election-related disputes in a timely manner;

3. Ensure fair and equitable access by contesting parties and candidates to State controlled media during elections;

4. Ensure that there is a binding code of conduct governing legally recognized political stakeholders, government and other political actors prior, during and after elections. The code shall include a commitment by political stakeholders to accept the results of the election or challenge them through exclusively legal channels.

Article 18

1. States Parties may request the Commission, through the Democracy and Electoral Assistance Unit and the Democracy and Electoral Assistance Fund, to provide advisory services or assistance for strengthening and developing their electoral institutions and processes.

2. The Commission may at any time, in consultation with the State Party concerned, send special advisory missions to provide assistance to that State Party for strengthening its electoral institutions and processes.

Article 19

1. Each State Party shall inform the Commission of scheduled elections and invite it to send an electoral observer mission.

2. Each State Party shall guarantee conditions of security, free access to information, non-interference, freedom of movement and full cooperation with the electoral observer mission.

Article 20

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The Chairperson of the Commission shall first send an exploratory mission during the period prior to elections. This mission shall obtain any useful information and documentation, and brief the Chairperson, stating whether the necessary conditions have been established and if the environment is conducive to the holding of transparent, free and fair elections in conformity with the principles of the Union governing democratic elections.

Article 21

1. The Commission shall ensure that these missions are independent and shall provide them with the necessary resources for that purpose.
2. Electoral observer missions shall be conducted by appropriate and competent experts in the area of election monitoring, drawn from continental and national institutions such as, but not limited to, the Pan-African Parliament, national electoral bodies, national legislatures and eminent persons taking due cognizance of the principles of regional representation and gender equality.
3. Electoral observer missions shall be conducted in an objective, impartial and transparent manner.
4. All electoral observer missions shall present the report of their activities to the Chairperson of the Commission within a reasonable time.
5. A copy of the report shall be submitted to the State Party concerned within a reasonable time.

Article 22

States Parties shall create a conducive environment for independent and impartial national monitoring or observation mechanisms.

Chapter 8

Sanctions in Cases of Unconstitutional Changes of Government

Article 23

States Parties agree that the use of, inter alia, the following illegal means of accessing or maintaining power constitute an unconstitutional change of government and shall draw appropriate sanctions by the Union:

1. Any putsch or coup d'état against a democratically elected government;
2. Any intervention by mercenaries to replace a democratically elected government;
3. Any replacement of a democratically elected government by armed dissidents or rebels;
4. Any refusal by an incumbent government to relinquish power to the winning party or candidate after free, fair and regular elections; or
5. Any amendment or revision of the constitution or legal instruments, which is an infringement on the principles of democratic change of government.

Article 24

When a situation arises in a State Party that may affect its democratic political institutional arrangements or the legitimate exercise of power, the Peace and Security Council shall exercise its responsibilities in order to maintain the constitutional order in accordance with relevant provisions of the Protocol Relating to the Establishment of the Peace and Security Council of the African Union (hereinafter referred to as the Protocol).

10. AFRICAN CHARTER ON DEMOCRACY, ELECTIONS AND GOVERNANCE

Article 25

1. When the Peace and Security Council observes that there has been an unconstitutional change of government in a State Party, and that diplomatic initiatives have failed, it shall suspend the said State Party from the exercise of its right to participate in the activities of the Union in accordance with the provisions of Article 30 of the Constitutive Act and Article 7, paragraph 1 (g), of the Protocol. The suspension shall take effect immediately.
2. However, the suspended State Party shall continue to fulfil its obligations to the Union, in particular with regard to those relating to respect of human rights.
3. Notwithstanding the suspension of the State Party, the Union shall maintain diplomatic contacts and take any initiatives to restore democracy in that State Party.
4. The perpetrators of unconstitutional change of government shall not be allowed to participate in elections held to restore the democratic order or hold any position of responsibility in political institutions of their State.
5. Perpetrators of unconstitutional change of government may also be tried before the competent court of the Union.
6. The Assembly shall impose sanctions on any Member State that is proved to have instigated or supported unconstitutional change of government in another State in conformity with Article 23 of the Constitutive Act.
7. The Assembly may decide to apply other forms of sanctions on perpetrators of unconstitutional change of government including punitive economic measures.
8. States Parties shall not harbour or give sanctuary to perpetrators of unconstitutional changes of government.
9. States Parties shall bring to justice the perpetrators of unconstitutional changes of government or take necessary steps to effect their extradition.
10. States Parties shall encourage conclusion of bilateral extradition agreements as well as the adoption of legal instruments on extradition and mutual legal assistance.

Article 26

The Peace and Security Council shall lift sanctions once the situation that led to the suspension is resolved.

Chapter 9

Political, Economic and Social Governance

Article 27

In order to advance political, economic and social governance, States Parties shall commit themselves to:

1. Strengthening the capacity of parliaments and legally recognized political parties to perform their core functions;
2. Fostering popular participation and partnership with civil society organizations;
3. Undertaking regular reforms of the legal and justice systems;

IX. DEMOCRACY AND GOOD GOVERNANCE

4. Improving public sector management;
5. Improving efficiency and effectiveness of public services and combating corruption;
6. Promoting the development of the private sector through, inter alia, enabling legislative and regulatory framework;
7. Development and utilization of information and communication technologies;
8. Promoting freedom of expression, in particular freedom of the press and fostering a professional media;
9. Harnessing the democratic values of the traditional institutions; and
- 10 Preventing the spread and combating the impact of diseases such as malaria, tuberculosis, HIV/AIDS, Ebola fever, and avian flu.

Article 28

States Parties shall ensure and promote strong partnerships and dialogue between government, civil society and private sector.

Article 29

1. States Parties shall recognize the crucial role of women in development and strengthening of democracy.
2. States Parties shall create the necessary conditions for full and active participation of women in the decision-making processes and structures at all levels as a fundamental element in the promotion and exercise of a democratic culture.
3. States Parties shall take all possible measures to encourage the full and active participation of women in the electoral process and ensure gender parity in representation at all levels, including legislatures.

Article 30

States Parties shall promote citizen participation in the development process through appropriate structures.

Article 31

1. States Parties shall promote participation of social groups with special needs, including youth and people with disabilities, in the governance process.
2. States Parties shall ensure systematic and comprehensive civic education in order to encourage full participation of social groups with special needs in democracy and development processes.

Article 32

States Parties shall strive to institutionalize good political governance through:

1. Accountable, efficient and effective public administration;
2. Strengthening the functioning and effectiveness of parliaments;

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3. An independent judiciary;
4. Relevant reforms of public institutions including the security sector;
5. Harmonious relationships in society including civil-military relations;
6. Consolidating sustainable multiparty political systems;
7. Organizing regular, free and fair elections; and
8. Entrenching and respecting the principle of the rule of law.

Article 33

States Parties shall institutionalize good economic and corporate governance through, inter alia:

1. Effective and efficient public sector management;
2. Promoting transparency in public finance management;
3. Preventing and combating corruption and related offences;
4. Efficient management of public debt;
5. Prudent and sustainable utilization of public resources;
6. Equitable allocation of the nation's wealth and natural resources;
7. Poverty alleviation;
8. Enabling legislative and regulatory framework for private sector development;
9. Providing a conducive environment for foreign capital inflows;
10. Developing tax policies that encourage investment;
11. Preventing and combating crime;
12. Elaborating and implementing economic development strategies including private-public sector partnerships;
13. An efficient and effective tax system premised upon transparency and accountability.

Article 34

States Parties shall decentralize power to democratically elected local authorities as provided in national laws.

Article 35

Given the enduring and vital role of traditional authorities, particularly in rural communities, the States Parties shall strive to find appropriate ways and means to increase their integration and effectiveness within the larger democratic system.

Article 36

IX. DEMOCRACY AND GOOD GOVERNANCE

States Parties shall promote and deepen democratic governance by implementing the principles and core values of the NEPAD Declaration on Democracy, Political, Economic and Corporate Governance and, where applicable, the African Peer Review Mechanism (APRM).

Article 37

States Parties shall pursue sustainable development and human security through achievement of NEPAD objectives and the United Nations Millennium Development Goals (MDGs).

Article 38

1. States Parties shall promote peace, security and stability in their respective countries, regions and on the continent by fostering participatory political systems with well-functioning and, if need be, inclusive institutions.
2. States Parties shall promote solidarity among Member States and support the conflict prevention and resolution initiatives that the Union may undertake in conformity with the Protocol establishing the Peace and Security Council.

Article 39

States Parties shall promote a culture of respect, compromise, consensus and tolerance as a means to mitigate conflicts, promote political stability and security, and to harness the creative energies of the African peoples.

Article 40

States Parties shall adopt and implement policies, strategies and programmes required to generate productive employment, mitigate the impact of diseases, alleviate poverty and eradicate extreme poverty and illiteracy.

Article 41

States Parties shall undertake to provide and enable access to basic social services to the people.

Article 42

States Parties shall implement policies and strategies to protect the environment to achieve sustainable development for the benefit of the present and future generations. In this regard, States Parties are encouraged to accede to the relevant treaties and other international legal instruments.

Article 43

1. States Parties shall endeavour to provide free and compulsory basic education to all, especially girls, rural inhabitants, minorities, people with disabilities and other marginalized social groups.
2. In addition, States Parties shall ensure the literacy of citizens above compulsory school age, particularly women, rural inhabitants, minorities, people with disabilities, and other marginalized social groups.

Chapter 10 Mechanisms for Application

Article 44

To give effect to the commitments contained in this Charter:

10. AFRICAN CHARTER ON DEMOCRACY, ELECTIONS AND GOVERNANCE

1. Individual State Party Level

States Parties commit themselves to implement the objectives, apply the principles and respect the commitments enshrined in this Charter as follows:

- (a) States Parties shall initiate appropriate measures including legislative, executive and administrative actions to bring States Parties' national laws and regulations into conformity with this Charter;
- (b) States Parties shall take all necessary measures in accordance with constitutional provisions and procedures to ensure the wider dissemination of the Charter and all relevant legislation as may be necessary for the implementation of its fundamental principles;
- (c) States Parties shall promote political will as a necessary condition for the attainment of the goals set forth in this Charter;
- (d) States Parties shall incorporate the commitments and principles of the Charter in their national policies and strategies.

2. Commission Level

A. Continental Level

- (a) The Commission shall develop benchmarks for implementation of the commitments and principles of this Charter and evaluate compliance by States Parties.
- (b) The Commission shall promote the creation of favourable conditions for democratic governance in the African continent, in particular by facilitating the harmonization of policies and laws of States Parties.
- (c) The Commission shall take the necessary measures to ensure that the Democracy and Electoral Assistance Unit and the Democracy and Electoral Assistance Fund provide the needed assistance and resources to States Parties in support of electoral processes.
- (d) The Commission shall ensure that effect is given to the decisions of the Union in regard to unconstitutional change of government on the continent.

B. Regional Level

The Commission shall establish a framework for cooperation with Regional Economic Communities on the implementation of the principles of the Charter. In this regard, it shall commit the Regional Economic Communities (RECs) to:

- (a) Encourage Member States to ratify or adhere to this Charter;
- (b) Designate focal points for coordination, evaluation and monitoring of the implementation of the commitments and principles enshrined in this Charter in order to ensure massive participation of stakeholders, particularly civil society organizations, in the process.

Article 45

The Commission shall:

- (a) Act as the central coordinating structure for the implementation of this Charter;

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(b) Assist States Parties in implementing the Charter;

(c) Coordinate evaluation on implementation of the Charter with other key organs of the Union including the Pan-African Parliament, the Peace and Security Council, the African Human Rights Commission, the African Court of Justice and Human Rights, the Economic, Social and Cultural Council, the Regional Economic Communities and appropriate national-level structures.

Chapter 11 Final Clauses

Article 46

In conformity with applicable provisions of the Constitutive Act and the Protocol Relating to the Establishment of the Peace and Security Council of the African Union, the Assembly and the Peace and Security Council shall determine the appropriate measures to be imposed on any State Party that violates this Charter.

Article 47

1. This Charter shall be open for signature, ratification and accession by Member States of the Union in accordance with their respective constitutional procedures.
2. The instruments of ratification or accession shall be deposited with the Chairperson of the Commission.

Article 48

This Charter shall enter into force thirty (30) days after the deposit of fifteen (15) instruments of ratification.

Article 49

1. States Parties shall submit every two years, from the date the Charter comes into force, a report to the Commission on the legislative or other relevant measures taken with a view to giving effect to the principles and commitments of the Charter.
2. A copy of the report shall be submitted to the relevant organs of the Union for appropriate action within their respective mandates.
3. The Commission shall prepare and submit to the Assembly, through the Executive Council, a synthesized report on the implementation of the Charter.
4. The Assembly shall take appropriate measures aimed at addressing issues raised in the report.

Article 50

1. Any State Party may submit proposals for the amendment or revision of this Charter.
2. Proposals for amendment or revision shall be submitted to the Chairperson of the Commission who shall transmit same to States Parties within thirty (30) days of receipt thereof.
3. The Assembly, upon the advice of the Executive Council, shall examine these proposals at its session following notification, provided all States Parties have been notified at least three (3) months before the beginning of the session.

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4. The Assembly shall adopt amendments or revisions by consensus or failing which, by two-thirds majority.
5. The amendments or revisions shall enter into force when approved by two-thirds majority of States Parties.

Article 51

1. The Chairperson of the Commission shall be the depositary of this Charter.
2. The Chairperson of the Commission shall inform all Member States of the signature, ratification, accession, entry into force, reservations, requests for amendments and approvals thereof.
3. Upon entry into force of this Charter, the Chairperson of the Commission shall register it with the Secretariat of the United Nations in accordance with Article 102 of the Charter of the United Nations.

Article 52

None of the provisions of the present Charter shall affect more favourable provisions relating to democracy, elections and governance contained in the national legislation of States Parties or in any other regional, continental or international conventions or agreements applicable in these States Parties.

Article 53

This Charter, drawn up in four (4) original texts, in Arabic, English, French and Portuguese languages, all four (4) being equally authentic, shall be deposited with the Chairperson of the Commission who shall transmit certified copies of same to all Member States and the United Nations Secretariat.

11.

AFRICAN CHARTER ON STATISTICS

Adopted in Addis Ababa, Ethiopia, on 4 February 2009.

Entered into force on 8 February 2015.

Preamble

We, the Member States of the African Union,

Considering the Constitutive Act of the African Union (AU) adopted in Lomé, Togo, on 11 July 2000,

Guided by Member States' unambiguous and shared vision on the Treaty Establishing the African Economic Community adopted in Abuja, Nigeria, in 1991, with the aim of promoting economic, social, cultural and self-sustained development, as well as integration of African economies,

Convinced of the need to speed up the process of implementation of the aforesaid Treaty,

Aware that the decisions and new policy guidelines of the African Union for accelerating Africa's integration process, and the commitments to implement development programmes and combat poverty should be based on clear evidence and therefore require a robust statistical data system which provides reliable, comprehensive and harmonized statistical information on the continent,

Considering that statistical information is vital for decision-making by all components of the society, particularly policy makers as well as economic and social players, and is therefore essential for the continent's integration and sustainable development,

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Aware of the need to enhance coordination of statistical activities on the continent,

Noting that public confidence in official statistical information is premised, to a large extent, on respect for basic democratic values and principles,

Noting also that the quality of the official statistical information available to public administrations and other activity areas depends to a large extent on effective collaboration between statistical data providers, producers and users,

Noting further that the professional and social responsibility as well as the credibility of African statisticians demand not only technical skills and capacities, but also respect for the fundamental principles of official statistics, professional ethics and good practices,

Recalling the adoption of the Addis Ababa Plan of Action for Statistical Development in Africa by the Conference of Ministers in charge of Social and Economic Development in Addis Ababa, Ethiopia, in May 1990,

Recalling also the United Nations Statistical Commission's Resolution on the Fundamental Principles of Official Statistics adopted in April 1994,

Referring to the professional code of ethics adopted by the International Statistics Institute (ISI) at its Forty-fifth Session in August 1985,

Recalling that the adoption and implementation of international standards, norms and concepts are essential for making comparisons between countries, and thus constitute a prerequisite for the production of comparable statistics at the continental level,

Recalling also that the majority of countries have acceded to the International Monetary Fund (IMF) General Data Dissemination System (GDDS) or to the Special Data Dissemination Standard (SDDS), and the standards regarding the Data Quality Assessment Framework (DQAF) as defined by the IMF,

Recalling further the Declaration on Good Practices in Technical Cooperation in Statistical Matters adopted by the United Nations Commission for Statistics during its session of March 1999,

Referring to the Paris Declaration on Aid Effectiveness adopted in March 2005,

Appreciating the initiatives already undertaken by various concerned statistics organizations at the national, regional and international levels for statistics development, particularly the strengthening of national legislation; adoption and implementation of National Strategies for Development of Statistics (NSDS) for the conduct of statistical activities; the development of harmonized statistical tools by the Regional Economic Communities (RECs); the adoption in 2007 of the Regional Strategic Reference Framework for Statistical Capacity-Building in Africa (RRSF) by the Conference of African Ministers of Finance, Planning and Economic Development and the establishment of the Statistical Commission for Africa (STATCOM-Africa) in 2007,

Appreciating also the efforts undertaken to enhance the independence and status of statistics institutes and to secure appropriate stable financing for statistical activities according to the Third Edition of the United Nations Handbook of Statistics Organizations adopted in 2003,

Recalling the resolutions of the African Symposium for Statistics Development held, respectively, in Cape Town, South Africa, in January 2006, and in Kigali, Rwanda, in January 2007,

Recalling the Decision adopted by the Executive Council of the African Union in Addis Ababa, Ethiopia, in January 2007 on the elaboration of an African Charter on Statistics,

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Committed to promoting decision-making based on statistical information and to fostering statistical capacities on the continent,

Resolved to put in place a common legal framework for statistics development on the African continent,

Have agreed as follows:

Part I General Provisions

Chapter 1 Definitions

Article 1 Definitions

For the purposes of this Charter, the following definitions will be understood:

"Assembly", the Assembly of Heads of State and Government of the African Union;

"African Statistical System (ASS)", the partnership composed of national statistical systems (data providers, producers and users, statistics research and training institutes and statistics coordination bodies, etc.), statistics units in the Regional Economic Communities (RECs), regional statistics organizations, regional training centres, statistics units of continental organizations and coordination bodies at the continental level;

"African statistician", any statistics professional or researcher involved in the collection, production, analysis and dissemination of statistical data within the African Statistical System;

"African statistics", all statistical information required to formulate, monitor and evaluate development policies and programmes in Africa at the national, regional and continental levels;

"Charter", the African Charter on Statistics;

"Commission", the African Union Commission;

"Court", the Court of Justice and Human Rights of the African Union;

"Member States", Member States of the African Union;

"Metadata", the range of information, generally textual, that fosters understanding of the context in which statistical data have been collected, processed and analysed with the objective of creating statistical information (legal and regulatory texts, methods and concepts used at all levels of information processing, definitions and nomenclatures, etc.);

"Official statistics", the body of statistical information produced, validated, compiled and disseminated by Statistics Authorities;

"Regional organizations", Regional Economic Communities, regional statistical organizations and regional training centres;

"States Parties", Member States, which have ratified this Charter;

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"Statistical information", any organized quantitative and/or qualitative information obtained from statistical data that facilitate understanding of economic, political, demographic, social, environmental and cultural trends, and of gender, governance and other related issues;

"Statistics", data required for production of organized statistical information, obtained from censuses and statistical surveys or administrative records;

"Statistics authorities", national statistics institutes and/or other statistics organizations in charge of official statistics production and dissemination at the national, regional and continental levels.

Chapter 2 Objectives

Article 2 Objectives

The objectives of this Charter are as follows:

1. To serve as a policy framework for statistics development in Africa, especially the production, management and dissemination of statistical data and information at the national, regional and continental levels;
2. To serve as an advocacy tool and instrument for statistics development on the continent;
3. To ensure improved quality and comparability of the statistics required to monitor the economic and social integration process on the continent;
4. To promote adherence to fundamental principles of production, storage, management, dissemination and use of statistical information in the African continent;
5. To contribute to enhancing coordination of statistical activities and statistics institutions in Africa, including coordination of partners' interventions at the national, regional and continental levels;
6. To build the institutional capacity of statistics authorities in Africa thus ensuring their autonomy in operations, while paying particular attention to adequacy of human, material and financial resources;
7. To serve as a reference framework for the exercise of the African statistician profession, professional code of ethics and best practices;
8. To promote a culture of evidence-based policy formulation, monitoring and evaluation;
9. To contribute to improved and effective functioning of the African statistics system and experience sharing; and
10. To ensure that there is no duplication in the implementation of statistics programmes.

Chapter 3 Charter Principles

Article 3 Principles

The African Statistics System (ASS) organizations, African statisticians and all those operating in the field of statistics at the national, regional and continental levels shall respect the principles enshrined in the Resolution on

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the fundamental principles of official statistics adopted by the United Nations Commission for Statistics in April 1994. They shall also apply the best practices principles hereunder defined.

Principle 1 Professional Independence

1. Scientific independence: statistics authorities must be able to carry out their activities according to the principle of scientific independence, particularly vis-à-vis the political authorities or any interest group; this means that the methods, concepts and nomenclatures used in statistical operations shall be selected only by the statistics authorities without any interference whatsoever and in accordance with the rules of ethics and good practice.
2. Impartiality: statistics authorities shall produce, analyse, disseminate, and comment on African statistics in line with the principle of scientific independence, and in an objective, professional and transparent manner.
3. Responsibility: statistics authorities and African statisticians shall employ unambiguous and relevant methods in the collection, processing, analysis and presentation of statistical data. Statistical authorities shall also have the right and duty to make observations on erroneous interpretation and improper use of the statistical information that they disseminate.
4. Transparency: to facilitate proper interpretation of data, statistics authorities shall provide information on their sources, methods and procedures that have been used in line with scientific standards. The domestic law governing the operation of the statistical systems must be made available to the public.

Principle 2 Quality

1. Relevance: African statistics shall meet the needs of users.
2. Sustainability: African statistics shall be conserved in as detailed as possible a form to ensure their use by future generations, while preserving the principles of confidentiality and protection of respondents.
3. Data sources: data used for statistical purposes may be collected from diverse sources such as censuses, statistics surveys and/or administrative records. The statistics organizations shall choose their sources in consideration of the quality of data offered by such sources and their topicality, particularly the costs incurred by the respondents and sponsors. The use by statistics authorities of administrative records for statistical purposes shall be guaranteed by domestic law, provided that confidentiality is preserved.
4. Accuracy and reliability: African statistics shall be an accurate and reliable reflection of the reality.
5. Continuity: statistics authorities shall ensure continuity and comparability of statistical information over time.
6. Coherence and comparability: African statistics shall be internally coherent over time and allow for comparison between regions and countries. To this end, these statistics shall make combined use of related data derived from different sources. It shall employ internationally recognized and accepted concepts, classifications, terminologies and methods.
7. Timeliness: African statistics shall be disseminated in good time and, as far as possible, according to a predetermined calendar.
8. Topicality: African statistics shall reflect current and topical events and trends.

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9. Specificities: statistical data production and analytical methods shall take into account African peculiarities.

10. Awareness-building: States Parties shall sensitize the public, particularly statistical data providers, on the importance of statistics.

Principle 3

Mandate for Data Collection and Resources

1. Mandate: statistics authorities shall be endowed with a clear legal mandate empowering them to collect data for production of African statistics. At the request of statistics authorities, public administrations, business establishments, households and the general public may be compelled by domestic law to allow access to the data in their possession or provide data for the purpose of compilation of African statistics.

2. Resource adequacy: As far as possible, the resources available to statistics authorities shall be adequate and stable to enable them to meet statistics needs at the national, regional and continental levels. Governments of States Parties shall have the primary responsibility to provide such resources.

3. Cost-effectiveness: statistics authorities shall use the resources so provided effectively and efficiently. This presupposes, in particular, that operations shall as far as possible, be programmed in an optimal manner. Every effort shall be made to achieve improved production and use of the statistics derived from administrative records, to reduce the costs incurred by respondents and, as far as possible, avoid expensive direct statistical surveys.

Principle 4

Dissemination

1. Accessibility: African statistics shall not be made inaccessible in any way whatsoever. This concomitant right of access for all users without restriction shall be guaranteed by domestic law. Microdata may be made available to users on condition that the pertinent laws and procedures are respected and confidentiality is maintained.

2. Dialogue with users: mechanisms for consultation with all African statistics users without discrimination shall be put in place with a view to ensuring that the statistical information offered is commensurate with their needs.

3. Clarity and understanding: statistics shall be presented in a clear and comprehensible form. They shall be disseminated in a practical and appropriate manner, be available and accessible to all and accompanied by the requisite metadata and analytical commentaries.

4. Simultaneity: African statistics shall be disseminated in a manner that ensures that all users are able to use them simultaneously. Where certain authorities receive advance information under embargo, to allow them time to respond to possible questions, a public announcement shall be made indicating the nature of such information, the identity of the recipients and the set time frame before its public dissemination.

5. Correction: statistics authorities shall correct publications containing significant errors using standard statistical practices or, for very serious cases, suspend dissemination of such statistics. In that event, the users shall be informed in clear terms of the reasons for such corrections or suspension.

Principle 5

Protection of Individual Data, Information Sources and Respondents

1. Confidentiality: national statistics authorities, African statisticians and all those operating in the field of statistics in Africa shall absolutely guarantee the protection of the private life and business secrets of data

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providers (households, companies, public institutions and other respondents), the confidentiality of the information so provided and the use of such information for strictly statistical purposes.

2. Giving assurances to data providers: persons or entities interviewed during statistical surveys shall be informed of the objective of such interviews and of the measures put in place to protect the data provided.

3. Objective: data concerning individuals or entities collected for statistical purposes shall in no circumstance be used for judicial proceedings or punitive measures or for the purpose of taking administrative decisions against such individuals or entities.

4. Rationality: statistics authorities shall not embark upon statistical surveys except where pertinent information is unavailable from administrative records or the quality of such information is inadequate in relation to the quality requirements of statistical information.

Principle 6 Coordination and Cooperation

1. Coordination: coordination and collaboration among statistics authorities in a given country are essential in ensuring quality and harmonious statistical information. Similarly, coordination and dialogue among all Members of the African Statistical System are vital for harmonization, production and use of African statistics.

2. Cooperation: Bilateral and multilateral statistics cooperation shall be encouraged with a view to upgrading African statistics production systems.

Chapter 4 Commitment of States Parties

Article 4 Commitment of the States Parties

States Parties accept the objectives and principles enshrined in this Charter to reinforce their national statistical policies and systems and undertake to institute appropriate measures, especially legislative, regulatory and administrative to ensure that their laws and regulations are in conformity with this Charter.

Chapter 5 Implementation, Monitoring and Evaluation Mechanisms, and Scope of the Charter

Article 5 National Level

States Parties shall ensure the implementation of this Charter in their respective countries.

Article 6 Regional Level

States Parties shall ensure that the objectives and principles governing statistics at the regional level are in conformity with this Charter. To this end, they shall monitor the activities of regional statistics organizations.

Article 7 Continental Level

1. The Commission shall, in collaboration with all members of the African statistical system, institute an appropriate mechanism for implementation, monitoring and evaluation of this Charter.

IX. DEMOCRACY AND GOOD GOVERNANCE

2. The Commission shall be the central coordination organ for implementation of this Charter in conformity with Article 8 hereunder, and shall carry out the following activities:

- (a) Assisting States Parties in implementation of this Charter;
- (b) Coordinating measures geared to evaluating implementation of this Charter;
- (c) Undertaking robust advocacy for the development of statistics in Africa as a key infrastructure for Africa's renaissance;
- (d) Ensuring that States Parties establish national funds for statistics development; and
- (e) Contributing to the promotion of a culture of statistics in cooperation with the entire membership of African statistics system.

Article 8

Relation Between the Members of the African Statistics System

1. The African Statistics System is a partnership which functions as a network in conformity with the subsidiarity principle. This principle consists in taking the measures needed for the systems to function to such levels as would enable it to achieve maximum effectiveness. Each Member, in the area that concerns it, shall ensure proper coordination of the system.

2. The implementation of this Charter should enable subregional, regional and continental organizations to fully play their role in Africa's development in compliance with the principle of subsidiarity. It should also lead to provision of reliable statistical data for Africans and development partners, for a better understanding of the situation on the continent.

Articles 9

Cooperation Between the African Statistical System and Third Parties

- 1. The African Statistical System may conclude cooperation agreements with third parties.
- 2. In the implementation of this Charter, the African Statistical System shall enter into cooperative relations with the global statistics system, particularly the specialized agencies of the United Nations and any other international organization.
- 3. Information on cooperation agreements concluded with third parties shall be communicated to the policy organs of the Union and Member States.

Article 10

Scope of Application

This Charter shall be applicable to all activities relating to statistics development, including its institutional environment, statistics production process and statistics products. It shall, in particular, apply to the following activities:

- (a) Statistical legislation;
- (b) Statistics advocacy actions;
- (c) Harmonization of statistical information gathering, production and dissemination methods;

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- (d) Human and financial resource mobilization for statistics activities development and for effective operation of the African statistics system;
- (e) Establishing and updating definitions and concepts, norms and standards, nomenclatures and methodologies;
- (f) Coordination of statistical activities;
- (g) Data gathering, processing, management and archiving;
- (h) Dissemination and use of statistical information;
- (i) Statistical analysis and research; and
- (j) Statistics training and human resource development.

Article 11 Popularization of the Charter

States Parties shall take all appropriate measures to ensure the widest possible dissemination of this Charter in accordance with the relevant provisions and procedures of their respective constitutions.

Part II Final Provisions

Article 12 Safeguard Clause

No provision in the present Charter shall be interpreted as derogating from the principles and values contained in other relevant instruments for the promotion of statistics development in Africa.

Article 13 Interpretation

The Court shall be seized with matters of interpretation arising from the application or implementation of this Charter. Pending the establishment of the Court, such matters shall be submitted to the Assembly.

Article 14 Signature, Ratification and Accession

1. This Charter shall be open for signature, ratification and accession by all Member States, in accordance with their respective constitutional procedures.
2. The instruments of ratification or accession shall be deposited with the Chairperson of the Commission.

Article 15 Entry into Force

1. This Charter shall enter into force thirty (30) days after the deposit of the instruments of ratification by fifteen (15) Member States.

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2. For each Member State that accedes to this Charter after its entry into force, the Charter shall become effective on the date the State deposits its instrument of accession with the Chairperson of the Commission.
3. The Chairperson of the Commission shall notify Member States of the entry into force of this Charter.

Article 16 Amendment and Revision

1. Any State Party may submit proposals for amendment or revision of this Charter.
2. Proposals for amendment or revision shall be submitted, in writing, to the Chairperson of the Commission who shall transmit copies thereof to the States Parties within thirty (30) days following the date of receipt of such proposals.
3. The Assembly shall, on the recommendation of the Executive Council, consider such proposals within one (1) year following the notification of States Parties, in keeping with the provisions of paragraph 2 of this article.
4. Amendments or revision shall be adopted by the Assembly and then submitted for ratification by all Member States in accordance with their respective constitutional procedures. Such amendments or revision shall become effective following the deposit of instruments of ratification by fifteen (15) States Parties.

Article 17 Depositary

This Charter, drawn up in four (4) original texts in the Arabic, English, French and Portuguese languages, all four (4) texts being equally authentic, shall be deposited with the Chairperson of the Commission who shall transmit certified copies thereof to each signatory State and notify them of the dates of the deposit of the instruments of ratification or accession. The Chairperson shall, upon its entry into force, register this Charter with the Secretariat of the United Nations.

12.

AFRICAN CHARTER ON THE VALUES AND PRINCIPLES OF PUBLIC SERVICE AND ADMINISTRATION

Adopted in Addis Ababa, Ethiopia, on 31 January 2011.
Entered into force on 23 July 2016.

Preamble

The Member States of the African Union,

Reiterating their political commitment to strengthen professionalism and ethics in public service in Africa,

Determined to promote the values and principles of democracy, good governance, human rights and the right to development,

Cognizant of the mandate of the public service and administration to protect the fundamental values of public service and promote an administrative culture based on respect for the rights of the user,

Committed to promoting the values and principles governing the organization of public service and administration,

Conscious of the need to maintain the legitimacy of the public service and adapt African public services to the evolving needs on the continent,

12. AFRICAN CHARTER ON PUBLIC SERVICE AND ADMINISTRATION

Reaffirming their collective desire to strive tirelessly for the modernization, improvement and entrenchment of new values of governance in public service,

Guided by their common desire to strengthen and consolidate public service with a view to promoting integration and sustainable development on the continent,

Committed to promoting a public service and administration that uses the optimum conditions of equity and efficiency,

Desirous of ensuring effective application of the African Charter on the Values and Principles of Public Service and Administration, taking into account conditions unique to Member States,

Recalling Executive Council Decision EX.CL/Dec.243 (VIII),

Have agreed as follows:

Chapter I Definitions, Objectives and Principles

Article 1 Definitions

In this Charter and unless otherwise stated, the following expressions shall have the following meaning:

"Administration" means any institution or organization at the continental, regional, national or subnational level that applies the public policies or undertakes public service duties;

"Assembly" means the Assembly of Heads of State and Government of the African Union;

"AU" means the African Union;

"Charter" means the African Charter on the Values and Principles of Public Service and Administration;

"Commission" means the Commission of the African Union;

"Conference of States Parties " means the Conference of Member States that has ratified this Charter;

"Constitutive Act" means the Constitutive Act of the African Union;

"Executive Council" means the Council of Ministers of the African Union;

"Member States" means the Member States of the African Union;

"Public service" means any service or public interest activity that is under the authority of the administration;

"Public service agent" means any worker or employee of the State or of its institutions, including those who were selected, appointed or elected to carry out activities in the name or on behalf of the State, at all levels of its structures;

"Public service ethics" means the accountability standards by which the work, behaviour and actions of public service agents are scrutinized;

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"Regional Economic Communities" means the African Union's regional integration blocs;

"State Party" means any Member State of the African Union that has ratified or acceded to this charter and deposited the instruments of ratification or accession with the Chairperson of the Commission of the African Union;

"User" means any juristic or natural person who calls on the public service for a service.

Article 2 Objectives

The objectives of this Charter are to:

1. Promote the principles and values contained herein;
2. Ensure quality and innovative service delivery that meets the requirements of all users;
3. Encourage the efforts of Member States in modernizing administration and strengthening capacity for the improvement of public service;
4. Encourage citizens and users of public services to actively and effectively participate in public administration processes;
5. Promote the moral values inherent in the activities of public service agents with a view to ensuring transparent service delivery;
6. Improve the working conditions of public service agents and ensure the protection of their rights;
7. Encourage the harmonization of policies and procedures related to public service and administration among Member States with the aim of promoting regional and continental integration;
8. Promote equality between men and women as well as equality within public service and administration structures;
9. Strengthen cooperation among Member States, Regional Economic Communities and the international community for the improvement of public service and administration;
10. Encourage the exchange of experiences and best practices in order to create a database of information within the Member States.

Article 3 Principles

The Member States agree to implement the Charter in accordance with the following principles:

1. Equality of all users of public service and administration;
2. The prohibition of all forms of discrimination on any basis, including place of origin, race, gender, disability, religion, ethnicity, political opinion, membership in a trade union or any other lawful organization;
3. Impartiality, fairness and due process in the delivery of public services;
4. Continuity of public services under all circumstances;

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5. Adaptability of public services to the needs of users;
6. Professionalism and ethics in public service and administration;
7. Promotion and protection of rights of users and public service agents;
8. Institutionalizing a culture of accountability and integrity and transparency in public service and administration;
9. Effective, efficient and responsible use of resources.

Chapter II Duties of the Public Service and Administration

Article 4 Respect for Human Rights and Legality

1. The public service and administration and its agents shall respect the human rights, dignity and integrity of all users.
2. Public services must be delivered in accordance with national laws, regulations and policies in force.
3. Decisions of the public service and administration shall conform to existing national laws and regulatory frameworks.

Article 5 Access to Public Service

1. States Parties shall entrench into their national laws and regulations the principles of equal access and non-discrimination.
2. Public service and administration shall be organized to ensure and facilitate easy access to adequate services.
3. Public service and administration shall be organized in a manner which ensures that services are delivered closer to users.
4. Public service and administration shall be participatory in order to ensure the effective involvement of all stakeholders including civil society in the planning and delivery of services.

Article 6 Access to Information

1. Public service and administration shall make available to users information on procedures and formalities pertaining to public service delivery.
2. Public service and administration shall inform users of all decisions made concerning them, the reasons behind those decisions, as well as the mechanisms available for appeal.
3. Public service and administration shall establish effective communication systems and processes to inform the public about service delivery, to enhance access to information by users, as well as to receive their feedback and inputs.

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4. Public service and administration shall ensure that administrative procedures and documents are presented in a user-friendly and simplified manner.

Article 7 Efficient and Quality Service

1. Public services shall be delivered in the most effective, efficient and economical manner, consistent with the highest possible standards.
2. Public service and administration shall establish appropriate mechanisms to periodically monitor and evaluate the effectiveness of public service delivery.
3. Public service and administration shall set and respect time frames for public service delivery.
4. Public service and administration shall ensure that its services are adapted to the evolving needs of users.
5. Public service and administration shall take the necessary steps to create and maintain trust among public service agents and users.

Article 8 Modernization of the Public Service and Administration

1. Public service and administration shall facilitate the introduction of modern and innovative procedures and systems for the delivery of its services.
2. Public service and administration shall ensure that modern technologies are used to support and improve the delivery of services.
3. Public service and administration shall simplify its procedures and ease formalities related to access and delivery of services.

Chapter III Code of Conduct for Public Service Agents

Article 9 Professionalism

1. Public service agents shall demonstrate professionalism, transparency and impartiality in the performance of their duties.
2. Public service agents shall demonstrate excellence and innovation in their performance of duties.
3. Public service agents shall be required to perform their professional duties and show courtesy, integrity and neutrality in dealing with users.
4. Public service agents shall act responsibly and in accordance with the national laws and regulations.

Article 10 Ethical Behaviour

1. Public service agents shall demonstrate integrity and respect all rules, values and established codes of conduct in the performance of their duties.

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2. Public service agents shall not solicit, accept, or receive directly or indirectly any payment, gift, donation, or reward in kind or cash, for services rendered.
3. Public service agents shall on no account use their positions for political or personal gains. In all circumstances, they shall act with impartiality and loyalty.

Article 11 Incompatibilities and Conflict of Interest

1. Public service agents shall not participate in making decisions or intervene in situations in which they have vested interests in order not to compromise their impartiality or cast doubt over the image of the administration.
2. States Parties shall clearly stipulate norms of incompatibility and conflicts of interest in national laws.
3. Public service agents shall not occupy any position, engage in transactions or hold financial, commercial or material interest incompatible with their duties or responsibilities.
4. Public service agents shall respect the confidentiality of documents and information in their possession or at their disposal in the exercise of their duties.
5. Public service agents shall refrain from unduly profiting from offices they previously occupied.

Article 12 Preventing and Combating Corruption

1. States Parties shall enact laws and adopt strategies to fight corruption through the establishment of independent anti-corruption institutions.
2. Public service and administration shall constantly sensitize public service agents and users on legal instruments, strategies and mechanisms used to fight corruption.
3. States Parties shall institute national accountability and integrity systems to promote value-based societal behaviour and attitude as a means of preventing corruption.
4. States Parties shall promote and recognize exemplary leadership in creating value-based and corruption-free societies.

Article 13 Declaration of Assets

Public service agents shall declare their assets and income at the beginning, during and at the end of their service as prescribed in national laws and regulations.

Chapter IV Rights of Public Service Agents

Article 14 Equality of Public Service Agents

1. The public service and administration shall promote equality among its agents.

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2. Public service and administration shall not encourage or perpetuate discrimination based on origin, race, gender, disability, religion, ethnicity, political opinion or any other consideration.

Article 15

Freedom of Expression and Association

1. Public service agents shall have freedom of expression giving due consideration to their status as public servants.
2. Public service agents shall have the right to create or belong to associations, trade unions or any other group to promote and protect their rights in accordance with national laws.
3. Without prejudice to national laws, membership or non-membership in a political party shall in no way affect the career of a public servant.
4. Public service agents shall have the right to engage in collective bargaining, or take industrial action having due regard to national laws and regulations.
5. Representatives of trade unions shall be protected against discriminatory practices and any form of punishment on account of their trade union activities.
6. Public service and administration shall promote an enabling environment which enhances dialogue and consultation.
7. Procedures and mechanisms to resolve disputes shall be clearly stipulated in national laws and regulations.

Article 16

Working Conditions

1. Public service and administration shall provide a working environment that guarantees the safety of its agents.
2. Public service and administration shall protect its agents against all forms of threats, insults, harassment or aggression.
3. Public service and administration shall protect its agents against all forms of sexual harassment in the performance of their duties.

Article 17

Remuneration

Public service agents shall have the right, within a coherent and harmonized pay system, to a just and equitable remuneration which corresponds to their qualifications, responsibilities, performance and tenure.

Article 18

Social Rights

Public service agents shall have the right to leave, social security and retirement benefits.

Chapter V

Management and Development of Human Resources

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Article 19 Recruitment

1. Public service and administration shall endeavour to establish a human resource policy framework and plan for effective and efficient operation.
2. The recruitment of public service agents shall be based on the principle of merit, equality and non-discrimination.
3. Without prejudice to any provision of this Charter, States Parties shall adopt legislative, executive and administrative measures that guarantee the right to employment of women, ethnic minorities, and people with disabilities, marginalized and vulnerable social groups.
4. States Parties shall adopt procedures for selection and recruitment into the public service and administration that shall be based on principles of competition, merit, equity and transparency.

Article 20 Performance Management of Public Service Agent

1. States Parties shall institute a performance culture within the public service and administration.
2. Public service agents shall undergo a process of performance management based on clear and measurable criteria.
3. States Parties shall carry out continuous monitoring and evaluation to assess the performance of public service agents in order to determine their promotional requirements, development needs, levels of efficiency and productivity.

Article 21 Capacity Development

1. States Parties shall undertake systematic, comprehensive and evidence-based capacity development programmes to strengthen the effectiveness and efficiency of public service and administration.
2. States Parties shall collaborate with management development and research institutions as well as leveraging knowledge networks to strengthen capacities of public service agents.
3. States Parties shall provide working tools and create a conducive working environment for the application of new knowledge within the limits of available resources.
4. States Parties shall put in place mechanisms and processes for the exchange of expertise, knowledge, information, technology and best practices in capacity enhancement of public service and administration.

Article 22 Mobility

1. Public service and administration shall adopt the principle of "mobility" in the management of the career of its agents.
2. Mobility shall take into account the service requirements and needs of public service Agents.

Chapter VI Mechanisms for Application

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Article 23 Mechanisms for Application

To give effect to the commitments contained in this Charter, the following actions shall be undertaken.

1. Individual State Party Level

States Parties commit themselves to implement the objectives, apply the principles and respect the commitments enshrined in this Charter as follows:

- (a) Adopt executive, legislative, and administrative instruments to align their national laws and regulations to this Charter;
- (b) Take all necessary measures to ensure broad dissemination of the Charter;
- (c) Demonstrate political will as a necessary condition for the achievement of objectives outlined in the Charter;
- (d) Integrate commitments, values and principles of the Charter in national policies and strategies;
- (e) Take the necessary steps to develop cooperation and share experiences in the area of public service and administration consistent with the objectives, values and principles of the Charter.

2. Commission Level

(i) Continental Level

With a view to ensuring and facilitating the implementation of this Charter, the Commission shall:

- (a) Ensure that a Conference of States Parties is established;
- (b) Develop guidelines on the implementation of the Charter in partnership with the Conference of States Parties;
- (c) Establish, in consultation with the Conference of States Parties, a Secretariat to coordinate and undertake the implementation of duties, obligations and responsibilities enshrined in this Charter;
- (d) Facilitate the creation of conditions for good governance and the delivery of quality public services on the continent through the harmonization of policies and laws of States Parties;
- (e) Assist States Parties to implement the Charter and coordinate the evaluation of its implementation;
- (f) Mobilize necessary resources to support States Parties to strengthen their capacity for the implementation of this Charter;
- (g) Establish the required mechanisms and create capacities for the implementation of this Charter;
- (h) Undertake periodic review of the Charter and make recommendations to the policy organs of the African Union.

(ii) Regional Level

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In accordance with their constitutive instruments, the Regional Economic Communities shall:

- (a) Encourage their Member States to ratify or accede to this Charter and implement it;
- (b) Integrate and take into account the objectives, principles and values of this Charter in the drafting and adoption of their legal instruments.

Article 24

Reporting and Follow-Up Mechanisms

- 1. States Parties shall submit every two years, from the date the Charter comes into force, a report to the Commission on the legislative or other relevant measures taken with a view to giving effect to the principles and commitments of the Charter.
- 2. A copy of the report shall be submitted to the relevant organs of the African Union for appropriate action within their respective mandates.
- 3. The Commission shall prepare and submit to the Assembly, through the Executive Council and the Conference of States Parties, a synthesized report on the implementation of the Charter.
- 4. The Assembly shall take appropriate measures aimed at addressing issues raised in the report.

Article 25

Recognition and Award System

- 1. States Parties shall institutionalize a transparent and impartial system for recognizing outstanding performance, creativity and innovation in public service and administration.
- 2. The Conference of States Parties shall promote mechanisms to support activities for the improvement of public service and administration.
- 3. The Commission shall promote innovative experiences and institute a system of awards for Innovation in public service and administration.

Chapter VII

Final Clauses

Article 26

Cautionary Clauses

- 1. No clause contained herein shall affect more favourable legislation on public service and administration or better laws on rights and obligations contained in national legislation of States Parties or in other national, regional or international instruments.
- 2. In the event of a contradiction between two or more provisions of this Charter, the interpretation that shall prevail is that which favours the rights and legitimate interests of public service users.

Article 27

Interpretation

The African Court of Justice and Human Rights shall be seized with matters of interpretation arising from the application or implementation of this Charter. Pending the establishment of the Court, such matters shall be submitted to the Assembly.

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Article 28 Settlement of Disputes

1. Any dispute or differences arising between the States Parties with regard to the interpretation or application of this Charter shall be settled amicably through direct consultations between the States Parties concerned. In the event of failure to settle the dispute or differences, either State may refer the dispute to the African Court of Justice and Human Rights.
2. Until such time as and when the latter shall have been established, the dispute or differences shall be submitted to the Conference of the States Parties, which will decide by consensus or, failing which, by a two-thirds (2/3) majority of the States Parties present and voting.

Article 29 Signature, Ratification and Accession

1. This Charter shall be open for signature, ratification and accession by all Member States in accordance with their respective constitutional procedures.
2. The instruments of ratification or accession shall be deposited with the Chairperson of the Commission.

Article 30 Entry into Force

1. This Charter shall enter into force thirty days (30) after the deposit of the instruments of ratification by fifteen (15) Member States.
2. For each Member State that accedes to this Charter after its entry into force, the Charter shall become effective on the date the State deposits its instrument of accession with the Chairperson of the Commission.
3. The Chairperson of the Commission shall notify Member States of the entry into force of this Charter.

Article 31 Amendment and Revision

1. Any State Party may submit proposals for amendment or revision of this Charter.
2. Proposals for amendment or revision shall be submitted, in writing, to the Chairperson of the Commission who shall transmit copies thereof to the States Parties within thirty (30) days following the date of receipt of such proposals.
3. The Assembly shall, on the recommendation of the Executive Council, consider such proposals within one (1) year following the notification of States Parties, in keeping with the provisions of paragraph 2 of this article.
4. Amendments or revision shall be adopted by the Assembly and then submitted for ratification by all Member States in accordance with their respective constitutional procedures. Such amendments or revision shall become effective following the deposit of instruments of ratification by fifteen (15) States Parties.

Article 32 Depositary

This Charter, drawn up in four (4) original texts in the Arabic, English, French and Portuguese languages, all four (4) texts being equally authentic, shall be deposited with the Chairperson of the Commission who shall transmit

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certified copies thereof to each signatory State and notify them of the dates of the deposit of the instruments of ratification or accession.

Article 33 Registration of the Charter

This Charter shall, after due ratification, be registered with the Secretariat of the United Nations through the Commission of the African Union in conformity with Article 102 of the Charter of the United Nations.

Article 34 Reservations

States Parties shall not make or enter reservations to this Charter that are incompatible with the object and purpose of this Charter.

13.

AFRICAN CHARTER ON THE VALUES AND PRINCIPLES OF DECENTRALIZATION, LOCAL GOVERNANCE AND LOCAL DEVELOPMENT

**Adopted in Malabo, Equatorial Guinea, on 27 June 2014.
Entered into force on 13 January 2019.**

Preamble

We, the Member States of the African Union,

Guided by the objectives and principles enshrined in the Constitutive Act of the African Union, particularly Articles 3 and 4, which emphasize the significance of good governance, popular participation, the rule of law and human rights,

Inspired by the Yaoundé Declaration adopted by African Ministers in charge of Decentralization and Local Development on 29 October 2005,

Recalling the AU Executive Council Decision EX.CL./Dec.677 (XX) adopted in Addis Ababa, Ethiopia, on 28 January 2012, as endorsed by the Assembly of Heads of State and Government relating to the development of an African Charter on the Values, Principles and Standards of Decentralization and Local Governance,

Inspired by the vision of the African Union of an integrated, prosperous and peaceful Africa, driven by its own citizens and representing a dynamic force in the global arena,

Recalling the African Charter on Human and Peoples Rights (1981), the African Union Convention on Preventing and Combating Corruption (2003), the African Charter on Democracy, Elections and Governance (2007), the African Charter on the Values and Principles of Public Service and Administration (2011),

Recognizing the contribution of regional organizations, Member States, local authorities associations, civil society organizations and traditional leaders in promoting, protecting, strengthening and consolidating decentralization, local governance and local development,

Determined to promote the values and principles of decentralization, local governance and local development in Africa as a means for improving the livelihood of all peoples on the continent,

Convinced that local governments or local authorities are key cornerstones of any democratic governance system,

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Reaffirming our collective will to deepen participatory democracy, citizens and community empowerment to promote accountability and transparency of public institutions, promote and protect cultural diversity, and promote gender and trans-generational equity at the local or subnational level,

Committed to ensure access to basic services for all people on the continent,

Cognizant of the various forms of decentralization, including devolution, deconcentration and delegation in the political, administrative and financial spheres,

Have agreed as follows:

Chapter I Definitions, Objectives, Scope and Values

Article 1 Definitions

In this Charter, unless otherwise stated, the expressions below shall have the following meaning:

"AU" means the African Union;

"Assembly" means the Assembly of Heads of State and Government of the African Union;

"Charter" means the African Charter on the Values and Principles of Decentralization, Local Governance and Local Development;

"Commission" means the African Union Commission;

"Constitutive Act" means the Constitutive Act of the African Union;

"Decentralization" means the transfer of power, responsibilities, capacities and resources from national to all subnational levels of government with the aim of strengthening the ability of the latter to both foster people's participation and delivery of quality services;

"Local development" means the mobilization of local, national and global human, economic, sociocultural, political and natural resources for the improvement and transformation of livelihood, communities and territories at the local level;

"Local economic development" means an element of local development which emphasizes the mobilization of endogenous resources and local knowledge and skills in a manner that attracts investments to generate inclusive economic activities and growth and promotes the equitable redistribution of resources;

"Local governance" means governance processes and institutions at the subnational level, which includes governance by and with local governments or local authorities, civil society, and other relevant actors at the local level;

"Local public official" means a locally elected representative of a local government or local authority;

"Member States" means Member States of the African Union;

"Ministers" means Ministers of the central government or any authority of the central government responsible for decentralization, local governance and local development;

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"Regional Economic Communities" means regional integration blocks of the African Union;

State Party" means any Member State that has ratified or acceded to the Charter and deposited the instruments of ratification or accession with the Chairperson of the African Union Commission;

"STCs" means the Specialized Technical Committees of the African Union;

"Subnational" level means all levels of government below the national level.

Article 2 Objectives

The objectives of the Charter are to:

- (a) Promote, protect and act as a catalyst for decentralization, local governance and local development in Africa;
- (b) Promote and champion local governance and local democracy as one of the cornerstones of decentralization in Africa;
- (c) Promote resource mobilization and local economic development with the view to eradicating poverty in Africa;
- (d) Promote a shared understanding and a common vision of Member States on matters relating to decentralization, local governance and local development;
- (e) Promote the core values and principles of decentralization, local governance and local development;
- (f) Guide policy formulation, implementation, monitoring and evaluation at the continental, regional, State and subnational levels on decentralization, local governance and local development;
- (g) Encourage effective coordination, harmonization and knowledge sharing within Member States and among Regional Economic Communities on decentralization, local governance and local development;
- (h) Promote the association and cooperation of local governments or local authorities at the local, national, regional and continental levels; and
- (i) Promote civil society, private sector and people participation in decentralization, local governance and local development initiatives.

Article 3 Scope

This Charter covers:

- (a) Decentralization;
- (b) Local governance;
- (c) Local development.

Article 4 Core Values

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This Charter shall be informed by the following values:

- (a) Community-based participation and inclusiveness;
- (b) Solidarity;
- (c) Respect for human and peoples' rights;
- (d) Diversity and tolerance;
- (e) Justice, equality and equity;
- (f) Integrity;
- (g) Civic responsibility and citizenship;
- (h) Transparency and accountability;
- (i) Responsiveness.

Chapter II Principles

The following principles shall underpin the approach to decentralization, local governance and local development in Africa.

Article 5 Local Governance

1. States Parties shall enact domestic laws and regulations, recognizing different levels of government with the mandate to exercise their competencies through clearly defined regulatory mechanisms.
2. Local governments or local authorities shall in accordance with national law, have the powers to, in an accountable and transparent manner, manage their administration and finances through democratically elected, deliberative assemblies and executive organs.
3. Geographical boundaries of areas falling within the jurisdiction of local governments or local authorities shall be modified in accordance with the provisions of the law.
4. Local governments or local authorities shall be consulted through clearly defined regulations on national or subnational legal instruments, sectoral policies, programmes, or projects that directly or indirectly affect their competencies to impact the lives of local populations.

Article 6 Subsidiarity

1. Central government shall create enabling conditions for decision-making, policy and programme initiation adoption and implementation to take place at lower levels of government where local governments or local authorities offer a better guarantee of pertinence and efficacy.

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2. Central governments shall create enabling conditions for cooperation and coordination between national and all subnational levels of government and shall empower local governments or local authorities to discharge their duties and responsibilities.

3. Local governments or local authorities shall cooperate with central governments and other local actors to achieve increased efficiency and effectiveness in public action for the delivery of public services.

Article 7

Resource Mobilization and Local Economic Development

1. Central governments shall adopt legislation, measures and establish relevant mechanisms to give local governments the authority to mobilize and disburse resources at the local level for local economic development.

2. Central governments shall adopt legislation and create the necessary oversight and evaluation mechanisms to ensure that the percentage of revenue raised at the national and local levels are effectively transferred to local governments or local authorities for local economic development.

3. Central governments shall work in close collaboration with local governments or local authorities to promote private sector and community development investments or initiatives through legislative, financial and institutional frameworks.

4. Local governments or local authorities shall, in accordance with the law, and in an accountable and transparent manner, raise, manage and administer local resources in consultation with central government, civil society and the private sector through legislative, institutional and clearly defined and regulated participatory mechanisms.

5. Local governments or local authorities shall encourage and ensure that civil society, private sector, communities, national and subnational entities pay local taxes and user fees through clearly established, transparent and efficient mechanisms.

Article 8

Diversity and Differentiation

Without prejudice to observance of this Charter:

1. Local governments or local authorities shall exercise their powers having regard to local realities, values, and customs as well as national principles, norms and standards;

2. In accordance with the law, local programmes, projects or initiatives shall be implemented in consultation with stakeholders and carried out in such a manner as to recognize the cultural, religious and gender diversity of the people within its territory in urban and rural areas;

3. Central and local governments or local authorities may establish consultative mechanisms, informed by local conditions, to make proposals or give opinions concerning guidelines or decisions on local development. However, the role of local elected authorities shall remain primary.

Article 9

Legality

1. Local governments shall adopt by-laws, develop and implement local programmes, projects or initiatives in a manner consistent with national laws and regulations.

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2. States which are party to regional, continental and/or global treaties and policy instruments shall support and ensure local governments to comply with such instruments and treaties at the local level.

Article 10 Inclusion, Equity and Equality

1. Local governments or local authorities shall discharge their responsibilities and duties in a manner that is inclusive, equitable and gives equal treatment to all local residents to ensure that citizens and local residents have equitable access to quality services.

2. Local governments or local authorities shall ensure that historically marginalized groups and poor communities in both rural and urban areas shall be included and given priority in service delivery.

3. Local governments or local authorities shall develop pro-poor initiatives and pay particular attention to women and youth, as well as vulnerable groups including but not limited to the elderly, persons with disability, HIV/AIDS-affected households, child-headed households, street children, the indigent, the illiterate, slum dwellers, poor rural households, the unemployed and underemployed, refugees, the homeless, the displaced minorities in programme or project development, implementation and service delivery.

4. Local governments or local authorities shall not discriminate on the basis of sex, age, disability, social status, religion, place of origin, ethnic or racial origin, linguistic association and political ideology in exercising their functions, setting policies, planning, implementing, monitoring and evaluating programmes or projects.

5. Local governments or local authorities shall discharge their duties and responsibilities having regard to sustainable development, which includes the development of future generations, intergenerational development and environmental sustainability.

Article 11 Shared Responsibility and Complementarity

States Parties shall ensure that:

(a) Local governments or local authorities promote and improve the livelihoods and environment of local communities;

(b) Local governments or local authorities, in the spirit of good local and central government relations, involve all relevant national, subnational, private sector and civil society actors in the development and implementation of local development plans and programmes, and ensure consistency with national, regional or continental development policies;

(c) Local governments or local authorities specify their local development plans and programmes in operational cooperation frameworks, such as a commitments charter, which shall be adopted by all relevant actors;

(d) Central and local governments or local authorities are bound by law to establish mechanisms to cooperate and support each other to attain global, continental, regional, national, and local development priorities;

(e) They establish mechanisms of cooperation between national development agencies, public institutions, private sector and civil society, on the one hand, with local governments or local authorities, on the other hand, to support the implementation of local development priorities;

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(f) Local governments or local authorities are accountable to local communities regarding local development decisions and policies, the implementation of such decisions and policies and the management of financial resources. Local community and citizen responsibilities in this respect shall be clearly defined to facilitate collaboration with local governments or local authorities;

(g) Local governments or local authorities, in accordance with national legislation and in the spirit of good cooperative governance, are accountable to central governments and communities as regards the discharging of their duties and responsibilities and in the implementation of programmes, projects or policies.

Article 12 Participation

1. National legislation shall guarantee the rights and outline the responsibilities of citizens to participate in public life at the local level.

2. Democracy shall be the foundation of local governance and shall take a participatory and representative form.

3. Local governments or local authorities shall promote participation of all segments of society in the planning, implementation, monitoring and evaluation of policies, programmes and projects through structured community platforms and other forms of participation to ensure the delivery of quality services.

4. Local governments or local authorities shall promote the development of innovative democratic and peaceful public expression platforms.

5. Local governments or local authorities shall make provision for the meaningful participation of communities, civil society and other actors in local governance and development.

6. Central governments, in collaboration with local governments or local authorities, shall invite and encourage the full participation of the African diaspora in the promotion of decentralization, local governance and local development through clearly defined policies and mechanisms.

7. National legislation shall be enacted to empower and encourage local governments or local authorities to adopt appropriate forms of popular participation, civic engagement and other forms of expression.

Article 13 Representation

1. Election of local public officials shall be enshrined within the legal framework of States Parties, which shall clearly define the modalities and time frames for such elections.

2. Central governments shall enact electoral laws that promote regular, democratic, free, fair and transparent local government elections.

3. Central governments shall establish innovative measures and appropriate mechanisms to ensure the full participation of all eligible citizens, including specific measures for the representation of women and marginalized groups in local government elections within the framework of national legislation.

4. Local public officials shall duly represent the interests of local communities and shall consult with their populations on an ongoing and regular basis through clearly specified mechanisms and time frames.

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5. Central governments shall adopt legislation and establish administrative and financial mechanisms and use information and communication technology (ICT) to encourage local residents and communities to provide feedback to their locally elected representatives, make their grievances heard, and seek redress.

Article 14

Transparency, Accountability and Ethical Behaviour

1. Measures for the promotion of transparency and accountability by local governments or local authorities shall be clearly outlined in national legislation. Such legislation shall clearly define the respective roles and responsibilities of national and subnational governments, public agencies, service providers, elected and administrative officials, and civil society organizations.

2. Central governments and local governments or local authorities shall make provisions for community participation and establish accountability systems in local governance and local development programmes by publishing annual local government performance reports and disclosing financial statements in full.

3. Central governments and local governments or local authorities shall establish mechanisms to combat all forms of corruption.

4. Central governments and local governments or local authorities shall establish innovative mechanisms in the resolution of grievances to promote and protect whistle-blowing relating to all forms of corrupt behaviour and practice, including bribery, patronage and nepotism, as well as the resolution of grievances.

5. Local public officials shall display ethical behaviour and integrity in discharging their duties.

6. Central governments shall adopt legislation and create mechanisms to monitor standards of ethical behaviour by local governments or local authorities.

Article 15

Mainstreaming Gender, Youth and Disability

1. Local governments or local authorities shall integrate gender, youth and disability issues in the overall process of formulating policy, planning for development and providing services, as well as in implementing, monitoring and evaluating development programmes and projects.

2. Local governments or local authorities shall promote and ensure the equal and effective participation of women, youth and people with disability in public life, leadership and management positions on all matters relating to local governance and local development.

3. Local governments or local authorities shall promote and increase participation of women, youth and people with disability in all matters relating to local governance and local development.

Article 16

Efficiency

1. Local Governance Administration

(a) National legislation shall be adopted to empower local governments to determine and manage the organization of local public administration within a common national framework of standards, in order to ensure effective and enhanced delivery of quality and affordable services to local communities.

(b) Local governments or local authorities shall identify and implement innovative service delivery modalities to local populations within a framework of national legislation.

13. AFRICAN CHARTER ON DECENTRALIZATION AND LOCAL GOVERNANCE

2. Resource Mobilization and Utilization

- (a) Local governments shall be provided with the required human, financial and technological resources to effectively and efficiently discharge their responsibilities.
- (b) Information and communication technology (ICT) shall be made accessible and effectively used to make local governance and local development more effective and efficient.

3. Capacity Development

- (a) Local governments or local authorities, as well as local government associations, shall undertake comprehensive and continuous capacity development initiatives to enhance the performance of locally elected representatives and officials to effectively and efficiently carry out their duties and functions.
- (b) Central governments shall establish civil service institutions, create special programmes and develop special curricula on local government and local public administration.
- (c) Central governments shall encourage such initiatives to share experiences and best practices at the bilateral, regional and continental level.
- (d) Communities, civil society and citizens shall benefit from capacity development in order to effectively contribute to local public administration and local development.
- (e) States Parties shall promote voluntary peer-review processes within and between countries.

4. Natural Resources

- (a) States Parties shall adopt national legislation and establish mechanisms which include local government, civil society and local populations to ensure adequate protection and sustainable use of natural resources at the local level.
- (b) States Parties shall adopt national legislation and create mechanisms which include local government, civil society, and local populations for local communities to benefit from natural resources exploited in their communities.
- (c) Central governments shall be responsible to equitably redistribute natural resource benefits acquired from natural resource exploitation in given localities and communities to all subnational governments and local communities.

5. Local Governance Financing, Financial Management and Local Development

- (a) Central governments shall enact national legislation which strives to entrust local governments with the full responsibility to manage financial resources at the local level.
- (b) Central governments shall ensure, through appropriate support and oversight, that allocated financial resources are managed effectively and efficiently without undermining the principle of local financial autonomy.
- (c) National legislation shall be adopted to ensure the financial sustainability of local governments.
- (d) Central governments shall define local resources as well as conditional and unconditional financial transfers.

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- (e) Conditional and unconditional financial transfers from central government to local governments or local authorities shall be transparent and predictable.
- (f) Conditions under which local governments shall gain access to loans, financial markets, and development assistance shall be defined by law.
- (g) Local governments shall implement accounting, auditing and management systems for the effective, efficient and transparent management of financial resources in strict compliance with national financial and accounting laws, norms and standards.
- (h) Local governments or local authorities shall identify and establish mechanisms and processes for the efficient or optimal use of financial resources in the delivery of quality services as defined by law.

Article 17

Solidarity, Cooperation and Partnership

1. National laws shall be adopted to regulate conditions under which local governments or local authorities may form partnerships or cooperate with local governments of other African countries to achieve common local, national and regional development and continental integration objectives.
2. Local governments or local authorities may enter into appropriate partnerships with non-African local governments to promote cooperation, especially South-South cooperation.
3. National legislation shall be adopted to recognize the right of local governments or local authorities to form a national association to cooperate and collaborate.
4. Such national association shall be governed by public law and shall be integrated into the decentralization management institutional mechanism.
5. Local governments or local government associations at the national level shall be free to join regional, continental and global local government associations.
6. Central governments shall encourage, support and ensure the full participation of local government associations as the collective voice of local governments in national, regional and continental development matters or decisions.
7. Central governments shall encourage and support the independent and effective functioning of local government associations.
8. Regional integration initiatives shall promote local government or local authority cooperation among Member States; the framework for cross-border cooperation shall be established by Member States and Regional Economic Communities.
9. Central governments shall support local governments to fully participate in processes, mechanisms and programmes at the regional and continental levels.

Chapter III

Mechanisms for Implementation

Article 18

Follow-Up Mechanisms

13. AFRICAN CHARTER ON DECENTRALIZATION AND LOCAL GOVERNANCE

To give effect to the commitments contained in this Charter, the actions listed below shall be taken at the following levels:

1. Implementation at Individual State Party Level

(a) Local Government or Local Authority Level

Local governments or local authorities shall:

- (i) Equally be responsible and accountable to their local populations for the implementation of the objectives of this Charter, and the adherence to its values and principles;
- (ii) Cooperate with central government and other subnational levels of governments to realize shared development priorities;
- (iii) Participate in national local government associations and collaborate with civil society and the private sector to achieve the objectives of the Charter;
- (iv) Demonstrate the political will to advocate for and ensure the implementation of the objectives, values and principles of this Charter, together with the central government;
- (v) Commit to create favourable conditions for the dissemination and implementation of this Charter; and
- (vi) Commit to participate in the monitoring, evaluation and reporting of the implementation of this Charter.

(b) Central Government Level

To ensure and facilitate the implementation of this Charter, States Parties shall:

- (i) Adopt appropriate legislative, executive and administrative measures to align their national laws and regulations to the objectives of this Charter and adhere to the values and principles contained therein;
- (ii) Integrate commitments, objectives, values and principles of this Charter in national policies and strategies;
- (iii) Take all necessary measures to ensure the broader dissemination of this Charter;
- (iv) Undertake a coordinated effort to place decentralization and local development at the centre of governance and development;
- (v) Demonstrate the political will, through inter alia, the allocation of appropriate resources, for the realization of the objectives, values and principles of this Charter in a concrete manner; and
- (vi) Take the necessary steps to develop cooperation and share experiences in the areas of decentralization, local governance and local development in accordance with the objectives, values and principles of this Charter.

2. Implementation at Commission Level

(a) Regional Level

In accordance with their constitutive instruments, Regional Economic Communities shall:

- (i) Encourage Member States to ratify, accede, implement and monitor this Charter;

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(ii) Integrate and take into account the objectives, principles and values of this Charter in drafting and adopting regional policy and legal instruments; and

(iii) Support and facilitate the establishment of an appropriate advisory regional platform or forum for the collective voice and action of local governments.

(b) Continental Level

To ensure and facilitate the implementation of this Charter, the Commission shall:

(i) Develop guidelines for the implementation of this Charter;

(ii) Facilitate the creation of favourable conditions for good local governance and development for the delivery of quality public services on the continent at the local level through the harmonization of policies and laws of States Parties;

(iii) Support and facilitate the establishment of an appropriate advisory continental platform or forum for the collective voice and action of local governments within the AU framework;

(iv) Assist States Parties to implement this Charter and coordinate its evaluation;

(v) Mobilize the necessary resources to support States Parties to build their capacity to implement this Charter; and

(vi) Undertake periodic review of the Charter and make recommendations to the policy organs of the African Union.

Article 19 Reporting

1. States Parties shall, from the date the Charter comes into force, submit to the Commission, every three years, a report to the Commission on the legislative or other measures taken with a view to giving effect to the principles and commitments of this Charter.

2. The Commission shall prepare and submit to the Assembly, through the Executive Council, a synthesized report on the implementation of this Charter, for consideration.

Article 20 Recognition, Award System and Commemoration

1. States Parties shall institutionalize a transparent and an impartial system for recognizing outstanding performance, creativity and innovation in decentralization, local governance and local development.

2. States Parties shall promote a continental recognition and award system to acknowledge and emulate excellence in decentralization, local governance and local development.

3. The Commission shall promote innovative experiences and institute a system of awards for innovation in decentralization, local governance and local development.

4. States Parties shall commemorate the "Africa Day on Decentralization and Local Development", on the 10th of August of each year as a means to promote the values and principles of this Charter.

Chapter IV

13. AFRICAN CHARTER ON DECENTRALIZATION AND LOCAL GOVERNANCE

Final Clauses

Article 21 Safeguard Provisions

1. The provisions of this Charter shall not be interpreted in a manner that is inconsistent with the relevant principles of international law, including international customary law.
2. None of the provisions of this Charter shall affect more favourable provisions relating to decentralization, local governance and local development contained in the domestic law of States Parties or in any other regional, continental or international agreement applicable in these States Parties.
3. In the implementation of this Charter, the specificities and special needs of island States shall be taken into account.

Article 22 Settlement of Disputes

1. Any dispute relating to this Charter shall be amicably resolved through direct negotiations between the States Parties concerned.
2. Where the dispute is not resolved through direct negotiation, the States Parties shall endeavour to resolve the dispute through other peaceful means, including good offices, mediation and conciliation, or any other peaceful means agreed upon by the States Parties. In this regard, the States Parties shall be encouraged to make use of the procedures and mechanisms for resolution of disputes established within the framework of the Union.

Article 23 Signature, Ratification or Accession

This Charter shall be open to all Member States of the Union, for signature, ratification or accession, in conformity with their respective constitutional procedures.

Article 24 Entry into Force

This Charter shall enter into force thirty (30) days after the date of the receipt by the Chairperson of the Commission of the African Union of the fifteenth (15th) instrument of ratification.

Article 25 Amendment

1. Any State Party may submit proposals for the amendment or revision of this Charter.
2. Proposals for amendment or revision shall be submitted to the Chairperson of the Commission of the African Union, who shall transmit the same to States Parties within thirty (30) days of receipt thereof.
3. The Assembly of the Union, upon recommendation of the Executive Council of the Union, shall examine these proposals at its next session, provided all States Parties have been notified at least three (3) months before the beginning of the session.
4. The Assembly of the Union shall adopt the amendments in accordance with its Rules of Procedure.
5. The amendments or revisions shall enter into force in accordance with the provisions of Article 24 above.

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Article 26 Depositary

1. The instruments of ratification or accession shall be deposited with the Chairperson of the Commission of the African Union.
2. Any State Party may withdraw from this Charter by giving a written notice one (1) year in advance to the Chairperson of the Commission of the African Union.
3. The Chairperson of the Commission of the African Union shall notify the Member States of any signature of this Charter, any deposit of an instrument of ratification or accession, as well as its entry into force.
4. The Chairperson of the Commission shall also notify the States Parties of the requests for amendments or withdrawal from the Charter, as well as reservations thereon.
5. Upon entry into force of this Charter, the Chairperson of the Commission shall register it with the Secretariat of the United Nations, in accordance with Article 102 of the Charter of the United Nations.
6. This Charter, drawn up in four (4) original texts in the Arabic, English, French and Portuguese languages, all four (4) texts being equally authentic, shall be deposited with the Chairperson of the Commission who shall transmit a certified true copy of the Charter to each Member State of the African Union in its official language.

14.

STATUTE OF THE AFRICAN PEER REVIEW MECHANISM

**Adopted in Addis Ababa, Ethiopia, on 10 February 2020.
Entered into force upon adoption.**

Preamble

The Assembly of the African Union,

Recalling Article 3 (c) and (m) and Article 4 (m) of the Constitutive Act of the African Union, which, inter alia, stipulates respect for democratic principles, human rights, the rule of law and good governance, peace, security and stability on the continent, and the acceleration of the political and socio-economic integration of Africa,

Reaffirming aspiration 3 and 4 of the African Union Agenda 2063 – The Africa We Want and guided by the vision of the African Peer Review Mechanism (APRM) as an African-owned and African-led platform for self-assessment, peer-learning, and experience-sharing in the pursuit of the highest standards of governance,

Recalling the Declaration of the African Union on Democracy, Political, Economic and Corporate Governance, Assembly/AU/Decl.1 (I) of July 2002, adopted in Durban, South Africa, wherein Member States established the African Peer Review Mechanism on the basis of voluntary accession,

Reiterating that the 2007 African Charter on Democracy, Elections and Governance, stipulates that the States Parties shall promote and deepen democratic governance by implementing, inter alia, the principles and core values of the African Peer Review Mechanism,

Recalling Decision Assembly/AU/Dec.527 (XXIII) of the Twenty-third Ordinary Session of the African Union Assembly, held in Malabo, Equatorial Guinea, in July 2014, on the integration of the APRM as an autonomous entity within the African Union system,

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Recalling Decisions Assembly/AU/Dec.198 (XI), Assembly/AU/Dec.631 (XXVIII), Assembly/AU/Dec.635 (XXVIII), Assembly/AU/Dec.686 (XXX), Assembly/AU/Dec.721 (XXXII), Ext/Assembly/AU/Dec.1 (XI) and Assembly/AU/Decl.4 (XXX) expanding the African Peer Review Mechanism's mandate and integrating it into the African Union's structures,

Has adopted this statute as follows:

Article 1 Definitions

In this Statute:

"ACDEG" means the African Charter on Democracy, Elections and Governance;

"AGA" means the African Governance Architecture;

"AU" means the African Union;

"AUDA-NEPAD" means the African Union Development Agency-New Partnership for Africa's Development;

"APR" means the African Peer Review;

"APRM" means the African Peer Review Mechanism;

"APR Forum" means the Heads of State and Government of participating States of the African Peer Review Mechanism;

"APSA" means the African Peace and Security Architecture;

"APR Focal Points Committee" means the Ministerial body comprising the Personal Representatives of the Heads of State and Government of APRM participating States of the African Peer Review Mechanism;

"APR Focal Point" means the National Focal Point for the African Peer Review Mechanism in each participating State;

"APR Panel" means the Panel of Eminent Persons of the African Peer Review Mechanism;

"APRM Secretariat" means the Continental Secretariat of the African Peer Review Mechanism;

"Assembly" means the Assembly of Heads of State and Government of the African Union;

"CEO" means the Chief Executive Officer of the Continental Secretariat of the African Peer Review Mechanism;

"Commission" means the Commission of the African Union;

"Constitutive Act" means the Constitutive Act of the African Union;

"CCC of NGCs" means the Continental Consultative Committee of NGCs;

"ECOSOCC" means the Economic, Social and Cultural Council of the African Union;

"Executive Council" means the Executive Council of the African Union;

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“Member States” means the Member States of the African Union;

“NGC” means the National APRM Governing Council;

“NSCC” means the National Secretariats Coordinating Committee;

“Participating States” means the Member States that have voluntarily acceded to the African Peer Review Mechanism;

“PRC” means the Permanent Representatives Committee of the African Union;

“RECs” means the Regional Economic Communities;

“Statute” means the present Statute of the African Peer Review Mechanism;

“Strategic partners” means those international partners who work closely with the African Union including the United Nations Development Program (UNDP), the African Development Bank (ADB) and the United Nations Economic Commission for Africa (UNECA);

“Technical Research Institutions” means the independent research institutions contracted by the APR National Structure to conduct the country self-assessment.

Article 2

Establishment of the African Peer Review Mechanism

1. The APRM is hereby established as an autonomous entity of the AU.
2. The APRM shall have legal personality, as necessary for the proper exercise of its mandate. In particular, the APRM shall:
 - (a) Enter into contracts;
 - (b) Acquire and dispose of moveable and immovable property; and
 - (c) Institute and defend legal proceedings.

Article 3

Purpose

1. The APRM shall serve as an African-owned and African-led platform for self-assessment, peer-learning, and experience-sharing in democracy and good governance, in full respect for democratic principles, human rights, rule of law, and the acceleration of political, social and economic integration in Africa.
2. The APRM has the primary purpose of fostering the adoption of policies, standards and practices that lead to political stability, high economic growth, sustainable and inclusive development and accelerated regional and continental economic integration, through sharing of experiences and reinforcement of successful and best practices including providing reliable data and information.

Article 4

Mandate

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1. The APRM has the mandate to ensure that the policies and practices of participating States are in conformity with the agreed political, economic and corporate governance values, codes and standards, and to achieve mutually agreed objectives in socio-economic development contained in the Declaration on Democracy, Political, Economic and Corporate Governance.

2. The APRM shall carry out any other mandate that the Assembly may confer on it as and when the Assembly deems necessary to do so.

Article 5 Principles of the APRM

1. The APRM shall be founded on the principles of good political, economic, social and corporate governance, democracy, the rule of law, respect for human rights, State sovereignty, non-interference and peaceful resolution of conflicts.

2. The APRM shall deliver its mandate, including voluntary reviews, in a technically and culturally competent manner, as well as in a credible manner free of political manipulation.

3. The APRM shall encourage the participation of all stakeholders in society.

Article 6 Functions of APRM

1. The APRM shall:

(a) Promote and facilitate self-monitoring and evaluation by the participating States;

(b) Monitor, evaluate and track the implementation in key governance areas on the continent, including the AU Agenda 2063, and the United Nations Sustainable Development Agenda 2030 in relation to democracy and good governance and any subsequent development frameworks of these institutions;

(c) Prepare the African Governance Report in collaboration with AGA, and present it to the Assembly for consideration at its ordinary session every two (2) years;

(d) Serve as a platform for sharing best practices at the national, regional and continental levels;

(e) Encourage the participating States to implement their national plans of actions;

(f) Integrate the objectives of APRM into national plans, RECs and regional developmental bodies, including AUDA-NEPAD;

(g) Provide support to Member States in the field of international credit rating agencies;

(h) Contribute to early warning for conflict prevention within the continent, in harmony and synergy with the APSA and the AGA;

(i) Encourage the participating States to implement the ACDEG, the Declaration on Democracy, Political, Economic and Corporate Governance and other relevant instruments; and

(j) Promote democracy and good governance on the continent.

Article 7 African Peer Review Process

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1. The APRM process entails voluntary periodic reviews of the policies and practices upon request of participating States as follows:

- (a) First Country Review: a review carried out within eighteen months (18) after a Member State acceding to the APRM process;
- (b) Periodic Review: a review that takes place every two (2) to four (4) years;
- (c) Targeted Review: a review, at the request of a participating State, outside the time frame of the periodically mandated reviews. Priorities will be given for a periodic review; and
- (d) Early Warning Review: a review commissioned by the APR Forum.

2. The criteria leading to these reviews shall be elaborated by the APRM Focal Points Committee and shall be submitted by the APRM Forum to the Assembly for consideration and adoption.

Article 8 Budget and Finance of APRM

- 1. The budget of the APRM shall form part of the AU statutory budget.
- 2. Member States may make contributions on a voluntary basis to the APRM.
- 3. The APRM may receive funds from partners in accordance with the AU Financial Rules and Regulations.
- 4. Financing of APRM and its programmes, disbursement and utilization of APRM funds shall be in accordance with the AU Financial Rules and Regulations.

Article 9 Accounts and Auditing

- 1. The accounts of APRM shall be made in the currencies stipulated in the AU Financial Rules and Regulations.
- 2. The CEO shall ensure that the accounts of APRM are audited by internal and external auditors of the AU, including the accounts of projects funded through extrabudgetary resources.
- 3. The Secretariat of APRM shall submit a report on the APRM audit to the APRM Focal Points Committee and the APRM Forum as well as to AU policy organs for consideration.
- 4. The AU regulations on audit shall apply to the APRM accounts.

Article 10 Structure of the APRM

- 1. The APRM has the following overall structure:
 - (a) APRM Continental Structure comprising:
 - (i) APR Forum;
 - (ii) APR Focal Points Committee;

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- (iii) APR Panel of Eminent Persons;
- (iv) APRM Continental Secretariat;
- (v) Continental Consultative Committee of NGCs;
- (vi) National Secretariats Coordinating Committee;
- (b) APRM National Structures comprising:
 - (i) National Focal Point;
 - (ii) APRM NGC; and
 - (iii) APRM National Secretariat Committee.

Article 11 APR Forum

1. The APR Forum shall be the highest governing structure of the APRM, to provide political leadership and strategic guidance and shall serve as a subcommittee of the Assembly.
2. The APR Forum shall operate under the guidance of a Troika led by the current Chairperson, who is assisted by the outgoing Chairperson and the incoming Chairperson, all drawn from among the Heads of State and Government.
3. The Chairperson of the APRM Forum shall be elected for a period of two (2) years non-renewable and on the basis of rotation among the five (5) regions of the AU.
4. The APR Forum shall:
 - (a) Consider voluntary country review reports submitted to it by the Panel; and
 - (b) Consider recommendations made by the Focal Points Committee and submit its recommendations to the Assembly.
5. The APR Forum shall nominate Members of the APR Panel, its Chairperson and Vice-Chairperson for endorsement by the Assembly.
6. The APR Forum shall recommend to the Assembly the appointment of the CEO of the APRM Continental Secretariat, the adoption of the structure of the Secretariat, the budget and the work programme of the APRM.
7. The APR Forum may propose to the Assembly the termination of the appointment of any member of the APR Panel on the basis of non-performance, misconduct or conflict of interest.
8. The APRM Forum shall meet once (1) a year in ordinary session to consider review reports of APRM participating States, undertake peer review and make other decisions on the management and implementation of the APRM mandate.
9. At the request of any participating State and upon approval by a two-thirds majority, the APR Forum may meet in an extraordinary session.

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Article 12 Focal Points Committee

1. The APRM Focal Points Committee shall be composed of the Personal Representatives of Heads of State and Government and shall serve as an intermediary body between the APR Forum and the APRM Continental Secretariat.
2. The APRM Focal Points Committee shall have the responsibility to, notably:
 - (a) Consider the participating States' self-assessment report;
 - (b) Make recommendations to the APR Forum on crises reports, early warning reports, and activity report of the APRM Continental Secretariat and voluntary country review report;
 - (c) Make recommendations to the APR Forum on the appointment of the CEO of the APRM Continental Secretariat;
 - (d) Review the annual budget and work programme of the APRM submitted by the CEO of the APRM Continental Secretariat, and make recommendations relating thereto;
 - (e) Make recommendations to the APR Forum on the structure of the APRM Continental Secretariat in line with the AU rules and processes;
 - (f) Follow up on the implementation of the voluntary review recommendations;
 - (g) Undertake any other related activities requested by the APR Forum;
 - (h) Establish a Steering Committee to carry out the work of the Focal Point Committee between its meetings. The Steering Committee shall have eight (8) members composed of the three Focal Points forming the Troika and five (5) elected Focal Points representing each of the five (5) regions of the AU. The Steering Committee shall be elected for a period of two (2) years;
 - (i) Consider the strategic documents of the APRM;
 - (j) Recommend the appointment and removal of the Members of the Panel to the Forum.

Article 13 APRM Panel of Eminent Persons

1. The APRM Panel shall be composed of a minimum of five (5) and a maximum of ten (10) eminent Africans appointed by the APRM Forum.
2. Members of the APRM Panel shall be African nationals of high moral stature, integrity, objectivity, impartiality and independence, who have distinguished themselves in careers that are considered relevant to the work of the APRM, and shall have demonstrated commitment to the ideals of Pan-Africanism.
3. The agreed principles, criteria and procedures for the appointment of the members of the APR Panel shall be contained in the Rules of Procedure of the APR Forum.
4. The APRM Panel shall be responsible in leading the voluntary country review process, and shall:
 - (a) Ensure the integrity, independence, professionalism and credibility of the country review process;

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- (b) Serve in their personal capacity and not as representatives of their respective governments. They shall neither seek nor receive instructions from any authority external to the APRM Forum; and
 - (c) Observe the utmost discretion and confidentiality, with regard to all matters relating to the peer review process, while they serve on the APRM Panel and thereafter.
5. Members of the APRM Panel shall be appointed for a term of four (4) years non-renewable and shall be based on equitable geographical distribution and gender balance.
 6. The APRM Panel shall be led by a Chairperson and a Vice-Chairperson nominated by the Forum and endorsed by the Assembly.
 7. The term of office of the Chairperson and the Vice-Chairperson of the APR Panel shall be one year, and shall be non-renewable.
 8. The APRM Panel may form subcommittees as required for the execution of its mandate.
 9. The APRM Panel shall be directly responsible and report to the APR Forum.
 10. The APRM Panel shall submit reports on its activities to the APRM Forum at least once a year.

Article 14 The APRM Secretariat

1. The APRM Secretariat shall serve as the Continental Secretariat and shall serve the APRM Forum, the APR Focal Points Committee and the APRM Panel.
2. The APRM Secretariat shall be led by a CEO nominated by the APR Focal Point Committee and considered by the APR Forum, for endorsement and appointment by the Assembly.
3. The CEO shall be appointed through a competitive and transparent selection process for a mandate of four (4) years renewable once.
4. The functions and responsibilities of the APRM CEO shall be:
 - (a) Legal Representative of the APRM; and
 - (b) Controlling Officer of the APRM.
5. The CEO shall be directly responsible to the APR Focal Points Committee for the effective discharge of his/her duties.
6. The CEO shall be responsible for the accounts and resources of the APRM.
7. The Chairperson of the Commission shall be the ultimate authority in line with the Financial Rules and Regulations of the Union.
8. The APRM Secretariat shall perform the following functions:
 - (a) Receive the participating States' self-assessment report;
 - (b) Undertake and manage research and analysis that underpin the APRM process;

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- (c) Prepare and facilitate the meetings of the APR Forum, APRM Focal Points Committee and the APR Panel;
 - (d) Prepare the necessary background work and facilitate the voluntary country review, including support missions, country review missions, publication of reports and monitoring and follow-up;
 - (e) Report to the Focal Point the activities of the APRM Secretariat; and
 - (f) Provide technical support to Member States in developing the Country Self-Assessment Report on Governance.
9. The APRM Secretariat shall serve as the secretariat of the Continental Consultative Committee of NGCs and the National Secretariats Coordinating Committee.
10. The APRM Secretariat shall be composed of qualified competent professionals, technical and administrative support staff, recruited in accordance with the AU Staff Regulations and Rules.
11. The APRM Secretariat shall present the draft strategic plans, programmes, draft budget and annual audited accounts of the APRM to the Focal Points Committee and the AU policy organs for consideration.
12. The APRM Secretariat shall, upon the approval of the Focal Points Committee, submit financial and structural proposals as well as legal instruments concerning the APRM to the AU policy organs for consideration.
13. The APRM Secretariat shall operate in accordance with the AU Staff Regulations and Rules; the AU Financial Rules and Regulations and other relevant AU legal instruments and those adopted by the Focal Points Committee and endorsed by the APR Forum.
14. The APRM Secretariat shall work closely with the PRC and its relevant subcommittees.

Article 15 Continental Committee of NGCs

The Continental Committee of NGCs shall be composed of Heads of NGCs and it shall serve as a platform for the exchange of best practice and peer learning among all APRM NGCs.

Article 16 National Secretariats Coordinating Committee

The National Secretariats Coordinating Committee shall be composed of Heads of National APRM Secretariats and it shall serve as a platform for the exchange of best practice and peer learning among all APRM National Secretariats.

Article 17 APRM National Structures

Without prejudice to the sovereign rights of each participating State to enact national legislation, each participating State, shall organize their APRM national structures, in accordance with this statute.

Article 18 The APR National Focal Point

The APR National Focal Point shall be the Personal Representative of the Head of State and Government.

Article 19

14. STATUTE OF THE AFRICAN PEER REVIEW MECHANISM

National Governing Council

1. The National Governing Council (NGC) shall be autonomous from the government and its composition shall be inclusive of representatives of key stakeholders in society.
2. The NGC shall, among others:
 - (a) Provide guidance for the implementation of the APRM principles at the national level;
 - (b) Facilitate the establishment of the APRM National Secretariat and oversee its operation;
 - (c) Ensure that the voluntary review process is technically competent, credible and free from political manipulation;
 - (d) Participate in leading the APRM sensitization programmes country-wide and ensure that all stakeholders participate in the process and own it; and
 - (e) Encourage that all the concerns outlined in the self-assessment reports and in the country review reports are addressed in the national programmes of action.
3. In establishing their respective NGCs, participating States are encouraged to define their terms of reference, determine their legal status, the terms of service and duration of appointment of the Chairperson and other members and ensure the provision of adequate funding to enable the NGC to successfully discharge its responsibilities in an independent and autonomous manner.
4. Participating States shall constitute their NGCs and notify the APRM Secretariat.

Article 20 APRM National Secretariat

1. There shall be an APRM National Secretariat in the participating States of the APRM, to provide secretarial, technical and administrative support to all national APRM bodies.
2. The APRM National Secretariat shall be established in accordance with the laws and regulations of each participating State, and the APRM Secretariat shall be notified accordingly.
3. The APRM National Secretariat shall liaise between the NGC and the APRM Secretariat.
4. The APRM National Secretariat shall facilitate and support the work of the technical research institution.

Article 21 Cooperation with Research Institutions, Other Organs of the African Union, Regional Economic Communities, and AU Strategic Partners

The APRM, in pursuit of its mandate to foster democracy and good governance principles on the continent shall work closely with relevant research institutions, AU organs, Regional Economic Communities (RECs), and AU strategic partners.

Article 22 The Headquarters of the APRM

1. The Headquarters of the APRM Secretariat shall be in the Republic of South Africa.

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2. The AU and the Government of the Republic of South Africa shall conclude a host country agreement for the APRM.

Article 23 Privileges and Immunities of the APRM

The APRM Headquarters and its offices shall enjoy, in the territory of host countries, such privileges and immunities, as stipulated in customary international law, the General Convention on Immunities and Privileges of the Organization of the African Unity of 1965, the Vienna Convention on Diplomatic Relations of 1961 and the host country agreement between the AU and the government of the host country.

Article 24 Working Languages

The working languages of the APRM shall be those of the AU.

Article 25 Accession to the APRM

1. Accession to the APRM is open to all AU Member States through the relevant legal instrument.
2. Any Member State wishing to accede to the African Peer Review process after the entry into force of the present Statute, shall deposit its instrument of accession with the Chairperson of the Commission.
3. The Secretariat of APRM shall undertake all arrangements to transfer to the AU Commission all original documents of accession made prior to the entry into force of this Statute.

Article 26 Transitional Arrangements

1. Member States currently participating in the APRM shall retain their status as members of the APRM, following the entry into force of the present Statute.
2. The determination and settling of assets and liabilities of the APRM prior to the entry into force of this Statute, shall be finalized within the transitional period of one (1) year.
3. The provisions of this Statute shall take precedence over and supersede any inconsistent or contrary provisions of any legal instrument of the APRM.

Article 27 Amendments and Revision

1. The APR Forum may propose amendments and revisions to this Statute.
2. Any amendment to this Statute shall enter into force upon its adoption by the Assembly.

Article 28 Authentic Texts

This Statute is drawn up in four (4) original texts, in the Arabic, English, French and Portuguese languages, all four (4) texts being equally authentic.

14. STATUTE OF THE AFRICAN PEER REVIEW MECHANISM

Article 29 Entry into Force

This Statute shall enter into force upon its adoption by the Assembly.

PART X

INTERNATIONAL PEACE AND SECURITY

1. RESOLUTION ON THE DENUCLEARIZATION OF AFRICA
2. DECLARATION ON THE ACTIVITIES OF MERCENARIES IN AFRICA

1.

**RESOLUTION ON DENUCLEARIZATION OF AFRICA
(AHG/Res.11 (I))**

Adopted in Cairo, United Arab Republic, in July 1964.

We, the Heads of African State and Government, meeting in the First Ordinary Session of the Assembly of the Organization of African Unity, in Cairo, United Arab Republic, from 17 to 21 July 1964,

Conscious of our responsibilities towards our peoples and our obligations under the Charter of the United Nations and the Charter of the Organization of African Unity to exert every effort to strengthen international peace and security,

Determined that conditions conducive to international peace and security should prevail to save mankind from the scourge of nuclear war,

Deeply concerned with the effects resulting from the dissemination of nuclear weapons,

Confirming resolution 1652 (XVI) of the General Assembly of the United Nations which called upon all States to respect the continent of Africa as a nuclear-free zone,

Reaffirming the Resolution on General Disarmament adopted by the Conference of Heads of State and Government in Addis Ababa in May 1963,

Bearing in mind that the General Assembly of the United Nations in its Sixteenth Session called upon "All States, and in particular upon the States at present possessing nuclear weapons, to use their best endeavours to secure the conclusion of an international agreement containing provisions under which the nuclear States would undertake to refrain from relinquishing control of nuclear weapons and from transmitting the information necessary for their manufacture to States not possessing such weapons, and (containing) provisions under which States not possessing nuclear weapons would undertake not to manufacture or otherwise acquire control of such weapons",

Convinced that it is imperative to exert new efforts towards the achievement of an early solution to the problem of general disarmament,

1. *Solemnly declare* their readiness to undertake in an International Treaty to be concluded under the auspices of the United Nations not to manufacture or acquire control of nuclear weapons;
2. *Call upon* all peace-loving nations to adhere to the same undertaking;
3. *Call upon* all nuclear powers to respect and abide by this Declaration;
4. *Invite* the General Assembly of the United Nations, in its nineteenth regular session, to approve this Declaration and take the necessary measures to convene an international conference with a view to concluding an international treaty.

2.

DECLARATION ON THE ACTIVITIES OF MERCENARIES IN AFRICA

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We, the Heads of State and Government of Member States of the Organization of African Unity, meeting in Addis Ababa from 21 to 24 June 1971,

Considering the grave threat which the activities of mercenaries represent to the independence, sovereignty, territorial integrity and the harmonious development of Member States of the OAU,

Recalling Resolutions CM/Res.49 (IX) and ECM/Res.17 (VII) on Mercenaries,

Considering that to perpetrate their crimes against Member States of the OAU, the mercenaries often use African territories still under foreign domination,

Considering that the activities of mercenaries and the forces behind them constitute an element of serious tension and conflict between Member States,

Considering that total solidarity and cooperation between Member States are indispensable for putting an end, once and for all, to the subversive activities of mercenaries in Africa,

Considering the undertakings made by various non-African States to take the appropriate steps to prevent their nationals from returning to Africa as mercenaries and to ensure that their territories should no longer be used for the recruitment, training and equipping of mercenaries,

1. *Reaffirm* the determination of African peoples and States to take all the necessary measures to eradicate from the African continent the scourge that the mercenary system represents;

2. *Reiterate* our irrevocable condemnation of the use of mercenaries by certain countries and forces to further jeopardize the independence, sovereignty and territorial integrity of Member States of the OAU;

3. *Further express* our total solidarity with States which have been victims of the activities of mercenaries;

4. *Proclaim* our resolve to prepare a legal instrument for coordinating, harmonizing and promoting the struggle of the African peoples and States against mercenaries;

5. *Pledge ourselves* to cooperate closely to ensure immediate implementation of the previous decisions and directives of the policymaking bodies of the OAU before the proposed Convention on the subject enters into force;

6. *Draw* the attention of world opinion to the serious threat that the subversive activities of mercenaries in Africa represent to OAU Member States;

7. *Reiterate* the appeal made to Member States to apply both in spirit and letter, Resolution ECM/Res.17 (VII) of the Seventh Extraordinary Session of the Council of Ministers held in Lagos in December 1970, and consequently invite them:

– to take appropriate steps to ensure that their territories are not used for the recruitment, drilling and training of mercenaries, or for the passage of equipment intended for mercenaries, and

– to hand over mercenaries present in their countries to the States against which they carry out their subversive activities;

8. *Invite* all States which had pledged not to tolerate the recruitment, training and equipping of mercenaries on their territory and to forbid their nationals to serve in the ranks of the mercenaries, to fulfil their undertakings. Also invite other non-African States not to allow mercenaries, be they their nationals or not, to pursue their activities on their territory;

3. CONVENTION FOR THE ELIMINATION OF MERCENARISM IN AFRICA

9. *Request* the Chairman of the Assembly of Heads of State and Government to do everything possible to mobilize world opinion so as to ensure the adoption of appropriate measures for the eradication of mercenaries from Africa, once and for all;

10. *Appeal* to all Member States to increase their assistance in all fields to freedom fighters in order to accelerate the liberation of African territories still under foreign domination, as this is an essential factor in the final eradication of mercenaries from the African continent.

3.

CONVENTION FOR THE ELIMINATION OF MERCENARISM IN AFRICA

Adopted in Libreville, Gabon, on 3 July 1977.

Entered into force on 22 April 1985.

Preamble

We, the Heads of State and Government of the Member States of the Organization of African Unity,

Considering the grave threat which the activities of mercenaries present to the independence, sovereignty, territorial integrity and harmonious development of Member States of the Organization of African Unity,

Conscious of the threat which the activities of mercenaries pose to the legitimate exercise of the right of African people under colonial and racist domination to their independence and freedom,

Convinced that total solidarity and cooperation between Member States are indispensable for putting an end to the subversive activities of mercenaries in Africa,

Considering that the resolutions of the United Nations and the Organization of African Unity, the statements of attitude and the practice of a growing number of States are indicative of the development of new rules of international law making mercenarism an international crime,

Determined to take all necessary measures to eliminate from the African continent the scourge that mercenarism represents,

Have agreed as follows:

Article 1 Definition

1. The crime of mercenarism is committed by the individual, group or association, representatives of a State and the State itself with the aim of opposing by armed violence a process of self-determination or the territorial integrity of another State that practices any of the following acts:

(a) Shelters, organizes, finances, assists, equips, trains, promotes, supports or in any manner employs armed forces partially or wholly consisting of persons who are not nationals of the country where they are going to act, for personal gain, material or otherwise;

(b) Enlists, enrolls or tries to enrol in the said forces;

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(c) Allows the activities mentioned in subparagraph (a) to be carried out in any territory under its jurisdiction or in any place under its control or affords facilities for transit, transport or other operations of the above-mentioned forces.

2. Any person, natural or juridical who commits the crime of mercenarism as defined in paragraph 1 of this article commits an offence considered as a crime against peace and security in Africa and shall be punished as such.

Article 2 Aggravating Circumstances

The fact of assuming command over or giving orders to mercenaries shall be considered as an aggravating circumstance.

Article 3 Status of Mercenaries

Mercenaries shall not enjoy the status of combatants and shall not be entitled to the prisoners of war status.

Article 4 Scope of Criminal Responsibility

A mercenary is responsible both for the crime of mercenarism and all related offences, without prejudice to any other offences for which he may be prosecuted.

Article 5 General Responsibility of States and Their Representatives

1. When the representative of a State is responsible by virtue of the provisions of Article 1 of this Convention for acts or omissions declared by the aforesaid article to be criminal, he shall be punished for such an act or omission.

2. When a State is responsible by virtue of the provisions of Article 1 of this Convention for acts or omissions, declared by the aforesaid article to be criminal, any other State may invoke such responsibility:

- (a) In its relations with the State responsible; and
- (b) Before competent international organizations or bodies.

Article 6 Obligations of States

The Contracting Parties shall take all necessary measures to eradicate all mercenary activities in Africa. To this end, each Contracting State shall undertake to:

- (a) Prevent its nationals or foreigners on its territory from engaging in any of the acts mentioned in Article 1 of this Convention;
- (b) Prevent entry into or passage through its territory of any mercenary or any equipment destined for mercenary use;
- (c) Prohibit on its territory any activities by persons or organizations who use mercenaries against any African State member of the Organization of African Unity or the people of Africa in their struggle for liberation;

3. CONVENTION FOR THE ELIMINATION OF MERCENARISM IN AFRICA

- (d) Communicate to the other Member States of the Organization of African Unity any information related to the activities of mercenaries as soon as it comes to its knowledge;
- (e) Forbid on its territory the recruitment, training, financing and equipment of mercenaries and any other form of activities likely to promote mercenarism;
- (f) Take all the necessary legislative and other measures to ensure the immediate entry into force of this Convention.

Article 7 Penalties

Each Contracting State shall undertake to make the offence defined in Article 1 of this Convention punishable by the severest penalties under its laws including capital punishment.

Article 8 Jurisdiction

Each Contracting State shall undertake to take such measures as may be necessary to punish, in accordance with the provisions of Article 7, any person who commits an offence under Article 1 of this Convention and who is found on its territory if it does not extradite him to the State against which the offence has been committed.

Article 9 Extradition

1. The crimes defined in Article 1 of this Convention, being deemed to be common crimes, are not covered by national legislation excluding extradition for political offences.
2. A request for extradition shall not be refused unless the requested State undertakes to exercise jurisdiction over the offender in accordance with the provisions of Article 8.
3. Where a national is involved in the request for extradition, the requested State shall take proceedings against him for the offence committed if extradition is refused.
4. Where proceedings have been initiated in accordance with paragraphs 2 and 3 of this article, the requested State shall inform the requesting State or any other State Member of the OAU interested in the proceedings, of the results thereof.
5. A State shall be deemed interested in the proceedings within the meaning of paragraph 4 of this article if the offence is linked in any way with its territory or is directed against its interests.

Article 10 Mutual Assistance

The Contracting States shall afford one another the greatest measure of assistance in connection with the investigation and criminal proceedings brought in respect of the offence and other acts connected with the activities of the offender.

Article 11 Judicial Guarantees

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Any person or group of persons on trial for the crime defined in Article 1 of this Convention shall be entitled to all the guarantees normally granted to any ordinary person by the State on whose territory he is being tried.

Article 12 Settlement of Disputes

Any dispute regarding the application of the provisions of this Convention shall be settled by the interested parties in accordance with the principles of the Charter of the Organization of African Unity.

Article 13 Signature, Ratification and Entry into Force

1. This Convention shall be open for signature by the Members of the Organization of African Unity. It shall be ratified. The instruments of ratification shall be deposited with the Administrative Secretary-General of the Organization.
2. This Convention shall come into force 30 days after the date of the deposit of the tenth instrument of ratification.
3. As regards any signatory subsequently ratifying the Convention, it shall come into force 30 days after the date of the deposit of its instruments of ratification.

Article 14 Accession

1. Any Member State of the Organization of African Unity may accede to this Convention.
2. Accession shall be by deposit with the Administrative Secretary-General of the Organization of an instrument of accession, which shall take effect 30 days after the date of its deposit.

Article 15 Notification and Registration

1. The Administrative Secretary-General of the Organization of African Unity shall notify the Member States of the Organization of:
 - (a) The deposit of any instrument of ratification or accession;
 - (b) The date of entry into force of this Convention.
2. The Administrative Secretary-General of the Organization of African Unity shall transmit certified copies of the Convention to all Member States of the Organization.
3. The Administrative Secretary-General of the Organization of African Unity shall, as soon as this Convention comes into force, proceed with its registration pursuant to Article 102 of the Charter of the United Nations.

4.

LOMÉ DECLARATION ON SECURITY, DISARMAMENT AND DEVELOPMENT IN AFRICA*

* Editor's note: This Declaration was adopted by the Ministerial Regional Conference on Security, Disarmament and Development in Africa, held at Lomé, Togo, from 13 to 16 August 1985, in accordance with Resolutions

4. LOMÉ DECLARATION ON SECURITY, DISARMAMENT AND DEVELOPMENT IN AFRICA

Adopted in Lomé, Togo, in August 1985.

1. The Conference recognizes the close interrelationship and interdependence between the objectives of security, disarmament and development, not only in Africa but worldwide, and expresses its conviction that their realization is essential for durable peace and security everywhere in the world.
2. The Conference considers peace and security as the highest priority objective of independent African States and the foundation for socio-economic development. The Conference affirms its conviction in the legitimate right of every State to security and self-defence and stresses the position that the progressive reduction of arms must be to enhance peace and security through the minimum level of armaments and armed forces.
3. The Conference stresses that the concept of security in the region must go beyond military security and the prevention of armed conflicts to encompass a sustained commitment by States of the region to African, national, bilateral and multilateral programmes of socio-economic development, justice, equity and human dignity.
4. The objective of disarmament efforts in the region should take into account existing realities in other regions and avoid placing Africa in a real or perceived permanent security disadvantage. There should be a collaborative effort that eliminates inter-State arms competition in the region, fosters the peaceful settlement of disputes and enhances a united approach in dealing with threats to the region's peace and security.
5. The Conference recognizes that Africa's military expenditures are relatively low compared to those of other regions of the world, taking into consideration particularly the multiple threats and the permanent aggression of the racist South African regime. At the same time, the Conference takes note that vis-à-vis the current situation, security requirements of African States impose extremely heavy burdens at the detriment of the social and economic development of African States.
6. The Conference considers that an improved international climate, especially in the relations among the major Powers, in particular the two super-Powers, as well as in the relations between North and South, would enhance the prospects for security, disarmament and development in Africa, and the world as a whole. The Conference takes note of recent signs towards relaxation of tension in great power relations, as reflected in the seemingly widening scope of contacts and negotiations between the two super-Powers. The Conference, however, calls for a more sustained process of negotiations among the major Powers, especially between the two super-Powers, in the disarmament field since the continued possession of nuclear weapons and the continuing nuclear and conventional arms race constitute a constant destabilizing factor for all regions and the greatest danger to human survival.
7. The Conference, recognizing the universality of the objective of security, disarmament and development, emphasizes the urgency and indispensability of international cooperation in efforts towards their attainment. In this connection, the Conference believes that despite inadequate progress, the United Nations remains the appropriate forum for global common endeavours towards a new world order free from war and want, more just and equitable, and hence, more peaceful.
8. The Conference, at the same time, underlines the importance of regional efforts at peacekeeping and conflict resolution among States in accordance with the principles of the OAU Charter. Such efforts aimed at building confidence, promoting friendly relations and cooperation and finding solutions to local disputes among the States of the regions concerned can play a vital role in enhancing the objectives of security, disarmament and development in the region.

AHG/Res.126 (XX) and AHG Res.138 (XXI) adopted by the Assembly of Heads of State and Government of the Organization of African Unity at its Twentieth and Twenty-first Sessions, held in 1984 and 1985, respectively.

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9. The Conference considers that closer cooperation between the United Nations and regional and interregional organizations will allow for more effective utilization of the wide international experience, capabilities and resources of the United Nations to the service of regional efforts. In this connection, the Conference welcomes the existing cooperation between the United Nations and the Organization of African Unity and attaches much importance to the continuing expansion of such cooperation to cover also activities and programmes in security-related fields.

10. The Conference reaffirms that Africa is currently confronted by a critical socio-economic situation which has developed in part because of natural conditions, such as drought, cyclones and desertification, and is being aggravated by conditions and instances of instability and conflict in the region. While taking note with appreciation and commending efforts deployed by the OAU Heads of State and Government and assistance provided regionally and from other countries and regions as well as international organizations, to alleviate the immediate problems of famine, the Conference recognizes the primary responsibility of African States for long-term rehabilitation and development in the countries concerned and in the region as a whole.

11. The Conference considers that it is the existence of insecurity that compels African States to divert their meagre resources to meet the burdens of military expenditures for the purpose of maintaining internal stability and the defence of their independence, sovereignty and territorial integrity.

12. The Conference views the minority apartheid regime and its policies in South Africa as one of the main causes for insecurity, aggression, economic destabilization and an arms race in Africa. The regime thus threatens regional as well as international peace and security, especially since achieving a nuclear weapon capability, and it continues to expand its overall military establishment. The Conference expresses its conviction that the elimination of the apartheid system in South Africa and the attainment of immediate independence by Namibia in accordance with the pertinent resolutions of the United Nations and the Organization of African Unity would greatly reduce the climate of tension and conflict in southern Africa and enhance the prospects for disarmament, development, security and peaceful cooperation throughout Africa.

13. The Conference expresses deep concern over the active collaboration between the South African racist regime, Israel and some western Powers in the establishment and continued development of the South African nuclear weapon capability. The Conference views such collaboration as worsening the already explosive situation in the region and firmly condemns it.

14. The Conference emphasizes the importance of the need for concrete action to promote peace, security and disarmament in Africa with a view to reinforcing durable conditions and structures for inter-African development and cooperation in the region. The Conference is convinced that declarations on peace, security and cooperation and African regional agreements of non-aggression and assistance on matters of defence should be supported with more concrete and practical measures without delay and reactivate consideration of the draft Convention on the Denuclearization of Africa or consider an appropriate legal instrument that would define Africa as a nuclear-free zone.

15. The Conference expresses its firm conviction that only through arrangements and mechanisms that mitigate inter-African tensions can the region maintain a credible and positive role in a world confronted by the deadly East-West rivalry that African States cannot control but whose outcome could decisively affect the destinies of African States as well.

16. As the Conference has taken place on the fortieth anniversaries of the use of the first atomic weapons in Hiroshima and Nagasaki, the end of the Second World War and the birth of the United Nations, the Conference views this gathering as an especially solemn and auspicious opportunity for Africa to join the rest of the world in an urgent recommitment and rededication to the principles and objectives enshrined both in the Charter of the United Nations and the Charter of the Organization of African Unity. It calls on all States to replace despair with hope, to end fear and want, to build bridges of friendship, peaceful coexistence and cooperation in a world free from nuclear weapons and "to save succeeding generations from the scourge of war".

5. PEACE AND SECURITY THROUGH NEGOTIATED SETTLEMENT OF BORDER CONFLICTS
6. OAU MECHANISM FOR CONFLICT PREVENTION, MANAGEMENT AND RESOLUTION

5.

**RESOLUTION ON PEACE AND SECURITY IN AFRICA THROUGH
NEGOTIATED SETTLEMENT OF BORDER CONFLICTS
(CM/Res.1069 (XLIV))**

Adopted in Addis Ababa, Ethiopia, in July 1986.

The Council of Ministers of the Organization of African Unity, meeting at its Forty-fourth Ordinary Session in Addis Ababa, Ethiopia, from 21 to 26 July 1986,

Recalling Resolution AHG/Res.16 (I) adopted by the First Assembly of Heads of State and Government of the Organization of African Unity, meeting in Cairo, Egypt, from 17 to 21 July 1964,

Considering that boarder problems constitute one of the most intricate problems inherited by Africa from its colonial past,

Further considering that the struggle for the liberation of Africa from colonialism and its after-effects and the establishment of an atmosphere of peace, security, and economic and social progress can only be achieved through the total elimination of sources of tension on the border of Member States,

1. *Reaffirms* its adherences to the principle of peaceful settlement of border conflicts between States;
2. *Reaffirms* the attachment of the African peoples and countries to Resolution AHG/Res.16 (I) adopted by the Assembly of Heads of State and Government of the Organization of African Unity, held in Cairo, Egypt, from 17 to 21 July 1984;
3. *Encourages* Member States to undertake or pursue bilateral negotiations with a view to demarcating their common borders with beacons;
4. Requests the Secretary-General of the OAU to follow up the implementation of this resolution and to report to the next OAU Assembly of Heads of State and Government.*

6.

**DECLARATION ON THE ESTABLISHMENT WITHIN THE OAU OF A MECHANISM FOR
CONFLICT PREVENTION, MANAGEMENT AND RESOLUTION
(AHG/Decl.3 (XXIX))**

Adopted in Cairo, Egypt, in June 1993.

We, the Heads of State and Government of the Organization of African Unity, meeting in our Twenty-ninth Ordinary Session in Cairo, Egypt, from 28 to 30 June 1993, having considered the situations of conflict on our continent and recalling the Declaration we adopted on 11 July 1990, on the Political and Socio-Economic Situation in Africa and the Fundamental Changes Taking Place in the World, declare as follows.

1. In May 1963, when the founding fathers met in Addis Ababa, Ethiopia, to found the Organization of African Unity, they were guided by their collective conviction that freedom, equality, justice and dignity are legitimate aspirations of the African peoples, and by their desire to harness the natural and human resources for

* Reservation by Somalia.

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the advancement of the continent in all spheres of human endeavour. The founding fathers were inspired by an equally common determination to promote understanding between the African peoples and cooperation among the African States, and to rekindle the aspirations of the African people for brotherhood and solidarity in a larger unity transcending linguistic, ideological, ethnic and national differences.

2. The founding fathers were fully convinced that to achieve these lofty objectives, conditions for peace and security must be established and maintained.

3. It was with this overriding conviction, and guided also by the Charter of the United Nations and the Universal Declaration of Human Rights, that our countries began the arduous task of meeting the triple challenge of decolonization, economic development and maintenance of peace and security.

4. Today, thirty years later, we can look back with pride at the achievements which the Organization of African Unity has been able to make against heavy odds and the many obstacles it has had to surmount.

5. The ranks of independent countries have been strengthened; and the membership of the OAU has increased from thirty-two at its founding to fifty-two today. The frontiers of freedom in Africa have been pushed to the doors of apartheid South Africa. And even there, significant progress has been made; and we have reasonable cause for optimism that we shall soon see the total eradication of the remaining vestiges of colonialism, racism, racial discrimination and apartheid.

6. We, however, continue to be faced by the daunting dual challenge of economic development and democratic transformation. Our countries have made tremendous efforts both individually and collectively to arrest and reverse the decline in our economies. Notwithstanding the many serious difficulties they have encountered, and the magnitude of what remains to be done, appreciable progress has been made in the social and economic fields.

7. The socio-economic situation in our continent remains nonetheless in a precarious state. Factors including the poverty, the deterioration of the terms of trade, plummeting prices of the commodities we produce, the excruciating external indebtedness and the resultant reverse flow of resources have combined to undermine the ability of our countries to provide for the basic needs of our people. In some cases, this situation has been further compounded by external political factors.

8. We do recognize, however, that there have also been certain internal human factors and policies that have negatively contributed to the present state of affairs on the continent.

9. No single internal factor has contributed more to the present socio-economic problems on the continent than the scourge of conflicts in and among our countries. They have brought about death and human suffering, engendered hate and divided nations and families. Conflicts have forced millions of our people into a drifting life as refugees and displaced persons, deprived of their means of livelihood, human dignity and hope. Conflicts have gobbled up scarce resources, and undermined the ability of our countries to address the many compelling needs of our people.

10. While reaffirming our commitment to the Declaration on the Political and Socio-Economic Situation in Africa and the Fundamental Changes Taking Place in the World which we adopted during the Twenty-sixth Session of our Assembly, in Addis Ababa, in July 1990, we renew our determination to work in concert in the search for speedy and peaceful resolution to all the conflicts in Africa.

11. In June last year at the Twenty-eighth meeting of our Assembly in Dakar, Senegal, we decided in principle to establish within the OAU, and in keeping with the principles and objectives of the Charter of the Organization, a Mechanism for Conflict Prevention, Management and Resolution. We took that decision against the background of the history of many prolonged and destructive conflicts on our continent and of our limited success at finding lasting solutions to them, notwithstanding the many efforts we and our predecessors expended. In so doing, we

6. OAU MECHANISM FOR CONFLICT PREVENTION, MANAGEMENT AND RESOLUTION

were also guided by our determination to ensure that Africa through the Organization of African Unity plays a central role in bringing about peace and stability on the continent.

12. We saw in the establishment of such a mechanism the opportunity to bring to the processes of dealing with conflicts on our continent a new institutional dynamism, enabling speedy action to prevent or manage and ultimately resolve conflicts when and where they occur.

13. Now, having considered the report on the Mechanism prepared by the Secretary-General pursuant to our decision on the principle of its creation, we hereby establish, within the OAU, a Mechanism for preventing, managing and resolving conflicts in Africa.

14. The Mechanism will be guided by the objectives and principles of the OAU Charter; in particular, the sovereign equality of Member States, non-interference in the internal affairs of States, respect for the sovereignty and territorial integrity of Member States, their inalienable right to independent existence, the peaceful settlement of disputes as well as the inviolability of borders inherited from colonialism. It will also function on the basis of the consent and the cooperation of the parties to a conflict.

15. The Mechanism will have as a primary objective, the anticipation and prevention of conflicts. In circumstances where conflicts have occurred, it will be its responsibility to undertake peacemaking and peacebuilding functions in order to facilitate the resolution of these conflicts. In this respect, civilian and military missions of observation and monitoring of limited scope and duration may be mounted and deployed. In setting these objectives, we are fully convinced that prompt and decisive action in these spheres will, in the first instance, prevent the emergence of conflicts, and where they do inevitably occur, stop them from degenerating into intense or generalized conflicts. Emphasis on anticipatory and preventive measures, and concerted action in peacemaking and peacebuilding will obviate the need to resort to the complex and resource-demanding peacekeeping operations, which our countries will find difficult to finance.

16. However, in the event that conflicts degenerate to the extent of requiring collective international intervention and policing, the assistance or where appropriate the services of the United Nations will be sought under the general terms of its Charter. In this instance, our respective countries will examine ways and modalities through which they can make practical contributions to such a United Nations undertaking and participate effectively in the peacekeeping operations in Africa.

17. The Mechanism will be built around a Central Organ with the Secretary-General and the Secretariat as its operational arm.

18. The Central Organ of the Mechanism shall be composed of the States members of the Bureau of the Assembly of Heads of State and Government elected annually, bearing in mind the principles of equitable regional representation and rotation. In order to ensure continuity, the States of the outgoing Chairman and (where known) the incoming Chairman shall also be members of the Central Organ. In between ordinary sessions of the Assembly, it will assume overall direction and coordinate the activities of the Mechanism.

19. The Central Organ shall function at the level of Heads of State as well as that of Ministers and Ambassadors accredited to the OAU or duly authorized representatives. It may, where necessary, seek the participation of other OAU Member States in its deliberations, particularly the neighbouring countries. It may also seek, from within the continent, such military, legal and other forms of expertise as it may require in the performance of its functions.

20. The proceedings of the Central Organ shall be governed by the pertinent Rules of Procedure of the Assembly of Heads of State and Government. The Central Organ shall be convened by the Chairman or at the request of the Secretary-General or any Member State. It will meet at least once a year at the level of Heads of State and Government; twice a year at the ministerial level; and once a month at the ambassadorial and duly authorized representatives' level. The quorum of the Central Organ shall be two thirds of its members. In deciding

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on its recommendations and without prejudice to the decision-making methods provided for in the Rules of Procedure of the Assembly of Heads of State and Government, it shall generally be guided by the principle of consensus. The Central Organ shall report on its activities to the Assembly of Heads of State and Government.

21. The venue of its meetings shall ordinarily be at the Headquarters of the Organization. Meetings may also be held elsewhere if so decided through consultations among its members. The provisional agenda of the Central Organ shall be prepared by the Secretary-General in consultation with the Chairman.

22. The Secretary-General shall, under the authority of the Central Organ and in consultation with the parties involved in the conflict, deploy efforts and take all appropriate initiatives to prevent, manage and resolve conflicts. To this end, the Secretary-General shall rely upon the human and material resources available at the General Secretariat. Accordingly, we direct the Council of Ministers, in consultation with the Secretary-General, to examine ways and means in which the capacity within the General Secretariat can be built and brought to a level commensurate with the magnitude of the tasks at hand and the responsibilities expected of the organization. In his efforts, the Secretary-General may also resort to eminent African personalities in consultation with the authorities of their countries of origin. Where necessary, he may make use of other relevant expertise, send special envoys or special representatives as well as dispatch fact-finding missions to conflict areas.

23. A special fund governed by the relevant OAU Financial Rules and Regulations shall be established for the purpose of providing financial resources to support exclusively the OAU operational activities relating to conflict management and resolution. It will be made up of financial appropriations from the regular budget of the OAU, voluntary contributions from Member States as well as from other sources within Africa. The Secretary-General may, with the consent of the Central Organ, and in conformity with the principles and objectives of the OAU Charter, also accept voluntary contributions from sources outside Africa. Disbursement from the Special Fund shall be subject to the approval of the Central Organ.

24. Within the context of the Mechanism for Conflict Prevention, Management and Resolution, the OAU shall closely coordinate its activities with the African regional and subregional organizations and shall cooperate as appropriate with the neighbouring countries with respect to conflicts which may arise in the different subregions of the continent.

25. The OAU shall also cooperate and work closely with the United Nations not only with regard to issues relating to peacemaking but, and especially, also those relating to peacekeeping. Where necessary, recourse will be had to the United Nations to provide the necessary financial, logistical and military support for the OAU's activities in conflict prevention, management and resolution in Africa in keeping with the provisions of Chapter VIII of the Charter of the United Nations on the role of regional organizations in the maintenance of international peace and security. In the like manner, the Secretary-General of the OAU shall maintain close cooperation with other international organizations.*

7.

DECLARATION ON A CODE OF CONDUCT FOR INTER-AFRICAN RELATIONS (AHG/Decl.2 (XXX))

Adopted in Tunis, Tunisia, in June 1994.

We, the African Heads of State and Government, meeting in Tunis, Tunisia, from 13 to 15 June 1994, on the occasion of the Thirtieth Ordinary Session of our Summit,

Considering the Charter of the United Nations, particularly its provisions on security, stability, economic development and cooperation,

* Reservations by Sudan and Eritrea.

7. DECLARATION ON A CODE OF CONDUCT FOR INTER-AFRICAN RELATIONS

Considering the Charter of the Organization of African Unity, particularly its principles and objectives (Articles II and III),

Considering the Abuja Treaty Establishing the African Economic Community,

Bearing in mind the resolution adopted by the Dakar Summit (29 June to 1 July 1992) on the strengthening of cooperation and coordination among African States,

Bearing in mind also Resolution CM/Res.1389 on the right of States to decide on their political options without foreign interference,

Conscious of the magnitude of the challenges facing our continent and firmly resolved to face up to these challenges,

Conscious of the fact that it behooves us, more than ever before, to close our ranks in order to better meet the hopes and expectations our peoples have nurtured for decades,

Considering the proliferation of hotbeds of tension in Africa and the serious threat they pose to the stability, independence and credibility as well as to the development of our States,

Determined to pursue the realization of the objectives set down in the resolution adopted by the Cairo Summit (June 1993) establishing the Mechanism for Conflict Prevention, Management and Resolution,

Convinced of the imperative need to establish a code of conduct aimed at preventing tensions, divisions and confrontations,

Convinced of our duty to strengthen solidarity, consultation and cooperation among Member States, based on mutual respect and non-interference in internal affairs,

Aware of the need to assert human and moral values based on tolerance and the rejection of all forms of discrimination, injustice, extremism and terrorism,

Considering that fanaticism and extremism, whatever their nature, origin and form, especially fanaticism and extremism based on religion, politics and tribalism which are detrimental to the peace and security of the continent, are unacceptable,

Aware that every cooperation effort is doomed to failure in an environment devoid of stability, trust and security,

Aware also that the time has come to take our destiny into our own hands and to seek African solutions to the problems besetting our continent,

Recalling that the Charter of the United Nations reaffirms the faith of the international community in fundamental human rights, the dignity and sanctity of the human person, and in the equality of the rights of men and women, as well as of nations, big and small,

Recalling also that the Universal Declaration of Human Rights in its Article 29 stipulates that in the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society,

Recognizing that the freedom of religious belief and its peaceful expression are a fundamental right of all human beings as enshrined in the Universal Declaration of Human Rights, in the Declaration on the Elimination of all

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Forms of Intolerance and Discrimination Based on Religion or Conviction, as well as in other instruments relating to human rights,

Recognizing further the threat posed by movements based on religious, political and tribal extremism,

Considering that extremism and terrorism under the pretext of sectarianism, tribalism, ethnicity or religion undermine the moral and human values of peoples, particularly fundamental freedoms and tolerance,

In view of the aforementioned,

1. *We are determined* to intensify political consultations and expand cooperation in order to resolve economic, social, environmental, cultural and humanitarian problems. This common resolve and our growing independence will help overcome all kinds of mistrust, increase stability and build a united Africa;
2. *We want* Africa to be a source of peace, open to dialogue, cooperation and exchange with the rest of the world, and committed to the search for common responses to future challenges;
3. *We fully support* the United Nations and the strengthening of its role in the promotion of peace, security and international justice. We reaffirm our commitment to the United Nations principles and objectives as set forth in the Charter and condemn any violation of these principles;
4. *We reaffirm* our deep conviction that friendly relations among our peoples as well as peace, justice, stability and democracy call for the protection of the ethnic, cultural, linguistic and religious identity of all our people including national minorities, and the creation of conditions conducive to the promotion of this identity;
5. *We are determined* to combat racial or ethnic hatred in all its ramifications as well as any form of discrimination and persecution against any individual on religious or ideological grounds;
6. *We are resolved* to develop and strengthen the amicable relations and cooperation existing among our States and to promote friendship among our peoples. The challenges facing us can be met only through concerted action, cooperation and solidarity;
7. *Mindful* of our obligations under the United Nations Charter and our commitments vis-à-vis the OAU Charter, we reiterate our determination to refrain from the use of force or the threat thereof, against the territorial integrity or political independence of any State, and from any other action inconsistent with the principles and objectives of these Charters. We reaffirm that the non-respect of the said obligations constitutes a violation of international law;
8. *We believe* that our relations, both at the bilateral and continent-wide levels should be backed by a new package of concrete security measures paving the way for enhanced transparency among all States. These measures would constitute a significant step towards increased stability and security in Africa;
9. *We are determined* to cooperate in the defence of the institution of our respective States against hegemony and all other activities carried out in violation of the independence, unity, sovereign equality or territorial integrity of Member States;
10. *We unequivocally condemn* as criminal all terrorist acts, methods and practices, and resolve to step up our cooperation in order to erase this blot on the security, stability and development of our countries, which poses as much threat to us as arms racketeering and drug peddling;
11. Conscious of the fact that the peaceful settlement of disputes constitutes an essential component of the duty devolving on States to refrain from the use of force or the threat thereof or aggression – conditions essential for the maintenance and consolidation of international peace and security – we pledge ourselves to adopt

8. AFRICAN NUCLEAR-WEAPON-FREE ZONE TREATY

effective measures aimed at preventing situations of emerging conflicts through political means, including regional initiatives and to seize the Conflict Prevention, Management and Resolution Mechanism thereof, thereby paving the way for the peaceful settlement of any disputes that could erupt. In this connection, we commit ourselves to seeking new forms of cooperation especially in regard to exploring a range of methods applicable to the peaceful settlement of conflicts. We emphasize, in this regard, that every possible advantage should be taken of the opportunity provided by the Mechanism as defined in the Cairo Declaration AHG/Dec. 13 (XXIX) of 30 June 1993;

12. *We are deeply concerned* at the tensions prevalent on the continent, and reiterate our determination to intensify our efforts towards finding just, effective and lasting solutions by peaceful means to the crucial issues needing attention, on the basis of respect for the principles enshrined in the Charter of the OAU;

13. *We express satisfaction* at the Declaration adopted by the Assembly of OAU Heads of State and Government in Dakar, Senegal, from 29 June to 1 July 1992, the Declaration published following the Tenth Summit meeting of the Heads of State and Government of Non-Aligned Countries in Djakarta, from 1 to 6 September 1992, as well as the code of conduct adopted by the Twenty-first Ministerial Session of the OIC in Tunis, Tunisia, in 1994, which condemned extremism and terrorism, and called on all States to scrupulously observe, in their relations, the principle of non-interference in the internal affairs of other States and to respect the principle of good neighbourliness;

14. *We believe* that it has become necessary to set down standards and adopt appropriate measures and regulations in our respective States with a view to forestalling the use of issues related to religion or ethnic differences to encourage or carry out, directly or indirectly, activities prejudicial or potentially prejudicial to the stability of any Member State of the OAU;

15. *In this regard, we reiterate* our commitment to abide by the obligation incumbent on us by virtue of international law, to refrain from organizing, instigating, facilitating, financing, encouraging or tolerating activities that are terrorist in nature or intent, and from participating in such activities in whatsoever manner, and to take necessary operational measures to ensure that Member States' territories do not serve as training camps or indoctrination centres for terrorist elements and movements and as sanctuaries for the planning and organization of terrorist and destabilization activities directed against the territorial integrity and security of Member States or other States or their nationals;

16. *We also pledge* ourselves to conform to our obligations under international law to bring to justice or extradite terrorist elements.

8.

AFRICAN NUCLEAR-WEAPON-FREE ZONE TREATY (PELINDABA TREATY)

Adopted in Cairo, Egypt, on 11 April 1996.

Entered into force on 15 July 2009.

The Parties to this Treaty,

Guided by the Declaration on the Denuclearization of Africa, adopted by the Assembly of Heads of State and Government of the Organization of African Unity (hereinafter referred to as the OAU) at its First Ordinary Session, held at Cairo, Egypt, from 17 to 21 July 1964 (AHG/Res. 11(1)), in which they solemnly declared their readiness to undertake, through an international agreement to be concluded under United Nations auspices, not to manufacture or acquire control of nuclear weapons,

Guided also by the resolutions of the Fifty-fourth and Fifty-sixth Ordinary Sessions of the Council of Ministers of the OAU, held at Abuja, Nigeria, from 27 May to 1 June 1991 and at Dakar, Senegal, from 22 to 28 June 1992, respectively, (CM/Res. 1342 (LIV) and CM/Res. 195 (LVI)), which affirmed that the evolution of the international

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situation was conducive to the implementation of the Cairo Declaration, as well as the relevant provisions of the 1986 OAU Declaration on Security, Disarmament and Development,

Recalling United Nations General Assembly resolution 3472 B (XXX) of 11 December 1975, in which it considered nuclear-weapon-free zones (NWFZs) one of the most effective means for preventing the proliferation, both horizontal and vertical, of nuclear weapons,

Convinced of the need to take all steps in achieving the ultimate goal of a world entirely free of nuclear weapons, as well as of the obligations of all States to contribute to this end,

Convinced also that the African nuclear-weapon-free zone (NWFZ) will constitute an important step towards strengthening the non-proliferation regime, promoting cooperation in the peaceful uses of nuclear energy, promoting general and complete disarmament and enhancing regional and international peace and security,

Aware that regional disarmament measures contribute to global disarmament efforts,

Believing that the African nuclear-weapon-free zone will protect African States against possible nuclear attacks on their territories,

Noting with satisfaction existing NWFZs and recognizing that the establishment of other NWFZs, especially in the Middle East, would enhance the security of States Parties to the African NWFZ,

Reaffirming the importance of the Treaty on the Non-Proliferation of Nuclear Weapons (hereinafter referred to as the NPT) and the need for the implementation of all its provisions,

Desirous of taking advantage of Article IV of the NPT, which recognizes the inalienable right of all States Parties to develop research on, production and use of nuclear energy for peaceful purposes without discrimination and to facilitate the fullest possible exchange of equipment, materials and scientific and technological information for such purposes,

Determined to promote regional cooperation for the development and practical application of nuclear energy for peaceful purposes in the interest of sustainable social and economic development of the African continent,

Determined to keep Africa free of environmental pollution by radioactive wastes and other radioactive matter,

Welcoming the cooperation of all States and governmental and non-governmental organizations for the attainment of these objectives,

Have decided by this Treaty to establish the African NWFZ and hereby agree as follows:

Article 1 Definition/Usage of Terms

For the purpose of this Treaty and its Protocols:

- (a) "African nuclear-weapon-free zone" means the territory of the continent of Africa, island States Members of OAU and all islands considered by the Organization of African Unity in its resolutions to be part of Africa;
- (b) "Territory" means the land territory, internal waters, territorial seas and archipelagic waters and the airspace above them as well as the seabed and subsoil beneath;
- (c) "Nuclear explosive device" means any nuclear weapon or other explosive device capable of releasing nuclear energy, irrespective of the purpose for which it could be used. The term includes such a weapon or device

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in unassembled and partly assembled forms, but does not include the means of transport or delivery of such a weapon or device if separable from and not an indivisible part of it;

(d) "Stationing" means implantation, emplacement, transport on land or inland waters, stockpiling, storage, installation and deployment;

(e) "Nuclear installation" means a nuclear power reactor, a nuclear research reactor, a critical facility, a conversion plant, a fabrication plant, a reprocessing plant, an isotope separation plant, a separate storage installation and any other installation or location in or at which fresh or irradiated nuclear material or significant quantities of radioactive materials are present;

(f) "Nuclear material" means any source material or special fissionable material as defined in Article XX of the Statute of the International Atomic Energy Agency (IAEA) and as amended from time to time by the IAEA.

Article 2 Application of the Treaty

1. Except where otherwise specified, this Treaty and its Protocols shall apply to the territory within the African nuclear-weapon-free zone, as illustrated in the map in Annex I.

2. Nothing in this Treaty shall prejudice or in any way affect the rights, or the exercise of the rights, of any State under international law with regard to freedom of the seas.

Article 3 Renunciation of Nuclear Explosive Devices

Each Party undertakes:

(a) Not to conduct research on, develop, manufacture, stockpile or otherwise acquire, possess or have control over any nuclear explosive device by any means anywhere;

(b) Not to seek or receive any assistance in the research on, development, manufacture, stockpiling or acquisition, or possession of any nuclear explosive device;

(c) Not to take any action to assist or encourage the research on, development, manufacture, stockpiling or acquisition, or possession of any nuclear explosive device.

Article 4 Prevention of Stationing of Nuclear Explosive Devices

1. Each Party undertakes to prohibit, in its territory, the stationing of any nuclear explosive device.

2. Without prejudice to the purposes and objectives of the Treaty, each Party in the exercise of its sovereign rights remains free to decide for itself whether to allow visits by foreign ships and aircraft to its ports and airfields, transit of its airspace by foreign aircraft, and navigation by foreign ships in its territorial sea or archipelagic waters in a manner not covered by the rights of innocent passage, archipelagic sea lane passage or transit passage of straits.

Article 5 Prohibition of Testing of Nuclear Explosive Devices

Each Party undertakes:

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- (a) Not to test any nuclear explosive device;
- (b) To prohibit in its territory the testing of any nuclear explosive device;
- (c) Not to assist or encourage the testing of any nuclear explosive device by any State anywhere.

Article 6

Declaration, Dismantling, Destruction or Conversion of Nuclear Explosive Devices and the Facilities for Their Manufacture

Each Party undertakes:

- (a) To declare any capability for the manufacture of nuclear explosive devices;
- (b) To dismantle and destroy any nuclear device that it has manufactured prior to the coming into force of this Treaty;
- (c) To destroy facilities for the manufacture of nuclear explosive devices or, where possible, to convert them to peaceful uses;
- (d) To permit the International Atomic Energy Agency (hereinafter referred to as IAEA) and the Commission established in Article 12 to verify the processes of dismantling and destruction of the nuclear explosive devices, as well as the destruction or conversion of the facilities for their production.

Article 7

Prohibition of Dumping of Radioactive Wastes

Each Party undertakes:

- (a) To effectively implement or to use as guidelines the measures contained in the Bamako Convention on the Ban of the Import into Africa and Control of Transboundary Movement and Management of Hazardous Wastes within Africa in so far as it is relevant to radioactive waste;
- (b) Not to take any action to assist or encourage the dumping of radioactive wastes and other radioactive matter anywhere within the African nuclear-weapon-free zone.

Article 8

Peaceful Nuclear Activities

1. Nothing in this Treaty shall be interpreted as to prevent the use of nuclear sciences and technology for peaceful purposes.
2. As part of their efforts to strengthen their security, stability and development, the Parties undertake to promote individually and collectively the use of nuclear science and technology for economic and social development. To this end, they undertake to establish and strengthen mechanisms for cooperation at the bilateral, subregional and regional levels.
3. Parties are encouraged to make use of the programme of assistance available in IAEA and, in this connection, to strengthen cooperation under the African Regional Cooperation Agreement for Research, Training and Development Related to Nuclear Science and Technology (hereinafter referred to as AFRA).

Article 9

Verification of Peaceful Uses

8. AFRICAN NUCLEAR-WEAPON-FREE ZONE TREATY

Each Party undertakes:

- (a) To conduct all activities for the peaceful use of nuclear energy under strict non-proliferation measures to provide assurance of exclusively peaceful uses;
- (b) To conclude a comprehensive safeguards agreement with IAEA for the purpose of verifying compliance with the undertakings in subparagraph (a) of this article;
- (c) Not to provide source or special fissionable material, or equipment or material especially designed or prepared for the processing, use or production of special fissionable material for peaceful purposes to any non-nuclear-weapon State unless subject to a comprehensive safeguards agreement concluded with IAEA.

Article 10

Physical Protection of Nuclear Materials and Facilities

Each Party undertakes to maintain the highest standards of security and effective physical protection of nuclear materials, facilities and equipment to prevent theft or unauthorized use and handling. To that end each Party, inter alia, undertakes to apply measures of physical protection equivalent to those provided for in the Convention on Physical Protection of Nuclear Material and in recommendations and guidelines developed by IAEA for that purpose.

Article 11

Prohibition of Armed Attack on Nuclear Installations

Each Party undertakes not to take, or assist, or encourage any action aimed at an armed attack by conventional or other means against nuclear installations in the African nuclear-weapon-free zone.

Article 12

Mechanism for Compliance

1. For the purpose of ensuring compliance with their undertakings under this Treaty, the Parties agree to establish the African Commission on Nuclear Energy (hereinafter referred to as the Commission) as set out in Annex III.
2. The Commission shall be responsible, inter alia, for:
 - (a) Collating the reports and the exchange of information as provided for in Article 13;
 - (b) Arranging consultations as provided for in Annex IV, as well as convening conferences of Parties on the concurrence of a simple majority of States Parties on any matter arising from the implementation of the Treaty;
 - (c) Reviewing the application to peaceful nuclear activities of safeguards by IAEA as elaborated in Annex II;
 - (d) Bringing into effect the complaints procedure elaborated in Annex IV;
 - (e) Encouraging regional and subregional programmes for cooperation in the peaceful uses of nuclear science and technology;
 - (f) Promoting international cooperation with extra-zonal States for the peaceful uses of nuclear science and technology.

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3. The Commission shall meet in ordinary session once a year, and may meet in extraordinary session as may be required by the complaints and settlement of disputes procedure in Annex IV.

Article 13

Report and Exchanges of Information

1. Each Party shall submit an annual report to the Commission on its nuclear activities as well as other matters relating to the Treaty in accordance with the format for reporting to be developed by the Commission.
2. Each Party shall promptly report to the Commission any significant event affecting the implementation of the Treaty.
3. The Commission shall request the IAEA to provide it with an annual report on the activities of AFRA.

Article 14

Conference of Parties

1. A Conference of all Parties to the Treaty shall be convened by the depositary as soon as possible after the entry into force of the Treaty to, inter alia, elect members of the Commission and determine its headquarters. Further conferences of States Parties shall be held as necessary and at least every two years, and convened in accordance with paragraph 2 (b) of Article 12.
2. The Conference of all Parties to the Treaty shall adopt the Commission's budget and a scale of assessment to be paid by the States Parties.

Article 15

Interpretation of the Treaty

Any dispute arising out of the interpretation of the Treaty shall be settled by negotiation, by recourse to the Commission or another procedure agreed to by the parties, which may include recourse to an arbitral panel or to the International Court of Justice.

Article 16

Reservations

This Treaty shall not be subject to reservations.

Article 17

Duration

This Treaty shall be of unlimited duration and shall remain in force indefinitely.

Article 18

Signature, Ratification and Entry into Force

1. This Treaty shall be open for signature by any State in the African nuclear-weapon-free zone. It shall be subject to ratification.
2. It shall enter into force on the date of deposit of the twenty-eighth instrument of ratification.
3. For a signatory that ratifies this Treaty after the date of the deposit of the twenty-eighth instrument of ratification, it shall enter into force for that signatory on the date of deposit of its instrument of ratification.

8. AFRICAN NUCLEAR-WEAPON-FREE ZONE TREATY

Article 19 Amendments

1. Any amendments to the Treaty proposed by a Party shall be submitted to the Commission, which shall circulate it to all Parties.
2. Decision on the adoption of such an amendment shall be taken by a two-thirds majority of the Parties either through written communication to the Commission or through a conference of Parties convened upon the concurrence of a simple majority.
3. An amendment so adopted shall enter into force for all Parties after receipt by the depositary of the instrument of ratification by the majority of Parties.

Article 20 Withdrawal

1. Each Party shall, in exercising its national sovereignty, have the right to withdraw from this Treaty if it decides that extraordinary events, related to the subject matter of this Treaty, have jeopardized its supreme interests.
2. Withdrawal shall be effected by a Party giving notice, which includes a statement of the extraordinary events it regards as having jeopardized its supreme interest, twelve months in advance to the depositary. The depositary shall circulate such notice to all other Parties.

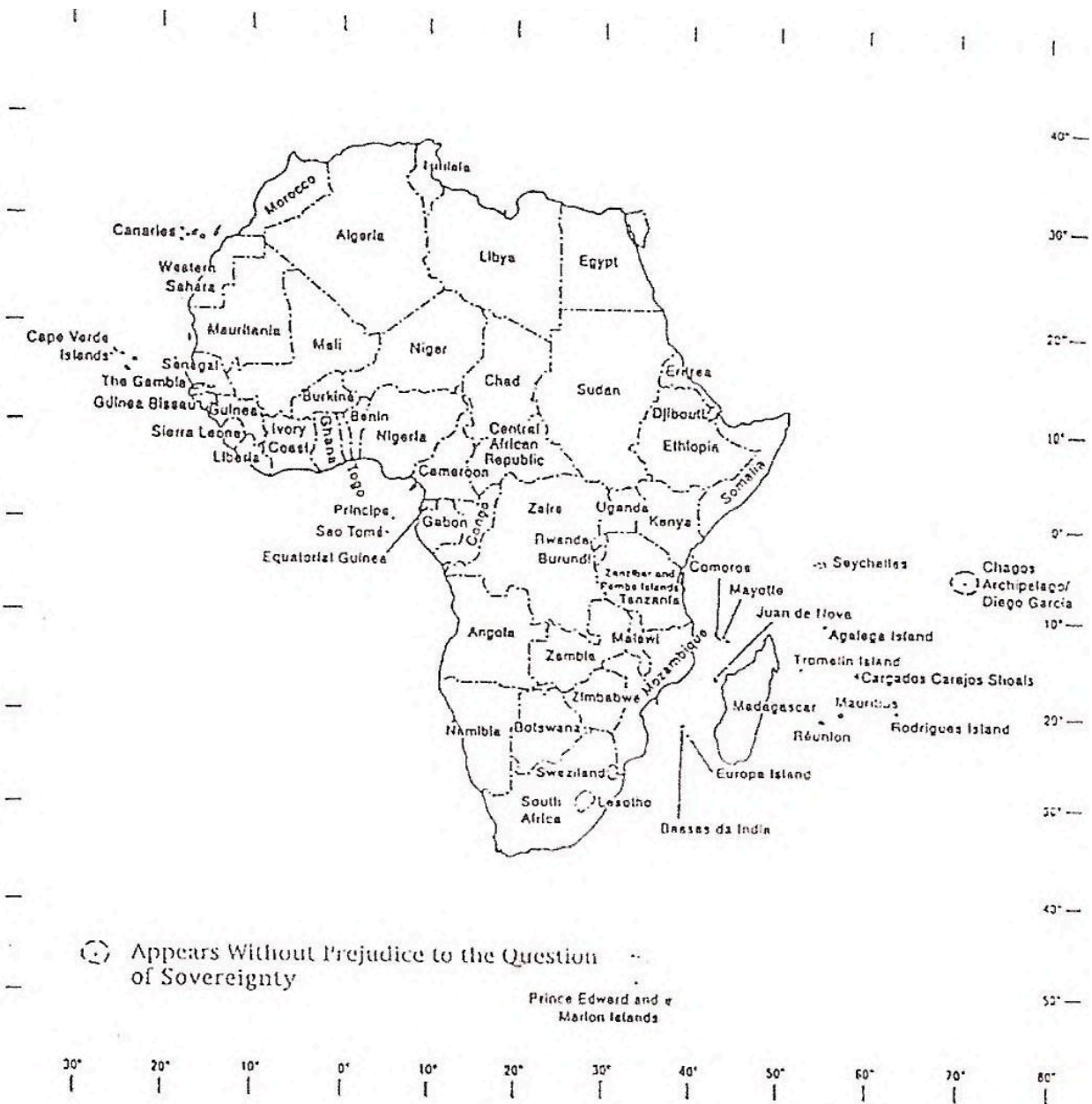
Article 21 Depositary Functions

1. This Treaty, of which the Arabic, English, French and Portuguese texts are equally authentic, shall be deposited with the Secretary-General of OAU, who is hereby designated as depositary of the Treaty.
2. The depositary shall:
 - (a) Receive instruments of ratification;
 - (b) Register this Treaty and its Protocols pursuant to Article 102 of the Charter of the United Nations;
 - (c) Transmit certified copies of the Treaty and its Protocols to all States in the African nuclear-weapon-free zone and to all States eligible to become party to the Protocols to the Treaty, and shall notify them of signatures and ratification of the Treaty and its Protocols.

Article 22 Status of the Annexes

The annexes form an integral part of the Treaty. Any reference to this Treaty includes the annexes.

Annex I
Map of the Nuclear-Weapon-Free Zone in Africa



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Annex II

Safeguards of the International Atomic Energy Agency

1. The safeguards referred to in subparagraph (b) of the Article 9 shall in respect of each Party be applied by the International Atomic Energy Agency as set forth in an agreement negotiated and concluded with the IAEA on all source or special fissionable material in all nuclear activities within the territory of the Party, under its jurisdiction or carried out under its control anywhere.
2. The agreement referred to in paragraph 1 above shall be, or shall be equivalent in its scope and effect to, the agreement required in connection with the Treaty on the Non-Proliferation of Nuclear Weapons (INFCIRC/153 corrected). A party that has already entered into a safeguards agreement with the IAEA is deemed to have already complied with the requirement. Each Party shall take all appropriate steps to ensure that the agreement referred to in paragraph 1 is in force for it not later than eighteen months after the date of entry into force for that Party of this Treaty.
3. For the purpose of this Treaty, the safeguards referred to in paragraph 1 above shall have as their purpose the verification of the non-diversion of nuclear material from peaceful nuclear activities to nuclear explosive devices or for purposes unknown.
4. Each Party shall include in its annual report to the Commission, in conformity with Article 13, for its information and review, a copy of the overall conclusions of the most recent report by the International Atomic Energy Agency on its inspection activities in the territory of the Party concerned, and advise the Commission promptly of any change in those conclusions. The information furnished by a Party shall not be, totally or partially, disclosed or transmitted to third parties, by the addressees of the reports, except when that Party gives its express consent.

Annex III

African Commission on Nuclear Energy

1. The Commission established in Article 12 shall be composed of twelve members elected by Parties to the Treaty for a three-year period, bearing in mind the need for equitable geographical distribution as well as to include members with advanced nuclear programmes. Each member shall have one representative nominated with particular regard for his/her expertise in the subject of the Treaty.
2. The Commission shall have a Bureau consisting of the Chairman, the Vice-Chairman and the Executive Secretary. It shall elect its Chairman and Vice-Chairman. The Secretary-General of the Organization of African Unity, at the request of Parties to the Treaty and in consultation with the Chairman, shall designate the Executive Secretary of the Commission. For the first meeting a quorum shall be constituted by representatives of two thirds of the Members of the Commission. For that meeting, decisions of the Commission shall be taken as far as possible by consensus or otherwise by a two-thirds majority of the members of the Commission. The Commission shall adopt its rules of procedure at that meeting.
3. The Commission shall develop a format for reporting by States as required under Articles 12 and 13.
4. (a) The budget of the Commission, including the costs of inspections pursuant to Annex IV to this Treaty, shall be borne by the Parties to the Treaty in accordance with a scale of assessment to be determined by the Parties;

(b) The Commission may also accept additional funds from other sources provided such donations are consistent with the purposes and objectives of the Treaty.

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Annex IV Complaints Procedure and Settlement of Disputes

1. A Party which considers that there are grounds for a complaint that another Party or a Party to Protocol II is in breach of its obligations under this Treaty shall bring the subject matter of the complaint to the attention of the Party complained of and shall allow the latter thirty days to provide it with an explanation and to resolve the matter. This may include technical visits agreed upon between the Parties.
2. If the matter is not so resolved, the complaining Party may bring this complaint to the Commission.
3. The Commission, taking account of efforts made under paragraph 1 above, shall afford the Party complained of forty-five days to provide it with an explanation of the matter.
4. If, after considering any explanation given to it by the representatives of the Party complained of the Commission considers that there is sufficient substance in the complaint to warrant an inspection in the territory of that Party or territory of a Party to Protocol III, the Commission may request the International Atomic Energy Agency to conduct such inspection as soon as possible. The Commission may also designate its representatives to accompany the IAEA's inspection team.
 - (a) The request shall indicate the tasks and objectives of such inspection, as well as any confidentiality requirements.
 - (b) If the Party complained of so requests, the inspection team shall be accompanied by representatives of that Party provided that the inspectors shall not be thereby delayed or otherwise impeded in the exercise of their functions.
 - (c) Each Party shall give the inspection team full and free access to all information and places within each territory that may be deemed relevant by the inspectors to the implementation of the inspection.
 - (d) The Party complained of shall take all appropriate steps to facilitate the work of the inspection team, and shall accord them the same privileges and immunities as those set forth in the relevant provisions of the Agreement on the Privileges and Immunities of the International Atomic Energy Agency.
 - (e) The International Atomic Energy Agency shall report its findings in writing as quickly as possible to the Commission, outlining its activities, setting out relevant facts and information as ascertained by it, with supporting evidence and documentation as appropriate, and stating its conclusions. The Commission shall report fully to all States Parties to the Treaty giving its decision as to whether the Party complained of is in breach of its obligations under this Treaty.
 - (f) If the Commission considers that the Party complained of is in breach of its obligations under this Treaty, or that the above provisions have not been complied with, States Parties to the Treaty shall meet in extraordinary session to discuss the matter.
 - (g) The States Parties convened in extraordinary session may as necessary, make recommendations to the Party held to be in breach of its obligations and to the Organization of African Unity. The Organization of African Unity may, if necessary, refer the matter to the United Nations Security Council.
 - (h) The costs involved in the procedure outlined above shall be borne by the Commission. In the case of abuse, the Commission shall decide whether the requesting State Party should bear any of the financial implications.
5. The Commission may also establish its own inspection mechanism.

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Protocol I

The Parties to this Protocol,

Convinced of the need to take all steps in achieving the ultimate goal of a world entirely free of nuclear weapons as well as the obligations of all States to contribute to this end,

Convinced also that the African Nuclear-Weapon-Free Zone Treaty, negotiated and signed in accordance with the Declaration on the Denuclearization of Africa (AHG/Res.11 (I) of 1964, Resolutions CM/Res. 1342(LIV) of 1991 and CM/Res. 1395(LVI) Rev. 1 of 1992 of the Council of Ministers of the Organization of African Unity and United Nations General Assembly resolution 48/86 of 16 December 1993, constitutes an important measure towards ensuring the non-proliferation of nuclear weapons, promoting cooperation in the peaceful uses of nuclear energy, promoting general and complete disarmament, and enhancing regional and international peace and security,

Desirous of contributing in all appropriate manners to the effectiveness of the Treaty,

Have agreed as follows:

Article 1

Each Protocol Party undertakes not to use or threaten to use a nuclear explosive device against:

- (a) Any Party to the Treaty; or
- (b) Any territory within the African nuclear-weapon-free zone for which a State that has become a Party to Protocol III is internationally responsible as defined in Annex I.

Article 2

Each Protocol Party undertakes not to contribute to any act that constitutes a violation of the Treaty or of this Protocol.

Article 3

Each Protocol Party undertakes, by written notification to the depositary, to indicate its acceptance or otherwise of any alteration to its obligation under this Protocol that may be brought about by the entry into force of an amendment to the Treaty pursuant to Article 19 of the Treaty.

Article 4

This Protocol shall be open for signature by China, France, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

Article 5

This Protocol shall be subject to ratification.

Article 6

This Protocol is of a permanent nature and shall remain in force indefinitely, provided that each Party shall, in exercising its national sovereignty, have the right to withdraw from this Protocol if it decides that extraordinary events related to the subject matter of this Protocol, have jeopardized its supreme interests. It shall give notice of

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such withdrawal to the depositary twelve months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.

Article 7

This Protocol shall enter into force for each State on the date of its deposit with the depositary of its instrument of ratification or the date of entry into force of the Treaty, whichever is later.

Protocol II

The Parties to this Protocol,

Convinced of the need to take all steps in achieving the ultimate goal of a world entirely free of nuclear weapons as well as the obligations of all States to contribute to this end,

Convinced also that the African Nuclear-Weapon-Free Zone Treaty, negotiated and signed in accordance with the Declaration on the Denuclearization of Africa (AHG/Res. 11 (I) of 1964, Resolutions CM/Res. 1342(LIV) of 1991 and CM/Res. 1395(LVI)/Rev. 1 of 1992 of the Council of Ministers of the Organization of African Unity and United Nations General Assembly resolution 48/86 of 16 December 1993, constitutes an important measure towards ensuring the non-proliferation of nuclear weapons, promoting cooperation in the peaceful uses of nuclear energy, promoting general and complete disarmament, and enhancing regional and international peace and security,

Desirous of contributing in all appropriate manners to the effectiveness of the Treaty,

Bearing in mind the objective of concluding a treaty banning all nuclear tests,

Have agreed as follows:

Article 1

Each Protocol Party undertakes not to test or assist or encourage the testing of any nuclear explosive device anywhere within the African nuclear-weapon-free zone.

Article 2

Each Protocol Party undertakes not to contribute to any act that constitutes a violation of the Treaty or of this Protocol.

Article 3

Each Protocol Party undertakes, by written notification to the depositary, to indicate its acceptance or otherwise of any alteration to its obligation under this Protocol that may be brought about by the entry into force of an amendment to the Treaty pursuant to Article 20 of the Treaty.

Article 4

This Protocol shall be open for signature by China, France, the Russian Federation, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

Article 5

This Protocol shall be subject to ratification.

8. AFRICAN NUCLEAR-WEAPON-FREE ZONE TREATY

Article 6

This Protocol is of a permanent nature and shall remain in force indefinitely, provided that each Party shall, in exercising its national sovereignty, have the right to withdraw from this Protocol if it decides that extraordinary events, related to the subject matter of this Protocol have jeopardized its supreme interests. It shall give notice of such withdrawal to the depositary twelve months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.

Article 7

This Protocol shall enter into force for each State on the date of its deposit with the depositary of its instrument of ratification or the date of entry into force of the Treaty, whichever is later.

Protocol III

The Parties to this Protocol,

Convinced of the need to take all steps in achieving the ultimate goal of a world entirely free of nuclear weapons as well as the obligations of all States to contribute to this end,

Convinced also that the African Nuclear-Weapon-Free Zone Treaty, negotiated and signed in accordance with the Declaration on the Denuclearization of Africa (AHG/Res.11 (I)) of 1964, Resolutions CM/Res. 1342(LIV) of 1991 and CM/Res. 1395(LVI)/Rev.1 of 1992 of the Council of Ministers of the Organization of African Unity and United Nations General Assembly resolution 48/86 of 16 December 1993, constitutes an important measure towards ensuring the non-proliferation of nuclear weapons, promoting cooperation in the peaceful uses of nuclear energy, promoting general and complete disarmament, and enhancing regional and international peace and security,

Desirous of contributing in all appropriate manners to the effectiveness of the Treaty,

Have agreed as follows:

Article 1

Each Protocol Party undertakes to apply, in respect of the territories for which it is de jure or de facto internationally responsible situated within the African nuclear-weapon-free zone, the provisions contained in Articles 3, 4, 5, 6, 7, 8, 9 and 10 of the Treaty and to ensure the application of safeguards specified in Annex II of the Treaty.

Article 2

Each Protocol Party undertakes not to contribute to any act that constitutes a violation of the Treaty or of this Protocol.

Article 3

Each Protocol Party undertakes, by written notification to the depositary, to indicate its acceptance or otherwise of any alterations to its obligation under this Protocol that may be brought about by the entry into force of an amendment to the Treaty pursuant to Article 20 of the Treaty.

Article 4

This Protocol shall be open for signature by France and Spain.

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Article 5

This Protocol shall be subject to ratification.

Article 6

This Protocol is of a permanent nature and shall remain in force indefinitely provided that each Party shall, in exercising its national sovereignty have the right to withdraw from this Protocol if it decides that extraordinary events, related to the subject matter of this Protocol, have jeopardized its supreme interests. It shall give notice of such withdrawal to the depositary twelve months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.

Article 7

This Protocol shall enter into force for each State on the date of its deposit with the depositary of its instrument of ratification or the date of entry into force of the treaty, whichever is later.

9.

OAU CONVENTION ON THE PREVENTION AND COMBATING OF TERRORISM

Adopted in Algiers, Algeria, on 14 July 1999.

Entered into force on 26 December 2002.

The Member States of the Organization of African Unity,

Considering the purposes and principles enshrined in the Charter of the Organization of African Unity, in particular its clauses relating to the security, stability, development of friendly relations and cooperation among its Member States,

Recalling the provisions of the Declaration on the Code of Conduct for Inter-African Relations, adopted by the Thirtieth Ordinary Session of the Assembly of Heads of State and Government of the Organization of African Unity, held in Tunis, Tunisia, from 13 to 15 June 1994,

Aware of the need to promote human and moral values based on tolerance and rejection of all forms of terrorism irrespective of their motivations,

Believing in the principles of international law, the provisions of the Charters of the Organization of Africa Unity and the United Nations and the latter's relevant resolutions on measures aimed at combating international terrorism and, in particular, resolution 49/60 of the General Assembly of 9 December 1994 together with the annexed Declaration on Measures to Eliminate International Terrorism as well as resolution 51/210 of the General Assembly of 17 December 1996 and the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism, annexed thereto,

Deeply concerned over the scope and seriousness of the phenomenon of terrorism and the dangers it poses to the stability and security of States,

Desirous of strengthening cooperation among Member States in order to forestall and combat terrorism,

Reaffirming the legitimate right of peoples for self-determination and independence pursuant to the principles of international law and the provisions of the Charters of the Organization of African Unity and the United Nations as well as the African Charter on Human and Peoples' Rights,

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Concerned that the lives of innocent women and children are most adversely affected by terrorism,

Convinced that terrorism constitutes a serious violation of human rights and, in particular, the rights to physical integrity, life, freedom and security, and impedes socio-economic development through destabilization of States,

Convinced further that terrorism cannot be justified under any circumstances and, consequently, should be combated in all its forms and manifestations, including those in which States are involved directly or indirectly, without regard to its origin, causes and objectives,

Aware of the growing links between terrorism and organized crime, including the illicit traffic of arms, drugs and money laundering,

Determined to eliminate terrorism in all its forms and manifestations,

Have agreed as follows:

Part I Scope of Application

Article 1

For the purposes of this Convention:

1. "Convention" means the OAU Convention on the Prevention and Combating of Terrorism;
2. "State Party" means any Member State of the Organization of African Unity which has ratified or acceded to this Convention and has deposited its instrument of ratification or accession with the Secretary-General of the Organization of African Unity;
3. "Terrorist act" means:
 - (a) Any act which is a violation of the criminal laws of a State Party and which may endanger the life, physical integrity or freedom of, or cause serious injury or death to, any person, any number or group of persons or causes or may cause damage to public or private property, natural resources, environmental or cultural heritage and is calculated or intended to:
 - (i) Intimidate, put in fear, force, coerce or induce any government, body, institution, the general public or any segment thereof, to do or abstain from doing any act, or to adopt or abandon a particular standpoint, or to act according to certain principles; or
 - (ii) Disrupt any public service, the delivery of any essential service to the public or to create a public emergency; or
 - (iii) Create general insurrection in a State;
 - (b) Any promotion, sponsoring, contribution to, command, aid, incitement, encouragement, attempt, threat, conspiracy, organizing, or procurement of any person, with the intent to commit any act referred to in subparagraph (a) (i) to (iii).

Article 2

States Parties undertake to:

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- (a) Review their national laws and establish criminal offences for terrorist acts as defined in this Convention and make such acts punishable by appropriate penalties that take into account the grave nature of such offences;
- (b) Consider, as a matter of priority, the signing or ratification of, or accession to, the international instruments listed in the annex, which they have not yet signed, ratified or acceded to; and
- (c) Implement the actions, including enactment of legislation and the establishment as criminal offences of certain acts as required in terms of the international instruments referred to in subparagraph (b) and that States have ratified or acceded to and make such acts punishable by appropriate penalties which take into account the grave nature of those offences;
- (d) Notify the Secretary-General of the OAU of all the legislative measures it has taken and the penalties imposed on terrorist acts within one year of its ratification of, or accession to, the Convention.

Article 3

1. Notwithstanding the provisions of Article 1, the struggle waged by peoples in accordance with the principles of international law for their liberation or self-determination, including armed struggle against colonialism, occupation, aggression and domination by foreign forces shall not be considered as terrorist acts.
2. Political, philosophical, ideological, racial, ethnic, religious or other motives shall not be a justifiable defence against a terrorist act.

Part II Areas of Cooperation

Article 4

1. States Parties undertake to refrain from any acts aimed at organizing, supporting, financing, committing or inciting to commit terrorist acts, or providing havens for terrorists, directly or indirectly, including the provision of weapons and their stockpiling in their countries and the issuing of visas and travel documents.
2. States Parties shall adopt any legitimate measures aimed at preventing and combating terrorist acts in accordance with the provisions of this Convention and their respective national legislation, in particular, they shall do the following:
 - (a) Prevent their territories from being used as a base for the planning, organization or execution of terrorist acts or for the participation or collaboration in these acts in any form whatsoever;
 - (b) Develop and strengthen methods of monitoring and detecting plans or activities aimed at the illegal cross-border transportation, importation, export, stockpiling and use of arms, ammunition and explosives and other materials and means of committing terrorist acts;
 - (c) Develop and strengthen methods of controlling and monitoring land, sea and air borders and customs and immigration check points in order to pre-empt any infiltration by individuals or groups involved in the planning, organization and execution of terrorist acts;
 - (d) Strengthen the protection and security of persons, diplomatic and consular missions, premises of regional and international organizations accredited to a State Party, in accordance with the relevant conventions and rules or international law;
 - (e) Promote the exchange of information and expertise on terrorist acts and establish databases for the collection and analysis of information and data on terrorist elements, groups, movements and organizations;

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- (f) Take all necessary measures to prevent the establishment of terrorist support networks in any form whatsoever;
- (g) Ascertain, when granting asylum, that the asylum seeker is not involved in any terrorist act;
- (h) Arrest the perpetrators of terrorist acts and try them in accordance with national legislation, or extradite them in accordance with the provisions of this Convention or extradition treaties concluded between the requesting State and the requested State and, in the absence of a treaty, consider facilitating the extradition of persons suspected of having committed terrorist acts; and
- (i) Establish effective cooperation between relevant domestic security officials and services and the citizens of the States Parties to enhance public awareness of the scourge of terrorist acts and the need to combat such acts, by providing guarantees and incentives that will encourage the population to give information on terrorist acts or other acts which may help to uncover such acts and arrest their perpetrators.

Article 5

States Parties shall cooperate among themselves in preventing and combating terrorist acts in conformity with national legislation and procedures of each State in the following areas.

1. States Parties undertake to strengthen the exchange of information among them regarding:
 - (a) Acts and crimes committed by terrorist groups, their leaders and elements, their headquarters and training camps, their means and sources of funding and acquisition of arms, the types or arms, ammunition and explosives used, and other means in their possession;
 - (b) The communication and propaganda methods and techniques used by the terrorist groups, the behaviour of these groups, the movement of the leaders and elements, as well as their travel documents.
2. States Parties undertake to exchange any information that leads to:
 - (a) The arrest of any person charged with a terrorist act against the interest of a State Party or against its nationals, or attempted to commit such an act or participated in it as an accomplice or an instigator;
 - (b) The seizure and confiscation of any type of arms, ammunition, explosives, devices or funds or other instrumentalities of crime used to commit a terrorist act or intended for that purpose.
3. States Parties undertake to respect the confidentiality of the information exchanged among them and not to provide such information to another State that is not party to this Convention, or to a third State Party, without the prior consent of the State from where such information originated.
4. States Parties undertake to promote cooperation among themselves and to help each other with regard to procedures relating to the investigation and arrest of persons suspected of, charged with or convicted of terrorist acts, in conformity with the national law of each State.
5. States Parties shall cooperate among themselves in conducting and exchanging studies and researches on how to combat terrorist acts and to exchange expertise relating to control of terrorist acts.
6. States Parties shall cooperate among themselves, where possible, in providing any available technical assistance in drawing up programmes or organizing, where necessary and for the benefit of their personnel, joint training courses involving one or several States Parties in the area of control of terrorist acts, in order to improve their scientific, technical and operational capacities to prevent and combat such acts.

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Part III State Jurisdiction

Article 6

1. Each State Party has jurisdiction over terrorist acts as defined in Article 1 when:
 - (a) The act is committed in the territory of that State and the perpetrator of the act is arrested in its territory or outside it if this is punishable by its national law;
 - (b) The act is committed on board a vessel or a ship flying the flag of that State or an aircraft which is registered under the laws of that State at the time the offence is committed; or
 - (c) The act is committed by a national or a group or nationals of that State.
2. A State Party may also establish its jurisdiction over any such offence when:
 - (a) The act is committed against a national of that State; or
 - (b) The act is committed against a State or government facility of that State abroad, including an embassy or other diplomatic or consular premises, and any other property, of that State;
 - (c) The act is committed by a stateless person who has his or her habitual residence in the territory of that State; or
 - (d) The act is committed on board an aircraft which is operated by any carrier of that State; and
 - (e) The act is committed against the security of the State Party.
3. Upon ratifying or acceding to this Convention, each State Party shall notify the Secretary-General of the Organization of African Unity of the jurisdiction it has established in accordance with paragraph 2 under its national law. Should any change take place, the State Party concerned shall immediately notify the Secretary-General.
4. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the acts set forth in Article 1 in cases where the alleged offender is present in its territory and it does not extradite that person to any of the States Parties which have established their jurisdiction in accordance with paragraph 1 or 2.

Article 7

1. Upon receiving information that a person who has committed or who is alleged to have committed any terrorist act as defined in Article 1 may be present in its territory, the State Party concerned shall take such measures as may be necessary under its national law to investigate the facts contained in the information.
2. Upon being satisfied that the circumstances so warrant, the State Party in whose territory the offender or alleged offender is present shall take the appropriate measures under its national law so as to ensure that person's presence for the purpose of prosecution.
3. Any person against whom the measures referred to in paragraph 2 are being taken shall be entitled to:

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- (a) Communicate without delay with the nearest appropriate representative of the State of which that person is a national or which is otherwise entitled, to protect that person's rights or, if that person is a stateless person, the State in whose territory that person habitually resides;
 - (b) Be visited by a representative of that State;
 - (c) Be assisted by a lawyer of his or her choice;
 - (d) Be informed of his or her rights under subparagraphs (a), (b) and (c).
4. The rights referred to in paragraph 3 shall be exercised in conformity with the national law of the State in whose territory the offender or alleged offender is present; subject to the provision that the said laws must enable full effect to be given to the purposes for which the rights accorded under paragraph 3 are intended.

Part IV Extradition

Article 8

1. Subject to the provisions of paragraphs 2 and 3 of this article, the States Parties shall undertake to extradite any person charged with or convicted of any terrorist act carried out on the territory of another State Party and whose extradition is requested by one of the States Parties in conformity with the rules and conditions provided for in this Convention or under extradition agreements between the States Parties and within the limits of their national laws.
2. Any State Party may, at the time of the deposit of its instrument of ratification or accession, transmit to the Secretary-General of the OAU the grounds on which extradition may not be granted and shall at the same time indicate the legal basis in its national legislation or international conventions to which it is a party which excludes such extradition. The Secretary-General shall forward these grounds to the States Parties.
3. Extradition shall not be granted if final judgment has been passed by a competent authority of the requested State upon the person in respect of the terrorist act or acts for which extradition is requested. Extradition may also be refused if the competent authority of the requested State has decided either not to institute or terminate proceedings in respect of the same act or acts.
4. A State Party in whose territory an alleged offender is present shall be obliged, whether or not the offence was committed in its territory, to submit the case without undue delay to its competent authorities for the purpose of prosecution if it does not extradite that person.

Article 9

Each State Party undertakes to include as an extraditable offence any terrorist act as defined in Article 1, in any extradition treaty existing between any of the States Parties before or after the entry into force of this Convention.

Article 10

Exchange of extradition requests between the States Parties to this Convention shall be effected directly either through diplomatic channels or other appropriate organs in the concerned States.

Article 11

Extradition requests shall be in writing, and shall be accompanied in particular by the following:

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- (a) An original or authenticated copy of the sentence, warrant of arrest or any order or other judicial decision made, in accordance with the procedures laid down in the laws of the requesting State;
- (b) A statement describing the offences for which extradition is being requested, indicating the date and place of its commission, the offence committed, any convictions made and a copy of the provisions of the applicable law; and
- (c) As comprehensive a description as possible of the wanted person together with any other information which may assist in establishing the person's identity and nationality.

Article 12

In urgent cases, the competent authority of the State making the extradition may, in writing, request that the State seized of the extradition request arrest the person in question provisionally. Such provisional arrest shall be for a reasonable period in accordance with the national law of the requested State.

Article 13

1. Where a State Party receives several extradition requests from different States Parties in respect of the same suspect and for the same or different terrorist acts, it shall decide on these requests having regard to all the prevailing circumstances, particularly the possibility of subsequent extradition, the respective dates of receipt of the requests, and the degree of seriousness of the crime.
2. Upon agreeing to extradite, States Parties shall seize and transmit all funds and related materials purportedly used in the commission of the terrorist act to the requesting State as well as relevant incriminating evidence.
3. Such funds, incriminating evidence and related materials, upon confirmation of their use in the terrorist act by the requested State, shall be transmitted to the requesting State even if, for reasons of death or escape of the accused, the extradition in question cannot take place.
4. The provisions in paragraphs 1, 2 and 3 of this article shall not affect the rights of any of the States Parties or bona fide third Parties regarding the materials or revenues mentioned above.

Part V

Extraterritorial Investigations (Commission Rogatoire) and Mutual Legal Assistance

Article 14

Any State Party may, while recognizing the sovereign rights of States Parties in matters of criminal investigation, request any other State Party to carry out, with its assistance and cooperation, on the latter's territory, criminal investigations related to any judicial proceedings concerning alleged terrorist acts and, in particular:

- (a) The examination of witnesses and transcripts of statements made as evidence;
- (b) The opening of judicial information;
- (c) The initiation of investigation processes;
- (d) The collection of documents and recordings or, in their absence, authenticated copies thereof;
- (e) Conducting inspections and tracing of assets for evidentiary purposes;

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- (f) Executing searches and seizures; and
- (g) Service of judicial documents.

Article 15

A commission rogatoire may be refused:

- (a) Where each of the States Parties has to execute a commission rogatoire relating to the same terrorist acts;
- (b) If that request may affect efforts to expose crimes, impede investigations or the indictment of the accused in the country requesting the commission rogatoire; or
- (c) If the execution of the request would affect the sovereignty of the requested State, its security or public order.

Article 16

The extraterritorial investigation (commission rogatoire) shall be executed in compliance with the provisions of national laws of the requested State. The request for an extraterritorial investigation (commission rogatoire) relating to a terrorist act shall not be rejected on the grounds of the principle of confidentiality of bank operations or financial institutions, where applicable.

Article 17

The States Parties shall extend to each other the best possible mutual police and judicial assistance for any investigation, criminal prosecution or extradition proceedings relating to the terrorist acts as set forth in this Convention.

Article 18

The States Parties undertake to develop, if necessary, especially by concluding bilateral and multilateral agreements and arrangements, mutual legal assistance procedures aimed at facilitating and speeding up investigations and collecting evidence, as well as cooperation between law enforcement agencies in order to detect and prevent terrorist acts.

Part VI Final Provisions

Article 19

1. This Convention shall be open to signature, ratification or accession by the Member States of the Organization of African Unity.
2. The instruments of ratification or accession to the present Convention shall be deposited with the Secretary-General of Organization of African Unity.
3. The Secretary-General of the Organization of African Unity shall inform Member States of the Organization of the deposit of each instrument of ratification or accession.
4. No State Party may enter a reservation which is incompatible with the object and purposes of this Convention.

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5. No State Party may withdraw from this Convention except on the basis of a written request addressed to the Secretary-General of the Organization of African Unity. The withdrawal shall take effect six months after the date of receipt of the written request by the Secretary-General of the Organization of African Unity.

Article 20

1. This Convention shall enter into force thirty days after the deposit of the fifteenth instrument of ratification with the Secretary-General of the Organization of African Unity.

2. For each of the States that ratify or accede to this Convention, it shall enter into force thirty days after the date of the deposit by that State Party of its instrument of ratification or accession.

Article 21

1. Special protocols or agreements may, if necessary, supplement the provisions of this Convention.

2. This Convention may be amended if a State Party makes a written request to that effect to the Secretary-General of the Organization of African Unity. The Assembly of Heads of State and Government may only consider the proposed amendment after all the States Parties have been duly informed of it at least three months in advance.

3. The amendment shall be approved by a simple majority of the States Parties. It shall come into force for each State which has accepted it in accordance with its constitutional procedures three months after the Secretary-General has received notice of the acceptance.

Article 22

1. Nothing in this Convention shall be interpreted as derogating from the general principles of international law, in particular the principles of international humanitarian law, as well as the African Charter on Human and Peoples' Rights.

2. Any dispute that may arise between the States Parties regarding the interpretation or application of this Convention shall be amicably settled by direct agreement between them. Failing such settlement, any one of the States Parties may refer the dispute to the International Court of Justice in conformity with the Statute of the Court or by arbitration by other States Parties to this Convention.

Article 23

The original of this Convention, of which the Arabic, English, French and Portuguese texts are equally authentic, shall be deposited with the Secretary-General of the Organization of African Unity.

Annex

List of International Instruments

1. Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft of 1963;

2. Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation of 1971 and the Protocol thereto of 1984;

3. New York Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents of 1973;

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4. International Convention against the Taking of Hostages of 1979;
5. Convention on the Physical Protection of Nuclear Material of 1979;
6. United Nations Convention on the Law of the Sea of 1982;
7. Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation of 1988;
8. Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf of 1988;
9. Convention for the Suppression of Unlawful Acts against Maritime Navigation of 1988;
10. Convention on the Marking of Plastic Explosives of 1991;
11. International Convention for the Suppression of Terrorist Explosive Bombs of 1997;
12. Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction of 1997.

10.

SOLEMN DECLARATION ON THE CONFERENCE ON SECURITY, STABILITY, DEVELOPMENT AND COOPERATION IN AFRICA (CSSDCA) (AHG/Decl.4 (XXXVI))

Adopted in Lomé, Togo, in July 2000.

1. We, the Heads of State and Government of the Member States of the Organization of African Unity (OAU), meeting in Lomé, Togo, at the Thirty-sixth Assembly of our Organization, have considered the report of the Ministerial meeting of the Conference on Security, Stability, Development and Cooperation in Africa (CSSDCA) held in Abuja, Nigeria, from 8 to 9 May 2000. The Ministerial Conference was convened pursuant to the decision taken in Algiers, Algeria, in July 1999, proclaiming 2000 as the Year of Peace, Security and Solidarity in Africa as well as the Declaration adopted on 9 September 1999, at our Fourth Extraordinary Summit in Sirte, in the Great Socialist Peoples Libyan Arab Jamahiriya, which, inter alia, decided on the establishment of an African Union and the convening of the Ministerial Conference.
2. We recall the decisions we have taken, over the years, to promote political stability and economic development on our continent. In the realm of promoting stability, the African Charter for Popular Participation in Development and the Declaration on the Political and Socio-Economic Situation in Africa and the Fundamental Changes Taking Place in the World, were adopted in 1990.
3. In June 1993, in Cairo, Egypt, we adopted the Declaration establishing the Mechanism for Conflict Prevention, Management and Resolution to forge, within the OAU, a new institutional dynamism for the prevention, management and resolution of conflicts. In 1981 and 1998, respectively, the African Charter on Human and Peoples' Rights and the Protocol on the Establishment of an African Court on Human and Peoples' Rights, were adopted. Both were important instruments for ensuring the promotion, protection and observance of human rights as an integral part of our Organization's wider objective of promoting collective security for durable peace and sustainable development.

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4. In July 1997, during our Summit in Harare, Zimbabwe, we took a stand against unconstitutional changes of government. This led the Algiers Summit of July 1999 to adopt a decision on unconstitutional changes of governments to reinforce respect for democracy, the rule of law, good governance and stability.*

5. In the area of development and cooperation, the Lagos Plan of Action and the Final Act of Lagos were adopted in 1980; the Treaty Establishing the African Economic Community and the Cairo Agenda for Relaunching the Economic and Social Development of Africa, were adopted in 1991 and 1995, respectively. The Sirte Declaration of September 1999, included measures for accelerating the process of economic integration and addressing the question of Africa's indebtedness.

6. We recall that these concerns were at the core of the initiative launched by the African Leadership Forum on the CSSDCA process. We note that the Conference on Security, Stability, Development and Cooperation in Africa, as proposed in the Kampala Document, was not conceived as a one-off event, but rather as a process. The underlying thinking of the CSSDCA process as articulated in the four calabashes of the Kampala Document of 1991 was a recognition of the fact that the problems of security and stability in many African countries had impaired their capacity to achieve the necessary level of intra and inter-African cooperation that is required to attain the integration of the continent and critical to the continent's socio-economic development and transformation. In this regard, we have used both the revised Kampala Document and the working document elaborated by our experts in Addis Ababa, Ethiopia, to enrich our thinking on the CSSDCA process.

7. We note that all the major decisions taken by our Organization since its inception, reflect the inter-linkage between peace, stability, development, integration and cooperation. We believe that the CSSDCA process creates a synergy between the various activities currently undertaken by our Organization and should therefore help to consolidate the work of the OAU in the areas of peace, security, stability, development and cooperation. It should provide a policy development forum for the elaboration and advancement of common values within the main policy organs of the OAU.

8. We are convinced that the interactive approach embedded in the CSSDCA initiative, should provide an invaluable tool for the pursuit of the agenda of the OAU in the new millennium, with particular reference to the issues of security, stability, development and cooperation.

Declaration of Principles

9. In recognition of the importance of the CSSDCA, which shall encompass four major areas henceforth called Calabashes: Security, Stability, Development and Cooperation in furthering Africa's interests within the ambit of the OAU, we affirm the following General and Specific Principles:

General Principles

- (a) Respect for the sovereignty and the territorial integrity of all Member States;
- (b) The security, stability and development of every African country is inseparably linked to that of other African countries. Instability in one country affects the stability of neighbouring countries and has serious implications for continental unity, peace and development;
- (c) The interdependence of Member States and the link between their security, stability and development make it imperative to develop a common African agenda. Such an agenda must be based on a unity of purpose and a collective political consensus derived from a firm conviction that Africa cannot make any significant progress without finding lasting solutions to the problem of peace and security;
- (d) The peaceful resolution of disputes, with emphasis on seeking African solutions to African problems;

* Editor's note: See AHG/Dec.141 (XXXV).

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- (e) The prevention, management and resolution of conflicts provide the enabling environment for peace, security, stability and development to flourish;
- (f) The responsibility for the security, stability and socio-economic development of the continent lies primarily with African States;
- (g) While recognizing that the primary responsibility for the maintenance of international peace and security lies with the United Nations Security Council, the OAU, in close cooperation with the United Nations and the Regional Economic Communities, remains the premier organization for promoting security, stability, development and cooperation in Africa;
- (h) Democracy, good governance, respect for human and peoples' rights and the rule of law are prerequisites for the security, stability and development of the continent;
- (i) Africa's resources should be used more effectively to meet the needs of African peoples and to improve their well-being;
- (j) The fulfillment of the objectives of the CSSDCA requires the strengthening of Africa's solidarity and partnership with other regions of the world in order to meet the challenges of globalization and avoid further marginalization;
- (k) HIV/AIDS and other pandemics on the continent constitute a threat to human security as well as short and long-term sustainable growth in Africa;
- (l) Member States should adhere in good faith to all CSSDCA principles and ensure their implementation.

Specific Principles

Security

10. Recognizing that security should be seen in its wholeness and totality including the right of peoples to live in peace with access to the basic necessities of life, while fully enjoying the rights enshrined in the African Charter on Human and Peoples' Rights and freely participating in the affairs of their societies; and bearing in mind that Africa's security and that of its Member States are inseparably linked with the security of all African peoples;

We affirm that:

- (a) Security should be recognized as a pillar of the CSSDCA process. It is an indispensable condition for peace, stability, development and cooperation. It underscores the organic links that exist between the security of Member States as a whole and the security of each of them on the basis of their history, culture, geography and their common destiny. This implies individual and collective responsibilities exercised within the basic framework of the African Charter on Human and Peoples' Rights and other relevant international instruments;
- (b) The concept of security must embrace all aspects of society including economic, political, and social and environmental dimensions of the individual, family, and community, local and national life. The security of a nation must be based on the security of the life of the individual citizens to live in peace and to satisfy basic needs while being able to participate fully in societal affairs and enjoying freedom and fundamental human rights;
- (c) The security of all Africans and their States as a whole is indispensable for stability, development and cooperation in Africa. This should be a sacred responsibility of all African States – individually and collectively – which must be exercised within the basic framework of the African Charter on Human and Peoples' Rights and other relevant international instruments;

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- (d) Member States should in times of peace undertake the delimitation and demarcation of common borders;
- (e) There is an imperative need to build and enhance Africa's capacity for peace support operations, emergency relief preparedness and natural disaster response at the subregional and continental levels, including the strengthening of regional efforts and initiatives;
- (f) Foreign intervention in the internal affairs of Member States, especially in situations of conflict should be resisted and condemned by all Member States;
- (g) The problem of refugees and displaced persons constitutes a threat to peace and security of the continent and its root causes must be addressed;
- (h) Uncontrolled spread of small arms and light weapons as well as the problem of landmines pose a threat to peace and security in the African continent.

Stability

11. Noting that stability requires that all States be guided by strict adherence to the rule of law, good governance, peoples participation in public affairs, respect for human rights and fundamental freedoms, the establishment of political organizations devoid of sectarian, religious, ethnic, regional and racial extremism;

We affirm that:

- (a) The executive, legislative and judicial branches of government must respect their national constitutions and adhere to the provisions of the law and other legislative enactments promulgated by national assemblies. No one should be exempted from accountability;
- (b) The active and genuine participation of citizens of every country in the decision-making processes and in the conduct of public affairs must be fostered and facilitated;
- (c) All rights and freedoms of citizens should be promoted and protected;
- (d) There shall be no hindrance to the promotion of political pluralism. All forms of extremism and intolerance foster instability;
- (e) Terrorism, in all its manifestations, is inimical to stability.

Development

12. Noting that the attainment of self-reliance, sustainable growth and economic development will be facilitated by the promotion of economic cooperation and integration; that effective diversification of the resource and production base is vital for rapid social and economic transformation; that popular participation, equal opportunity, transparency in public policy-making and partnership between government and peoples are necessary for the achievement of development; that improved access to resources and markets for Africa's exports as well as debt cancellation and capacity-building in all fields of human endeavour are crucial for Africa's development.

We affirm that:

10. SOLEMN DECLARATION ON SECURITY, STABILITY, DEVELOPMENT AND COOPERATION

- (a) The accelerated economic development of our countries is at the centre of our national policies and, in this regard, comprehensive programmes will be put in place at the national and regional levels to address capacity constraints, infrastructural problems and weak industrial and technological base;
- (b) Self-sustaining economic growth and development must be grounded on self-reliance and diversification of the production base of African economies;
- (c) Unilateral imposition of economic sanctions and blockade are unjust and constitute a serious constraint to development;
- (d) Rapid physical and economic integration of the continent through the African Economic Community and the Regional Economic Communities is vital for Africa's economic recovery and development and for enhancing prospects to achieve competitiveness in a globalizing world;
- (e) The principles of popular participation, equal opportunity and equitable access to resources for all people must underlie all development objectives and strategies;
- (f) Partnership, trust and transparency between leaders and citizens will be critical to ensure sustainable development, based on mutual responsibilities and a shared vision;
- (g) An effective solution to Africa's external debt problem including total debt cancellation in accordance with the mandates given to the Presidents of Algeria and South Africa is crucial to supporting Africa's programme on poverty eradication;
- (h) The inalienable sovereign right of African countries to control their natural resources must be respected.

Cooperation

13. Noting the importance of regional and subregional cooperation and integration to the development of our continent, and the efforts so far made in this connection to implement the Abuja Treaty Establishing the African Economic Community, as well as the various initiatives of the Regional Economic Communities (RECs); and stressing the need to articulate and harmonize the macroeconomic policies, strengthen the institutions for regional integration and build regional infrastructural networks, particularly in the transport and communication sectors;

We affirm that:

- (a) Member States should further intensify efforts at economic integration to compete better in the global economy and work towards a shortened timetable for the realization of the African Economic Community (AEC);
- (b) Member States should act jointly and collectively to develop, protect, manage and equitably utilize common natural resources for mutual benefit;
- (c) Taking into account the growing global interdependence, African countries must seek to explore further, opportunities for beneficial cooperative relations with other developing and industrialized countries;
- (d) In pursuing closer cooperation and integration, African countries will need to transfer certain responsibilities to continental or subregional institutions within the framework of the African Economic Community and the Regional Economic Communities;
- (e) The promotion of North-South and South-South cooperation is an important strategy in Africa's development effort, particularly in addressing issues such as Official Development Assistance (ODA) and Foreign Direct Investment (FDI) flows, external debt and terms of trade which impact on Africa's development;

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(f) The process of regional and continental integration will be facilitated by enhanced effort at harmonization and coordination of economic programmes and policies of Regional Economic Communities.

Plan of Action

14. Having identified the General and Specific Principles that will guide the CSSDCA process and having reached a consensus on the need to put in place measures for the implementation of those principles, we, the Heads of State and Government of the Organization of African Unity, have agreed on the following Plan of Action.

Security

We agree to:

- (a) Reinforce Africa's capacity for conflict prevention, management and resolution by strengthening the OAU Mechanism for Conflict Prevention, Management and Resolution, in particular, through the mobilization of additional resources and logistical support for the operational activities of the Mechanism and the enhancement of the effectiveness of the Central Organ;
- (b) Strengthen the capacity of the OAU mechanism for negotiation, mediation and conciliation, inter alia, through the use of African statesmen and eminent personalities in overall efforts to prevent, manage and/or resolve conflicts;
- (c) Establish modalities for more effective cooperation, coordination and harmonization between the OAU and African and non-African organizations on the one hand, and between the OAU and the United Nations, as the world body which is primarily responsible for the maintenance of international peace and security, on the other, especially, in relation to peacebuilding, peacemaking and peacekeeping;
- (d) Adopt confidence-building measures based on trust, transparency, good neighbourliness, respect for the territorial integrity, security concerns of States and non-interference in their internal affairs, as the bedrock of inter-State relations. In this regard, negotiations for the delimitation and demarcation of disputed borders, exchange of information and cooperation at the subregional level on security matters, especially on issues relating to terrorism, cross-border criminal activities and joint military training as well as emergency relief preparedness and natural disaster response;
- (e) Recommit ourselves to politically negotiated approaches for resolving conflicts so as to create an environment of peace and stability on the continent that will also have the effect of reducing military expenditure, thus releasing additional resources for socio-economic development;
- (f) Ensure that parties to conflicts commit themselves to fully cooperate with the efforts made within the framework of the OAU Mechanism for Conflict Prevention, Management and Resolution and of regional mechanisms;
- (g) Endorse the proposed OAU Early Warning System which should be made fully operational expeditiously, to provide timely information on conflict situations in Africa. This should be complemented by a corresponding preparedness by our States to facilitate early political action by the OAU, based on early warning information;
- (h) Enhance OAU's capacity for mobilizing support and resources for the reconstruction and rehabilitation efforts of countries emerging from conflicts;
- (i) Implement the Decision of the Thirty-first Summit on Ready Contingents within Member States for possible deployment by the United Nations and in exceptional circumstances, by the OAU, as well as the recommendations of the meetings of the African Chiefs of Defence Staff;

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- (j) Address the root causes of the problem of refugees and displaced persons on the continent and work towards the mobilization of resources to provide adequate assistance for asylum countries to enable them to mitigate the impact of the refugee burden;
- (k) Address the phenomena of armed elements and political activists in refugee camps, impunity, crimes against humanity, child soldiers and drug addiction, which have contributed to the state of insecurity in some parts of the continent;
- (l) Work towards ending the illicit proliferation and trafficking in small arms and light weapons that has played a major role in perpetuating intra and inter-State conflicts in Africa.
- (m) Monitor progress and regularly evaluate the implementation of the Algiers Decision declaring the year 2000, as the Year of Peace, Security and Solidarity in Africa.

Stability

We agree to:

- (a) Intensify efforts aimed at enhancing the process of democratization in Africa. In this regard, the strengthening of institutions that will sustain democracy on the continent, including the holding of free and fair elections, should be encouraged;
- (b) Adopt and implement a set of guidelines for dealing with unconstitutional and undemocratic changes in Africa in line with the decisions that we took during the Thirty-fifth Ordinary Session of our Assembly held in Algiers, Algeria, in 1999;
- (c) Encourage the participation and contribution of civil society in our States, to the efforts to bring about further democratization on our continent;
- (d) Recommit ourselves to the promotion of good governance, a culture of peace and accountability by leaders and officials, as a shared community value;
- (e) Encourage civic education on good governance and the promotion of African values in African institutions and schools;
- (f) Uphold and guarantee the rule of law, the protection and defence of the rights of citizenship as acquired at independence and as provided for in national constitutions;
- (g) Vigorously combat racism, extreme nationalism, religious extremism and xenophobic tendencies;
- (h) Promote and encourage cohesion, national solidarity and identity within African societies;
- (i) Protect and promote respect for human rights and fundamental freedoms, such as the freedom of expression and association, political and trade union pluralism and other forms of participatory democracy;
- (j) Ensure the equitable distribution of national income and wealth, as well as transparency in the exploitation of Africa's resources. In this regard, the negative impact of external and internal interests in the exploitation of Africa's resources and corruption, which continue to fuel conflicts on the continent, should be addressed in a more cohesive and effective manner;
- (k) Promote greater burden-sharing in addressing refugee problems in Africa and, especially, reduce its negative impact on the environment and the economies of asylum countries;

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(l) Condemn genocide, crimes against humanity and war crimes on the continent and undertake to cooperate with relevant institutions set up to prosecute the perpetrators. Similarly, we agree to take measures to prevent the occurrence of genocide on our continent, and encourage ratification of the Protocol on the Establishment of an African Court on Human and Peoples' Rights and the Statute of the International Criminal Court.

Development

We agree to:

- (a) Accelerate the implementation process of the Abuja Treaty Establishing the African Economic Community;
- (b) Implement the Cairo Agenda for Relaunching the Economic and Social Development of Africa;
- (c) Implement the Sirte Summit Declaration on the Establishment of the African Union and other decisions, including the establishment of a Pan-African Parliament;
- (d) Initiate action in cooperation with other developing countries to establish an open, rule-based, accountable, predictable, just, equitable, comprehensive and development-oriented global system of economic relations that takes into account the special situation of African economies;
- (e) Create a stable and predictable economic environment that will allow for linkages between different economic sectors and dynamic local entrepreneurship, while establishing and reinforcing linkages between the formal and informal sectors;
- (f) Design programmes for poverty eradication and the improvement of the living standards of African peoples;
- (g) Support the appeals made by Tunisia to Heads of State and Government at regional and international fora for the creation of a World Solidarity Fund to combat poverty;
- (h) Build and nurture African solidarity and unity of action, based on shared values, common development interests and goals for the benefit of Africa and its peoples. Such solidarity should be manifested in situations where African countries and peoples are subjected to external pressures and sanctions;
- (i) Encourage and strengthen work ethics as well as create the necessary conditions to stop brain drain, particularly through increased development of African human resources and the establishment of a register of African experts;
- (j) Strengthen partnership between the State and the private sector and create the propitious environment for the development and expansion of our economies;
- (k) Develop the human resources of our continent;
- (l) Enhance relevant skills development through the optimal and efficient utilization of existing institutions and develop new centres of excellence, and where necessary draw on, inter alia, the diaspora to supplement existing capacities and facilitate technology and skills transfer;
- (m) Implement reforms to enhance economic development;
- (n) Ensure the enactment of appropriate national laws to extend equal opportunities with respect to health, education, employment and other civic rights to all citizens, especially women and the girl child;

10. SOLEMN DECLARATION ON SECURITY, STABILITY, DEVELOPMENT AND COOPERATION

- (o) Mobilize financial resources, pursue the objective of the cancellation of Africa's debt and of improved market access for Africa's exports;
- (p) Develop, as a priority, the main sectors of the economy, at all levels, such as agriculture, energy, industry, trade, transport and communication and human resources;
- (q) Give special emphasis to the empowerment of women to enable them to actively and independently participate in activities aimed at promoting economic development;
- (r) Develop programmes to improve the skills of youth, so as to facilitate their employment and enhance their role in development;
- (s) Promote sustainable environmental policies and sustained economic growth.

Cooperation

We agree to:

- (a) Pursue with vigour, the implementation of the Abuja Treaty Establishing the African Economic Community;
- (b) Implement the Cairo Agenda for Relaunching the Economic and Social Development of Africa;
- (c) Implement the Sirte Declaration of 9 September 1999;
- (d) Elaborate a strategy for the dissemination and popularization of the decisions of the OAU/AEC and the RECs;
- (e) Improve coordination at the level of the OAU to ensure accelerated integration at the regional levels and improved coordination among the RECs, and between the OAU/AEC and the RECs;
- (f) Promote financial cooperation and integration of financial markets;
- (g) Promote intra-African and international cooperation with a view to finding an effective solution to Africa's outstanding problems in the fields of debt, trade, investment and AIDS pandemic;
- (h) Implement the outcome of various studies undertaken on the establishment of self-financing mechanisms for the RECs;
- (i) Improve the modalities for undertaking regular review and the implementation of cooperation agreements, within Africa and between Africa and its development partners;
- (j) Improve various trade-related facilities, including transport, communication, and border formalities, to ensure the free movement of persons and goods at all levels;
- (k) Promote joint ventures between Member States and regional cooperation programmes;
- (l) Take necessary measures to identify static and dynamic comparative advantage, through joint harmonization of regional policy framework, as the basis for the expansion of the production base in African countries and as a guide for cooperation between African countries in the areas of industry, trade, energy, transport, communication and human resources;

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- (m) Strengthen Regional Economic Communities;
- (n) Promote South-South cooperation and cooperation between Africa and the industrialized countries;
- (o) Improve access to information and communication technologies;
- (p) Forge close cooperation with a view to addressing problems related to natural disasters through the establishment of appropriate institutions and promotion of capacity-building.

Implementation Mechanism

15. In order to implement the CSSDCA within the framework of our Organization and ensure the sustainability of the process, we agree to:

- (a) Establish a Standing Conference which should meet every two years during our Summit. Provision should be made for African parliamentarians to make their contributions to the Conference through the Pan-African Parliament, while representatives of the civil society may forward their views and recommendations to the Standing Conference through the OAU General Secretariat;
- (b) Convene Review Meetings of Plenipotentiaries and Senior Officials of OAU Member States to monitor the implementation of the CSSDCA decisions, between sessions of the Standing Conference. To this end, we request our Secretary-General to work out the modalities and financial implications for realizing this objective;
- (c) Incorporate CSSDCA principles and guidelines in national institutions that would have responsibility for helping in the monitoring of the implementation of CSSDCA activities;
- (d) Request the Secretary-General to initiate internal administrative arrangements for designating, within the OAU Secretariat, a unit to coordinate CSSDCA activities;
- (e) Take necessary measures to ensure that detailed discussions are undertaken on the various Calabashes in order to implement the CSSDCA process. In this regard, the Secretary-General is requested to coordinate the consultations with a view to ensuring the convening of the meetings on the Calabashes;
- (f) Review the progress report of the Secretary-General on the CSSDCA process during our next Extraordinary Summit in Sirte, Libya, in 2001 and the conclusions of the discussions on the various Calabashes at our Summit in 2002.
- (g) Review the agreements deriving from these meetings and discussions after considering the outcome of consultations to be undertaken by the Secretary-General, during our Summit in Sirte, Libya, in 2001.

11.

PROTOCOL RELATING TO THE ESTABLISHMENT OF THE PEACE AND SECURITY COUNCIL OF THE AFRICAN UNION

Adopted in Durban, South Africa, on 9 July 2002.

Entered into force on 26 December 2003.

We, the Heads of State and Government of the Member States of the African Union,

Considering the Constitutive Act of the African Union and the Treaty Establishing the African Economic Community, as well as the Charter of the United Nations,

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Recalling the Declaration on the Establishment, within the Organization of African Unity (OAU), of a Mechanism for Conflict Prevention, Management and Resolution, adopted by the Twenty-ninth Ordinary Session of the Assembly of Heads of State and Government of the OAU, held in Cairo, Egypt, from 28 to 30 June 1993,

Recalling also Decision AHG/Dec.160 (XXXVII) adopted by the Thirty-seventh Ordinary Session of the Assembly of Heads of State and Government of the OAU, held in Lusaka, Zambia, from 9 to 11 July 2001, by which the Assembly decided to incorporate the Central Organ of the OAU Mechanism for Conflict Prevention, Management and Resolution as one of the organs of the Union, in accordance with Article 5, paragraph 2, of the Constitutive Act of the African Union, and, in this regard, requested the Secretary-General to undertake a review of the structures, procedures and working methods of the Central Organ, including the possibility of changing its name,

Mindful of the provisions of the Charter of the United Nations, conferring on the Security Council primary responsibility for the maintenance of international peace and security, as well as the provisions of the Charter on the role of regional arrangements or agencies in the maintenance of international peace and security, and the need to forge closer cooperation and partnership between the United Nations, other international organizations and the African Union, in the promotion and maintenance of peace, security and stability in Africa,

Acknowledging the contribution of African Regional Mechanisms for Conflict Prevention, Management and Resolution in the maintenance and promotion of peace, security and stability on the continent and the need to develop formal coordination and cooperation arrangements between these regional mechanisms and the African Union,

Recalling Decisions AHG/Dec.141 (XXXV) and AHG/Dec.142 (XXXV) on Unconstitutional Changes of Government, adopted by the Thirty-fifth Ordinary Session of the Assembly of Heads of State and Government of the OAU held in Algiers, Algeria, from 12 to 14 July 1999, and Declaration AHG/Decl.5 (XXXVI) on the Framework for an OAU Response to Unconstitutional Changes of Government, adopted by the Thirty-sixth Ordinary Session of the Assembly of Heads of State and Government of the OAU, held in Lomé, Togo, from 10 to 12 July 2000,

Reaffirming our commitment to Solemn Declaration AHG/Decl.4 (XXXVI) on the Conference on Security, Stability, Development and Cooperation in Africa (CSSDCA), adopted by the Thirty-sixth Ordinary Session of the Assembly of Heads of State and Government of the OAU, held in Lomé, Togo, from 10 to 12 July 2000, as well as Declaration AHG/Decl.1 (XXXVII) on the New Partnership for Africa's Development (NEPAD), which was adopted by the Thirty-seventh Ordinary Session of the Assembly of Heads of State and Government of the OAU, held in Lusaka, Zambia, from 9 to 11 July 2001,

Affirming our further commitment to Declaration AHG/Decl.2 (XXX) on the Code of Conduct for Inter-African Relations, adopted by the Thirtieth Ordinary Session of the Assembly of Heads of State and Government of the OAU, held in Tunis, Tunisia, from 13 to 15 June 1994, as well as the Convention on the Prevention and Combating of Terrorism, adopted by the Thirty-fifth Ordinary Session of the Assembly of Heads of State and Government of the OAU held in Algiers, Algeria, from 12 to 14 July 1999,

Concerned about the continued prevalence of armed conflicts in Africa and the fact that no single internal factor has contributed more to socio-economic decline on the continent and the suffering of the civilian population than the scourge of conflicts within and between our States,

Concerned also by the fact that conflicts have forced millions of our people, including women and children, into a drifting life as refugees and internally displaced persons, deprived of their means of livelihood, human dignity and hope,

Concerned further about the scourge of landmines on the continent and recalling, in this respect, the Plan of Action on a Landmine Free Africa, adopted by the First Continental Conference of African Experts on Anti-Personnel Mines, held in Kempton Park, South Africa, from 17 to 19 May 1997, and endorsed by the Sixty-sixth Ordinary

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Session of the OAU Council of Ministers, held in Harare, Zimbabwe, from 26 to 30 May 1997, as well as subsequent decisions adopted by the OAU on this issue,

Concerned also about the impact of the illicit proliferation, circulation and trafficking of small arms and light weapons in threatening peace and security in Africa and undermining efforts to improve the living standards of African peoples and recalling, in this respect, the Declaration on the Common African Position on the Illicit Proliferation, Circulation and Trafficking of Small Arms and Light Weapons, adopted by the OAU Ministerial Conference held in Bamako, Mali, from 30 November to 1 December 2000, as well as all subsequent OAU decisions on this issue,

Aware that the problems caused by landmines and the illicit proliferation, circulation and trafficking of small arms and light weapons constitute a serious impediment to Africa's social and economic development, and that they can only be resolved within the framework of increased and well-coordinated continental cooperation,

Aware also of the fact that the development of strong democratic institutions and culture, observance of human rights and the rule of law, as well as the implementation of post-conflict recovery programmes and sustainable development policies, are essential for the promotion of collective security, durable peace and stability, as well as for the prevention of conflicts,

Determined to enhance our capacity to address the scourge of conflicts on the continent and to ensure that Africa, through the African Union, plays a central role in bringing about peace, security and stability on the continent,

Desirous of establishing an operational structure for the effective implementation of the decisions taken in the areas of conflict prevention, peacemaking, peace support operations and intervention, as well as peacebuilding and post-conflict reconstruction, in accordance with the authority conferred in that regard by Article 5, paragraph 2, of the Constitutive Act of the African Union,

Hereby agree on the following:

Article 1 Definitions

For the purpose of this Protocol:

- (a) "Protocol" shall mean the present Protocol;
- (b) "Cairo Declaration" shall mean the Declaration on the Establishment, within the OAU, of the Mechanism for Conflict Prevention, Management and Resolution;
- (c) "Lomé Declaration" shall mean the Declaration on the Framework for an OAU Response to Unconstitutional Changes of Government;
- (d) "Constitutive Act" shall mean the Constitutive Act of the African Union;
- (e) "Union" shall mean the African Union;
- (f) "Assembly" shall mean the Assembly of Heads of State and Government of the African Union;
- (g) "Commission" shall mean the Commission of the African Union;
- (h) "Regional Mechanisms" shall mean the African Regional Mechanisms for Conflict Prevention, Management and Resolution;

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- (i) "Member States" shall mean Member States of the African Union.

Article 2 Establishment, Nature and Structure

1. There is hereby established, pursuant to Article 5, paragraph 2, of the Constitutive Act, a Peace and Security Council within the Union, as a standing decision-making organ for the prevention, management and resolution of conflicts. The Peace and Security Council shall be a collective security and early-warning arrangement to facilitate a timely and efficient response to conflict and crisis situations in Africa.
2. The Peace and Security Council shall be supported by the Commission, a Panel of the Wise, a Continental Early Warning System, an African Standby Force and a Special Fund.

Article 3 Objectives

The objectives for which the Peace and Security Council is established shall be to:

- (a) Promote peace, security and stability in Africa, in order to guarantee the protection and preservation of life and property, the well-being of the African people and their environment, as well as the creation of conditions conducive to sustainable development;
- (b) Anticipate and prevent conflicts. In circumstances where conflicts have occurred, the Peace and Security Council shall have the responsibility to undertake peacemaking and peacebuilding functions for the resolution of these conflicts;
- (c) Promote and implement peacebuilding and post-conflict reconstruction activities to consolidate peace and prevent the resurgence of violence;
- (d) Coordinate and harmonize continental efforts in the prevention and combating of international terrorism in all its aspects;
- (e) Develop a common defence policy for the Union, in accordance with Article 4, subparagraph (d), of the Constitutive Act;
- (f) Promote and encourage democratic practices, good governance and the rule of law, protect human rights and fundamental freedoms, respect for the sanctity of human life and international humanitarian law, as part of efforts for preventing conflicts.

Article 4 Principles

The Peace and Security Council shall be guided by the principles enshrined in the Constitutive Act, the Charter of the United Nations and the Universal Declaration of Human Rights. It shall, in particular, be guided by the following principles:

- (a) Peaceful settlement of disputes and conflicts;
- (b) Early responses to contain crisis situations so as to prevent them from developing into full-blown conflicts;
- (c) Respect for the rule of law, fundamental human rights and freedoms, the sanctity of human life and international humanitarian law;

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- (d) Interdependence between socio-economic development and the security of peoples and States;
- (e) Respect for the sovereignty and territorial integrity of Member States;
- (f) Non-interference by any Member State in the internal affairs of another;
- (g) Sovereign equality and interdependence of Member States;
- (h) Inalienable right to independent existence;
- (i) Respect of borders inherited on achievement of independence;
- (j) The right of the Union to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely war crimes, genocide and crimes against humanity, in accordance with Article 4, subparagraph (h), of the Constitutive Act;
- (k) The right of Member States to request intervention from the Union in order to restore peace and security, in accordance with Article 4, subparagraph (j), of the Constitutive Act.

Article 5 Composition

1. The Peace and Security Council shall be composed of fifteen Members elected on the basis of equal rights, in the following manner:

- (a) Ten Members elected for a term of two years; and
- (b) Five Members elected for a term of three years in order to ensure continuity.

2. In electing the Members of the Peace and Security Council, the Assembly shall apply the principle of equitable regional representation and rotation, and the following criteria with regard to each prospective Member State:

- (a) Commitment to uphold the principles of the Union;
- (b) Contribution to the promotion and maintenance of peace and security in Africa – in this respect, experience in peace support operations would be an added advantage;
- (c) Capacity and commitment to shoulder the responsibilities entailed in membership;
- (d) Participation in conflict resolution, peacemaking and peacebuilding at regional and continental levels;
- (e) Willingness and ability to take up responsibility for regional and continental conflict resolution initiatives;
- (f) Contribution to the Peace Fund and/or Special Fund created for a specific purpose;
- (g) Respect for constitutional governance, in accordance with the Lomé Declaration, as well as the rule of law and human rights;
- (h) Having sufficiently staffed and equipped Permanent Missions at the Headquarters of the Union and the United Nations, to be able to shoulder the responsibilities which go with the membership; and

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- (i) Commitment to honour financial obligations to the Union.
- 3. A retiring Member of the Peace and Security Council shall be eligible for immediate re-election.
- 4. There shall be a periodic review by the Assembly to assess the extent to which the Members of the Peace and Security Council continue to meet the requirements spelled out in Article 5, paragraph 2, and to take action as appropriate.

Article 6 Functions

The Peace and Security Council shall perform functions in the following areas:

- (a) Promotion of peace, security and stability in Africa;
- (b) Early warning and preventive diplomacy;
- (c) Peacemaking, including the use of good offices, mediation, conciliation and enquiry;
- (d) Peace support operations and intervention, pursuant to Article 4, subparagraphs (h) and (j), of the Constitutive Act;
- (e) Peacebuilding and post-conflict reconstruction;
- (f) Humanitarian action and disaster management;
- (g) Any other function as may be decided by the Assembly.

Article 7 Powers

- 1. In conjunction with the Chairperson of the Commission, the Peace and Security Council shall:
 - (a) Anticipate and prevent disputes and conflicts, as well as policies that may lead to genocide and crimes against humanity;
 - (b) Undertake peacemaking and peacebuilding functions to resolve conflicts where they have occurred;
 - (c) Authorize the mounting and deployment of peace support missions;
 - (d) Lay down general guidelines for the conduct of such missions, including the mandate thereof, and undertake periodic reviews of these guidelines;
 - (e) Recommend to the Assembly, pursuant to Article 4, subparagraph (h), of the Constitutive Act, intervention, on behalf of the Union, in a Member State in respect of grave circumstances, namely war crimes, genocide and crimes against humanity, as defined in relevant international conventions and instruments;
 - (f) Approve the modalities for intervention by the Union in a Member State, following a decision by the Assembly, pursuant to Article 4, subparagraph (j), of the Constitutive Act;
 - (g) Institute sanctions whenever an unconstitutional change of Government takes place in a Member State, as provided for in the Lomé Declaration;

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- (h) Implement the common defence policy of the Union;
 - (i) Ensure the implementation of the OAU Convention on the Prevention and Combating of Terrorism and other relevant international, continental and regional conventions and instruments and harmonize and coordinate efforts at regional and continental levels to combat international terrorism;
 - (j) Promote close harmonization, coordination and cooperation between Regional Mechanisms and the Union in the promotion and maintenance of peace, security and stability in Africa;
 - (k) Promote and develop a strong "partnership for peace and security" between the Union and the United Nations and its agencies, as well as with other relevant international organizations;
 - (l) Develop policies and action required to ensure that any external initiative in the field of peace and security on the continent takes place within the framework of the Union's objectives and priorities;
 - (m) Follow up, within the framework of its conflict prevention responsibilities, the progress towards the promotion of democratic practices, good governance, the rule of law, protection of human rights and fundamental freedoms, respect for the sanctity of human life and international humanitarian law by Member States;
 - (n) Promote and encourage the implementation of Organization of African Unity, African Union, United Nations and other relevant international conventions and treaties on arms control and disarmament;
 - (o) Examine and take such appropriate action within its mandate in situations where the national independence and sovereignty of a Member State is threatened by acts of aggression, including by mercenaries;
 - (p) Support and facilitate humanitarian action in situations of armed conflicts or major natural disasters;
 - (q) Submit, through its Chairperson, regular reports to the Assembly on its activities and the state of peace and security in Africa; and
 - (r) Decide on any other issue having implications for the maintenance of peace, security and stability on the continent and exercise powers that may be delegated to it by the Assembly, in accordance with Article 9, paragraph 2, of the Constitutive Act.
2. The Member States agree that in carrying out its duties under the present Protocol, the Peace and Security Council acts on their behalf.
 3. The Member States agree to accept and implement the decisions of the Peace and Security Council, in accordance with the Constitutive Act.
 4. The Member States shall extend full cooperation to, and facilitate action by the Peace and Security Council for the prevention, management and resolution of crises and conflicts, pursuant to the duties entrusted to it under the present Protocol.

Article 8 Procedure

Organization and Meetings

1. The Peace and Security Council shall be so organized as to be able to function continuously. For this purpose, each Member of the Peace and Security Council shall, at all times, be represented at the Headquarters of the Union.

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2. The Peace and Security Council shall meet at the level of Permanent Representatives, Ministers or Heads of State and Government. It shall convene as often as required at the level of Permanent Representatives, but at least twice a month. The Ministers and the Heads of State and Government shall meet at least once a year, respectively.

3. The meetings of the Peace and Security Council shall be held at the Headquarters of the Union.

4. In the event a Member State invites the Peace and Security Council to meet in its country, provided that two-thirds of the Peace and Security Council Members agree, that Member State shall defray the additional expenses incurred by the Commission as a result of the meeting being held outside the Headquarters of the Union.

Subsidiary Bodies and Subcommittees

5. The Peace and Security Council may establish such subsidiary bodies as it deems necessary for the performance of its functions. Such subsidiary bodies may include ad hoc committees for mediation, conciliation or enquiry, consisting of an individual State or group of States. The Peace and Security Council shall also seek such military, legal and other forms of expertise as it may require for the performance of its functions.

Chairmanship

6. The Chairperson of the Peace and Security Council shall be held in turn by the Members of the Peace and Security Council in the alphabetical order of their names. Each Chairperson shall hold office for one calendar month.

Agenda

7. The provisional agenda of the Peace and Security Council shall be determined by the Chairperson of the Peace and Security Council on the basis of proposals submitted by the Chairperson of the Commission and Member States. The inclusion of any item in the provisional agenda may not be opposed by a Member State.

Quorum

8. The number of Members required to constitute a quorum shall be two thirds of the total membership of the Peace and Security Council.

Conduct of Business

9. The Peace and Security Council shall hold closed meetings. Any Member of the Peace and Security Council which is party to a conflict or a situation under consideration by the Peace and Security Council shall not participate either in the discussion or in the decision-making process relating to that conflict or situation. Such Member shall be invited to present its case to the Peace and Security Council as appropriate, and shall, thereafter, withdraw from the proceedings.

10. The Peace and Security Council may decide to hold open meetings. In this regard:

(a) Any Member State which is not a Member of the Peace and Security Council, if it is party to a conflict or a situation under consideration by the Peace and Security Council, shall be invited to present its case as appropriate and shall participate, without the right to vote, in the discussion;

(b) Any Member State which is not a Member of the Peace and Security Council may be invited to participate, without the right to vote, in the discussion of any question brought before the Peace and Security Council whenever that Member State considers that its interests are especially affected;

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(c) Any Regional Mechanism, international organization or civil society organization involved and/or interested in a conflict or a situation under consideration by the Peace and Security Council may be invited to participate, without the right to vote, in the discussion relating to that conflict or situation.

11. The Peace and Security Council may hold informal consultations with parties concerned by or interested in a conflict or a situation under its consideration, as well as with Regional Mechanisms, international organizations and civil society organizations as may be needed for the discharge of its responsibilities.

Voting

12. Each Member of the Peace and Security Council shall have one vote.

13. Decisions of the Peace and Security Council shall generally be guided by the principle of consensus. In cases where consensus cannot be reached, the Peace and Security Council shall adopt its decisions on procedural matters by a simple majority, while decisions on all other matters shall be made by a two-thirds majority vote of its Members voting.

Rules of Procedure

14. The Peace and Security Council shall submit its own rules of procedure, including on the convening of its meetings, the conduct of business, the publicity and records of meetings and any other relevant aspect of its work, for consideration and approval by the Assembly.

Article 9

Entry Points and Modalities for Action

1. The Peace and Security Council shall take initiatives and action it deems appropriate with regard to situations of potential conflict, as well as to those that have already developed into full-blown conflicts. The Peace and Security Council shall also take all measures that are required in order to prevent a conflict for which a settlement has already been reached from escalating.

2. To that end, the Peace and Security Council shall use its discretion to effect entry, whether through the collective intervention of the Council itself, or through its Chairperson and/or the Chairperson of the Commission, the Panel of the Wise, and/or in collaboration with the Regional Mechanisms.

Article 10

The Role of the Chairperson of the Commission

1. The Chairperson of the Commission shall, under the authority of the Peace and Security Council, and in consultation with all parties involved in a conflict, deploy efforts and take all initiatives deemed appropriate to prevent, manage and resolve conflicts.

2. To this end, the Chairperson of the Commission:

(a) Shall bring to the attention of the Peace and Security Council any matter, which, in his/her opinion, may threaten peace, security and stability on the continent;

(b) May bring to the attention of the Panel of the Wise any matter which, in his/her opinion, deserves their attention;

(c) May, at his/her own initiative or when so requested by the Peace and Security Council, use his/her good offices, either personally or through special envoys, special representatives, the Panel of the Wise or the Regional

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Mechanisms, to prevent potential conflicts, resolve actual conflicts and promote peacebuilding and post-conflict reconstruction.

3. The Chairperson of the Commission shall also:

(a) Ensure the implementation and follow-up of the decisions of the Peace and Security Council, including mounting and deploying peace support missions authorized by the Peace and Security Council. In this respect, the Chairperson of the Commission shall keep the Peace and Security Council informed of developments relating to the functioning of such missions. All problems likely to affect the continued and effective functioning of these missions shall be referred to the Peace and Security Council, for its consideration and appropriate action;

(b) Ensure the implementation and follow-up of the decisions taken by the Assembly in conformity with Article 4, subparagraphs (h) and (j), of the Constitutive Act;

(c) Prepare comprehensive and periodic reports and documents, as required, to enable the Peace and Security Council and its subsidiary bodies to perform their functions effectively.

4. In the exercise of his/her functions and powers, the Chairperson of the Commission shall be assisted by the Commissioner in charge of Peace and Security, who shall be responsible for the affairs of the Peace and Security Council. The Chairperson of the Commission shall rely on human and material resources available at the Commission, for servicing and providing support to the Peace and Security Council. In this regard, a Peace and Security Council Secretariat shall be established within the Directorate dealing with conflict prevention, management and resolution.

Article 11 Panel of the Wise

1. In order to support the efforts of the Peace and Security Council and those of the Chairperson of the Commission, particularly in the area of conflict prevention, a Panel of the Wise shall be established.

2. The Panel of the Wise shall be composed of five highly respected African personalities from various segments of society who have made outstanding contributions to the cause of peace, security and development on the continent. They shall be selected by the Chairperson of the Commission after consultation with the Member States concerned, on the basis of regional representation and appointed by the Assembly to serve for a period of three years.

3. The Panel of the Wise shall advise the Peace and Security Council and the Chairperson of the Commission on all issues pertaining to the promotion, and maintenance of peace, security and stability in Africa.

4. At the request of the Peace and Security Council or the Chairperson of the Commission, or at its own initiative, the Panel of the Wise shall undertake such action deemed appropriate to support the efforts of the Peace and Security Council and those of the Chairperson of the Commission for the prevention of conflicts, and to pronounce itself on issues relating to the promotion and maintenance of peace, security and stability in Africa.

5. The Panel of the Wise shall report to the Peace and Security Council and, through the Peace and Security Council, to the Assembly.

6. The Panel of the Wise shall meet as may be required for the performance of its mandate. The Panel of the Wise shall normally hold its meetings at the Headquarters of the Union. In consultation with the Chairperson of the Commission, the Panel of the Wise may hold meetings at such places other than the Headquarters of the Union.

7. The modalities for the functioning of the Panel of the Wise shall be worked out by the Chairperson of the Commission and approved by the Peace and Security Council.

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8. The allowances of members of the Panel of the Wise shall be determined by the Chairperson of the Commission in accordance with the Financial Rules and Regulations of the Union.

Article 12

Continental Early Warning System

1. In order to facilitate the anticipation and prevention of conflicts, a continental early warning system to be known as the Early Warning System shall be established.

2. The Early Warning System shall consist of:

(a) An observation and monitoring centre, to be known as "the Situation Room", located at the Conflict Management Directorate of the Union, and responsible for data collection and analysis on the basis of an appropriate early warning indicators module; and

(b) Observation and monitoring units of the Regional Mechanisms to be linked directly through appropriate means of communications to the Situation Room, and which shall collect and process data at their level and transmit the same to the Situation Room.

3. The Commission shall also collaborate with the United Nations, its agencies, other relevant international organizations, research centres, academic institutions and NGOs, to facilitate the effective functioning of the Early Warning System.

4. The Early Warning System shall develop an early warning module based on clearly defined and accepted political, economic, social, military and humanitarian indicators, which shall be used to analyse developments within the continent and to recommend the best course of action.

5. The Chairperson of the Commission shall use the information gathered through the Early Warning System to advise the Peace and Security Council on potential conflicts and threats to peace and security in Africa and recommend the best course of action. The Chairperson of the Commission shall also use this information for the execution of the responsibilities and functions entrusted to him/her under the present Protocol.

6. The Member States shall commit themselves to facilitate early action by the Peace and Security Council and/or the Chairperson of the Commission based on early warning information.

7. The Chairperson of the Commission shall, in consultation with Member States, the Regional Mechanisms, the United Nations and other relevant institutions, work out the practical details for the establishment of the Early Warning System and take all the steps required for its effective functioning.

Article 13

African Standby Force

Composition

1. In order to enable the Peace and Security Council to perform its responsibilities with respect to the deployment of peace support missions and intervention pursuant to Article 4, subparagraphs (h) and (j), of the Constitutive Act, an African Standby Force shall be established. Such Force shall be composed of standby multidisciplinary contingents, with civilian and military components in their countries of origin and ready for rapid deployment at appropriate notice.

2. For that purpose, the Member States shall take steps to establish standby contingents for participation in peace support missions decided on by the Peace and Security Council or intervention authorized by the Assembly.

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The strength and types of such contingents, their degree of readiness and general location shall be determined in accordance with established African Union Peace Support Standard Operating Procedures (SOPs), and shall be subject to periodic reviews depending on prevailing crisis and conflict situations.

Mandate

3. The African Standby Force shall, inter alia, perform functions in the following areas:
 - (a) Observation and monitoring missions;
 - (b) Other types of peace support missions;
 - (c) Intervention in a Member State in respect of grave circumstances or at the request of a Member State in order to restore peace and security, in accordance with Article 4, subparagraphs (h) and (j), of the Constitutive Act;
 - (d) Preventive deployment in order to prevent:
 - (i) A dispute or a conflict from escalating;
 - (ii) An ongoing violent conflict from spreading to neighbouring areas or States; and
 - (iii) The resurgence of violence after parties to a conflict have reached an agreement;
 - (e) Peacebuilding, including post-conflict disarmament and demobilization;
 - (f) Humanitarian assistance to alleviate the suffering of civilian population in conflict areas and support efforts to address major natural disasters; and
 - (g) Any other functions as may be mandated by the Peace and Security Council or the Assembly.
4. In undertaking these functions, the African Standby Force shall, where appropriate, cooperate with the United Nations and its agencies, other relevant international organizations and regional organizations, as well as with national authorities and NGOs.
5. The detailed tasks of the African Standby Force and its modus operandi for each authorized mission shall be considered and approved by the Peace and Security Council upon recommendation of the Commission.

Chain of Command

6. For each operation undertaken by the African Standby Force, the Chairperson of the Commission shall appoint a Special Representative and a Force Commander, whose detailed roles and functions shall be spelled out in appropriate directives, in accordance with the Peace Support Standing Operating Procedures.
7. The Special Representative shall, through appropriate channels, report to the Chairperson of the Commission. The Force Commander shall report to the Special Representative. Contingent Commanders shall report to the Force Commander, while the civilian components shall report to the Special Representative.

Military Staff Committee

8. There shall be established a Military Staff Committee to advise and assist the Peace and Security Council in all questions relating to military and security requirements for the promotion and maintenance of peace and security in Africa.

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9. The Military Staff Committee shall be composed of Senior Military Officers of the Members of the Peace and Security Council. Any Member State not represented on the Military Staff Committee may be invited by the Committee to participate in its deliberations when it is so required for the efficient discharge of the Committee's responsibilities.

10. The Military Staff Committee shall meet as often as required to deliberate on matters referred to it by the Peace and Security Council.

11. The Military Staff Committee may also meet at the level of the Chief of Defence Staff of the Members of the Peace and Security Council to discuss questions relating to the military and security requirements for the promotion and maintenance of peace and security in Africa. The Chiefs of Defence Staff shall submit to the Chairperson of the Commission recommendations on how to enhance Africa's peace support capacities.

12. The Chairperson of the Commission shall take all appropriate steps for the convening of and follow-up of the meetings of the Chiefs of Defence Staff of Members of the Peace and Security Council.

Training

13. The Commission shall provide guidelines for the training of the civilian and military personnel of national standby contingents at both operational and tactical levels. Training on international humanitarian law and international human rights law, with particular emphasis on the rights of women and children, shall be an integral part of the training of such personnel.

14. To that end, the Commission shall expedite the development and circulation of appropriate Standing Operating Procedures to inter alia:

(a) Support standardization of training doctrines, manuals and programmes for national and regional schools of excellence;

(b) Coordinate the African Standby Force training courses, command and staff exercises, as well as field training exercises.

15. The Commission shall, in collaboration with the United Nations, undertake periodic assessment of African peace support capacities.

16. The Commission shall, in consultation with the United Nations Secretariat, assist in the coordination of external initiatives in support of the African Standby Force capacity-building in training, logistics, equipment, communications and funding.

Role of Member States

17. In addition to their responsibilities as stipulated under the present Protocol:

(a) Troop contributing Member States shall immediately, upon request by the Commission, following an authorization by the Peace and Security Council or the Assembly, release the standby contingents with the necessary equipment for the operations envisaged under Article 9, paragraph 3, of the present Protocol;

(b) Member States shall commit themselves to make available to the Union all forms of assistance and support required for the promotion and maintenance of peace, security and stability on the continent, including rights of passage through their territories.

Article 14 Peacebuilding

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Institutional Capacity for Peacebuilding

1. In post-conflict situations, the Peace and Security Council shall assist in the restoration of the rule of law, establishment and development of democratic institutions and the preparation, organization and supervision of elections in the concerned Member State.

Peacebuilding During Hostilities

2. In areas of relative peace, priority shall be accorded to the implementation of policy designed to reduce degradation of social and economic conditions arising from conflicts.

Peacebuilding at the End of Hostilities

3. To assist Member States that have been adversely affected by violent conflicts, the Peace and Security Council shall undertake the following activities:

- (a) Consolidation of the peace agreements that have been negotiated;
- (b) Establishment of conditions of political, social and economic reconstruction of the society and government institutions;
- (c) Implementation of disarmament, demobilization and reintegration programmes, including those for child soldiers;
- (d) Resettlement and reintegration of refugees and internally displaced persons;
- (e) Assistance to vulnerable persons, including children, the elderly, women and other traumatized groups in the society.

Article 15

Humanitarian Action

1. The Peace and Security Council shall take active part in coordinating and conducting humanitarian action in order to restore life to normalcy in the event of conflicts or natural disasters.
2. In this regard, the Peace and Security Council shall develop its own capacity to efficiently undertake humanitarian action.
3. The African Standby Force shall be adequately equipped to undertake humanitarian activities in their mission areas under the control of the Chairperson of the Commission.
4. The African Standby Force shall facilitate the activities of the humanitarian agencies in the mission areas.

Article 16

Relationship with Regional Mechanisms for Conflict Prevention, Management and Resolution

1. The Regional Mechanisms are part of the overall security architecture of the Union, which has the primary responsibility for promoting peace, security and stability in Africa. In this respect, the Peace and Security Council and the Chairperson of the Commission, shall:

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- (a) Harmonize and coordinate the activities of Regional Mechanisms in the field of peace, security and stability to ensure that these activities are consistent with the objectives and principles of the Union;
 - (b) Work closely with Regional Mechanisms, to ensure effective partnership between them and the Peace and Security Council in the promotion and maintenance of peace, security and stability. The modalities of such partnership shall be determined by the comparative advantage of each and the prevailing circumstances.
2. The Peace and Security Council shall, in consultation with Regional Mechanisms, promote initiatives aimed at anticipating and preventing conflicts and, in circumstances where conflicts have occurred, peacemaking and peacebuilding functions.
 3. In undertaking these efforts, Regional Mechanisms concerned shall, through the Chairperson of the Commission, keep the Peace and Security Council fully and continuously informed of their activities and ensure that these activities are closely harmonized and coordinated with the activities of Peace and Security Council. The Peace and Security Council shall, through the Chairperson of the Commission, also keep the Regional Mechanisms fully and continuously informed of its activities.
 4. In order to ensure close harmonization and coordination and facilitate regular exchange of information, the Chairperson of the Commission shall convene periodic meetings, at least once a year, with the Chief Executives and/or the officials in charge of peace and security within the Regional Mechanisms.
 5. The Chairperson of the Commission shall take the necessary measures, where appropriate, to ensure the full involvement of Regional Mechanisms in the establishment and effective functioning of the Early Warning System and the African Standby Force.
 6. Regional Mechanisms shall be invited to participate in the discussion of any question brought before the Peace and Security Council whenever that question is being addressed by a Regional Mechanism or is of special interest to that Organization.
 7. The Chairperson of the Commission shall be invited to participate in meetings and deliberations of Regional Mechanisms.
 8. In order to strengthen coordination and cooperation, the Commission shall establish liaison offices to the Regional Mechanisms. The Regional Mechanisms shall be encouraged to establish liaison offices to the Commission.
 9. On the basis of the above provisions, a Memorandum of Understanding on Cooperation shall be concluded between the Commission and the Regional Mechanisms.

Article 17

Relationship with the United Nations and Other International Organizations

1. In the fulfilment of its mandate in the promotion and maintenance of peace, security and stability in Africa, the Peace and Security Council shall cooperate and work closely with the United Nations Security Council, which has the primary responsibility for the maintenance of international peace and security. The Peace and Security Council shall also cooperate and work closely with other relevant United Nations agencies in the promotion of peace, security and stability in Africa.
2. Where necessary, recourse will be made to the United Nations to provide the necessary financial, logistical and military support for the African Unions' activities in the promotion and maintenance of peace, security and stability in Africa, in keeping with the provisions of Chapter VIII of the United Nations Charter on the role of regional organizations in the maintenance of international peace and security.

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3. The Peace and Security Council and the Chairperson of the Commission shall maintain close and continued interaction with the United Nations Security Council, its African members, as well as with the Secretary-General, including holding periodic meetings and regular consultations on questions of peace, security and stability in Africa.

4. The Peace and Security Council shall also cooperate and work closely with other relevant international organizations on issues of peace, security and stability in Africa. Such organizations may be invited to address the Peace and Security Council on issues of common interest, if the latter considers that the efficient discharge of its responsibilities does so require.

Article 18

Relationship with the Pan-African Parliament

1. The Mechanism shall maintain close working relations with the Pan-African Parliament in furtherance of peace, security and stability in Africa.

2. The Peace and Security Council shall, whenever so requested by the Pan-African Parliament, submit, through the Chairperson of the Commission, reports to the Pan-African Parliament, in order to facilitate the discharge by the latter of its responsibilities relating to the maintenance of peace, security and stability in Africa.

3. The Chairperson of the Commission shall present to the Pan-African Parliament an annual report on the state of peace and security on the continent. The Chairperson of the Commission shall also take all steps required to facilitate the exercise by the Pan-African Parliament of its powers, as stipulated in Article 11, paragraph 5, of the Protocol to the Treaty Establishing the African Economic Community relating to the Pan-African Parliament, as well as in Article 11, paragraph 9, in so far as it relates to the objective of promoting peace, security and stability as spelled out in Article 3, paragraph 5, of the said Protocol.

Article 19

Relationship with the African Commission on Human and Peoples' Rights

The Peace and Security Council shall seek close cooperation with the African Commission on Human and Peoples' Rights in all matters relevant to its objectives and mandate. The Commission on Human and Peoples' Rights shall bring to the attention of the Peace and Security Council any information relevant to the objectives and mandate of the Peace and Security Council.

Article 20

Relations with Civil Society Organizations

The Peace and Security Council shall encourage non-governmental organizations, community-based and other civil society organizations, particularly women's organizations, to participate actively in the efforts aimed at promoting peace, security and stability in Africa. When required, such organizations may be invited to address the Peace and Security Council.

Article 21

Funding

Peace Fund

1. In order to provide the necessary financial resources for peace support missions and other operational activities related to peace and security, a special fund, to be known as the Peace Fund, shall be established. The operations of the Peace Fund shall be governed by the relevant Financial Rules and Regulations of the Union.

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2. The Peace Fund shall be made up of financial appropriations from the regular budget of Union, including arrears of contributions, voluntary contributions from Member States and from other sources within Africa, including the private sector, civil society and individuals, as well as through appropriate fundraising activities.
3. The Chairperson of the Commission shall raise and accept voluntary contributions from sources outside Africa, in conformity with the objectives and principles of the Union.
4. There shall also be established, within the Peace Fund, a revolving trust fund. The appropriate amount of the revolving trust fund shall be determined by the relevant policy organs of the Union upon recommendation by the Peace and Security Council.

Assessment of Cost of Operations and Pre-Financing

5. When required, and following a decision by the relevant policy organs of the Union, the cost of the operations envisaged under Article 13, paragraph 3, of the present Protocol shall be assessed to Member States based on the scale of their contributions to the regular budget of the Union.
6. The States contributing contingents may be invited to bear the cost of their participation during the first three (3) months.
7. The Union shall refund the expenses incurred by the concerned contributing States within a maximum period of six (6) months and then proceed to finance the operations.

Article 22 Final Provisions

Status of the Protocol in Relation to the Cairo Declaration

1. The present Protocol shall replace the Cairo Declaration.
2. The provisions of this Protocol shall supersede the resolutions and decisions of the OAU relating to the Mechanism for Conflict Prevention, Management and Resolution in Africa, which are in conflict with the present Protocol.

Signature, Ratification and Accession

3. The present Protocol shall be open for signature, ratification or accession by the Member States of the Union in accordance with their respective constitutional procedures.
4. The instruments of ratification shall be deposited with the Chairperson of the Commission.

Entry into Force

5. The present Protocol shall enter into force upon the deposit of the instruments of ratification by a simple majority of the Member States of the Union.

Amendments

6. Any amendment or revision of the present Protocol shall be in accordance with the provisions of Article 32 of the Constitutive Act.

Depositary Authority

12. SOLEMN DECLARATION ON A COMMON AFRICAN DEFENCE AND SECURITY POLICY

7. This Protocol and all instruments of ratification shall be deposited with the Chairperson of the Commission, who shall transmit certified true copies to all Member States and notify them of the dates of deposit of the instruments of ratification by the Member States and shall register it with the United Nations and any other Organization as may be decided by the Union.

12.

SOLEMN DECLARATION ON A COMMON AFRICAN DEFENCE AND SECURITY POLICY

Adopted in Sirte, Libya, on 28 February 2004.

Preamble

We, the Heads of State and Government of Member States of the African Union, meeting in our Second Extraordinary Session, in Sirte, Great Libyan Arab Jamahiriya, on 28 February 2004,

1. *Guided* by the principles enshrined in the Constitutive Act of the African Union and in the Charter of the United Nations, and our common vision of a united and strong Africa based on the scrupulous respect for human rights, peaceful coexistence, non-aggression, non-interference in the internal matters of Member States, and mutual respect for the national sovereignty and territorial integrity of each State;
2. *Motivated* by a common political will to strengthen our collective efforts to contribute to peace, security, stability, justice and development in Africa, as well as to intensify cooperation and integration on our continent in the best interest of our peoples;
3. *Convinced* that in order to safeguard and preserve the hard-won liberties of our peoples, the sovereignty and territorial integrity of our countries, our cultures, history and common values, as well as to guarantee peace, security, stability, and socio-economic development of our continent, it is imperative for us to undertake mutually reinforcing actions in the areas of defence and security;
4. *Reaffirming* our commitments under Article 4, subparagraph (d), of the Constitutive Act, and Article 3, subparagraph (e), of the Protocol Relating to the Establishment of the Peace and Security Council of the African Union, which call for the establishment of a common defence policy for the African continent;
5. *Recalling* Decision ASS/AU/Dec.5 (I), which we took during the inaugural session of the Assembly of our Union held in Durban, South Africa, in July 2002, in which we stressed the need for a Common African Defence and Security Policy in the context of the Constitutive Act of the African Union;
6. *Reaffirming* our determination to endow the Union with the requisite capacity for decision-making in order to ensure effective political-military crisis management aimed at preserving peace and strengthening the security of the African continent in all aspects, including the elimination of conflicts;
7. *Convinced* that these commitments will provide our Union with a more enhanced and cost-effective means of maintaining peace and security on the continent;
8. *Recalling* the Solemn Declaration on the Conference on Security, Stability, Development and Cooperation in Africa (CSSDCA), and particularly its interactive approach, as an invaluable tool for the Union to pursue and strengthen its agenda in the new millennium, in the areas of security, stability, development and cooperation in Africa;
9. *Stressing* the importance of the various decisions and instruments we have already adopted, with respect to the issues of peace, security and defence at the continental level, which can form the building blocks of the Common African Defence and Security Policy;

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10. *Emphasizing* the need for a common understanding of defence and security as terms embracing both civilian and military aspects;
11. *Conscious* of the indivisibility of security in Africa, and particularly the fact that the defence and security of one African country is directly linked to that of other African countries, and desirous to harmonize Member States activities in these areas;
12. *Undertake* to consult among ourselves and to adopt a common position on matters relating to defence that affect or constitute a potential threat to the collective security of our continent;
13. *Hereby solemnly adopt* the Common African Defence and Security Policy and declare our commitment to uphold and give practical expression to the provisions of the Declaration;
14. *Request* the Chairperson of the Commission to submit proposals relating to the different aspects of this Declaration in order to give effect to its implementation.

13.

PROTOCOL TO THE OAU CONVENTION ON THE PREVENTION AND COMBATING OF TERRORISM

Adopted in Addis Ababa, Ethiopia, on 8 July 2004.

Entered into force on 26 February 2014.

We, the Heads of State and Government of the Member States of the African Union,

Gravely concerned at the increasing incidence of terrorist acts worldwide, including in Africa, and the growing risks of linkages between terrorism and mercenarism, weapons of mass destruction, drug trafficking, corruption, transnational organized crimes, money laundering, and the illicit proliferation of small arms,

Determined to combat terrorism in all its forms and manifestations and any support thereto in Africa,

Aware of the capabilities of the perpetrators of terrorist acts to use sophisticated technology and communication systems for organizing and carrying out their terrorist acts,

Bearing in mind that the root causes of terrorism are complex and need to be addressed in a comprehensive manner,

Convinced that acts of terrorism cannot be justified under any circumstances,

Determined to ensure Africa's active participation, cooperation and coordination with the international community in its determined efforts to combat and eradicate terrorism,

Guided by the principles and regulations enshrined in international conventions and the relevant decisions of the United Nations to prevent and combat terrorism, including resolution 1373 adopted by the Security Council on 28 September 2001, and the relevant General Assembly resolutions,

Reaffirming our commitment to the OAU Convention for the Elimination of Mercenarism in Africa, adopted in Libreville, Gabon, in July 1977,

Reaffirming our commitment to the Code of Conduct for Inter-African Relations adopted by the Thirtieth Ordinary Session of the Assembly of Heads of State and Government of the Organization of African Unity (OAU) held in Tunis, Tunisia, from 13 to 15 June 1994,

13. PROTOCOL TO THE OAU CONVENTION ON THE PREVENTION AND COMBATING OF TERRORISM

Reaffirming our commitment to the OAU Convention on the Prevention and Combating of Terrorism adopted by the Thirty-fifth OAU Summit in Algiers, Algeria, in July 1999,

Recalling the Dakar Declaration against terrorism adopted by the African Summit meeting, held in Dakar, Senegal, in October 2001,

Further recalling the Plan of Action for the Prevention and Combating of Terrorism in Africa adopted by the intergovernmental high-level meeting of Member States of the African Union, held in Algiers, Algeria, in September 2002,

Considering the Constitutive Act of the African Union, as well as the Protocol Relating to the Establishment of the Peace and Security Council of the African Union adopted by the Inaugural Summit of the Union in Durban, South Africa, in July 2002,

Reiterating our conviction that terrorism constitutes a serious violation of human rights and a threat to peace, security, development, and democracy,

Stressing the imperative for all Member States of the African Union to take all necessary measures to protect their populations from acts of terrorism and to implement all relevant continental and international humanitarian and human rights instruments, and

Desirous of ensuring the effective implementation of the OAU Convention on the Prevention and Combating of Terrorism,

Hereby agree as follows:

Article 1 Definitions

1. "Assembly" means the Assembly of Heads of State and Government of the African Union.
2. "Chairperson" means the Chairperson of the African Union.
3. "Commission" means the Commission of the African Union.
4. "Commissioner" means the Commissioner in charge of peace and security issues at the Commission of the African Union.
5. "Convention" means the OAU Convention on the Prevention and Combating of Terrorism adopted by the Thirty-fifth OAU Summit in Algiers in July 1999.
6. "Member State" means any Member State of the African Union.
7. "Peace and Security Council (PSC)" means the Peace and Security Council of the African Union.
8. "Plan of Action" means the African Union Plan of Action on the Prevention and Combating of Terrorism in Africa.
9. "Protocol" means this Protocol to the Convention.
10. "Regional Mechanisms" means the African Regional Mechanisms for conflict prevention, management and resolution as established by the Regional Economic Communities.

X. INTERNATIONAL PEACE AND SECURITY

11. "State Party" means any Member State of the African Union which has ratified or acceded to this Protocol.
12. "Terrorist Act" means any act as defined in Articles 1 and 3 of the Convention.
13. "Union" means the African Union.
14. "Weapons of Mass Destruction (WMD)" means biological, chemical and nuclear devices and explosives and their means of delivery.

Article 2

Purpose

1. This Protocol is adopted pursuant to Article 21 of the Convention as a supplement to the Convention.
2. Its main purpose is to enhance the effective implementation of the Convention and to give effect to Article 3, subparagraph d, of the Protocol Relating to the Establishment of the Peace and Security Council of the African Union, on the need to coordinate and harmonize continental efforts in the prevention and combating of terrorism in all its aspects, as well as the implementation of other relevant international instruments.

Article 3

Commitments by States Parties

1. States Parties commit themselves to implement fully the provisions of the Convention. They also undertake, among other things, to:
 - (a) Take all necessary measures to protect the fundamental human rights of their populations against all acts of terrorism;
 - (b) Prevent the entry into, and the training of terrorist groups on their territories;
 - (c) Identify, detect, confiscate and freeze or seize any funds and any other assets used or allocated for the purpose of committing a terrorist act, and to establish a mechanism to use such funds to compensate victims of terrorist acts or their families;
 - (d) Establish national contact points in order to facilitate the timely exchange and sharing of information on terrorist groups and activities at the regional, continental and international levels, including the cooperation of States for suppressing the financing of terrorism;
 - (e) Take appropriate actions against the perpetrators of mercenarism as defined in the OAU Convention for the Elimination of Mercenarism in Africa, adopted in Libreville, Gabon, in 1977, and other relevant applicable international instruments;
 - (f) Strengthen national and regional measures in conformity with relevant continental and international conventions and treaties, to prevent the perpetrators of terrorist acts from acquiring weapons of mass destruction;
 - (g) Cooperate with the international community in the implementation of continental and international instruments related to weapons of mass destruction;

13. PROTOCOL TO THE OAU CONVENTION ON THE PREVENTION AND COMBATING OF TERRORISM

- (h) Submit reports to the PSC on an annual basis, or at such regular intervals as shall be determined by the PSC, on measures taken to prevent and combat terrorism as provided for in the Convention, the AU Plan of Action and in this Protocol;
 - (i) Report to the PSC all terrorist activities in their countries as soon as they occur;
 - (j) Become parties to all continental and international instruments on the prevention and combating of terrorism; and
 - (k) Outlaw torture and other degrading and inhumane treatment, including discriminatory and racist treatment of terrorist suspects, which are inconsistent with international law.
2. States Parties shall implement the provisions of paragraph 1 above on the basis of all relevant African and international conventions and treaties, in conformity with Article 22 of the Convention.

Article 4 Mechanism for Implementation

The Peace and Security Council (PSC) shall be responsible for harmonizing and coordinating continental efforts in the prevention and combating of terrorism. In pursuing this endeavour, the PSC shall:

- (a) Establish operating procedures for information gathering, processing and dissemination;
- (b) Establish mechanisms to facilitate the exchange of information among States Parties on patterns and trends in terrorist acts and the activities of terrorist groups and on successful practices on combating terrorism;
- (c) Present an annual report to the Assembly of the Union on the situation of terrorism on the continent;
- (d) Monitor, evaluate and make recommendations on the implementation of the Plan of Action and programmes adopted by the African Union;
- (e) Examine all reports submitted by States Parties on the implementation of the provisions of this Protocol; and
- (f) Establish an information network with national, regional and international focal points on terrorism.

Article 5 The Role of the Commission

1. Under the leadership of the Chairperson of the Commission, and in conformity with Article 10, paragraph 4, of the Protocol Relating to the Establishment of the Peace and Security Council, the Commissioner in charge of Peace and Security shall be entrusted with the task of following up on matters relating to the prevention and combating of terrorism.
2. The Commissioner shall be assisted by the Unit established within the Peace and Security Department of the Commission and the African Centre for the Study and Research on Terrorism, and shall, among other things:
- (a) Provide technical assistance on legal and law enforcement matters, including on matters relating to combating the financing of terrorism, the preparation of model laws and guidelines to help Member States to formulate legislation and related measures for the prevention and combating of terrorism;
 - (b) Follow up with Member States and with regional mechanisms on the implementation of decisions taken by the PSC and other organs of the Union on terrorism related matters;

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- (c) Review and make recommendations on updating the programmes of the Union for the prevention and combating of terrorism and the activities of the African Centre for the Study and Research on Terrorism;
- (d) Develop and maintain a database on a range of issues relating to terrorism including experts and technical assistance available;
- (e) Maintain contacts with regional and international organizations and other entities dealing with issues of terrorism; and
- (f) Provide advice and recommendations to Member States on a needs basis, on how to secure technical and financial assistance in the implementation of continental and international measures against terrorism.

Article 6 The Role of Regional Mechanisms

Regional mechanisms shall play a complementary role in the implementation of this Protocol and the Convention. They shall, among other activities, undertake the following:

- (a) Establish contact points on terrorism at the regional level;
- (b) Liaise with the Commission in developing measures for the prevention and combating of terrorism;
- (c) Promote cooperation at the regional level, in the implementation of all aspects of this Protocol and the Convention, in accordance with Article 4 of the Convention;
- (d) Harmonize and coordinate national measures to prevent and combat terrorism in their respective regions;
- (e) Establish modalities for sharing information on the activities of the perpetrators of terrorist acts and on the best practices for the prevention and combating of terrorism;
- (f) Assist Member States to implement regional, continental and international instruments for the prevention and combating of terrorism; and
- (g) Report regularly to the Commission on measures taken at the regional level to prevent and combat terrorist acts.

Article 7 Settlement of Disputes

1. Any dispute or differences between States Parties arising from interpretation or application of the provisions of this Protocol shall be resolved amicably through direct consultations between the States Parties concerned.
2. In the event of failure to settle the dispute under paragraph 1 above, either State Party may refer the dispute to the Assembly through the Chairperson, pending the establishment of the Court of Justice of the African Union, which shall have jurisdiction over such disputes.
3. In the case where either or both States Parties are not Members of the Court of Justice of the African Union, either or both States Parties may refer the dispute to the International Court of Justice for a settlement in conformity with its Statute.

14. AFRICAN UNION NON-AGGRESSION AND COMMON DEFENCE PACT

Article 8 Extradition

1. The Convention shall constitute an adequate legal basis for extradition for States Parties that do not have extradition arrangements.
2. Should any dispute arise between States Parties on the interpretation or applicability of any existing bilateral extradition agreement or arrangement, the provisions of the Convention shall prevail with respect to extradition.

Article 9 Signature, Ratification and Accession

1. The present Protocol shall be open for signature, ratification or accession by the Member States of the Union in accordance with their respective constitutional procedures.
2. The ratification of or accession to this Protocol shall require the prior ratification of or accession to the Convention by Member States concerned.

Article 10 Entry into Force

This Protocol shall enter into force thirty days after the deposit of the fifteenth (15th) instrument of ratification or accession.

Article 11 Amendments

1. Any State Party may propose amendment(s) to this Protocol by submitting a written request to the Commission, which shall circulate the said proposed amendments to all States Parties thereof.
2. The amendment(s) shall be approved by a simple majority of States Parties.
3. The amendment(s) approved shall enter into force for each State Party which has accepted it, in accordance with its constitutional procedures, three months after the Chairperson of the Commission has received notice of the acceptance.

Article 12 Depositary Authority

This Protocol and all instruments of ratification or accession shall be deposited with the Chairperson of the Commission, who shall transmit certified true copies to all Member States and notify them of the dates of deposit of instruments of ratification by Member States and shall register it with the United Nations and any other organization as may be decided by the Union.

14.

AFRICAN UNION NON-AGGRESSION AND COMMON DEFENCE PACT

Adopted in Abuja, Nigeria, on 31 January 2005.
Entered into force on 18 December 2009.

Preamble

X. INTERNATIONAL PEACE AND SECURITY

We, the Heads of State and Government of the Member States of the African Union,

Conscious of the gravity of the impact of conflicts both within and among African States, on peace, security and stability on the continent, and their devastating impact on socio-economic development,

Committed to our common vision of a united and strong Africa, based on respect for the principles of peaceful coexistence, non-aggression, non-interference in the internal affairs of Member States, mutual respect for individual sovereignty and territorial integrity of each State,

Determined to put an end to conflicts of any kind within and among States in Africa, in order to create propitious conditions for socio-economic development and integration of the continent, as well as the fulfilment of the aspirations of our peoples,

Reaffirming that appropriate development institutions and promotion of a strong democratic culture through organization of honest and regular elections, respect for human rights and the rule of law, combating corruption and impunity and formulation of sustainable development policies are vital to collective security, peace and stability,

Considering the Constitutive Act of the African Union, the Treaty Establishing the African Economic Community and the Charter of the United Nations,

Considering also the Protocol Relating to the Establishment of the Peace and Security Council of the African Union adopted in Durban, South Africa, on 9 July 2002, particularly Article 7, paragraph 1 (h), on the implementation of the Common Defence Policy of the Union,

Reaffirming our commitment to the Solemn Declaration on the Common African Defence and Security Policy adopted in Sirte, Great Libyan Arab Jamahiriya, by the Second Extraordinary Session of the Assembly of the African Union held from 27 to 28 February 2004, particularly its Chapter III, paragraph (t) which encourages "the conclusion and ratification of non-aggression pacts between and among African States and the harmonization of such agreements",

Convinced that the African Union is a community of Member States which decided, among other things, to adopt an African Union Non-Aggression and Common Defence Pact in order to deal with threats to peace, security and stability on the continent and to ensure the well-being of the African peoples,

Have agreed as follows:

Definitions

Article 1

In this Pact:

- (a) "Acts of subversion" means any act that incites, aggravates or creates dissension within or among Member States with the intention or purpose to destabilize or overthrow the existing regime or political order by, among other means, fomenting racial, religious, linguistic, ethnic and other differences, in a manner inconsistent with the Constitutive Act, the Charter of the United Nations and the Lomé Declaration;
- (b) "African Standby Force" means the African Standby Force (ASF) provided in the Protocol Relating to the Establishment of the Peace and Security Council of the African Union;

14. AFRICAN UNION NON-AGGRESSION AND COMMON DEFENCE PACT

- (c) "Aggression" means the use, intentionally and knowingly, of armed force or any other hostile act by a State, a group of States, an organization of States or non-State actor(s) or by any foreign or external entity, against the sovereignty, political independence, territorial integrity and human security of the population of a State Party to this Pact, which are incompatible with the Charter of the United Nations or the Constitutive Act of the African Union. The following shall constitute acts of aggression, regardless of a declaration of war by a State, group of States, organization of States, or non-State actor(s) or by any foreign entity:
- (i) The use of armed forces against the sovereignty, territorial integrity and political independence of a Member State, or any other act inconsistent with the provisions of the Constitutive Act of the African Union and the Charter of the United Nations;
 - (ii) The invasion or attack by armed forces against the territory of a Member State, or military occupation, however temporary, resulting from such an invasion or attack, or any annexation by the use of force of the territory of a Member State or part thereof;
 - (iii) The bombardment of the territory of a Member State or the use of any weapon against the territory of a Member State;
 - (iv) The blockade of the ports, coasts or airspace of a Member State;
 - (v) The attack on the land, sea or air forces, or marine and fleets of a Member State;
 - (vi) The use of the armed forces of a Member State which are within the territory of another Member State with the agreement of the latter, in contravention of the conditions provided for in this Pact;
 - (vii) The action of a Member State in allowing its territory, to be used by another Member State for perpetrating an act of aggression against a third State;
 - (viii) The sending by, or on behalf of a Member State or the provision of any support to armed groups, mercenaries, and other organized transnational criminal groups which may carry out hostile acts against a Member State, of such gravity as to amount to the acts listed above, or its substantial involvement therein;
 - (ix) The acts of espionage which could be used for military aggression against a Member State;
 - (x) Technological assistance of any kind, intelligence and training to another State for use in committing acts of aggression against another Member State; and
 - (xi) The encouragement, support, harbouring or provision of any assistance for the commission of terrorist acts and other violent transnational organized crimes against a Member State;
- (d) "Assembly" means the Assembly of Heads of State and Government of the African Union;
- (e) "Commission" means the Commission of the African Union;
- (f) "Common African Defence and Security Policy" means the Solemn Declaration on a Common African Defence and Security Policy adopted by the Second Extraordinary Session of the Assembly, held in Sirte, Great Socialist Libyan Arab Jamahiriya, in February 2004;
- (g) "Constitutive Act" means the Constitutive Act of the African Union;
- (h) "Court of Justice" means the Court of Justice of the African Union;

X. INTERNATIONAL PEACE AND SECURITY

- (i) "Destabilization" means any act that disrupts the peace and tranquility of any Member State or which may lead to mass social and political disorder;
- (j) "Dispute" means any conflict between two or among several Member States or within a Member State, which constitutes a threat to peace and security, or a breach of the peace and security within the African Union, as determined by the Assembly of Heads of State and Government or the Peace and Security Council;
- (k) "Human security" means the security of the individual in terms of satisfaction of his/her basic needs. It also includes the creation of social, economic, political, environmental and cultural conditions necessary for the survival and dignity of the individual, the protection of and respect for human rights, good governance and the guarantee for each individual of opportunities and choices for his/her full development;
- (l) "Lomé Declaration" means the Declaration on the Framework for an OAU Response to Unconstitutional Changes of Government;
- (m) "Member States" means Member States of the African Union;
- (n) "Mercenaries" means mercenaries as defined in the OAU Convention on the Elimination of Mercenarism in Africa;
- (o) "Military Staff Committee" means the Military Staff Committee (MSC) provided in the Protocol Relating to the Establishment of the Peace and Security Council of the African Union;
- (p) "Non-Aggression" means peaceful conduct by a Member State, group of Member States, organization of Member States, or non-State actor(s), which does not constitute acts of aggression as defined above;
- (q) "Pact" means the present Pact;
- (r) "Peace and Security Council" means the Peace and Security Council (PSC) of the African Union as provided in the Protocol Relating to the Establishment of the Peace and Security Council of the African Union;
- (s) "Protocol" means the Protocol Relating to the Establishment of the Peace and Security Council of the African Union;
- (t) "Regional Mechanism" means African Regional Mechanisms for Conflict Prevention, Management and Resolution;
- (u) "State Party" means a Member State that has ratified or acceded to this Pact;
- (v) "Terrorist acts" means those acts or offences defined in the OAU Convention on the Prevention and Combating of Terrorism;
- (w) "Threat of aggression" means any harmful conduct or statement by a State, group of States, organization of States, or non-State actor(s) which though falling short of a declaration of war, might lead to an act of aggression as defined above;
- (x) "Transnational organized criminal group" means a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes which are transnational in scope, or offences established in accordance with international law, including the United Nations Convention Against Transnational Organized Crime and its Protocols thereto, the purpose being to obtain, directly or indirectly financial and other material benefits;
- (y) "Union" means the African Union.

14. AFRICAN UNION NON-AGGRESSION AND COMMON DEFENCE PACT

Objectives

Article 2

- (a) The objectives of this Pact are:
 - (i) To promote cooperation among the Member States in the areas of non-aggression and common defence;
 - (ii) To promote peaceful coexistence in Africa;
 - (iii) To prevent conflicts of inter-State or intra-State nature; and
 - (iv) To ensure that disputes are resolved by peaceful means.
- (b) In pursuance of these objectives, this Pact seeks to define a framework under which the Union may intervene or authorize intervention, in preventing or addressing situations of aggression, in conformity with the Constitutive Act, the Protocol and the Common African Defence and Security Policy.
- (c) Consequently, any aggression or threat of aggression against any of the Member States shall be deemed to constitute a threat or aggression against all Member States of the Union.

Obligations

Article 3

- (a) States Parties undertake, pursuant to the provisions of the Constitutive Act, to resolve any differences by peaceful means, in order to avoid endangering peace and security; to refrain from the use of force or threat to use force in their relations with each other and in any manner whatsoever, incompatible with the United Nations Charter. Consequently, no consideration whatsoever, be it political, economic, military, religious or racial shall justify aggression.
- (b) States Parties undertake to develop and strengthen the friendly and peaceful relations among them in accordance with the fundamental principles of the Union.
- (c) States Parties undertake to promote such sustainable development policies as are appropriate to enhance the well-being of the African people, including the dignity and fundamental rights of every human being in the context of a democratic society as stipulated in the Lomé Declaration. In particular, States Parties shall ensure freedom of worship, respect of the cultural identity of peoples and the rights of minorities.
- (d) States Parties undertake to prohibit and prevent genocide, other forms of mass murder as well as crimes against humanity.

Article 4

- (a) States Parties undertake to provide mutual assistance towards their common defence and security vis-à-vis any aggression or threats of aggression.
- (b) States Parties undertake, individually and collectively, to respond by all available means to aggression or threats of aggression against any Member State.
- (c) States Parties undertake not to recognize any territorial acquisition or special advantage, resulting from the use of aggression.

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(d) As part of the vision of building a strong and united Africa, States Parties undertake to establish an African Army at the final stage of the political and economic integration of the continent. In the meantime, States Parties will make best efforts to address the challenges of common defence and security through the effective implementation of the Common African Defence and Security Policy, including the early establishment and operationalization of the African Standby Force.

Article 5

(a) States Parties undertake to intensify collaboration and cooperation in all aspects related to combating international terrorism and any other form of organized transnational crime or destabilization of any Member State.

(b) Each State Party shall prevent its territory and its people from being used for encouraging or committing acts of subversion, hostility, aggression and other harmful practices that might threaten the territorial integrity and sovereignty of a Member State or regional peace and security.

(c) Each State Party shall prohibit the use of its territory for the stationing, transit, withdrawal or incursions of irregular armed groups, mercenaries and terrorist organizations operating in the territory of another Member State.

Article 6

(a) States Parties undertake to extend mutual legal and all other assistance in the event of threats of terrorist attack or other organized international crimes.

(b) States Parties undertake to arrest and prosecute any irregular armed group(s), mercenaries or terrorist(s) that pose a threat to any Member State.

Article 7

States Parties undertake, to cooperate and enhance their military and intelligence capacities through mutual assistance.

Article 8

(a) Each State Party declares not to enter into any international or regional commitment which is in contradiction to the present Pact.

(b) Each State Party declares that under no circumstances shall it exempt itself from its obligations under this Pact.

Implementation Mechanisms

Article 9

The Peace and Security Council shall be responsible for the implementation of this Pact, under the authority of the Assembly. In this regard, the Peace and Security Council may be assisted by any organ of the Union, pending the setting up of mechanisms and institutions for common defence and security.

Article 10

14. AFRICAN UNION NON-AGGRESSION AND COMMON DEFENCE PACT

(a) States Parties undertake to provide all possible assistance towards the military operations decided by the Peace and Security Council, including the use of the African Standby Force.

(b) States Parties undertake to develop and strengthen the level of their actual collaboration with the Command Headquarters and Military Staff Committee of the African Standby Force in accordance with the provisions of the Protocol and the Policy Framework for the Establishment of the African Standby Force and the Military Staff Committee.

Article 11

(a) States Parties undertake to develop and strengthen the capacities of African research, information and training institutions to enhance early preventive action against any aggression or threats of aggression.

(b) The Peace and Security Council may also be assisted by the following institutions:

(i) The African Peace Academy;

(ii) The African Centre for Study and Research on Terrorism;

(iii) The African Union Commission on International Law.

(c) The Peace and Security Council may establish any other mechanism as it deems necessary.

The African Peace Academy

Article 12

(a) States Parties undertake to establish and operationalize the African Peace Academy (APA) to serve as a framework for the promotion of peace and stability in Africa, and as a centre of excellence for research and development of an African peace doctrine.

(b) The organization and operational modalities of the Academy shall be decided upon by the Assembly.

African Centre for the Study and Research on Terrorism

Article 13

(a) The African Centre for the Study and Research on Terrorism (ACSRT) shall serve to centralize, collect and disseminate information, studies and analysis on terrorism and terrorist groups, and shall provide training programmes by organizing, with the assistance of international partners, meetings and symposia, in order to prevent and combat terrorist acts in Africa.

(b) The Centre shall assist Member States to develop the expertise and strategies for the prevention and combating of terrorism, particularly with respect to the implementation of the 1999 OAU Convention and its Protocol thereto on the Prevention and Combating of Terrorism, as well as the Plan of Action on the Prevention and Combating of Terrorism in Africa and other relevant decisions adopted by the policy organs of the Union.

(c) States Parties undertake to support fully and take active part in the activities of the Centre.

The African Union Commission on International Law

Article 14

X. INTERNATIONAL PEACE AND SECURITY

- (a) States Parties undertake to establish an African Union Commission on International Law whose objectives shall, among others, be to study all legal matters related to the promotion of peace and security in Africa, including the demarcation and delineation of African borders.
- (b) The composition and functions of the African Union Commission on International Law shall be decided upon by the Assembly.

Peaceful Settlement of Disputes

Article 15

States Parties involved in any dispute shall first seek a solution by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, or resort to regional and continental mechanisms or arrangements, or other peaceful means.

Interpretation

Article 16

States Parties undertake to refer all disputes over the interpretation, implementation and validity of this Pact to the Court of Justice, without prejudice to the competence of the Peace and Security Council.

Article 17

- (a) This Pact shall not derogate from, and shall not be interpreted as derogating in any way from the obligations of Member States contained in the United Nations Charter and the Constitutive Act, including the Protocol, and from the primary responsibility of the United Nations Security Council for the maintenance of international peace and security.
- (b) This Pact shall not derogate from, and shall not be interpreted as derogating in any way whatsoever, from the rights of refugees guaranteed by the relevant continental and international instruments.

Final Provisions

Article 18

- (a) This Pact shall be open to signature and ratification or accession by Member States in accordance with their respective constitutional procedures.
- (b) The instruments of ratification shall be deposited with the Chairperson of the Commission.
- (c) Any Member State acceding to this Pact after its entry into force shall deposit the instrument of accession with the Chairperson of the Commission.
- (d) Any State Party may withdraw from this Pact by giving a one (1) year prior notice to the Chairperson of the Commission, who shall notify all the States Parties thereof.

Article 19

This Pact shall enter into force thirty (30) days following the deposit of instruments of ratification by fifteen (15) Member States.

Article 20

15. DECLARATION ON THE AFRICAN UNION BORDER PROGRAMME AND ITS IMPLEMENTATION MODALITIES

- (a) Any State Party may submit proposals for the amendment or revision of this Pact.
- (b) Proposals for amendment or revision shall be submitted to the Chairperson of the Commission who shall transmit same to the States Parties within thirty (30) days of receipt thereof.
- (c) The amendments shall be examined and approved by the States Parties, by consensus or, failing which, by two-thirds majority, and thereafter, the amendments shall be formally endorsed by the Assembly.
- (d) The amendments shall enter into force for each State Party which has accepted it, thirty (30) days after the Chairperson of the Commission has received notice of the acceptance.

Article 21

There shall be a periodic evaluation of this Pact in order to update it and to enhance its implementation. The evaluation of the Pact shall be done within the context of paragraph 36 of the Solemn Declaration on the Common African Defence and Security Policy which provides for the convening by the Chairperson of the Peace and Security Council "of a yearly review conference involving all the conflict resolution mechanisms of the various regional organizations as well as mechanisms established by the continental instruments."

Article 22

This Pact, drawn up in four (4) original texts in Arabic, English, French and Portuguese, all four (4) being equally authentic, shall be deposited with the Chairperson of the Commission who shall transmit certified copies thereof to each Member State.

Article 23

The Chairperson of the Commission shall register this Pact with the United Nations.

15.

DECLARATION ON THE AFRICAN UNION BORDER PROGRAMME AND ITS IMPLEMENTATION MODALITIES*

Adopted in Addis Ababa, Ethiopia, on 7 June 2007.

Preamble

1. We, the Ministers in charge of Border Issues in the Member States of the African Union, meeting in Addis Ababa, Ethiopia, on 7 June 2007 to deliberate on the African Union Border Programme and its implementation modalities:

- (a) Inspired by the conviction that the achievement of greater unity and solidarity among African countries and peoples require the reduction of the burden of borders separating African States;
- (b) Convinced that, by transcending the borders as barriers and promoting them as bridges linking one State to another, Africa can boost the ongoing efforts to integrate the continent, strengthen its unity, and promote peace, security and stability through the structural prevention of conflicts;
- (c) Guided by:

* Editor's note: This Declaration was adopted by the Conference of African Ministers in Charge of Border Issues held in Addis Ababa, Ethiopia, on 7 June 2007, and endorsed by the Executive Council.

X. INTERNATIONAL PEACE AND SECURITY

- (i) The principle of the respect of borders existing on achievement of national independence, as enshrined in the Charter of the Organization of African Unity (OAU), Resolution AHG/Res.16 (I) on border disputes between African States, adopted by the First Ordinary Session of the Assembly of Heads of State and Government of the OAU, held in Cairo, Egypt, in July 1964, and Article 4, subparagraph (b), of the Constitutive Act of the African Union;
- (ii) The principle of negotiated settlement of border disputes, as provided for notably in Resolution CM/Res.1069 (XLIV) on peace and security in Africa through negotiated settlement of boundary disputes, adopted by the Forty-fourth Ordinary Session of the Council of Ministers of the OAU, held in Addis Ababa, in July 1986, as well as in the relevant provisions of the Protocol relating to the Establishment of the Peace and Security Council of the African Union;
- (iii) The shared commitment to pursue the work of border delimitation and demarcation as factors for peace, security and economic and social progress, as affirmed notably in Resolution CM/Res.1069 (XLIV), as well as in the Memorandum of Understanding on Security, Stability, Development and Cooperation in Africa (CSSDCA), adopted by the Assembly of Heads of State and Government, held in Durban, South Africa, in July 2002, which provides for the delimitation and demarcation of African boundaries by 2012, where such an exercise has not yet taken place;
- (iv) The will to accelerate and deepen the political and socio-economic integration of the continent and provide it with a popular base, as stipulated in the Constitutive Act, and
- (v) The decision adopted by the Eighth Ordinary Session of the Assembly of Heads of State and Government of the African Union, held in Addis Ababa, in January 2007, encouraging the Commission to pursue its efforts at structural prevention of conflicts, especially through the implementation of the Border Programme of the African Union;
- (d) Having considered the Report of the Meeting of Government Experts (BP/EXP/3 (II)), held in Addis Ababa, from 4 to 5 June 2007, and on the basis of the Summary Note on the African Union Border Programme and its Implementation Modalities (BP/EXP/2 (II)).

Have agreed as follows:

On the Justification of the AU Border Programme

2. We underscore the relevance of the African Union Border Programme, based on the need:

- (a) To address the persistence of the border delimitation and demarcation issue: Subject to an inventory to be undertaken, it is estimated that less than a quarter of African borders have been delimited and demarcated. This situation is fraught with risks, as the lack of delimitation and demarcation gives rise to “undefined zones”, within which the application of national sovereignty poses problems, and constitutes a real obstacle to the deepening of the integration process;
- (b) To address cross-border criminal activities;
- (c) To consolidate the gains made in the regional integration process, as demonstrated by the existence of the Regional Economic Communities (RECs) and of numerous large-scale cooperation initiatives; and
- (d) To facilitate the development of cross-border integration dynamics, which are sustained by local stakeholders.

3. We stress the need to put in place a new form of pragmatic border management, aimed at promoting peace, security and stability, but also at facilitating the integration process and sustainable development in Africa.

15. DECLARATION ON THE AFRICAN UNION BORDER PROGRAMME AND ITS IMPLEMENTATION MODALITIES

On the Objectives of the AU Border Programme

4. We request the Commission of the African Union to coordinate the implementation of this Programme whose overall goal is the structural prevention of conflicts and the promotion of regional and continental integration and, more specifically:

- (a) The facilitation of, and support to, delimitation and demarcation of African boundaries where such exercise has not yet taken place;
- (b) The reinforcement of the integration process, within the framework of the RECs and other large-scale cooperation initiatives;
- (c) The development, within the framework of the RECs and other regional integration initiatives, of local initiative cross-border cooperation; and
- (d) Capacity-building in the area of border management, including the development of special education and research programmes.

On the Implementation Principles of the AU Border Programme

5. We note that the implementation of the AU Border Programme will be effected at several levels – national, regional and continental, and that the responsibility of each of these levels should be determined on the basis of the principle of subsidiarity and respect of the sovereignty of States.

(a) Border delimitation and demarcation

(i) The delimitation and demarcation of boundaries depend primarily on the sovereign decision of the States. They must take the necessary steps to facilitate the process of delimitation and demarcation of African borders, including maritime boundaries, where such an exercise has not yet taken place, by respecting, as much as possible, the time limit set in the Solemn Declaration on the Conference on Security, Stability, Development and Cooperation in Africa. We encourage the States to undertake and pursue bilateral negotiations on all problems relating to the delimitation and demarcation of their borders, including those pertaining to the rights of the affected populations, with a view to finding appropriate solutions to these problems.

(ii) The Regional Economic Communities and the African Union should assist the States in mobilizing the necessary resources and expertise, including by facilitating exchange of experiences and promoting inexpensive border delimitation and demarcation practices.

(iii) The Commission of the African Union should conduct a comprehensive inventory of the state of African boundaries and coordinate the efforts of the Regional Economic Communities, and launch a large-scale initiative aimed at sensitizing the international community on the need to mobilize the required resources and any other necessary support. On their part, the former colonial powers should submit all information in their possession regarding the delimitation and demarcation of African borders.

(b) Local cross-border cooperation

(i) The local stakeholders should be the direct initiators of cross-border cooperation under the auspices of the States.

(ii) The States should, with the assistance of the African Union, facilitate local initiatives and mandate the Regional Economic Communities to implement regional support programmes for cross-border cooperation.

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(iii) The Regional Economic Communities should provide the legal framework necessary for the formalization of cross-border cooperation and establish regional funds for financing such cooperation.

(iv) The Commission of the African Union should take the necessary steps to ensure that cross-border cooperation is included in the major international initiatives launched in favour of the continent, as well as play a coordination role and facilitate the exchange of information and good practices between the Regional Economic Communities.

(c) Capacity-building

The African Union Border Programme should, on the basis of close coordination between the different levels concerned, carry out an inventory of African institutions that offer training in this domain, explore avenues for collaboration with relevant training centres outside Africa, and, on the basis of the above, design a capacity-building programme in the area of border management.

On Partnership and Resource Mobilization

6. We request the Commission of the African Union to coordinate and implement the Border Programme on the basis of an inclusive governance involving the Member States, the Regional Economic Communities, parliamentarians, locally elected representatives and civil society, as well as the European border movement, particularly the Association of European Border Regions, the United Nations and other African Union partners having experience in cross-border cooperation.

On the Initial Measures for Launching the Border Programme and the Follow-up of this Declaration

7. We request the Commission of the African Union to take the following initial measures:

(a) Launching of a Pan-African survey of borders, through a questionnaire to be sent to all Member States, in order to facilitate the delimitation and demarcation of African borders;

(b) Identification of pilot regions or initiatives for the rapid development of regional support programmes on cross-border cooperation, as well as support for the establishment of regional funds for financing local cross-border cooperation;

(c) Working out modalities for cooperation with other regions of the world to benefit from their experiences and to build the necessary partnerships;

(d) Initiating an assessment with regard to capacity-building;

(e) Initiating the preparation of a continental legal instrument on cross-border cooperation; and

(f) Launching a partnership and resource mobilization process for the implementation of the AU Border Programme.

8. We recommend to institutionalize the Conference of African Ministers in charge of Border Issues, which should be held on a regular basis.

9. We request the Chairperson of the Commission of the African Union, as soon as the present Declaration is endorsed by the Executive Council, to take the necessary steps for its implementation, including the enhancement of the capacity of the Conflict Management Division of the Peace and Security Department of the Commission, and to report regularly to the relevant organs of the African Union on the status of implementation.

16.

AFRICAN UNION CONVENTION ON CYBER SECURITY AND PERSONAL DATA PROTECTION

Adopted in Malabo, Equatorial Guinea, on 27 June 2014.

The Convention shall enter into force thirty days after the deposit of the fifteenth instrument of ratification.

Preamble

The Member States of the African Union,

Guided by the Constitutive Act of the African Union adopted in 2000,

Considering that this Convention on the Establishment of a Legal Framework for Cyber Security and Personal Data Protection embodies the existing commitments of African Union Member States at subregional, regional and international levels to build the Information Society,

Recalling that it aims at defining the objectives and broad orientations of the Information Society in Africa and strengthening existing legislation on information and communication technologies (ICTs) of Member States and the Regional Economic Communities (RECs),

Reaffirming the commitment of Member States to fundamental freedoms and human and peoples' rights contained in the declarations, conventions and other instruments adopted within the framework of the African Union and the United Nations,

Considering that the establishment of a regulatory framework on cyber security and personal data protection takes into account the requirements of respect for the rights of citizens, guaranteed under the fundamental texts of domestic law and protected by international human rights conventions and treaties, particularly the African Charter on Human and Peoples' Rights,

Mindful of the need to mobilize all public and private actors (States, local communities, private sector enterprises, civil society organizations, the media, training and research institutions, etc.) for the promotion of cyber security,

Reiterating the principles of the African Information Society Initiative and the Regional Action Plan on the Knowledge Economy,

Aware that it is meant to regulate a particularly evolving technological domain, and with a view to meeting the high expectations of many actors with often divergent interests, this Convention sets forth the security rules essential for establishing a credible digital space for electronic transactions, personal data protection and combating cybercrime,

Bearing in mind that the major obstacles to the development of electronic commerce in Africa are linked to security issues, particularly:

- (a) The gaps affecting the regulation of legal recognition of data communications and electronic signature,
- (b) The absence of specific legal rules that protect consumers, intellectual property rights, personal data and information systems,
- (c) The absence of e-services and telecommuting legislation,
- (d) The application of electronic techniques to commercial and administrative acts,

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- (e) The probative elements introduced by digital techniques (timestamping, certification, etc.),
- (f) The rules applicable to cryptology devices and services,
- (g) The oversight of online advertising,
- (h) The absence of appropriate fiscal and customs legislation for electronic commerce,

Convinced that the aforementioned observations justify the call for the establishment of an appropriate normative framework consistent with the African legal, cultural, economic and social environment; and that the objective of this Convention is therefore to provide the necessary security and legal framework for the emergence of the knowledge economy in Africa,

Stressing that at another level, the protection of personal data and private life constitutes a major challenge to the Information Society for governments as well as other stakeholders; and that such protection requires a balance between the use of information and communication technologies and the protection of the privacy of citizens in their daily or professional lives, while guaranteeing the free flow of information,

Concerned by the urgent need to establish a mechanism to address the dangers and risks deriving from the use of electronic data and individual records, with a view to respecting privacy and freedoms while enhancing the promotion and development of ICTs in Member States of the African Union,

Considering that the goal of this Convention is to address the need for harmonized legislation in the area of cyber security in Member States of the African Union, and to establish in each State Party a mechanism capable of combating violations of privacy that may be generated by personal data collection, processing, transmission, storage and use, that by proposing a type of institutional basis, the Convention guarantees that whatever form of processing is used shall respect the basic freedoms and rights of individuals while also taking into account the prerogatives of States, the rights of local communities and the interests of businesses, and take on board internationally recognized best practices,

Considering that the protection under criminal law of the system of values of the Information Society is a necessity prompted by security considerations; that is reflected primarily by the need for appropriate criminal legislation in the fight against cybercrime, in general, and money laundering, in particular,

Aware of the need, given the current state of cybercrime which constitutes a real threat to the security of computer networks and the development of the Information Society in Africa, to define broad guidelines of the strategy for the repression of cybercrime in Member States of the African Union, taking into account their existing commitments at subregional, regional and international levels,

Considering that this Convention seeks, in terms of substantive criminal law, to modernize instruments for the repression of cybercrime by formulating a policy for the adoption of new offences specific to ICTs, and aligning certain offences, sanctions and criminal liability systems in force in Member States with the ICT environment,

Considering further that in terms of criminal procedural law, the Convention defines the framework for the adaptation of standard proceedings concerning information and telecommunication technologies and spells out the conditions for instituting proceedings specific to cybercrime,

Recalling Decision Assembly/AU/Decl.1 (XIV) of the Fourteenth Ordinary Session of the Assembly of Heads of State and Government of the African Union on Information and Communication Technologies in Africa: Challenges and Prospects for Development, held in Addis Ababa, Ethiopia, from 31 January to 2 February 2010,

Taking into account the Oliver Tambo Declaration adopted by the Conference of African Ministers in charge of Information and Communication Technologies held in Johannesburg, South Africa, on 5 November 2009,

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Recalling the provisions of the Abidjan Declaration adopted on 22 February 2012 and the Addis Ababa Declaration adopted on 22 June 2012 on the Harmonization of Cyber Legislation in Africa,

Have agreed as follows:

Article 1 Definitions

For the purposes of this Convention:

"AU" means the African Union;

"Child pornography" means any visual depiction, including any photograph, film, video, image, whether made or produced by electronic, mechanical, or other means, of sexually explicit conduct, where:

- (a) The production of such visual depiction involves a minor;
- (b) Such visual depiction is a digital image, computer image, or computer-generated image where a minor is engaging in sexually explicit conduct or when images of their sexual organs are produced or used for primarily sexual purposes and exploited with or without the child's knowledge;
- (c) Such visual depiction has been created, adapted, or modified to appear that a minor is engaging in sexually explicit conduct;

"Code of conduct" means a set of rules formulated by the processing official with a view to establishing the correct use of computer resources, networks and the electronic communication of the structure concerned, and approved by the protection authority;

"Commission" means the African Union Commission;

"Communication with the public by electronic means" refers to any provision to the public or segments of the public, of signs, signals, written material, image, audio or any messages of any type, through an electronic or magnetic communication process;

"Computer system" means an electronic, magnetic, optical, electrochemical, or other high-speed data processing device or a group of interconnected or related devices performing logical, arithmetic, or storage functions, and includes any data storage facility or communications facility directly related to or operating in conjunction with such device or devices;

"Computerized data" means any representation of facts, information or concepts in a form suitable for processing in a computer system;

"Consent of data subject" means any manifestation of express, unequivocal, free, specific and informed will by which the data subject or his/her legal, judicial or treaty representative accepts that his/her personal data be subjected to manual or electronic processing;

"The (or this) Convention" means the African Union Convention on Cyber Security and Personal Data Protection;

"Critical cyber/ICT infrastructure" means the cyber infrastructure that is essential to vital services for public safety, economic stability, national security, international stability and for the sustainability and restoration of critical cyberspace;

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"Cryptology activity" means all such activity that seeks to produce, use, import, export or market cryptology tools;

"Cryptology" means the science of protecting and securing information particularly for the purpose of ensuring confidentiality, authentication, integrity and non-repudiation;

"Cryptology tools" means the range of scientific and technical tools (equipment or software) which allows for enciphering and/or deciphering;

"Cryptology service" refers to any operation that seeks to implement cryptology facilities on behalf of oneself or another person;

"Cryptology services provider" means any natural or legal person who provides cryptology services;

"Damage" means any impairment to the integrity or availability of data, a programme, a system, or information;

"Data controller" means any natural or legal person, public or private, any other organization or association which alone or jointly with others, decides to collect and process personal data and determines the purposes;

"Data subject" means any natural person that is the subject of personal data processing;

"Direct marketing" means the dispatch of any message that seeks to directly or indirectly promote the goods and services or the image of a person selling such goods or providing such services; it also refers to any solicitation carried out through message dispatch, regardless of the message base or nature, especially messages of a commercial, political or charitable nature, designed to promote, directly or indirectly, goods and services or the image of a person selling the goods or providing the services;

"Double criminality (dual criminality)" means a crime punished in both the country where a suspect is being held and the country asking for the suspect to be handed over or transferred;

"Electronic communication" means any transmission of signs, signals, written material, pictures, sounds or messages of whatsoever nature, to the public or a section of the public by electronic or magnetic means of communication;

"Electronic commerce (e-commerce)" means the act of offering, buying, or providing goods and services via computer systems and telecommunications networks such as the Internet or any other network using electronic, optical or similar media for distance information exchange;

"Electronic mail" means any message in the form of text, voice, sound or image sent by a public communication network, and stored in a server of the network or in a terminal facility belonging to the addressee until it is retrieved;

"Electronic signature" means data in electronic form which are attached to or logically associated with other electronic data and which serve as a method of authentication;

"Electronic signature verification device" means a set of software or hardware components allowing the verification of electronic signature;

"Electronic signature creation device" means a set of software or hardware elements allowing for the creation of an electronic signature(s);

"Encryption" means all techniques consisting in the processing of digital data in an unintelligible format using cryptology tools;

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"Exceeds authorized access" means to access a computer with authorization and to use such access to obtain or alter information in the computer that the accessor is not entitled so to obtain or alter;

"Health data" means all information relating to the physical or mental state of the data subject, including the aforementioned genetic data;

"Indirect electronic communication" means any text, voice, sound or image message sent over an electronic communications network which is stored in the network or in the recipient's terminal equipment until it is collected by the recipient;

"Information" means any element of knowledge likely to be represented with the aid of devices and to be used, conserved, processed or communicated. Information may be expressed in written, visual, audio, digital and other forms;

"Interconnection of personal data" means any connection mechanism that harmonizes processed data designed for a set goal with other data processed for goals that are identical or otherwise, or interlinked by one or several processing official(s);

"Means of electronic payment" refers to means by which the holder is able to make electronic payment transactions online;

"Member State or Member States" means Member State(s) of the African Union;

"Child or minor" means every human being below the age of eighteen (18) years in terms of the African Charter on the Rights and Welfare of the Child and the United Nations Convention on the Rights of the Child, respectively;

"Personal data" means any information relating to an identified or identifiable natural person by which this person can be identified, directly or indirectly in particular by reference to an identification number or to one or more factors specific to his/her physical, physiological, mental, economic, cultural or social identity;

"Personal data file" means all structured package of data accessible in accordance with set criteria, regardless of whether or not such data are centralized, decentralized or distributed functionally or geographically;

"Processing of personal data" means any operation or set of operations which is performed upon personal data, whether or not by automatic means such as the collection, recording, organization, storage, adaptation, alteration, retrieval, backup, copy, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination and locking, encryption, erasure or destruction of personal data;

"Racism and xenophobia in information and telecommunication technologies" means any written material, picture or any other representation of ideas or theories which advocates or encourages or incites hatred, discrimination or violence against any person or group of persons for reasons based on race, colour, ancestry, national or ethnic origin or religion;

"Recipient of processed personal data" means any person entitled to receive communication of such data other than the data subject, the data controller, the subcontractor and persons who, for reasons of their functions, have the responsibility to process the data;

"Secret conventions" means unpublished codes required to implement a cryptology facility or service for the purpose of enciphering or deciphering operations;

"Sensitive data" means all personal data relating to religious, philosophical, political and trade union opinions and activities, as well as to sex life or race, health, social measures, legal proceedings and penal or administrative sanctions;

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"State Party or States Parties" means Member State(s), which has (have) ratified or acceded to the present Convention;

Subcontractor" means any natural or legal person, public or private, any other organization or association that processes data on behalf of the data controller;

"Third party" means a natural or legal person, public authority, agency or body, other than the data subject, the controller, the processor and the persons who, under the direct authority of the controller or the processor are authorized to process the data.

Chapter I Electronic Transactions

Section I Electronic Commerce

Article 2 Scope of Application of Electronic Commerce

1. States Parties shall ensure that e-commerce activities are exercised freely in their territories except:
 - (a) Gambling, even in the form of legally authorized betting and lotteries;
 - (b) Legal representation and assistance activities;
 - (c) Activities exercised by notaries or equivalent authorities in application of extant texts.
2. Without prejudice to other information obligations defined by extant legislative and regulatory texts in African Union Member States, States Parties shall ensure that any person exercising e-commerce activities shall provide to those for whom the goods and services are meant, easy, direct and uninterrupted access using non-proprietary standards with regard to the following information:
 - (a) Where a physical person is involved, the provider shall indicate his/her name and where it is a legal person, its corporate name, its capital, its registration number in the register of companies or associations;
 - (b) Full address of the place of establishment, electronic mail address and telephone number;
 - (c) Where the person is subject to business registration formalities or registration in the national directory of businesses and associations, the registration number, the share capital and corporate headquarters;
 - (d) Where the person is subject to taxes, the tax identification number;
 - (e) Where his/her activity is subject to a licensing regime, the name and address of the issuing authority, and the reference of the authorization;
 - (f) Where the person is a member of a regulated profession, the applicable professional rules, his/her professional title, the African Union State Party in which he/she was granted such authorization, as well as the name of the order or professional body with which he/she is registered.
3. Any natural or legal person involved in e-commerce activities, even in the absence of contractual offers, provided the person has posted a price for the said activities, shall clearly and unambiguously indicate such a price, particularly where it includes taxes, delivery and other charges.

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Article 3

Contractual Liability of the Provider of Goods and Services by Electronic Means

E-commerce activities are subject to the law of the State Party in whose territory the person exercising such activity is established, subject to the intention expressed in common by the said person and the recipient of the goods or services.

Article 4

Advertising by Electronic Means

1. Without prejudice to Article 3 any advertising action, irrespective of its form, accessible through an online communication service, shall be clearly identified as such. It shall clearly identify the individual or corporate body on behalf of whom it is undertaken.

2. The conditions governing the possibility of promotional offers as well as the conditions for participating in promotional competitions or games where such offers, competitions or games are electronically disseminated, shall be clearly spelled out and easily accessible.

3. States Parties shall prohibit direct marketing through any kind of indirect communication using, in any form, the particulars of an individual who has not given prior consent to receiving the said direct marketing through such means.

4. The provisions of Article 4, paragraph 2 above notwithstanding, direct marketing by electronic mail shall be permissible where:

- (a) The particulars of the addressee have been obtained directly from him/her;
- (b) The recipient has given consent to be contacted by the marketing partners;
- (c) The direct marketing concerns similar products or services provided by the same individual or corporate body.

5. States Parties shall prohibit the transmission, for the purposes of direct marketing, of messages by means of any form of indirect electronic communication without indicating valid particulars to which the addressee may send a request to stop such communications without incurring charges other than those arising from the transmission of such a request.

6. States Parties undertake to prohibit concealment of the identity of the person on whose behalf the advertisement accessed by an online communication service is issued.

Section II

Contractual Obligations in Electronic Form

Article 5

Electronic Contracts

1. The information requested for the purpose of concluding a contract or information available during contract execution may be transmitted by electronic means if the recipients have agreed to the use of that means. The use of electronic communications is presumed to be acceptable unless the recipient has previously expressly stated a preference for an alternative means of communication.

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2. A service provider or supplier, who offers goods and services in a professional capacity by electronic means, shall make available the applicable contractual conditions directly or indirectly, in a way that facilitates the conservation and reproduction of such conditions according to national legislation.
3. For the contract to be validly concluded, the offeree shall have had the opportunity to verify details of his/her order, particularly the price thereof, prior to confirming the said order and signifying his/her acceptance.
4. The person offering his/her goods and services shall acknowledge receipt of the order so addressed to him/her without unjustified delay and by electronic means. The order, the confirmation of acceptance of an offer and the acknowledgment of receipt are deemed to be received when the parties to whom they are addressed are able to access to them.
5. Exemptions may be made to the provisions of Article 5, paragraphs 3 and 4, of this Convention for agreements concluded between businesses or professionals (B2B).
6. (a) Any natural or legal person engaged in the activity defined in the first subparagraph of Article 2, paragraph 1, of this Convention shall, ipso facto, be accountable to his/her contractual partner for the proper performance of the obligations arising from the contract, irrespective of whether such obligations are to be carried out by himself/herself or by other service providers, without prejudice to his/her right to claim against the said service providers.

(b) However, the natural or legal person may be released from all or part of the liability by proving that the non-fulfilment or poor performance of the contract is due either to the contractual partner or a case of force majeure.

Article 6 Writing in Electronic Form

1. Without prejudice to existing domestic legislative provisions in the State Party, no person shall be compelled to take legal action by electronic means.

(a) Where a written document shall be required for the validity of a legal act, each State Party shall establish the legal conditions for functional equivalence between electronic communications and paper-based documents, when the internal regulations require a written document for the validity of a legal act.

(b) Where a paper document has been subject to specific conditions as to legibility or presentation, the written document in electronic form shall be subject to the same conditions.

(c) The requirement to transmit several copies of a written document shall be deemed to have been met in electronic form, where the said written document can be reproduced in material form by the addressee.
2. The provisions of Article 6, paragraph 2, of this Convention do not apply to the following:

(a) Signed private deeds relating to family law and law of succession; and

(b) Acts under private signature relating to personal or real guarantees in accordance with domestic legislation, whether made under civil or commercial law, unless they are entered into by a person for the purposes of his/her profession.
3. The delivery of a written document in electronic form shall be effective when the addressee takes due note and acknowledges receipt thereof.

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4. Given their tax functions, invoices must be in writing to ensure the readability, integrity and sustainability of the content. The authenticity of the origin must also be guaranteed. Among the methods that may be implemented to fulfil the tax purposes of the invoice and to ensure that its functions have been met is the establishment of management controls which create a reliable audit trail between an invoice and a supply of goods or services. In addition to the type of controls described in Section I, the following methods are examples of technologies that ensure the authenticity of origin and integrity of content of an electronic invoice:

- (a) A qualified electronic signature as defined in Article 1;
- (b) Electronic data interchange (EDI), understood as the electronic transfer, from computer to computer, of commercial and administrative data in the form of an EDI message structured according to an agreed standard, provided that the agreement to the exchange provides for the use of procedures guaranteeing the authenticity of the origin and data integrity.

5. A written document in electronic form is admissible in evidence in the same way as a paper-based document, and shall have the same force of law, provided that the person from whom it originates can be duly identified and that it has been made out and retained in a manner that guarantees its integrity.

Section III Security of Electronic Transactions

Article 7 Ensuring the Security of Electronic Transactions

1. (a) The supplier of goods shall allow his/her clients to make payments using electronic payment methods approved by the State according to the regulations in force in each State Party.
(b) The supplier of goods or provider of services by electronic means who claims the discharge of an obligation must prove its existence or otherwise prove that the obligation was discharged or did not exist.
2. Where the legislative provisions of States Parties have not laid down other principles, and where there is no valid agreement between the parties, the judge shall resolve proof-related conflicts by determining by all possible means the most plausible claim regardless of the message base employed.
3. (a) A copy or any other reproduction of contracts signed by electronic means shall have the same probative value as the contract itself, where the said copy has been certified as a true copy of the said act by bodies duly accredited by an authority of the State Party.
(b) Certification will result in the issuance, where necessary, of a certificate of conformity.
4. (a) An electronic signature created by a secure device which the signatory is able to keep under his exclusive control and is appended to a digital certificate shall be admissible as a signature on the same terms as a handwritten signature.
(b) The reliability of the procedure is presumed, unless otherwise proven, if the electronic signature is generated by a secure signature creation device, the integrity of the act is guaranteed and the identification of the signatory is ensured.

Chapter II Personal Data Protection

Section I Personal Data Protection

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Article 8

Objective of This Convention with Respect to Personal Data

1. Each State Party shall commit itself to establishing a legal framework aimed at strengthening fundamental rights and public freedoms, particularly the protection of physical data, and punish any violation of privacy without prejudice to the principle of free flow of personal data.
2. The mechanism so established shall ensure that any form of data processing respects the fundamental freedoms and rights of natural persons while recognizing the prerogatives of the State, the rights of local communities and the purposes for which the businesses were established.

Article 9

Scope of Application of the Convention

1. The following actions shall be subject to this Convention:
 - (a) Any collection, processing, transmission, storage or use of personal data by a natural person, the State, local communities, and public or private corporate bodies;
 - (b) Any automated or non-automated processing of data contained in or meant to be part of a file, with the exception of the processing defined in Article 9, paragraph 2, of this Convention;
 - (c) Any processing of data undertaken in the territory of a State Party;
 - (d) Any processing of data relating to public security, defence, research, criminal prosecution or State security, subject to the exceptions defined by specific provisions of other extant laws.
2. This Convention shall not be applicable to:
 - (a) Data processing undertaken by a natural person within the exclusive context of his/her personal or household activities provided, however, that such data are not for systematic communication to third parties or for dissemination;
 - (b) Temporary copies produced within the context of technical activities for transmission and access to a digital network with a view to automatic, intermediate and temporary storage of data and for the sole purpose of offering other beneficiaries of the service the best possible access to the information so transmitted.

Article 10

Preliminary Personal Data Processing Formalities

1. The following actions shall be exempted from the preliminary formalities:
 - (a) The processing mentioned in Article 9, paragraph 2, of this Convention;
 - (b) Processing undertaken with the sole objective of maintaining a register meant exclusively for private use;
 - (c) Processing undertaken by a non-profit making association or body, with a religious, philosophical, political or trade union aim, provided that the data are consistent with the objective of the said association or body structure, and relate solely to its members, and that the data are not disclosed to a third party.
2. With the exception of the cases defined in Article 10, paragraphs 1, 4 and 5, of this Convention, personal data processing shall be subject to a declaration before the protection authority.

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3. With regard to the most common categories of personal data processing which are not likely to constitute a breach of privacy or individual freedoms, the protection authority may establish and publish standards with a view to simplifying or introducing exemptions from the obligation to make a declaration.

4. The following actions shall be undertaken after authorization by the national protection authority:

- (a) Processing of personal data involving genetic information and health research;
- (b) Processing of personal data involving information on offences, convictions or security measures;
- (c) Processing of personal data for the purpose of interconnection of files as defined in Article 15 of this Convention, data processing involving national identification number or any other identifier of the same type;
- (d) Processing of personal data involving biometric data;
- (e) Processing of personal data of public interest, particularly for historical, statistical or scientific purposes.

5. Personal data processing undertaken on behalf of the Government, a public institution, a local community, or a private corporate body operating a public service shall be in accordance with a legislative or regulatory act enacted after an informed advice of the protection authority. Such data processing is related to:

- (a) State security, defence or public security;
- (b) Prevention, investigation, detection or prosecution of criminal offences, or execution of criminal convictions or security measures;
- (c) Population survey;
- (d) Personal data directly or indirectly revealing racial, ethnic or regional origin, affiliation, political, philosophical or religious beliefs or trade union membership of persons, or data concerning health or sex life.

6. Requests for opinion, declarations and applications for authorization shall indicate:

- (a) The identity and address of the data controller or, where he/she is not established in the territory of a Member State of the African Union, the identity and address of his/her duly mandated representative;
- (b) The purpose(s) of the processing and a general description of its functions;
- (c) The interconnections envisaged or all other forms of harmonization with other processing activities;
- (d) The personal data processed, their origin and the category of persons involved in the processing;
- (e) Period of conservation of the processed data;
- (f) The service or services responsible for carrying out the processing as well as the category of persons who, due to their functions or service requirements, have direct access to registered data;
- (g) The recipients authorized to receive data communication;
- (h) The function of the person or the service before which the right of access is to be exercised;
- (i) Measures taken to ensure the security of processing actions and of data;

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(j) Indication regarding use of a subcontractor;

(k) Envisaged transfer of personal data to a third country that is not a Member of the African Union, subject to reciprocity.

7. The national protection authority shall take a decision within a set time frame starting from the date of receipt of the request for opinion or authorization. Such time frame may, however, be extended or not on the basis of an informed decision of the national protection authority.

8. The notification, the declaration or request for authorization may be addressed to the national protection authority by electronic means or by post.

9. The national protection authority may be approached by any person acting on his/her own, or through a lawyer or any other duly mandated natural or legal person.

Section II Institutional Framework for the Protection of Personal Data

Article 11 Status, Composition and Organization of National Personal Data Protection Authorities

1. (a) Each State Party shall establish an authority in charge of protecting personal data.

(b) The national protection authority shall be an independent administrative authority with the task of ensuring that the processing of personal data is conducted in accordance with the provisions of this Convention.

2. The national protection authority shall inform the concerned persons and the processing officials of their rights and obligations.

3. Without prejudice to Article 11, paragraph 6, each State Party shall determine the composition of the national personal data protection authority.

4. Sworn officials may be invited to participate in audit missions in accordance with extant provisions in States Parties.

5. (a) Members of the national protection authority shall be subject to the obligation of professional secrecy in accordance with the extant texts of each State Party.

(b) Each national protection authority shall formulate rules of procedure containing, inter alia, rules governing deliberations, processing and presentation of cases.

6. Membership of the national protection authority shall be incompatible with membership of Government, carrying out the functions of business executive and ownership of shares in businesses in the information and communication technologies sector.

7. (a) Without prejudice to national legislation, members of the national protection authority shall enjoy full immunity for opinions expressed in the pursuit or in connection with the pursuit of their duties.

(b) Members of the national protection authority shall not receive instructions from any other authority in the performance of their duties.

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8. States Parties shall undertake to provide the national protection authority with the human, technical and financial resources necessary to accomplish their mission.

Article 12

Duties and Powers of National Protection Authorities

1. The national protection authority shall ensure that the processing of personal data is consistent with the provisions of this Convention within Member States of the African Union.

2. The national protection authorities shall ensure that information and communication technologies do not constitute a threat to public freedoms and the private life of citizens. To this end, they are responsible for:

- (a) Responding to every request for an opinion regarding personal data processing;
- (b) Informing the persons concerned and data controllers of their rights and obligations;
- (c) In a number of cases, authorizing the processing of data files, particularly sensitive files;
- (d) Receiving the preliminary formalities for personal data processing;
- (e) Entertaining claims, petitions and complaints regarding the processing of personal data and informing the authors of the results thereof;
- (f) Speedily informing the judicial authority of certain types of offences that have come to their attention;
- (g) Undertaking the audit of all processed personal data, through its officials or sworn officials;
- (h) Imposing administrative and monetary sanctions on data controllers;
- (i) Updating a processed personal data directory that is accessible to the public;
- (j) Advising persons and bodies engaged in personal data processing or in carrying out tests and experiments likely to result in data processing;
- (k) Authorizing transborder transfer of personal data;
- (l) Making suggestions that could simplify and improve legislative and regulatory frameworks for data processing;
- (m) Establishing mechanisms for cooperation with the personal data protection authorities of third countries;
- (n) Participating in international negotiations on personal data protection;
- (o) Preparing an activity report in accordance with a well-defined periodicity, for submission to the appropriate authorities of the State Party.

3. The national protection authorities may decide on the following measures:

- (a) Issuance of warning to any data controller that fails to comply with the obligations resulting from this Convention;
- (b) An official warning letter to stop such breaches within a time frame set by the authority.

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4. Where the data controller fails to comply with the official warning letter addressed to him/her, the national protection authority may impose the following sanctions after adversary proceedings:

- (a) Temporary withdrawal of the authorization granted;
- (b) Permanent withdrawal of the authorization;
- (c) Monetary fine.

5. In cases of emergency, where the processing or use of personal data results in violation of fundamental rights and freedoms, the national protection authority may, after adversary proceedings, decide as follows:

- (a) Discontinuation of data processing;
- (b) Blocking of some of the personal data processed;
- (c) Temporary or permanent prohibition of any processing at variance with the provisions of this Convention.

6. The sanctions imposed and decisions taken by national protection authorities are subject to appeal.

Section III

Obligations Relating to Conditions Governing Personal Data Processing

Article 13

Basic Principles Governing the Processing of Personal Data

Principle 1

Principle of Consent and Legitimacy of Personal Data Processing

Processing of personal data shall be deemed to be legitimate where the data subject has given his/her consent. This requirement of consent may, however, be waived where the processing is necessary for:

- (a) Compliance with a legal obligation to which the controller is subject;
- (b) Performance of a task carried out in the public interest or in the exercise of official authority vested in the controller or in a third party to whom the data are disclosed;
- (c) Performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract;
- (d) Protect the vital interests or fundamental rights and freedoms of the data subject.

Principle 2

Principle of Lawfulness and Fairness of Personal Data Processing

The collection, recording, processing, storage and transmission of personal data shall be undertaken lawfully, fairly and non-fraudulently.

Principle 3

Principle of Purpose, Relevance and Storage of Processed Personal Data

- (a) Data collection shall be undertaken for specific, explicit and legitimate purposes, and not further processed in a way incompatible with those purposes.

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- (b) Data collection shall be adequate, relevant and not excessive in relation to the purposes for which they are collected and further processed.
- (c) Data shall be kept for no longer than is necessary for the purposes for which the data were collected or further processed.
- (d) Beyond the required period, data may be stored only for the specific needs of data processing undertaken for historical, statistical or research purposes under the law.

Principle 4

Principle of Accuracy of Personal Data

Data collected shall be accurate and, where necessary, kept up to date. Every reasonable step must be taken to ensure that data which are inaccurate or incomplete, having regard to the purposes for which they were collected or for which they are further processed, are erased or rectified.

Principle 5

Principle of Transparency of Personal Data Processing

The principle of transparency requires mandatory disclosure of information on personal data by the data controller.

Principle 6

Principle of Confidentiality and Security of Personal Data Processing

- (a) Personal data shall be processed confidentially and protected, in particular where the processing involves transmission of the data over a network.
- (b) Where processing is undertaken on behalf of a controller, the latter shall choose a processor providing sufficient guarantees. It is incumbent on the controller and processor to ensure compliance with the security measures defined in this Convention.

Article 14

Specific Principles for the Processing of Sensitive Data

1. States Parties shall undertake to prohibit any data collection and processing revealing racial, ethnic and regional origin, parental filiation, political opinions, religious or philosophical beliefs, trade union membership, sex life and genetic information or, more generally, data on the state of health of the data subject.
2. The prohibitions set forth in Article 14, paragraph 1, shall not apply to the following categories where:
 - (a) Processing relates to data which are manifestly made public by the data subject;
 - (b) The data subject has given his/her written consent, by any means, to the processing and in conformity with extant texts;
 - (c) Processing is necessary to protect the vital interests of the data subject or of another person where the data subject is physically or legally incapable of giving his/her consent;
 - (d) Processing, particularly of genetic data, is required for the establishment, exercise or defence of legal claims;

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- (e) A judicial procedure or criminal investigation has been instituted;
- (f) Processing is necessary in the public interest, especially for historical, statistical or scientific purposes;
- (g) Processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract;
- (h) Processing is necessary for compliance with a legal or regulatory obligation to which the controller is subject;
- (i) Processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority or assigned by a public authority vested in the controller or in a third party to whom data are disclosed;
- (j) Processing is carried out in the course of the legitimate activities of a foundation, association or any other non-profit making body with a political, philosophical, religious, cooperative or trade union aim, and on condition that the processing relates solely to the members of the body or to persons who have regular contact with it in connection with its purposes and that the data are not disclosed to a third party without the consent of the data subjects.

3. Personal data processing for journalistic purposes or for the purpose of research or artistic or literary expression shall be acceptable where the processing is solely for literary and artistic expression or for professional exercise of journalistic or research activity, in accordance with the code of conduct of these professions.

4. The provisions of this Convention shall not preclude the application of national legislation with regard to the print media or the audiovisual sector, as well as the provisions of the criminal code which provide for the conditions for exercise of the right of reply, and which prevent, limit, compensate for and, where necessary, repress breaches of privacy and damage to personal reputation.

5. A person shall not be subject to a decision which produces legal effects concerning him/her or significantly affects him/her to a substantial degree, and which is based solely on automated processing of data intended to evaluate certain personal aspects relating to him/her.

6. (a) The data controller shall not transfer personal data to a non-member State of the African Union unless such a State ensures an adequate level of protection of the privacy, freedoms and fundamental rights of persons whose data are being or are likely to be processed.

(b) The previous prohibition is not applicable where, before any personal data is transferred to the third country, the data controller shall request authorization for such transfer from the national protection authority.

Article 15

Interconnection of Personal Data Files

The interconnection of files laid down in Article 10, paragraph 4, of this Convention should help to achieve the legal or statutory objectives which are of legitimate interest to data controllers. This should not lead to discrimination or limit data subjects' rights, freedoms and guarantees, should be subject to appropriate security measures, and also take into account the principle of relevance of the data which are to be interconnected.

Section IV

The Data Subjects' Rights

Article 16

Right to Information

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The data controller shall provide the natural person whose data are to be processed with the following information, no later than the time when the data are collected, and regardless of the means and facilities used, with the following information:

- (a) His/her identity and his/her representative, if any;
- (b) The purposes of the processing for which the data are intended;
- (c) Categories of data involved;
- (d) Recipient(s) to which the data might be disclosed;
- (e) The capacity to request to be removed from the file;
- (f) Existence of the right of access to and the right to rectify the data concerning him/her;
- (g) Period for which data are stored;
- (h) Proposed transfers of data to third countries.

Article 17 Right of Access

Any natural person whose personal data are to be processed may request from the controller, in the form of questions, the following:

- (a) Such information as would enable him/her to evaluate and object to the processing;
- (b) Confirmation as to whether or not data relating to him/her are being processed;
- (c) Communication to him/her of the personal data undergoing processing and any available information as to their source;
- (d) Information as to the purpose of the processing, the categories of personal data concerned, and the recipients or categories of recipients to whom the data are disclosed.

Article 18 Right to Object

Any natural person has the right to object, on legitimate grounds, to the processing of the data relating to him/her.

He/she shall have the right to be informed before personal data relating to him/her are disclosed for the first time to third parties or used on their behalf for the purposes of marketing, and to be expressly offered the right to object, free of charge, to such disclosures or uses.

Article 19 Right of Rectification or Erasure

Any natural person may demand that the data controller rectify, complete, update, block or erase, as the case may be, the personal data concerning him/her where such data are inaccurate, incomplete, equivocal or out of date, or whose collection, use, disclosure or storage are prohibited.

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Section V Obligations of the Personal Data Controller

Article 20 Confidentiality Obligations

Processing of personal data shall be confidential. Such processing shall be undertaken solely by persons operating under the authority of a data controller and only on instructions from the controller.

Article 21 Security Obligations

The data controller must take all appropriate precautions, according to the nature of the data, and in particular, to prevent such data from being altered or destroyed, or accessed by unauthorized third parties.

Article 22 Storage Obligations

Personal data shall be kept for no longer than is necessary for the purposes for which the data were collected or processed.

Article 23 Sustainability Obligations

(a) The data controller shall take all appropriate measures to ensure that processed personal data can be utilized regardless of the technical device employed in the process.

(b) The processing official shall, in particular, ensure that technological changes do not constitute an obstacle to the said utilization.

Chapter III Promoting Cyber Security and Combating Cybercrime

Section I Cyber Security Measures to Be Taken at the National Level

Article 24 National Cyber Security Framework

1. National policy

Each State Party shall undertake to develop, in collaboration with stakeholders, a national cyber security policy which recognizes the importance of the critical information infrastructure (CII) for the nation, identifies the risks facing the nation in using the all-hazards approach and outlines how the objectives of such policy are to be achieved.

2. National strategy

States Parties shall adopt the strategies they deem appropriate and adequate to implement the national cyber security policy, particularly in the area of legislative reform and development, sensitization and capacity-building, public-private partnership, and international cooperation, among other things. Such strategies shall define organizational structures, set objectives and time frames for successful implementation of the cyber security policy and lay the foundation for effective management of cyber security incidents and international cooperation.

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Article 25 Legal Measures

1. Legislation against cybercrime

Each State Party shall adopt such legislative and/or regulatory measures as it deems effective by considering as substantive criminal offences acts which affect the confidentiality, integrity, availability and survival of information and communication technology systems, the data they process and the underlying network infrastructure, as well as effective procedural measures to pursue and prosecute offenders. States Parties shall take into consideration the choice of language that is used in international best practices.

2. National regulatory authorities

Each State Party shall adopt such legislative and/or regulatory measures as it deems necessary to confer specific responsibility on institutions, either newly established or pre-existing, as well as on the designated officials of the said institutions, with a view to conferring on them a statutory authority and legal capacity to act in all aspects of cyber security application, including but not limited to response to cyber security incidents, and coordination and cooperation in the field of restorative justice, forensic investigations, prosecution, etc.

3. Rights of citizens

In adopting legal measures in the area of cyber security and establishing the framework for implementation thereof, each State Party shall ensure that the measures so adopted will not infringe on the rights of citizens guaranteed under the national constitution and internal laws, and protected by international conventions, particularly the African Charter on Human and Peoples' Rights, and other basic rights such as freedom of expression, the right to privacy and the right to a fair hearing, among others.

4. Protection of critical infrastructure

Each State Party shall adopt such legislative and/or regulatory measures as they deem necessary to identify the sectors regarded as sensitive for their national security and well-being of the economy, as well as the information and communication technologies systems designed to function in these sectors as elements of critical information infrastructure; and, in this regard, proposing more severe sanctions for criminal activities on ICT systems in these sectors, as well as measures to improve vigilance, security and management.

Article 26 National Cyber Security System

1. Culture of cyber security

(a) Each State Party undertakes to promote the culture of cyber security among all stakeholders, namely, governments, enterprises and the civil society, which develop, own, manage, operationalize and use information systems and networks. The culture of cyber security should lay emphasis on security in the development of information systems and networks, and on the adoption of new ways of thinking and behaving when using information systems as well as during communication or transactions across networks.

(b) As part of the promotion of the culture of cyber security, States Parties may adopt the following measures: establish a cyber security plan for the systems run by their governments; elaborate and implement programmes and initiatives for sensitization on security for systems and networks users; encourage the development of a cyber security culture in enterprises; foster the involvement of the civil society; launch a comprehensive and detailed national sensitization programme for Internet users, small business, schools and children.

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2. Role of Governments

Each State Party shall undertake to provide leadership for the development of the cyber security culture within its borders. Member States undertake to sensitize, provide education and training, and disseminate information to the public.

3. Public-Private Partnership

Each State Party shall develop public-private partnership as a model to engage industry, the civil society, and academia in the promotion and enhancement of a culture of cyber security.

4. Education and training

(a) Each State Party shall adopt measures to develop capacity-building with a view to offering training which covers all areas of cyber security to different stakeholders, and setting standards for the private sector.

(b) States Parties undertake to promote technical education for information and communication technology professionals, within and outside government bodies, through certification and standardization of training; categorization of professional qualifications as well as development and needs-based distribution of educational material.

Article 27

National Cyber Security Monitoring Structures

1. Cyber security governance

(a) Each State Party shall adopt the necessary measures to establish an appropriate institutional mechanism responsible for cyber security governance.

(b) The measures adopted as per paragraph 1 of this article shall establish strong leadership and commitment in the different aspects of cyber security institutions and relevant professional bodies of the State Party. To this end, States Parties shall take the necessary measures to:

(i) Establish clear accountability in matters of cyber security at all levels of Government by defining the roles and responsibilities in precise terms;

(ii) Express a clear, public and transparent commitment to cyber security;

(iii) Encourage the private sector and solicit its commitment and participation in government-led initiatives to promote cyber security.

(c) Cyber security governance should be established within a national framework that can respond to the perceived challenges and to all issues relating to information security at the national level in as many areas of cyber security as possible.

2. Institutional framework

Each State Party shall adopt such measures as it deems necessary in order to establish appropriate institutions to combat cybercrime, ensure monitoring and a response to incidents and alerts, national and cross-border coordination of cyber security problems, as well as global cooperation.

Article 28

16. AFRICAN UNION CONVENTION ON CYBER SECURITY AND PERSONAL DATA PROTECTION

International Cooperation

1. Harmonization

States Parties shall ensure that the legislative measures and/or regulations adopted to fight against cybercrime will strengthen the possibility of regional harmonization of these measures and respect the principle of double criminal liability.

2. Mutual legal assistance

States Parties that do not have agreements on mutual assistance in cybercrime shall undertake to encourage the signing of agreements on mutual legal assistance in conformity with the principle of double criminal liability, while promoting the exchange of information as well as the efficient sharing of data between the organizations of States Parties on a bilateral and multilateral basis.

3. Exchange of information

States Parties shall encourage the establishment of institutions that exchange information on cyberthreats and vulnerability assessment such as the Computer Emergency Response Team (CERT) or the Computer Security Incident Response Teams (CSIRTs).

4. Means of cooperation

States Parties shall make use of existing means for international cooperation with a view to responding to cyberthreats, improving cyber security and stimulating dialogue between stakeholders. These means may be international, intergovernmental or regional, or based on private and public partnerships.

Section II Criminal Provisions

Article 29 Offences Specific to Information and Communication Technologies

1. Attacks on computer systems

States Parties shall take the necessary legislative and/or regulatory measures to make it a criminal offence to:

- (a) Gain or attempt to gain unauthorized access to part or all of a computer system or exceed authorized access;
- (b) Gain or attempt to gain unauthorized access to part or all of a computer system or exceed authorized access with intent to commit another offence or facilitate the commission of such an offence;
- (c) Remain or attempt to remain fraudulently in part or all of a computer system;
- (d) Hinder, distort or attempt to hinder or distort the functioning of a computer system;
- (e) Enter or attempt to enter data fraudulently in a computer system;
- (f) Damage or attempt to damage, delete or attempt to delete, deteriorate or attempt to deteriorate, alter or attempt to alter, change or attempt to change computer data fraudulently.

States Parties further undertake to:

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(g) Adopt regulations compelling vendors of information and communication technology products to have vulnerability and safety guarantee assessments carried out on their products by independent experts and researchers, and disclose any vulnerabilities detected and the solutions recommended to correct them to consumers;

(h) Take the necessary legislative and/or regulatory measures to make it a criminal offence to unlawfully produce, sell, import, possess, disseminate, offer, cede or make available computer equipment, programme, or any device or data designed or specially adapted to commit offences, or unlawfully generate or produce a password, an access code or similar computerized data allowing access to part or all of a computer system.

2. Computerized Data Breaches

States Parties shall take the necessary legislative and/or regulatory measures to make it a criminal offence to:

(a) Intercept or attempt to intercept computerized data fraudulently by technical means during non-public transmission to, from or within a computer system;

(b) Intentionally input, alter, delete, or suppress computer data, resulting in inauthentic data with the intent that it be considered or acted upon for legal purposes as if it were authentic, regardless of whether or not the data is directly readable and intelligible. A Party may require an intent to defraud, or similar dishonest intent, before criminal liability attaches;

(c) Knowingly use data obtained fraudulently from a computer system;

(d) Fraudulently procure, for oneself or for another person, any benefit by inputting, altering, deleting or suppressing computerized data or any other form of interference with the functioning of a computer system;

(e) Even through negligence, process or have personal data processed without complying with the preliminary formalities for the processing;

(f) Participate in an association formed or in an agreement established with a view to preparing or committing one or several of the offences provided for under this Convention.

3. Content-related offences

1. States Parties shall take the necessary legislative and/or regulatory measures to make it a criminal offence to:

(a) Produce, register, offer, manufacture, make available, disseminate and transmit an image or a representation of child pornography through a computer system;

(b) Procure for oneself or for another person, import or have imported, and export or have exported an image or representation of child pornography through a computer system;

(c) Possess an image or representation of child pornography in a computer system or on a computer data storage medium;

(d) Facilitate or provide access to images, documents, sound or representation of a pornographic nature to a minor;

(e) Create, download, disseminate or make available in any form writings, messages, photographs, drawings or any other presentation of ideas or theories of racist or xenophobic nature through a computer system;

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(f) Threaten, through a computer system, to commit a criminal offence against a person for the reason that they belong to a group distinguished by race, colour, descent, national or ethnic origin or religion where such membership serves as a pretext for any of these factors, or against a group of persons which is distinguished by any of these characteristics;

(g) Insult, through a computer system, persons for the reason that they belong to a group distinguished by race, colour, descent, national or ethnic origin, or religion or political opinion, if used as a pretext for any of these factors, or against a group of persons distinguished by any of these characteristics;

(h) Deliberately deny, approve or justify acts constituting genocide or crimes against humanity through a computer system.

2. States Parties shall take the necessary legislative and/or regulatory measures to make the offences provided for under this Convention criminal offences. When such offences are committed under the aegis of a criminal organization, they will be punishable by the maximum penalty prescribed for the offence.

3. States Parties shall take the necessary legislative and/or regulatory measures to ensure that, in case of conviction, national courts will give a ruling for confiscation of the materials, equipment, instruments, computer programme, and all other devices or data belonging to the convicted person and used to commit any of the offences mentioned in this Convention.

4. Offences relating to electronic message security measures

States Parties shall take the necessary legislative and/or regulatory measures to ensure that digital evidence in criminal cases is admissible to establish offences under national criminal law, provided such evidence has been presented during proceedings and discussed before the judge, that the person from whom it originates can be duly identified, and that it has been made out and retained in a manner capable of assuring its integrity.

Article 30

Adapting Certain Offences to Information and Communication Technologies

1. Property Offences

(a) States Parties shall take the necessary legislative and/or regulatory measures to criminalize the violation of property such as theft, fraud, handling of stolen property, abuse of trust, extortion of funds and blackmail involving computer data.

(b) States Parties shall take the necessary legislative and/or regulatory measures to consider as aggravating circumstances the use of information and communication technologies to commit offences such as theft, fraud, handling of stolen property, abuse of trust, extortion of funds, terrorism and money laundering.

(c) States Parties shall take the necessary legislative and/or regulatory measures to specifically include "by means of digital electronic communication" such as the Internet in listing the means of public dissemination provided for under the criminal law of States Parties.

(d) States Parties shall take the necessary criminal legislative measures to restrict access to protected systems which have been classified as critical national defence infrastructure due to the critical national security data they contain.

2. Criminal liability for legal persons

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States Parties shall take the necessary legislative measures to ensure that legal persons other than the State, local communities and public institutions can be held responsible for the offences provided for by this Convention, committed on their behalf by their organs or representatives. The liability of legal persons does not exclude that of the natural persons who are the perpetrators of or accomplices in the same offences.

Article 31

Adapting Certain Sanctions to Information and Communication Technologies

1. Criminal Sanctions

(a) States Parties shall take the necessary legislative measures to ensure that the offences provided for under this Convention are punishable by effective, proportionate and deterrent criminal penalties.

(b) States Parties shall take the necessary legislative measures to ensure that the offences provided for under this Convention are punishable by appropriate penalties under their national legislation.

(c) States Parties shall take the necessary legislative measures to ensure that a legal person held liable pursuant to the terms of this Convention is punishable by effective, proportionate and deterrent sanctions, including criminal fines.

2. Other criminal sanctions

(a) States Parties shall take the necessary legislative measures to ensure that in the case of conviction for an offence committed through a digital communication medium, the competent court may hand down additional sanctions.

(b) States Parties shall take the necessary legislative measures to ensure that in the case of conviction for an offence committed through a digital communication medium, the judge may in addition order the mandatory dissemination, at the expense of the convicted person, of an extract of the decision, through the same medium, and according to modalities prescribed by the law of Member States.

(c) States Parties shall take the necessary legislative measures to ensure that a breach of the confidentiality of data stored in a computer system is punishable by the same penalties as those applicable for breaches of professional secrecy.

3. Procedural law

(a) States Parties shall take the necessary legislative measures to ensure that where the data stored in a computer system or in medium where computerized data can be stored in the territory of a State Party, are useful in establishing the truth, the court applied to may carry out a search to access all or part of a computer system through another computer system, where the said data are accessible from or available to the initial system.

(b) States Parties shall take the necessary legislative measures to ensure that where the judicial authority in charge of investigation discovers data stored in a computer system that are useful for establishing the truth, but the seizure of the support does not seem to be appropriate, the data as well as all such data as are required to understand them, shall be copied into a computer storage medium that can be seized and sealed, in accordance with the modalities provided for under the legislation of States Parties.

(c) States Parties shall take the necessary legislative measures to ensure that judicial authorities can, for the purposes of investigation or execution of a judicial delegation, carry out the operations provided for under this Convention.

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(d) States Parties shall take the necessary legislative measures to ensure that if information needs so require, particularly where there are reasons to believe that the information stored in a computer system are particularly likely to be lost or modified, the investigating judge may impose an injunction on any person to preserve and protect the integrity of the data in his/her possession or under his/her control, for a maximum period of two years, in order to ensure the smooth conduct of the investigation. The custodian of the data or any other person responsible for preserving the data shall be expected to maintain secrecy with regard to the data.

(e) States Parties shall take the necessary legislative measures to ensure that where information needs so require, the investigating judge can use appropriate technical means to collect or record in real time, data in respect of the contents of specific communications in its territory, transmitted by means of a computer system or compel a service provider, within the framework of his/her technical capacities, to collect and record, using the existing technical facilities in its territory or that of States Parties, or provide support and assistance to the competent authorities towards the collection and recording of the said computerized data.

Chapter IV Final Provisions

Article 32 Measures to Be Taken at the Level of the African Union

The Chairperson of the Commission shall report to the Assembly on the establishment and monitoring of the operational mechanism for this Convention. The monitoring mechanism to be established shall ensure the following:

- (a) Promote and encourage the continent to adopt and implement measures to strengthen cyber security in electronic services and in combating cybercrime and human rights violations in cyberspace;
- (b) Gather documents and information on cyber security needs as well as on the nature and magnitude of cybercrime and human rights violations in cyberspace;
- (c) Work out methods for analyzing cyber security needs, as well as the nature and magnitude of cybercrime and human rights violations in cyberspace, disseminate information and sensitize the public on the negative effects of these phenomena;
- (d) Advise African Governments on the way to promote cyber security and combat the scourge of cybercrime and human rights violations in cyberspace at the national level;
- (e) Garner information and carry out analyses of the criminal behaviour of the users of information networks and computer systems operating in Africa, and transmit such information to competent national authorities;
- (f) Formulate and promote the adoption of harmonized codes of conduct for the use of public officials in the area of cyber security;
- (g) Establish partnerships with the Commission and the African Court on Human and Peoples' Rights, the African civil society, and governmental, intergovernmental and non-governmental organizations with a view to facilitating dialogue on combating cybercrime and human rights violations in cyberspace;
- (h) Submit regular reports to the Executive Council of the African Union on the progress made by each State Party in the implementation of the provisions of this Convention;
- (i) Carry out any other tasks relating to cybercrime and breaches of the rights of individuals in cyberspace as may be assigned to it by the policy organs of the African Union.

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Article 33 Safeguard Provisions

The provisions of this Convention shall not be interpreted in a manner that is inconsistent with the relevant principles of international law, including international customary law.

Article 34 Settlement of Disputes

1. Any dispute arising from this Convention shall be settled amicably through direct negotiations between the States Parties concerned.

2. Where the dispute cannot be resolved through direct negotiation, the States Parties shall endeavour to resolve the dispute through other peaceful means, including good offices, mediation and conciliation, or any other peaceful means agreed upon by the States Parties. In this regard, the States Parties shall be encouraged to make use of the procedures and mechanisms for resolution of disputes established within the framework of the Union.

Article 35 Signature, Ratification or Accession

This Convention shall be open to all Member States of the Union, for signature, ratification or accession, in conformity with their respective constitutional procedures.

Article 36 Entry into Force

This Convention shall enter into force thirty (30) days after the date of the receipt by the Chairperson of the Commission of the African Union of the fifteenth (15th) instrument of ratification.

Article 37 Amendment

1. Any State Party may submit proposals for the amendment or revision of this Convention.

2. Proposals for amendment or revision shall be submitted to the Chairperson of the Commission of the African Union, who shall transmit same to States Parties within thirty (30) days of receipt thereof.

3. The Assembly of the Union, upon recommendation of the Executive Council of the Union, shall consider these proposals at its next session, provided all States Parties have been notified at least three (3) months before the beginning of the session.

4. The Assembly of the Union shall adopt the amendments in accordance with its Rules of Procedure.

5. The amendments or revisions shall enter into force in accordance with the provisions of Article 36 above.

Article 38 Depositary

1. The instruments of ratification or accession shall be deposited with the Chairperson of the Commission of the African Union.

2. Any State Party may withdraw from this Convention by giving written notice one (1) year in advance to the Chairperson of the Commission of the African Union.

17. AFRICAN UNION CONVENTION ON CROSS-BORDER COOPERATION

3. The Chairperson of the Commission of the African Union shall inform all Member States of any signature, depositing of an instrument of ratification or accession to this Convention, as well as its entry into force.
4. The Chairperson of the Commission shall also inform the States Parties of requests for amendments or withdrawal from the Convention, as well as reservations thereon.
5. Upon entry into force of this Convention, the Chairperson of the Commission shall register it with the Secretariat of the United Nations, in accordance with Article 102 of the Charter of the United Nations.
6. This Convention, drawn up in four (4) original texts in Arabic, English, French and Portuguese languages, all four (4) texts being equally authentic, shall be deposited with the Chairperson of the Commission who shall transmit certified true copies of the same to all Member States of the African Union in its official language.

17.

AFRICAN UNION CONVENTION ON CROSS-BORDER COOPERATION (NIAMEY CONVENTION)

Adopted in Malabo, Equatorial Guinea, on 27 June 2014.

The Convention shall enter into force thirty days after the deposit of the fifteenth instrument of ratification.

Preamble

We, the Member States of the African Union,

Inspired by the objectives and principles enshrined in the Constitutive Act of the African Union, adopted in Lomé, Togo, on 11 July 2000, and the Treaty Establishing the African Economic Community adopted in Abuja, Nigeria, on 3 June 1991,

Reaffirming our commitment to Resolution AHG/Res.16 (I) on the principle of the respect of borders existing at the time of accession to national independence, adopted by the First Ordinary Session of the Assembly of Heads of State and Government of the Organization of African Unity, held in Cairo, Egypt, from 17 to 21 July 1964,

Mindful of Resolution CM/Res.1069 (XLIV) on Peace and Security in Africa through Negotiated Settlement of Border Conflicts, adopted by the Forty-fourth Ordinary Session of the Council of Ministers of the Organization of African Unity held in Addis Ababa, Ethiopia, from 21 to 26 July 1986,

Recalling the relevant provisions of the Memorandum of Understanding on the Conference on Security, Stability, Development and Cooperation in Africa (CSSDCA), adopted at the Thirty-eighth Ordinary Session of the Assembly of Heads of State and Government of the Organization of African Unity, held in Durban, South Africa, on 8 July 2002,

Recalling further the Declarations on the African Union Border Programme, adopted by the Conferences of African Ministers in charge of Border Issues, held respectively in Addis Ababa, on 7 June 2007 and 25 March 2010, and in Niamey, Niger, on 17 May 2012,

Determined to give effect to the African Union decisions related to border issues, including Decisions EX.CL/370 (XI) and EX.CL/Dec.461 (XIV), adopted by the Eleventh and Fourteenth Ordinary Sessions of the Executive Council of the African Union, held respectively in Accra, Ghana, from 25 to 29 June 2007, and in Addis Ababa, Ethiopia, from 29 to 30 January 2009,

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Recalling the international initiatives on the delimitation and delineation of maritime borders and the provisions of the United Nations Convention on the Law of the Sea,

Convinced that a legal framework for cross-border cooperation would accelerate integration in Africa and enhance prospects for the peaceful resolution of border disputes between Member States,

Desirous to implement effective cross-border cooperation, necessary for the transformation of border areas into zones of trade and cooperation,

Have agreed as follows:

Article 1 Definitions

For the purposes of this Convention:

"Border area" means a geographical area straddling the border of two or more neighbouring States;

"Border Programme" means the African Union Border Programme, as defined in the Declarations adopted by the Conferences of African Ministers in charge of Border Issues, held in Addis Ababa, Ethiopia, on 7 June 2007 and 25 March 2010, and in Niamey, Niger, on 17 May 2012, and subsequently endorsed by the Executive Council of the African Union;

"Commission" means the African Union Commission;

"Continental Border Consultative Committee" means the Committee set up by the African Union Commission and comprising representatives of the Regional Economic Communities, as the implementation mechanism for cross-border cooperation at the continental level;

"Convention" means the African Union Convention on Cross-Border Cooperation;

"Cross-border cooperation" means any act or policy aimed at promoting and strengthening good-neighbourly relations between border populations, territorial communities and administrations or other stakeholders within the jurisdiction of two or more States, including the conclusion of agreements and arrangements useful for this purpose;

"Local border consultative committee" means a local border territorial administration or authority recognized as such under the domestic law of States Parties;

"Reaffirmation of borders" means the reconstruction of degraded beacons into their original locations, in conformity with international norms;

"Regional Border Consultative Committee" means the body that facilitates dialogue and consultation between regional, bilateral and local border territorial administrations or authorities across borders;

"Regional Economic Communities" mean the regional integration blocs of the African Union;

"State Party" or "States Parties" means any Member State of the African Union which has ratified, or acceded to, this Convention and deposited the instruments of ratification or accession with the Chairperson of the African Union Commission;

"Territorial communities or authorities" means communities, authorities, or bodies exercising local territorial functions and regarded as such under the domestic law of States Parties;

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"Union" means the African Union.

Article 2 Objectives

The objectives of the present Convention are to:

1. Promote cross-border cooperation, at local, subregional and regional levels;
2. Seize the opportunities arising from shared borders and address the related challenges;
3. Facilitate the delimitation, demarcation and reaffirmation of interstate borders, in conformity with mechanisms agreed upon by the parties concerned;
4. Facilitate the peaceful resolution of border disputes;
5. Ensure efficient and effective integrated border management;
6. Transform border areas into catalysts for growth, socio-economic and political integration of the continent; and
7. Promote peace and stability through the prevention of conflicts, the integration of the continent and the deepening of its unity.

Article 3 Areas of Cooperation

States Parties shall commit themselves to promote cross-border cooperation in the following areas:

1. Mapping and geographical information, including survey;
2. Socio-economic development, including transportation, communication, trade, agropastoral activities, handicrafts, energy resources, industry, health, sanitation, drinking water, education and environmental protection;
3. Cultural activities and sports;
4. Security, especially combating cross-border crime, terrorism, piracy and other forms of crime;
5. Demining of border areas;
6. Institutional development in all areas covered by the present Convention, including identification, formulation and execution of projects and programmes;
7. Any other areas agreed upon by the States Parties.

Article 4 Facilitation of Cross-Border Cooperation

1. The States Parties shall endeavour to solve any legal, administrative, security, cultural or technical impediment likely to hamper the strengthening and smooth functioning of cross-border cooperation. In this respect, States Parties shall regularly consult with each other or with other interested parties.

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2. States Parties shall, in accordance with the provisions of the present Convention, cooperate fully in the implementation of the Border Programme.

Article 5

Sharing of Information and Intelligence

1. Each State Party shall, as much as possible, provide information requested by another State Party, with a view to facilitating the performance by the requesting State of its obligations under this Convention.

2. Each State Party shall take the necessary steps to encourage, promote and facilitate information and intelligence sharing, as may be requested by another State Party on matters relating to the protection and security of border areas.

Article 6

Competent Authorities or Bodies Responsible for Border Matters

Each State Party shall, either at the time of ratification of, or accession to, this Convention, or as soon as possible, thereafter, communicate to the Commission the list of competent authorities or bodies responsible for border issues under its domestic law, which shall then serve as focal points.

Article 7

Harmonization of Domestic Law Pertaining to Border Issues

States Parties are encouraged to harmonize their domestic law with this Convention and ensure that the local territorial administrations or authorities in border areas are duly informed of the opportunities available to them and their obligations under this Convention.

Article 8

Mechanisms for Implementation of Cross-Border Cooperation at the Level of States Parties

1. States Parties shall commit themselves to apply the provisions of the present Convention and to endeavour to attain its objectives, particularly by:

- (a) Establishing cooperation mechanisms, including legal frameworks;
- (b) Taking into account domestication of the provisions of the Convention in the development of their national policies and strategies;
- (c) Submitting, every two years, a report on the measures taken for the implementation of the present Convention.

2. Activities pertaining to cross-border cooperation shall be undertaken by local territorial communities or authorities as defined by the domestic law of States Parties.

3. The decentralized border territorial administrations or authorities established under the domestic law of States Parties shall exercise their powers, including the conclusion of cooperation agreements with decentralized border territorial administrations or authorities of neighbouring States Parties, in conformity with the domestic law of their respective States.

4. States Parties may establish Border Consultative Committees comprising representatives of competent bodies to assist, in an advisory capacity, the border communities and authorities in the consideration of cross-border cooperation matters.

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Article 9

Mechanisms for Implementation of Cross-Border Cooperation at the Level of the Regional Economic Communities

1. The Commission shall establish a framework for cooperation with the Regional Economic Communities on the implementation of the Border Programme, in conformity with the objectives of this Convention. In this regard, the Commission shall request the Regional Economic Communities to:
 - (a) Encourage Member States to sign, ratify or accede to this Convention;
 - (b) Designate focal points for coordination, evaluation and monitoring of the implementation of the commitments enshrined in this Convention.
2. The Commission shall encourage each Regional Economic Community to establish a Regional Border Consultative Committee.
3. The Regional Border Consultative Committees, composed of nominees of Member States of the Regional Economic Communities, shall assist the latter, in an advisory capacity, in the consideration of cross-border cooperation matters.
4. The Regional Border Consultative Committee shall:
 - (a) Assist in the formulation of policies and activities for the promotion of cross-border cooperation in administrative, cultural, socio-economic and security areas in their respective regions;
 - (b) Prepare road maps outlining the actions necessary for enhancing cross-border cooperation;
 - (c) Coordinate all the activities, as well as the mobilization of the required means for the attainment of the objectives stipulated in this Convention;
 - (d) Facilitate dialogue and consultation between regional and local authorities located on either side of border areas, when requested by the States Parties concerned;
 - (e) Recommend the adoption of best practices for the effective management and administration of border areas;
 - (f) Examine the problems faced by border populations and suggest solutions thereto, when requested by the States Parties concerned;
 - (g) Make recommendations on ways and means of promoting cross-border activities undertaken by the different entities located within border areas, when requested by the States Parties concerned.

Article 10

Mechanism for Implementation of Cross-Border Cooperation at the Continental Level

1. The Commission shall coordinate and facilitate the implementation of this Convention through the Border Programme. Accordingly, the Commission shall:
 - (a) Act as the central coordinating structure for the implementation of this Convention;
 - (b) Support States Parties in implementing this Convention;

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- (c) Coordinate the evaluation of the implementation of the Convention with other appropriate organs of the Union, the Regional Economic Communities and competent national bodies;
 - (d) Establish the Continental Border Consultative Committee;
 - (e) Support the efforts of the States Parties for an effective sharing of information and intelligence.
2. The Continental Border Consultative Committee shall be composed of the representatives of the Regional Economic Communities and shall operate under the auspices of the Commission.
3. The Continental Border Consultative Committee shall be charged with the following tasks:
- (a) Advise the Commission on cross-border cooperation matters;
 - (b) Consider and propose general guidelines to promote cross-border cooperation in administrative, security, socio-economic, cultural and other areas identified in this Convention;
 - (c) Identify priority actions and resources needed for the implementation of these guidelines;
 - (d) Promote best practices relating to the development of border regions;
 - (e) Examine problems faced by border populations and propose recommendations in coordination with and the approval of the States Parties concerned.

Article 11 Border Programme Fund

1. A Border Programme Fund shall be established and managed in accordance with the AU Financial Rules and Regulations.
2. The resources of the Border Programme Fund shall be provided through:
- (a) Voluntary contributions of Member States; and
 - (b) Miscellaneous income, including donations and grants, in conformity with the principles and objectives of the Union.

Article 12 Safeguard Provisions

1. The provisions of this Convention shall not be interpreted in a manner that is inconsistent with the relevant principles of international law, including international customary law.
2. None of the provisions of this Convention shall affect more favourable provisions relating to cross-border cooperation contained in the domestic law of States Parties or in any other regional, continental or international agreement applicable in these States Parties.
3. In the implementation of this Convention, the specificities and special needs of island States shall be taken into account.

Article 13 Settlement of Disputes

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1. Any dispute relating to this Convention shall be amicably resolved through direct negotiations between the States Parties concerned.

2. Where the dispute is not resolved through direct negotiation, the States Parties shall endeavour to resolve the dispute through other peaceful means, including good offices, mediation and conciliation, or any other peaceful means agreed upon by the States Parties. In this regard, the States Parties shall be encouraged to make use of the procedures and mechanisms for resolution of disputes established within the framework of the Union.

Article 14

Signature, Ratification or Accession

This Convention shall be open to all Member States of the Union, for signature, ratification or accession, in conformity with their respective constitutional procedures.

Article 15

Entry into Force

This Convention shall enter into force thirty (30) days after the date of the receipt by the Chairperson of the Commission of the African Union of the fifteenth (15th) instrument of ratification.

Article 16

Amendment

1. Any State Party may submit proposals for the amendment or revision of this Convention.

2. Proposals for amendment or revision shall be submitted to the Chairperson of the Commission of the African Union, who shall transmit the same to States Parties within thirty (30) days of receipt thereof.

3. The Assembly of the Union, upon recommendation of the Executive Council of the Union, shall examine these proposals at its next session, provided all States Parties have been notified at least three (3) months before the beginning of the session.

4. The Assembly of the Union shall adopt the amendments in accordance with its Rules of Procedure.

5. The amendments or revisions shall enter into force in accordance with the provisions of Article 15 above.

Article 17

Depositary

1. The instruments of ratification or accession shall be deposited with the Chairperson of the Commission of the African Union.

2. Any State Party may withdraw from this Convention by giving a written notice of one (1) year in advance to the Chairperson of the Commission of the African Union.

3. The Chairperson of the Commission of the African Union shall notify the Member States of any signature of this Convention, any deposit of an instrument of ratification or accession, as well as its entry into force.

4. The Chairperson of the Commission shall also notify the States Parties of the requests for amendments or withdrawal from the Convention, as well as reservations thereon.

5. Upon entry into force of this Convention, the Chairperson of the Commission shall register it with the Secretariat of the United Nations, in accordance with Article 102 of the Charter of the United Nations.

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6. This Convention, drawn up in four (4) original texts in the Arabic, English, French and Portuguese languages, all four (4) texts being equally authentic, shall be deposited with the Chairperson of the Commission who shall transmit a certified true copy of the Convention to each Member State of the African Union in its official language.

18.

STATUTE OF THE AFRICAN UNION MECHANISM FOR POLICE COOPERATION (AFRIPOL)

Adopted in Addis Ababa, Ethiopia, on 30 January 2017.

The Statute entered into force upon adoption on 30 January 2017.

Preamble

We, the Member States of the African Union,

Recalling the objectives and principles enshrined in the Constitutive Act of the African Union,

Inspired by the need to fully operationalize the African Architecture for Peace and Security provided for in the Protocol Relating to the Establishment of the Peace and Security Council of the African Union (PSC),

Recalling the Solemn Declaration on a Common African Defence and Security Policy (CADSP), premised on a common African perception of what is required to be done collectively by African States,

Guided by the various instruments on the fight against transnational organized crime and terrorism adopted by Member States of the African Union,

Recalling the Algiers Declaration of 11 February 2014, adopted by African Chiefs of Police in Algiers, Algeria, relating to the establishment of the African Union Mechanism for Police Cooperation,

Further recalling Decision EX.CL/Dec.820 (XXV) in which the Executive Council, at its Twenty-fifth Ordinary Session held in Malabo, Equatorial Guinea, from 20 to 24 June 2014, endorsed the Algiers Declaration on the establishment of the African Union Mechanism for Police Cooperation,

Concerned about the growing scale of crime in several subregions of Africa, especially those related to information and communication technologies, illicit capital transfers, illicit trafficking of natural resources and smuggling,

Cognizant of the ever increasing sophistication with which organized crime syndicates, including terrorist groups, drug traffickers and arms traffickers, human smuggling, kidnapping-for-ransom, illicit proliferation of arms and money laundering are becoming intimately intertwined,

Convinced of the need to promote African police coordination at strategic, operational and tactical levels through the assessment of threats, analysis of criminal intelligence, planning and implementation of actions,

Convinced of the importance of police cooperation through exchange of information and intelligence between Member States,

Further convinced that an effective response to the various forms of crime on the African continent requires the harmonization of police methods, the exchange and extension of best practices in terms of training, prevention, investigative techniques and expertise as well as the strengthening of African police capabilities,

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Recognizing that the need for greater cooperation between security and intelligence agencies is more crucial than ever before,

Recalling the commitment of the Member States of the African Union and their determination to promote human rights, good governance, the rule of law and to work together to ensure peace, security, safety and stability on the African continent,

Recognizing that such an objective requires increased coordination and cooperation, especially with Interpol and other relevant organizations,

Acknowledging the progress achieved thus far, which needs to be consolidated in an overall strategic African framework for the prevention and combating of crime,

Determined to establish an African Union Mechanism for Police Cooperation,

Have agreed as follows:

Article 1 Definitions

In this Statute, unless otherwise indicated:

"AFRIPOL" means the African Union Mechanism for Police Cooperation;

"Assembly" means the Assembly of Heads of State and Government of the African Union;

"CAPCCO" means the Central African Police Chiefs Committee or its successor;

"Commission" means the Commission of the African Union;

"Constitutive Act" means the Constitutive Act of the African Union;

"EAPCCO" means the Eastern Africa Police Chiefs Cooperation Organization or its successor;

"Executive Council" means the Executive Council of Ministers of the Union;

"General Assembly of AFRIPOL" means the Conference of the Chiefs of Police of the African Union Member States;

"INTERPOL" means the International Criminal Police Organization;

"Member States" means Member States of the African Union;

"NARC" means North African Regional Capability;

"Police Strategic Support Group" means the unit designated as such and established within the Peace Support Operations Division of the AU Peace and Security Department;

"Policy organs" means the African Union policy organs as defined in the Constitutive Act;

"RPCOs" means the Regional Police Chiefs Cooperation Organizations, and includes CAPCCO, EAPCCO, SARPCCO, WAPCCO and any other regional police chiefs cooperation organizations as may be established;

"SARPCCO" means the Southern African Regional Police Chiefs Cooperation Organization or its successor;

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"Statute" means the present Statute establishing AFRIPOL;

"Secretariat" means the Permanent Technical and Operational Office of AFRIPOL;

"Steering Committee" means the executive body of AFRIPOL;

"STCDSS" means the Specialized Technical Committee on Defence, Safety and Security or its successor;

"Union" or "AU" means the African Union established by the Constitutive Act;

"WAPCCO" means the West African Police Chiefs Committee or its successor.

Article 2 Establishment and Legal Capacity of AFRIPOL

1. AFRIPOL is hereby established as a technical institution of the Union as the mechanism for police cooperation for Member States of the Union.
2. AFRIPOL derives its juridical personality from and through the African Union and shall:
 - (a) Enter into agreements within the applicable rules and regulations of the Union;
 - (b) Acquire and dispose of movable and immovable property in accordance with the said rules and regulations; and
 - (c) Institute legal proceedings.

Article 3 Objectives

The objectives of AFRIPOL are to:

- (a) Establish a framework for police cooperation at the strategic, operational and tactical levels between Member State police institutions;
- (b) Facilitate the prevention, detection and investigation of transnational organized crime in coordination and collaboration with national, regional and international police institutions;
- (c) Develop Member States' police capacities, through the establishment of African centres of excellence, for targeted police training programmes adapted to the realities of the African context;
- (d) Prepare a harmonized African strategy to fight against transnational organized crime, terrorism and cybercrime within the framework of the implementation of the relevant African Union policies;
- (e) Enhance coordination with similar structures in preventing and combating transnational organized crime;
- (f) Enhance mutual technical assistance in training, exchange of experiences, experts and good practices between police institutions; and
- (g) Enhance coordination among police forces deployed in the context of peace support operations and work with the Police Strategic Support Group in planning, mobilization, deployment, management and liquidation

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elements, plus, where applicable, other law enforcement components, in the police element in AU-led peace support operations.

Article 4 Functions

In carrying out its mandate, AFRIPOL shall pursue in particular the following functions:

- (a) Assist Member States' police institutions to set up a framework of cooperation for police institutions at the national, regional, continental and international levels;
- (b) Assist Member States' police institutions to improve their efficiency and effectiveness through enhancement of their organizational, technical, strategic, operational and tactical capacities;
- (c) Facilitate, where appropriate, and in accordance with the applicable national and international laws, mutual legal assistance or extradition arrangements between Member States;
- (d) Facilitate the exchange or sharing of information or intelligence to prevent and combat transnational organized crimes, terrorism and cybercrime;
- (e) Prevent, detect and investigate transnational organized crime in cooperation and collaboration with national, regional and international police and law enforcement agencies;
- (f) Assist Member States to develop or improve good practices in governance and management of police institutions and respect for human and peoples' rights;
- (g) Assist Member States to develop and improve community-based policing to encourage citizen involvement in preventing and combating crime;
- (h) Enable planning and coordination of joint patrols and operations;
- (i) Support Member States in developing a continental vision and strategies for coordination and collaboration among police institutions;
- (j) Assist Member States to develop common African positions on police matters;
- (k) Undertake studies on trends in transnational organized crimes and develop continental tools for crime prevention;
- (l) Develop appropriate communication strategies, systems and databases for the fulfilment of the above functions;
- (m) Act as an interface with the Police Strategic Support Group in the areas of planning, mobilization, and where applicable deployment of law enforcement agents and police officers in peace support operations conducted by the African Union; and
- (n) Carry out any other functions given by the AU policy organs.

Article 5 Principles

AFRIPOL shall function in accordance with the following principles:

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- (a) Non-interference in the internal affairs of any Member State, respect for the sovereignty and national laws of the Members States;
- (b) Respect for democratic principles, human rights, the rule of law and good governance in accordance with the Constitutive Act, the African Charter on Human and Peoples' Rights, the Universal Declaration on Human Rights and other relevant instruments;
- (c) Respect for police ethics, the principles of neutrality, integrity and the presumption of innocence;
- (d) Respect and recognition of African ownership of AFRIPOL.

Article 6

The Specialized Technical Committee on Defence, Safety and Security

The STCDSS shall have the responsibility to provide leadership and direction regarding police affairs in Africa.

Article 7

Structure of AFRIPOL

The structure of AFRIPOL shall consist of:

- (a) The General Assembly;
- (b) The Steering Committee;
- (c) The Secretariat; and
- (d) The national liaison offices.

Article 8

The General Assembly

1. The General Assembly shall be the supreme technical and deliberative organ of AFRIPOL, with the responsibility to provide leadership direction regarding police cooperation in Africa.
2. The General Assembly is composed of Chiefs of Police from Member States.
3. The General Assembly shall:
 - (a) Work out the policies and set the guidelines and strategic priorities of AFRIPOL;
 - (b) Ensure the supervision of the implementation of the Policies, Guidelines and strategic priorities of AFRIPOL upon their adoption by the AU policy organs;
 - (c) Consider the draft budget and the proposed structure of AFRIPOL and submit them to the relevant AU policy organs in accordance with the AU Financial Rules and Regulations;
 - (d) Ensure and follow up on the implementation of the Statute;
 - (e) Appoint and terminate the appointment of the Executive Director of AFRIPOL;
 - (f) Recommend the amendment of the Statute through the relevant AU procedures;

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- (g) Adopt its Rules of Procedure subject to approval by the Executive Council through the STCDSS;
- (h) Consider and approve the Rules of Procedure of the Steering Committee and review its composition and functions;
- (i) Submit an annual report on its work to the relevant AU policy organs through the STCDSS;
- (j) Elect on the basis of rotation, for a non-renewable term of two (2) years, five (5) members of the Bureau representing the five (5) regions in accordance with AU;
- (k) The Bureau shall be composed as follows:
 - (i) The President;
 - (ii) Three (3) Vice-Presidents; and
 - (iii) One (1) Rapporteur;
- (l) Decide on the venue of its meetings; and
- (m) Carry out any other functions assigned to it by the AU policy organs for the purpose of ensuring the implementation of this Statute and other relevant instruments or policies.

Article 9 Steering Committee

1. The Steering Committee of AFRIPOL shall be composed as follows:
 - (a) The five (5) members of the Bureau of the General Assembly;
 - (b) The Commissioner for Peace and Security of the African Union;
 - (c) The Chiefs of the RPCOs; and
 - (d) The Executive Director of AFRIPOL
2. The Steering Committee shall be chaired by the serving President of the General Assembly.
3. The functions, frequency of meetings and the proceedings of the Steering Committee shall be provided in its Rules of Procedure.

Article 10 Secretariat

1. There is hereby established a Secretariat of AFRIPOL.
2. The Director shall be the Chief Executive Officer of AFRIPOL who shall be assisted by the necessary and proper staff.
3. The staff members of the Secretariat shall be recruited and shall hold positions in accordance with the African Union Staff Rules and Regulations.

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4. The structure of the Secretariat shall be determined in accordance with the rules and procedures in force in the African Union.
5. The Director shall be appointed by the General Assembly upon recommendation of the Steering Committee. The modalities of appointment of the Executive Director of AFRIPOL and other procedural matters shall be provided in the Rules of Procedure of the General Assembly.
6. The Executive Director shall work closely and provide regular reports to the African Union Commission through the Department of Peace and Security.
7. The Secretariat shall:
 - (a) Ensure the efficient administration of AFRIPOL;
 - (b) Convene and service the meetings of the General Assembly, the Steering Committee, or other meetings of AFRIPOL;
 - (c) Maintain contact with national and international law enforcement authorities;
 - (d) Implement the decisions of the General Assembly and the Steering Committee;
 - (e) Draw up the annual draft programme of work for the consideration and approval of the General Assembly and subsequently by the STCDSS;
 - (f) Draft, circulate and file minutes of meetings and all other records of AFRIPOL;
 - (g) Submit annual activity and financial reports to the General Assembly on the AFRIPOL activities; and
 - (h) Carry out any other functions assigned to it by the General Assembly, the Steering Committee or the relevant organs of the African Union.

Article 11 National Liaison Offices

Each Member State, shall in accordance with its national legislation, establish an AFRIPOL national liaison office for the smooth running of the AFRIPOL activities.

Article 12 Attendance and Participation

1. In accordance with Article 10, the chiefs of police shall attend and participate personally in the AFRIPOL sessions. In the event that they are not in a position to attend personally, duly accredited representatives shall represent them.
2. The representatives of the organs of the Union or any other relevant AU institutions may be invited to attend the AFRIPOL sessions.
3. AFRIPOL may invite, as observers, any person or institution to attend its sessions. Such observers, may be invited to make written or oral interventions but shall not be entitled to vote.

Article 13 Venue

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1. AFRIPOL sessions shall be held at the AFRIPOL Headquarters, unless a Member State offers to host any such session.

2. In the event the session is held outside the AFRIPOL Headquarters, the host country shall be responsible for all extra expenses incurred by the AFRIPOL as a result of holding the session outside the Headquarters.

Article 14 Quorum

The quorum of the sessions of the General Assembly shall be two-thirds majority and the Steering Committee of AFRIPOL shall be simple majority.

Article 15 Ordinary Sessions

1. AFRIPOL shall meet in ordinary session once every year and shall adopt its agenda at the opening of each session.

2. The provisional agenda of an ordinary session shall be drawn up by the Secretariat in consultation with the Steering Committee and may include item(s) proposed by Member States.

3. The Secretariat shall communicate the agenda as well as the working documents to Member States at least thirty (30) days before the opening of the session.

Article 16 Extraordinary Sessions

1. AFRIPOL may meet in an extraordinary session subject to availability of funds, at the request of:

- (a) The General Assembly;
- (b) The policy organs of the Union; or
- (c) Any Member State, upon approval by a simple majority of the Member States.

2. The agenda of an extraordinary session shall comprise only the item(s) submitted for consideration in the request for convening the said session.

3. The AFRIPOL Secretariat shall communicate the provisional agenda and working documents of an extraordinary session to Member States at least fifteen (15) days before the opening of the session.

Article 17 Majority Required For Decisions

The General Assembly of AFRIPOL shall take its decisions by consensus, failing which, by two-thirds majority of the Member States present and eligible to vote.

Article 18 Flag, Anthem and Logo

1. The AFRIPOL flag and anthem shall be that of the Union.

2. AFRIPOL may adopt the AU logo or its own logo.

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Article 19

Cooperation with Member States, African Union Organs and Institutions

AFRIPOL shall cooperate with Member States, organs and institutions of the AU on any subject matter related to its objectives and functions.

Article 20

Relations with INTERPOL and Other Organizations

1. In the fulfilment of its mandate, AFRIPOL shall cooperate and work closely with INTERPOL and any other relevant organization.
2. AFRIPOL may establish relations and collaborate with similar intergovernmental and international organizations that will enhance its capacity to deliver on its mandate and as approved by the General Assembly.

Article 21

Budget and Resources

1. The budget of AFRIPOL shall constitute an integral part of the regular budget of the Union.
2. For purposes of attaining its objectives, AFRIPOL shall have its own operational and programme budget.
3. AFRIPOL may mobilize resources from extrabudgetary sources in accordance with the AU Financial Rules and Regulations.
4. The AFRIPOL may receive donations and voluntary contributions subject to the approval of the General Assembly.
5. The budget of AFRIPOL shall be submitted for approval to the policy organs of the Union in accordance with the relevant provisions of the AU Financial Rules and Regulations.

Article 22

Terms and Conditions of Service of Staff Members

The terms and conditions of service of the staff members of the AFRIPOL Secretariat shall be governed by the African Union Staff Rules and Regulations.

Article 23

Membership

AFRIPOL shall be composed of police institutions of Member States of the African Union.

Article 24

Headquarters of AFRIPOL

1. The Headquarters of AFRIPOL shall be in Algiers, Peoples' Democratic Republic of Algeria.
2. A headquarters agreement shall be concluded between the Government of the Host Country and the African Union upon the adoption of the present Statute by the Assembly.

Article 25

Languages

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The official and working languages of AFRIPOL shall be those of the Union.

**Article 26
Privileges and Immunities**

AFRIPOL and its staff shall enjoy the privileges and Immunities as provided in the General Convention on the Privileges and Immunities of the Organization of African Unity, the Vienna Convention on Diplomatic Relations of 1961 and the headquarters agreement that shall be concluded between the AU and the Government of the Host Country.

**Article 27
Transitional Arrangements**

Following the adoption of the present Statute by the Assembly of the Union, the Chairperson of the Commission, shall:

- (a) In consultation with the Host Country, take the necessary measures to establish an Interim Secretariat; and
- (b) The required staff in order to facilitate the speedy establishment of AFRIPOL in accordance with the present Statute and subject to the endorsement by the relevant policy organs of the AU.

**Article 28
Amendment**

- 1. The present Statute may be amended by the Assembly upon the recommendation of either:
 - (a) The General Assembly; or
 - (b) The STCDSS after obtaining the opinion of the General Assembly.
- 2. Any amendment to this Statute shall enter into force upon its adoption by the Assembly of the Union.

**Article 29
Entry into Force**

- 1. The present Statute shall enter into force upon its adoption by the Assembly of the Union.
- 2. The present Statute, of which the Arabic, English, French and Portuguese texts are equally authentic, shall be transmitted to the Executive Director and to all Member States.

19.

**DECLARATION ON TERRORISM AND UNCONSTITUTIONAL CHANGES OF GOVERNMENT
ROBUST RESPONSE, DEEPENING DEMOCRACY AND COLLECTIVE SECURITY
(Ext/Assembly/AU/Decl. (XVI))**

Adopted in Malabo, Equatorial Guinea, on 28 May 2022.

We, the Heads of State and Government of the African Union (AU), meeting at the Sixteenth Extraordinary Session of the Assembly of Heads of State and Government on Terrorism and Unconstitutional Changes of Government in Malabo, Equatorial Guinea, on 28 May 2022,

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Guided by existing AU legal instruments, particularly the Constitutive Act (2000); the Protocol Relating to the Establishment of the Peace and Security Council (PSC) of the African Union (2002); the Common African Defense and Security Policy (CADSP) (2004); the AU Non-Aggression and Common Defense Pact (2005); the AU Agenda 2063 specifically aspirations 3, 4 and 7; and the Johannesburg Declaration on Silencing the Guns in Africa (2020), as well as the AU Master Road Map of Practical Steps to Silence the Guns in Africa by 2030,

Recognizing the continued relevance of various instruments adopted by the Organization of African Unity (OAU) and the AU over the past years to address the scourge of terrorism and violent extremism, including the Convention on the Prevention and Combating of Terrorism (1999); the Plan of Action on the Prevention and Combating of Terrorism in Africa (2002), the Protocol to the OAU Convention on the Prevention and Combating of Terrorism (2004) and the Tripoli Declaration on Conflict Reduction, Sustaining and Promoting Peace in Africa (2009),

Recalling Decisions Assembly/AU/Dec.256 (XIII) on combating the payment of ransom to terrorist groups (2009) and Assembly/AU/Dec.311 (XV) on the prevention and combatting of terrorism (2010),

Bearing in mind our pledge to silence the guns on the continent, as contained in the Fiftieth Anniversary Solemn Declaration (2013) and Decision Assembly/AU/Dec.501 (XXII) declaring 2014–2024 as the “Madiba Nelson Mandela Decade of Reconciliation in Africa” (2014),

Also guided by the principles enshrined in the African Charter on Democracy, Elections and Governance (2007), the African Charter on Human and Peoples’ Rights (1981), and other relevant AU human rights instruments,

Further reiterating our decisions and pronouncements on unconstitutional changes of government in Africa, including Decisions AHG/Dec.141 (XXXV), AHG/Dec.142 (XXXV) (1999) and Assembly/AU/Dec.253 (XIII) (2009), the Declaration on the Framework for the OAU Response to Unconstitutional Changes of Government (Lomé Declaration) (July 2000), as well as the PSC Ezulwini Framework for the Enhancement of the Implementation of Measures of the African Union in Situations of Unconstitutional Changes of Government (2009),

Reaffirming our commitment to promote constitutionalism, the principles of separation of powers and independence of the judiciary, and political pluralism with the full participation of citizens, in conformity with the African Charter on Democracy, Elections and Governance (ACDEG) and the Union’s Declaration on the Principles Governing Democratic Elections,

Reiterating the decisions of the Peace and Security Council (PSC) on the issues of terrorism, violent extremism and unconstitutional changes of government in Africa,

Taking note of the Reports of the Chairperson of the Commission on Terrorism and Violent Extremism and on Unconstitutional Changes of Government in Africa,

Acknowledge that:

- (i) The resurgence of unconstitutional changes of government, the expanding threat of terrorism and violent extremism across the continent, including the influx of foreign terrorist fighters, private military companies and mercenaries, the proliferation of armed groups, as well as transnational organized crime, negatively impact the peace, security, stability, sovereignty and territorial integrity of some Member States;
- (ii) Africa continues to face structural challenges in adequately addressing the root causes of terrorism, violent extremism, and unconstitutional changes of government;
- (iii) Governance deficits, terrorism and violent extremism are being compounded by the impact of climate change, and the concern over the use of natural resources by terrorist groups as a source of financing;

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(iv) Despite these challenges, Member States, Regional Economic Communities and Regional Mechanisms (RECs/RMs) and AU organs continue to make gradual progress towards the consolidation of democracy and constitutionalism, as well as countering terrorism and violent extremism; and

(v) There is an imperative for greater collective action to address the challenges of terrorism, violent extremism and unconstitutional changes of government.

We hereby declare the following:

A. On Terrorism and Violent Extremism

1. *Our unequivocal condemnation* of all manifestations of terrorism and violent extremism across the continent; and reaffirm our commitment to preserve the indivisibility of the security of African States in line with the Common African Defence and Security Policy and within the spirit of finding African security solutions;

2. *Salute* all African citizens and peace operations personnel who paid the ultimate sacrifice as a result of terrorist attacks on the continent and globally;

3. *Scale up* implementation of all relevant AU instruments and decisions, particularly the 1999 Convention on the Prevention and Combating of Terrorism and the Fiftieth OAU/AU Anniversary Solemn Declaration;

4. *Accelerate* the signing and ratification of relevant continental instruments, including the Convention on the Prevention and Combating of Terrorism, the AU Convention on Cross-Border Cooperation, and the African Charter on Maritime Security, Safety and Development in Africa;

5. *Full operationalization* of the African Standby Force (ASF) without further delay and to strengthen coordination with RECs/RMs on its utilization; and to expedite the finalization of the Memorandum of Understanding between the AU and RECs/RMs on the ASF;

6. *Reiteration* of decisions, particularly Decisions Assembly/AU/Dec.753 (XXXIII) of February 2020, and Assembly/AU/Dec.815 (XXXV) of February 2022 on the establishment of a Counter-Terrorism Unit within the ASF;

7. *Affirmation* of the call for the immediate and unconditional withdrawal of foreign terrorist fighters and mercenaries from the continent; and on the Commission to speed up the conclusion of the revision of the OAU Convention on Mercenaries;

8. *Strong rejection* of external interference in Africa's domestic affairs and call upon all external actors to cease their support to terrorist groups on the continent;

9. *Reaffirmation* of the imperative of adequate, sustainable and predictable financing for counter-terrorism efforts on the continent and consequently renew the call to the United Nations, particularly the United Nations Security Council, for use of assessed contributions for AU-mandated Peace Support Operations (PSOs), to further strengthen counter-terrorism efforts and promote stabilization on the continent;

10. *The AU Peace Fund* is a viable instrument for addressing urgent peace and security challenges on the continent and commend the contributions by Member States made thus far;

11. *Strong commitment* to provide adequate budgetary allocation for national initiatives and programmes aimed at strengthening the prevention and combatting of terrorism and violent extremism;

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12. *Strengthen* the fight against local and external financing of terrorism and to accelerate the implementation of the Assembly Decision on the criminalization of the payment of ransom to terrorist groups; and to promote concerted efforts on the improved management of natural resources;
13. *Scale up* efforts to combat transnational organized crime especially the proliferation of illicit arms, including through enhanced intelligence sharing mechanisms, border management, cooperation and control;
14. *Develop* a comprehensive Continental Strategic Plan of Action on countering terrorism in Africa, premised on existing national and regional strategies, to enhance coordination and coherence, in order to consolidate coordination and enhance actions;
15. *Deploy* more efforts and resources to strengthen cyber security, including through legislation at the national level, ratification of the AU Convention on Cyber Security and Personal Data Protection and enhanced cooperation; and institute necessary legal and regulatory action to prevent the abuse of social media platforms by terrorists, as well as support the development of the Continental Cyber Security Strategy and the Child Online Safety and Empowerment Policy;
16. *Establish* an AU Ministerial Committee on Counter-Terrorism to serve as a high-level coordination, monitoring, evaluation and follow-up mechanism of the implementation of the commitments made in this Declaration;
17. *Substantially increase* support for children, youth and women affected by armed conflict especially terrorism, radicalization and insurgency, in collaboration with RECs/RMs and AU organs; and initiate concerted actions in building capacity for community-based resilience and stabilization, to promote effective long-term recovery through the post-conflict reconstruction and development programmes;
18. *Promote* a multidimensional and proactive approach in empowering the youth by reinforcing peace education, tolerance and coexistence in order to consolidate the fight against terrorism and violent extremism;
19. *Strengthen* the institutional capacity of the Commission, and specialized agencies of the AU, including the African Centre for the Study and Research on Terrorism (ACSRT), the AU Mechanism for Police Cooperation (AFRIPOL) and the AU Centre for Post-Conflict Reconstruction and Development (PCRD), to build synergies with and improve the efficiency of Member States in the fight against terrorism and violent extremism;
20. *Promote* experience sharing and lesson learning among Member States and RECs/RMs to better coordinate and enhance regional and continental efforts in combating terrorism;
21. *Build, diversify and consolidate* strategic international partnerships to reinforce cooperation and coordination of efforts in preventing and countering terrorism;
22. *Welcome* the initiative of the AU-UN Joint Strategic Assessment (JSA) on security and governance in the Sahel under the auspices of the Chairperson of the Commission, H.E. Moussa Faki Mahamat, and the United Nations Secretary-General, H.E. António Guterres, and the appointment of the former President of the Republic of Niger, H.E. Mahamadou Issoufou, as Chair of the JSA Independent High-Level Panel;
23. *Welcome* the outcome of the Meeting of Directors-General and Heads of Intelligence and Security Services of Africa held on 26 May 2022 in Malabo, Equatorial Guinea, and, in this regard, call for greater intelligence and information sharing and joint operations through the platform of the Committee of Intelligence and Security Services of Africa (CISSA), as well as the various regional fusion centres, to ensure effectiveness of our intelligence governance initiatives on the continent;

B. On Unconstitutional Changes of Government

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1. *Unequivocally condemn* all forms of unconstitutional changes of government in Africa and reiterate our zero tolerance in this regard;
2. *Recall* Decision Assembly/AU/Dec.818 (XXXV) which mandated the Third Africa Governance Report to focus on the nexus between governance and the Fourth Industrial Revolution (4IR); however, given the spate of unconstitutional changes of government on the continent, directs the Commission and African Peer Review Mechanism (APRM) to remodel the Third Africa Governance Report 2023 to reflect issues related to unconstitutional changes of government;
3. *Recommit* to our total adherence to the relevant principles, norms and shared values contained in the AU Constitutive Act, the Protocol Relating to the Establishment of the PSC, the African Charter on Democracy, Elections and Governance, the African Charter on Human and Peoples' Rights, and the Lomé Declaration;
4. *Determine* to further enhance the effectiveness and sustainability of AU support to Member States in political transition and post-conflict situations, to build durable peace, entrench democratic culture and governance, including through transitional justice, and prevent relapse to cycles of violence, within the context of silencing the guns in Africa;
5. *Commend* the strides made by Member States in organizing free, fair, credible and transparent elections, despite the challenges posed by the COVID-19 pandemic; and the continued respect for electoral outcomes and constitutional provisions relating to term limits;
6. *Take due note of and endorse* the Accra Declaration arising from the Reflection Forum on Unconstitutional Changes of Government held from 15 to 17 March 2022 in Accra, Ghana, under the leadership of H.E. Nana Addo Dankwa Akufoaddo, President of the Republic of Ghana and current Chairman of the ECOWAS Authority of Heads of State and Government;
7. *Consolidate* our efforts to create a conducive environment for the effective participation of women and youth in political processes, as well as addressing the impact of unconstitutional changes of government on children;
8. *Strengthen* national, regional and continental mechanisms on early warning and conflict prevention, as well as the interface between the African Governance Architecture (AGA) and the African Peace and Security Architecture (APSA), to consolidate good governance, particularly constitutionalism and the rule of law through multi-level engagements; and to that end, call on Member States yet to accede to the African Peer Review Mechanism (APRM), to do so, to concretize national ownership of governance processes.

We are fully cognizant of the ultra-importance of building resilient societies, social cohesion, national unity and regional cooperation, as the bedrock for lasting peace, and in the spirit of the Madiba Nelson Mandela Decade of Reconciliation in Africa; institute 31 January of each year, as "Africa Day of Peace and Reconciliation"; and, to this effect, appoint H.E. João Manuel Gonçalves Lourenço, President of the Republic of Angola, as AU Champion for Peace and Reconciliation in Africa.

As Heads of State and Government of the African Union, speaking with one voice, mindful of our responsibility and commitment, we recommit to build on the shared vision of Pan-Africanism and the legacy of African unity and solidarity, by upholding constitutionalism, democracy and good governance and to embrace the multidimensional approach to achieve peace, security and sustainable development, in line with the aspirations of Agenda 2063 – The Africa We Want.