

African Union: a New Opportunity for the Promotion and Protection of Human Rights in Africa

1. INTRODUCTION

The Organization of African Unity (OAU) Heads of State and Government adopted the *Sirte Declaration*, which called for the establishment of an African Union (The Union) at its Fourth Extraordinary Summit in Sirte, Libya in September 1999.¹ The OAU thus recommitted itself to take up the challenge of promoting and protecting human rights as a matter of priority, and to ensure the early establishment of an African Court on Human and Peoples' Rights.²

Following the *Sirte Declaration*, the OAU legal unit produced a draft Constitutive Act (the Act) of the Union, which was then debated in a meeting of legal experts and parliamentarians and later at a ministerial conference in Tripoli, Libya in June 2000. The OAU Heads of State and Government adopted the Act a month after, in July 2000 in Lome, Togo.³ The Constitutive Act of the African Union entered into force on 26 May 2001, thus making the Union a legal and political reality.⁴

However, the Act recognizes that the Charter of the OAU will remain operative, for a transitional period of one year or such further period as the OAU Heads of State and Government may determine to enable the OAU to undertake the necessary measures regarding the devolution of its assets and liabilities to the African Union. The Constitutive Act will become fully operative in July 2002, after the inaugural Summit of the Union in Durban, South Africa.

¹ See EAHG/DECL.(IV) Rev. 1. The major initiative of the Sirte Declaration is a total reform of the OAU, by replacing it with an African Union, in conformity with the objectives of the Charter of the OAU and treaty establishing the African Economic Community.

² *Id.*

³ See CONSTITUTIVE ACT OF THE AFRICAN UNION (*see Annex i*), adopted by the Thirty-sixth Ordinary Session of the Assembly of Heads of State and Government of the OAU on 11 July 2000 at Lome, Togo. 50 Heads of State and three Heads of Government adopted the Act. Morocco was the only independent African state not represented. It withdrew from the OAU in 1981 in protest against the OAU official recognition of the right of Sahrawi people to self-determination.

⁴ The Act requires ratifications by two-thirds of the member states of the OAU for the Union to be legally established. This requirement was achieved on 26 April 2001 when Nigeria became the thirty-six OAU member state to deposit its instrument of ratification of the Constitutive Act of the Union with the OAU Secretary-General.

The African Union is loosely modelled on the European Union. Its objectives include achieving African unity, encouraging international cooperation and achieving a better life for the peoples of Africa. Similarly, the Act expresses member states' determination to promote and protect human and peoples' rights, consolidate democratic institutions and culture and to ensure good governance and the rule of law in accordance with the African Charter on Human and Peoples' Rights (African Charter) and other relevant human rights instruments.⁵

In addition, the Act obligates Member States to promote gender equality and social justice, ensure balanced economic development, and to condemn and reject impunity and unconstitutional changes of government.⁶ While maintaining the principle of non-interference in the internal affairs of Member States, the Act also makes provisions establishing, in essence, the principle of non-indifference to the internal affairs of Member States. Thus, the Act specifically provides for the right of the Union to intervene in a Member State in respect of grave circumstances, namely: war crimes, genocide and crimes against humanity. It also provides for the right of Member States to request intervention from the Union in order to restore peace and security. Ultimately, the African Union aims to promote and ensure peace, security and stability on the continent.

While the African Union seeks to broaden African cooperation through the development of an economic community and an African Court of Justice, the New Partnership for Africa's Development (NEPAD)⁷ offers a plan to deepen this cooperation through the promotion of shared values and standards. However, the NEPAD will operate within the framework of the African Union. Together they create one economic space, and place new and different requirements on each state. Thus, under the new arrangement, African leaders recognize the importance of holding one another accountable for human rights violations.

In the early years of the OAU, issues of human rights and the reference to freedom, equality, justice and dignity in the OAU Charter were considered only in the context of self determination and in the ending of colonial rule.⁸ In contrast, under the African Union framework, a system of peer review, which entails a critical review of each other's performance; will encourage all states to be responsive to good governance and human rights. Nevertheless, Amnesty International believes that the protection of human rights is the primary responsibility of each

⁵ See Preamble 9 of the Constitutive Act of the African Union.

⁶ See Article 3 of the Constitutive Act of the African Union.

⁷ The NEPAD is a pledge by African leaders that they have a pressing duty to eradicate poverty and to place their countries, both individually and collectively, on the path of sustainable growth and development.

⁸ See *Organization of African Unity: Making Human Rights a Reality for Africans*, August 1998, (AI Index: IOR63/01/98).

individual state. While the African Union has the potential of providing some accountability, each state must be accountable for the human rights situation within its domestic jurisdiction.

Amnesty International welcomes the establishment of an African Union as a means of strengthening the regional mechanism for human rights in Africa. In a document entitled *Organization of African Unity: Making Human Rights a Reality for Africans*, August 1998, (AI Index: IOR63/01/98), Amnesty International makes recommendations for the reform of the OAU to make it more effective in the realization of human rights throughout Africa. Given the continent's history of serious human rights violations, an African Union is a potentially significant development in the promotion and protection of human rights at the continental level.

Despite the adoption of the African Charter on Human and Peoples' Rights⁹ (African Charter) by the OAU Heads of State and Government in 1981, and its subsequent entry into force in 1986, and the establishment of the African Commission on Human and Peoples' Rights¹⁰ in 1987, human rights, including economic, social and cultural rights remain illusory for the vast majority of Africans. It will only be through making human rights central to its work that the regional organization will be able to truly recommit itself to the principles of the Universal Declaration of Human Rights.

As the African Union replaces the OAU, it is essential for African leaders to recognize the centrality of human rights and the need to incorporate the human rights dimension in all the work of the regional organization. The fundamental principles enumerated in the Act must be translated into concrete action in reality. In order to do so consistently and effectively, the African Union needs to develop procedures and mechanisms at its General Secretariat and within its political organs. At the same time, African governments that are yet to do so should ratify the Protocol to the African Charter Establishing the African Court on Human and Peoples' Rights.¹¹

This report looks at the political and other organs created by the Act in terms of their potential to reinforce the promotion and protection of human rights in the continent. It makes

⁹ AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS, *adopted* 27 June 1981 in Nairobi, Kenya, OAU Doc. CAB/LEG/67/3, Rev. 5, *reprinted* in I.L.M. 59 (1981).

¹⁰ The African Commission is the only mechanism created under the Charter to supervise State Parties' compliance. Its four areas of mandate are: promotional activities, protective activities (including complaints), the examination of state party reports, and the interpretation of the African Charter. See *Credibility in Question...* (AI Index: IOR63/02/98).

¹¹ Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, OAU/LRG/AFCHPR/PROT (III), adopted by the Assembly of Heads of State and Government, 34th Session, Burkina Faso, 8-10 June 1998.

recommendations regarding the important role which the political organs of the African Union should play in ensuring that human rights are placed on the agenda of the regional body. The challenge now is for African governments to show that the Union can make a difference in the realization of human and peoples' rights in Africa, and not just a mere change of name of the OAU. African leaders must now take responsibility for promoting and respecting human and peoples' rights in the continent.

2. POLITICAL ORGANS

The political organs of the Union which will oversee the functioning of the Organization and make its policies consist of the Assembly of the Union, the Executive Council, the Permanent Representatives Committee, the Specialised Technical Committee and the Pan-African Parliament. However, the list of the African Union organs is not exhaustive as the Assembly of the Union may decide to establish other organs it considers necessary. The OAU Assembly has applied this provision to incorporate the Central Organ of the Mechanism for Conflict Prevention, Management and Resolution as one of the organs of the Union.¹²

2.1 The Assembly of the Union

The Assembly of the Union, composed of Heads of State and Government, is the supreme organ of the Union. The Assembly shall meet at least once a year and will determine the common policies of the Union; monitor the implementation of such policies and decisions as well as ensure compliance by all Member States. Similarly, the Assembly shall receive, consider, and take decisions on reports and recommendations of other organs as well as give directives to the Executive Council on the management of conflicts, war and other emergency situations and the restoration of peace. Other functions of the Assembly include appointing the Chairperson of the Commission and his or her deputies and Commissioners, and determining their functions and terms of office. The Assembly also has the power to establish any organ of the Union.

Amnesty International welcomes the establishment of the post of a Commissioner for Democracy, Good Governance and Human Rights. It is essential that strict criteria for selection be applied to ensure that the candidate that would occupy this post has some degree of expertise relevant to his or her position. In addition, the person should be of high moral character and of recognized practical, judicial or academic competence and experience in the field of human rights, and must be able to function independently and impartially. Similarly, greater participation by non-governmental organizations (NGOs) and consultation during the selection process at the

¹² See OAU Decision on the implementation of the Sirte summit decision on the African Union. The Assembly of Heads of State and Government meeting in Cairo, Egypt in 1993 have established the Central Organ as a constituent part of the OAU mechanism for the prevention, management and resolution of conflict in Africa.

national level would be a positive development. The Assembly should also provide essential resources for the Union's secretariat.

2.2 The Executive Council

The Executive Council, composed of Ministers of Foreign Affairs will meet at least twice a year for ordinary sessions. Its functions include coordinating and taking decisions on policies in areas of common interest to member states, including foreign trade, education, culture, health and human resources development; and social security. The Executive Council also will consider issues referred to it and monitor the implementation of policies formulated by the Assembly. The Council should ensure that human rights are given due consideration in all its deliberation. Amnesty International urges the Council to include consideration of the human rights situation in Africa on the agenda of its meetings.

2.3 The Permanent Representative Committee

The Permanent Representative Committee is composed of countries' representatives to the Union. The Committee is mandated to prepare the work of the Executive Council. The Specialized Technical Committees composed of ministers or senior officials responsible for sectors falling within their respective areas of competence will prepare, harmonize, and supervise projects and programmes of the Union. Its other functions include follow-up and evaluation of the implementation of the decisions taken by the organs of the Union. It is essential that these Committees as well as other committees of the Union recognise the centrality of human rights and the need to incorporate human rights dimension in all their work.

2.4 Specialized Technical Committees

The Specialized Technical Committees shall function within their fields of competence and prepare projects and programmes of the Union. They will ensure the supervision, follow-up and the evaluation of the implementation of decisions taken by the organs of the Union. These committees must incorporate human rights into all areas of their work, including education, labour and social affairs.

3. THE COMMISSION OF THE UNION

The Commission of the Union, which is its Secretariat,¹³ is composed of the Chairperson, his or

¹³ The Headquarters of the African Union General Secretariat is located at Africa Unity House, in Addis Ababa. However, the Act provides that the Assembly may, on the recommendation of the Executive Council, establish such other offices of the Union.

her deputies and the commissioners, and assisted by the necessary staff of the Union. The General Secretariat has the task to service African Union meetings, implement decisions and resolutions adopted by the Pan African Parliament, Assembly of Heads of State and Government, major all-union institutions such as the African Court, and Executive Council, keep AU documents and archives and, conduct the daily work of coordination among Member States, NGOs, African regional organizations, etc., in all fields stated in the Act.

Amnesty International urges all the political organs of the Union, especially the Assembly to provide the necessary environment where the Commission can function impartially and independently. At the same time, the Chairperson of the Commission himself/herself should speak out publicly about specific situations of serious human rights violations in Member States of the African Union, and use his/her position more often to intervene in cases where he/she may be able to prevent further human rights violations.

Other organs of the Unions include the Pan-African Parliament, the Court of Justice, the Union's financial institutions: the African Central Bank, the African Monetary Fund and the African Investment Bank. However, the composition, powers, organization and rules of these institutions will be defined in a separate protocol later. To avoid unnecessary rivalry and conflict, it is essential for the Assembly of the Union to take further step to clarify the relationship between the African Court on Human and Peoples' Rights and the African Court of Justice.

4. THE AFRICAN UNION AND HUMAN RIGHTS

The African Union aims to realize economic and political integration on the African continent. However, continental integration will not become a reality without sustained efforts to address human rights violations and protracted armed conflicts in Africa. Natural and human resources cannot be mobilized for development without peace and security and respect for individual rights. The African Union must function in sustained conditions of peace and security and in an environment where human rights and the rule of law are respected.

Amnesty International urges African leaders to address the scourge of conflicts that continue to afflict the continent. The OAU while establishing the Mechanism for Conflict, Prevention, Management and Resolution states "Conflicts have forced millions of our people into a drifting life as refugees and internally displaced persons, deprived of their means of livelihood, human dignity and hope"¹⁴ However, while the OAU Mechanism for Conflict Prevention, Management and Resolution has proved to be an essential tool in the continent's endeavours towards conflict prevention, management and resolution, it has also shown some shortcomings and limitations, which need to be addressed. The African Union provides a fresh opportunity to review the

¹⁴ See Assembly of Heads of State and Government, 29th Ordinary Session, Cairo, Egypt, 28-30 June 1993, AHG/Decl.3 (XXIX).

structures, procedures and working methods of the Central Organ to enhance its effectiveness and relevance, as one of the important Organs of the African Union.

Similarly, African states should develop internal mechanisms and institutions that can sustain peace, security and stability based on universally accepted human rights principles and values such as justice, equity, solidarity, fairness, accountability, transparency, and respect for the rule of law. They should recommit themselves to promote and respect international humanitarian law and abide by African and other relevant international instruments on refugees and displaced persons; the right and welfare of children; and all human and peoples' rights, including economic, social and cultural rights. If Africa is to have any economic advances it must be committed to human rights.

In addition, the success of the African Union including, the fulfilment of its peace, security and democratic agenda, will rest largely on the involvement of the African people and their representatives and on their invaluable contribution. Also critical to the incorporation and involvement of all sectors of society is the inclusion of women. To be effective, the African Union must integrate good governance, and respect for human and peoples' rights at all levels. The criteria for a country's continued membership in the Union should include a commitment to respect human rights, democracy and the rule of law.

5. CONCLUSION

The inaugural Summit of the African Union in July 2002 in Durban South Africa will formally end the era of the OAU. It is essential for African leaders to recognize the centrality of human rights and the need to incorporate the human rights dimension in all the work of the regional organization. The fundamental principles enumerated in the Constitutive Act must be translated into concrete action in reality. In order to do so consistently and effectively, the African Union needs to develop procedures and mechanisms at its General Secretariat and within its political organs.

The African Union efforts to realize economic and political integration on the African continent should be accompanied with sustained efforts to address human rights violations and protracted armed conflicts in Africa. It is desirable that the Union function in sustained conditions of peace and security and in an environment where human rights and the rule of law are respected. It is only by placing human rights on the agenda of the regional body that African governments can show that the African Union can make a difference for human rights and is more than just a mere change of name of the OAU. African leaders must now take responsibility for promoting and respecting human and peoples' rights on the continent.

6. SUMMARY OF RECOMMENDATIONS

1. The Assembly of the Union should:

- < ensure that human rights are given due consideration by all the Organs of the Union.
- < provide essential resources for the secretariat of the Union.
- < address human rights as an integral component of finding a solution to conflict.
- < appoint suitable candidates to all its Organs, including the Commission.
- < allow Chairperson of the Commission and his or her deputies and commissioners, including the Commissioner for Democracy, Good Governance and Human Rights to function impartially and independently.
- < take responsibility for promoting and respecting human and peoples' rights on the continent.
- < urge all African governments to ratify the Protocol Establishing the African Court on Human and Peoples' Rights as well as make declarations accepting individual and NGO access to the Court. Without such declarations, the integrity of the Court would be seriously jeopardized.
- < urge all African governments to implement the African Charter on Human and Peoples' Rights and to ratify and implement other relevant human rights instruments, including the African Charter on the Rights and Welfare of the Child.

2. The Executive Council should:

- < integrate human rights into all its deliberations.
- < include the consideration of human rights situations in Africa on the agenda of its meetings.
- < request the Chairperson of the Commission to bring to its attention serious situations of human rights violations which are likely to affect the achievement of the purposes of the African Union.

3. Permanent Representative Committee, Specialized Technical Committees and other Committees to be established should:

- < recognise the centrality of human rights and incorporate human rights dimension in all their work.

4. The Chairperson Commission of the Union should:

- < speak out publicly about specific situations of serious human rights violations in member states of the African Union.
- < use his/her position to intervene in cases where he or she may be able to prevent further

- human rights violations.
- < include a specific section on human rights in every report on conflict situations presented to the Executive Council with specific recommendations on the measures to be taken to prevent further human rights violations.

CONSTITUTIVE ACT OF THE AFRICAN UNION

12 March 2002

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

1. The President of the People's Democratic Republic of Algeria
2. The President of the Republic of Angola
3. The President of the Republic of Benin
4. The President of the Republic of Botswana
5. The President of Burkina Faso
6. The President of the Republic of Burundi
7. The President of the Republic of Cameroon
8. The President of the Republic of Cape Verde
9. The President of the Central African Republic
10. The President of the Republic of Chad
11. The President of the Islamic Federal Republic of the Comoros
12. The President of the Republic of the Congo
13. The President of the Republic of Côte d'Ivoire
14. The President of the Democratic Republic of Congo
15. The President of the Republic of Djibouti
16. The President of the Arab Republic of Egypt
17. The President of the State of Eritrea
18. The Prime Minister of the Federal Democratic Republic of Ethiopia
19. The President of the Republic of Equatorial Guinea
20. The President of the Gabonese Republic
21. The President of the Republic of The Gambia
22. The President of the Republic of Ghana
23. The President of the Republic of Guinea
24. The President of the Republic of Guinea Bissau
25. The President of the Republic of Kenya
26. The Prime Minister of Lesotho
27. The President of the Republic of Liberia
28. The Leader of the 1st of September Revolution of the Great Socialist People's Libyan Arab Jamahiriya
29. The President of the Republic of Madagascar
30. The President of the Republic of Malawi
31. The President of the Republic of Mali
32. The President of the Islamic Republic of Mauritania
33. The Prime Minister of the Republic of Mauritius
34. The President of the Republic of Mozambique
35. The President of the Republic of Namibia
36. The President of the Republic of Niger
37. The President of the Federal Republic of Nigeria
38. The President of the Republic of Rwanda
39. The President of the Sahrawi Arab Democratic Republic
40. The President of the Republic of Sao Tome and Principe

41. The President of the Republic of Senegal
42. The President of the Republic of Seychelles
43. The President of the Republic of Sierra Leone
44. The President of the Republic of Somalia
45. The President of the Republic of South Africa
46. The President of the Republic of Sudan
47. The King of Swaziland
48. The President of the United Republic of Tanzania
49. The President of the Togolese Republic
50. The President of the Republic of Tunisia
51. The President of the Republic of Uganda
52. The President of the Republic of Zambia
53. The President of the Republic of Zimbabwe

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.

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 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 9.9. 99, 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;

“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 co-operation 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

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 co-existence 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;
- (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 States 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;

(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 extra-ordinary 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;
- (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;

(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.
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 sub-committees 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

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

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.

IN WITNESS WHEREOF, WE have adopted this Act.

Done at Lome, Togo, this 11th day of July, 2000.