

**AFRICAN UNION**  
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Addis Ababa, ETHIOPIA P. O. Box 3243 Telephone +251115- 517700 Fax : +251115- 517844  
Website : [www.africa-union.org](http://www.africa-union.org)

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**REPORT ON THE STATUS OF OAU/AU TREATIES**  
**(As at 22 January 2009)**

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**A. INTRODUCTION**

1. The report of the Chairperson of the Commission on the Status of OAU/AU Treaties was first prepared at the request of the 66<sup>th</sup> Ordinary Session of the Council of Ministers held in Harare, Zimbabwe, from 26 to 28 May, 1997 and submitted to the 67<sup>th</sup> Ordinary Session of Council. In taking note of the report, Council emphasized that Member States be reminded regularly of the status of signatures and ratification or accession of these Treaties. Accordingly, the report has become a regular item on the agenda of the Council.

**B. ISSUES AND CURRENT SITUATION:**

2. Since its inception in 1963, the policy organs of the Organization of African Unity and the African Union have adopted **thirty-five (35)** Treaties, the most recent being the Protocol on the Statute of the African Court of Justice and Human Rights adopted in Sharm El-Sheikh, Egypt, on 1<sup>st</sup> July 2008. **Twenty-one (21)** of these Treaties have entered into force while two (2) additional treaties namely: the Constitution of the Association of African Trade Promotion Organizations (1974) and the African Maritime Transport Charter (1994) are in force provisionally. The remainder are in various stages of signature and ratification or accession.

3. Furthermore, since the submission of the last report in June 2008, some Member States have made considerable efforts to sign and ratify OAU/AU treaties especially the African Youth Charter adopted in July 2006 and the African Charter on Democracy, Elections and Governance adopted in January 2007.

4. During the reporting period, sixty-two (62) new signatures were appended and forty-two (42) additional instruments of ratification were deposited.

5. However, even though some Member States have made giant efforts to sign and ratify or accede to OAU/AU Treaties, a lot remains outstanding. It should be emphasized that treaties adopted under the aegis of the OAU/AU, which, by definition, address issues of specific concern to Africa, should be given utmost priority.

6. The Commission is a depositary to the following OAU/AU Treaties:

- I. General Convention on the Privileges and Immunities of the Organization of African Unity \*
- II. Additional Protocol to the OAU General Convention on Privileges and Immunities \*

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\* Treaties that have entered into force definitively.

- III. Phyto-Sanitary Convention for Africa
- IV. 1968 African Convention on the Conservation of Nature and Natural Resources \*
- V. Revised African Convention on the Conservation of Nature and Natural Resources (this Convention will replace No. IV when it enters into force)
- VI. African Civil Aviation Commission Constitution \*
- VII. OAU Convention Governing the Specific Aspects of Refugee Problems in Africa \*
- VIII. Constitution of the Association of African Trade Promotion Organizations \*\*
- IX. Inter-African Convention Establishing an African Technical Co-operation Programme
- X. OAU Convention for the Elimination of Mercenarism in Africa \*
- XI. Cultural Charter for Africa \*
- XII. Charter for African Cultural Renaissance (this Charter will replace No. XI upon entry into force)
- XIII. The African Charter on Human and Peoples' Rights \*
- XIV. Convention for the Establishment of the African Center for Fertilizer Development
- XV. Agreement for the Establishment of the African Rehabilitation Institute \*
- XVI. Treaty Establishing the African Economic Community \*
- XVII. Bamako Convention on the Ban of the Import into Africa and the Control of Trans-Boundary Movement and Management of Hazardous Waste within Africa \*
- XVIII. African Charter on the Rights and Welfare of the Child \*
- XIX. The African Nuclear-Weapon-Free-Zone Treaty (The Treaty of Pelindaba)

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\*\* Treaties that have entered into force provisionally.

- XX. The African Maritime Transport Charter\*\*
- XXI. Protocol to the African Charter on Human and Peoples' Rights on the establishment of the African Court on Human and Peoples' Rights \*
- XXII. OAU Convention on the Prevention and Combating of Terrorism \*
- XXIII. Constitutive Act of the African Union \*
- XXIV. Protocol to the Treaty Establishing the African Economic Community relating to the Pan-African Parliament \*
- XXV. Convention of the African Energy Commission\*
- XXVI. Protocol relating to the establishment of the Peace and Security Council of the African Union \*
- XXVII. African Union Convention on Preventing and Combating Corruption\*
- XXVIII. Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa\*
- XXIX. Protocol on Amendments to the Constitutive Act of the African Union
- XXX. Protocol of the Court of Justice of the African Union
- XXXI. Protocol on the Statute of the African Court of Justice and Human Rights (this Protocol and the annexed Statute will replace Nos. XXI and XXX upon entry into force)
- XXXII. Protocol to the OAU Convention on the Prevention and Combating of Terrorism
- XXXIII. African Union Non-Aggression And Common Defence Pact
- XXXIV. African Youth Charter
- XXXV. African Charter on Democracy, Elections and Governance.

**I. GENERAL CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE ORGANIZATION OF AFRICAN UNITY (1965)**

7. The General Convention adopted and signed in Accra, Ghana, on 25 October 1965 ensures the privileges and immunities of the OAU, its officials and staff members in the territories of Member States in the exercise of their functions. It entered into force on 25 October 1965. Article X(2) of the Convention stipulates that: "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.”

8. **The following thirty-five (35) Member States have ratified or acceded to the Convention:** Algeria, Benin, Burkina Faso, Burundi, Cameroon, C.A.R.<sup>H</sup>, Comoros, Congo, Côte d'Ivoire, D.R.C.<sup>HH</sup>, Egypt, Ethiopia, Eq. Guinea, Gabon, Ghana, Guinea, Kenya, Liberia, Libya, Madagascar, Malawi, Mali, Mauritania, Mozambique, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, Somalia, Sudan, Swaziland, Tanzania, Tunisia, and Uganda.

9. **Six (6) Member States:** Chad, Djibouti, Gambia, Guinea Bissau, Togo and Zambia **have signed but not ratified the Convention.**

10. **The following twelve (12) Member States have neither signed nor ratified or acceded to the Convention:** Angola, Botswana, Cape Verde, Eritrea, Lesotho, Mauritius, Namibia, S.A.D.R.<sup>HHH</sup>, Sao Tome & Principe, Seychelles, South Africa, and Zimbabwe.

## II. ADDITIONAL PROTOCOL TO THE OAU GENERAL CONVENTION ON PRIVILEGES AND IMMUNITIES (1980)

11. The Additional Protocol, which does not require signature by Member States, governs the privileges and immunities of the OAU Specialized Agencies. The 35th Ordinary Session of the Council of Ministers in Freetown, Sierra Leone, adopted it in June 1980. Article 10(2) of the Protocol stipulates that: “Accession shall be effected by the deposit of an instrument of accession with the Secretary-General (Chairperson) of the Organization of African Unity (African Union); and the Protocol shall come into force as regards such Member on the date of the deposit of its instrument of accession.”

12. **Only six (6) Member States namely:** Cameroon, Ethiopia, Gabon, Liberia, Mozambique and Rwanda **have ratified the Protocol.** Accordingly, the Additional Protocol has come into force only as regards these six (6) countries.

## III. PHYTO-SANITARY CONVENTION FOR AFRICA (1967)

13. This Convention, which does not require signature by Member States, governs the protection of the health of plants and the eradication or control of diseases, insects, pests and other enemies of plants in Africa. The Assembly of Heads of State and Government meeting approved the Convention in Kinshasa, Democratic Republic of Congo, on 13 September 1967.

14. **The Convention has been ratified by the following ten (10) Member States:** Benin, Burundi, Cameroon, C.A.R., Egypt, Ethiopia, Lesotho, Niger, Rwanda, and Togo.

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<sup>H</sup> Central African Republic

<sup>HH</sup> Democratic Republic of Congo

<sup>HHH</sup> Sahrawi Arab Democratic Republic

15. **The following forty-three (43) Member States have not ratified the Convention:** Algeria, Angola, Botswana, Burkina Faso, Cape Verde, Chad, Comoros, Congo, Cote d'Ivoire, D.R.C, Djibouti, Eq. Guinea, Eritrea, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Kenya, Liberia, Libya, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mozambique, Namibia, Nigeria, S.A.D.R, Sao Tome & Principe, Senegal, Seychelles, Sierra Leone, Somalia, South Africa, Sudan, Swaziland, Tanzania, Tunisia, Uganda, Zambia and Zimbabwe.

#### **IV. AFRICAN CONVENTION ON THE CONSERVATION OF NATURE AND NATURAL RESOURCES (1968)**

16. This Convention deals with the conservation of nature and natural resources on the continent. The Heads of State and Government of independent African States adopted and signed it in Algiers, Algeria, on 15 September 1968. It came into force on 16 June, 1969 in accordance with Article XXI which stipulates that: "This Convention shall come into force on the thirtieth day following the date of deposit of the fourth instrument of ratification or accession with the Administrative Secretary-General of the Organization of African Unity..." This Convention has been revised and the Revised Convention was adopted in Maputo, Mozambique in July 2003.

17. **The following thirty (30) Member States have ratified or acceded to it:** Algeria, Burkina Faso, Cameroon, C.A.R., Congo, Comoros, Côte d'Ivoire, D.R.C., Djibouti, Egypt, Gabon, Ghana, Kenya, Liberia, Madagascar, Malawi, Mali, Mozambique, Niger, Nigeria, Rwanda, Senegal, Seychelles, Sudan, Swaziland, Tanzania, Togo, Tunisia, Uganda, and Zambia.

18. **Thirteen (13) Member States namely:** Benin, Botswana, Burundi, Chad, Ethiopia, Gambia, Guinea, Lesotho, Libya, Mauritania, Mauritius, Sierra Leone and Somalia **have signed but not ratified or acceded to the Convention.**

19. **The following ten (10) Member States have neither signed nor ratified or acceded to it:** Angola, Cape Verde, Eritrea, Eq. Guinea, Guinea Bissau, Namibia, S.A.D.R., Sao Tome & Principe, South Africa, and Zimbabwe.

#### **V. REVISED AFRICAN CONVENTION ON THE CONSERVATION OF NATURE AND NATURAL RESOURCES (ALGIERS CONVENTION) (2003)**

20. The Revised Convention comprises of an appropriate framework to address the conservation of nature and natural resources on the continent taking into account the emerging climatic, environmental and natural resource challenges. The Heads of State and Government of the Member States of the African Union adopted the revised Convention in Maputo, Mozambique in July 2003. According to Article XXXVIII (1), "This Convention shall come into force on the thirtieth day following the date of deposit of the fifteenth instrument of ratification, acceptance, approval or accession with the Depositary, who shall inform the States referred to in Articles XXXVI and XXXVII accordingly."

21. **Eight (8) Member States**, Burundi, Comoros, Ghana, Lesotho, Libya, Mali, Niger and Rwanda, **have ratified the Convention.**

22. **Twenty-eight (28) Member States namely:** Benin, Burkina Faso, Chad, Cote d'Ivoire, Congo, Djibouti, DRC, Ethiopia, Eq. Guinea, Gambia, Guinea, Guinea Bissau, Kenya, Liberia, Madagascar, Mozambique, Namibia, Nigeria, Senegal, Sierra Leone, Somalia, Sudan, Swaziland, Tanzania, Togo, Uganda, Zambia and Zimbabwe **have signed but not ratified the Convention.**

23. The following **seventeen (17) Member States** Algeria, Angola, Botswana, Cameroon, CAR, Cape Verde, Egypt, Eritrea, Gabon, Malawi, Mauritania, Mauritius, SADR, South Africa, Seychelles, Sao Tome & Principe and Tunisia **have neither signed nor acceded to the Convention.**

## **VI. AFRICAN CIVIL AVIATION COMMISSION CONSTITUTION (1969)**

24. The African Civil Aviation Commission's objectives are to provide Member States with a framework for coordination and cooperation in the activities of civil aviation and the utilization of African air transport systems. The Constitution, signed in Addis Ababa, Ethiopia on 17 January 1969 entered into force on 15 March 1972 in accordance with its para 14.

25. **The following forty-four (44) Member States have ratified or acceded to it:** Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Chad, Comoros, Congo, Côte d'Ivoire, D.R.C., Egypt, Eritrea, Ethiopia, Gabon, Gambia, Ghana, Guinea, Kenya, Lesotho, Liberia, Libya, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, Somalia, South Africa, Sudan, Swaziland, Tanzania, Togo, Tunisia, Uganda and Zambia.

26. **Four (4) Member States:** Central African Republic, Djibouti, Seychelles and Zimbabwe have signed but not ratified or acceded to the Constitution.

27. **The following five (5) Member States have not signed or acceded to it:** Cape Verde, Eq. Guinea, Guinea-Bissau, S.A.D.R., and Sao Tome & Principe.

## **VII. OAU CONVENTION GOVERNING THE SPECIFIC ASPECTS OF REFUGEE PROBLEMS IN AFRICA (1969)**

28. This Convention deals with the problem of refugees in Africa and seeks to find ways and means of alleviating their suffering as well as providing them with the requisite legal protection and safeguarding their rights as refugees. The Heads of State and Government adopted and signed it in Addis Ababa, Ethiopia on 10 September 1969. It entered into force on 20 June 1974, in application of Article XI, which stipulates that: "[This] Convention shall come into force upon deposit of instruments of ratification by one-third of the Member states of the OAU".

29. **The following forty-five (45) Member States have ratified or acceded to the Convention:** Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, C.A.R., Chad, Comoros, Congo, Côte d'Ivoire, D.R.C., Egypt, Eq. Guinea, Ethiopia, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Kenya, Lesotho, Liberia, Libya, Mali, Malawi, Mauritania, Mozambique, Niger, Nigeria, Rwanda, Senegal, Seychelles, Sierra-Leone, South Africa, Sudan, Swaziland, Tanzania, Togo, Tunisia, Uganda, Zambia, and Zimbabwe

30. **Four (4) Member States:** Djibouti, Madagascar, Mauritius and Somalia **have signed but not ratified or acceded to the Convention.**

31. **The following four (4) Member States have neither signed nor ratified or acceded to the Convention:** Eritrea, Namibia, S.A.D.R., and Sao Tome & Principe.

#### **VIII. CONSTITUTION OF THE ASSOCIATION OF AFRICAN TRADE PROMOTION ORGANIZATIONS (1974)**

32. This Constitution adopted in Addis Ababa, Ethiopia, on 18 January 1974, deals with the study, discussion and promotion of African trade matters. Article XV(3) stipulates that: "This Constitution shall provisionally come into force upon signature by twelve states and shall formally come into force upon ratification or approval by twelve States signatory to this Constitution." The Constitution is not in force definitively, because it has not been ratified by twelve States signatory to it, but may be regarded as being provisionally in force in terms of Article XV(3).

33. **The following eleven (11) Member States signatory to the Constitution have ratified it, namely:** Algeria, Egypt, Ethiopia, Ghana, Liberia, Niger, Nigeria, Sudan, Togo, Tunisia, and Zambia.

34. **One (1) Member State:** Guinea, not an original signatory State, has ratified the Constitution.

35. **The following twenty-three (23) Member States signatories to the Convention, have not yet ratified it:** Benin, Burkina Faso, Burundi, Cameroon, C.A.R., Chad, Cote d'Ivoire, Comoros, Congo, Djibouti, D.R.C., Gambia, Gabon, Kenya, Libya, Madagascar, Mali, Rwanda, Senegal, Sierra Leone, Somalia, Swaziland, and Uganda

36. **The following eighteen (18) Member States have neither signed nor acceded to the Constitution:** Angola, Botswana, Cape Verde, Eq. Guinea, Eritrea, Guinea Bissau, Lesotho, Malawi, Mauritania, Mauritius, Mozambique, Namibia, S.A.D.R., Sao Tome & Principe, Seychelles, South Africa, Tanzania, and Zimbabwe.

#### **IX. INTER-AFRICAN CONVENTION ESTABLISHING AN AFRICAN TECHNICAL CO-OPERATION PROGRAMME (1975)**

37. This Convention caters for the need to enhance cooperation among African countries in the deployment of their human resources to overcome the shortage of



specialized personnel in Africa. Accordingly, the African Heads of State and Government meeting in Kampala, Uganda from 28 July to 1 August 1975 agreed to establish an Inter-African Technical Co-operation Programme. Article 28(2) of the Convention stipulates that: "The Convention shall come into force thirty (30) days after the date of the reception of the tenth instrument of ratification."

38. So far, **only five (5) Member States**; Comoros, Ethiopia, Gabon, Mali and Niger **have ratified it**, and **twenty-two (22) Member States namely**: Benin, Burkina Faso, C.A.R, Chad, Congo, Cote d'Ivoire, Djibouti, D.R.C, Egypt, Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Madagascar, Senegal, Sierra Leone, Somalia, Swaziland, Togo, Uganda and Zambia **have signed but not ratified or acceded to the Convention**.

39. **The following twenty-six (26) Member States have neither signed nor acceded to the Convention**: Algeria, Angola, Botswana, Burundi, Cameroon, Cape Verde, Eq. Guinea, Eritrea, Kenya, Lesotho, Libya, Malawi, Mauritania, Mauritius, Mozambique, Namibia, Nigeria, Rwanda, S.A.D.R, Sao Tome & Principe, Seychelles, South Africa, Sudan, Tanzania, Tunisia and Zimbabwe.

#### X. **OUA CONVENTION FOR THE ELIMINATION OF MERCENARISM IN AFRICA (1977)**

40. This Convention adopted and signed in Libreville, Gabon, on 3 July 1977, deals with measures to eliminate mercenaries and to overcome the grave threat of mercenaries against the independence, sovereignty, territorial integrity and harmonious development of Member States. It came into force on 22 April, 1985 in application of Article 13 (2) of which stipulates that it shall come into force thirty (30) days after the deposit of the tenth instrument of ratification.

41. **Twenty-nine (29) Member States have ratified or acceded to it**: Algeria, Benin, Burkina Faso, Cameroon, Congo, Comoros, D.R.C., Egypt, Ethiopia, Eq. Guinea, Gabon, Ghana, Guinea, Lesotho, Liberia, Libya, Madagascar, Mali, Niger, Nigeria, Rwanda, Senegal, Seychelles, Sudan, Tanzania, Togo, Tunisia, Zambia, and Zimbabwe.

42. **Eleven (11) Member States**: Angola, Chad, Côte d'Ivoire, Djibouti, Gambia, Guinea Bissau, Kenya, Sierra Leone, Somalia, Swaziland and Uganda **have signed but not ratified or acceded to the Convention**.

43. **Thirteen (13) Member States have neither signed nor acceded to the Convention**: Botswana, Burundi, C.A.R, Cape Verde, Eritrea, Malawi, Mauritania, Mauritius, Mozambique, Namibia, S.A.D.R., Sao Tome & Principe, and South Africa. .

#### XI. **CULTURAL CHARTER FOR AFRICA (1976)**

44. The Cultural Charter, adopted in Mauritius on 5 July 1976, does not require signature by Member States. It deals with the respect of the inalienable right of peoples

to practice and enjoy their cultural lives in harmony with their political, economic, social, philosophical and spiritual ideas. This Charter came into force on 19 September 1990 in application of Article 34, which requires ratification by two-thirds of the total membership of the OAU.

45. **The following thirty-four (34) Member States have ratified or acceded to it:** Algeria, Angola, Benin, Burkina Faso, Burundi, Cameroon, Chad, Congo, Djibouti, Egypt, Ethiopia, Gabon, Ghana, Guinea, Guinea-Bissau, Kenya, Libya, Madagascar, Malawi, Mali, Mauritius, Niger, Nigeria, Rwanda, Senegal, Seychelles, Somalia, Sudan, Tanzania, Togo, Tunisia, Uganda, Zambia, and Zimbabwe.

46. **The following nineteen (19) Member States have neither ratified nor acceded to the Convention:** Botswana, Cape Verde, C.A.R., Comoros, Côte d'Ivoire, D.R.C, Eq. Guinea, Eritrea, Gambia, Lesotho, Liberia, Mauritania, Mozambique, Namibia, S.A.D.R., Sao Tome & Principe, Sierra Leone, South Africa, and Swaziland

## **XII. CHARTER FOR AFRICAN CULTURAL RENAISSANCE (2006)**

47. The Charter for African Cultural Renaissance was adopted by the Assembly in Khartoum, Sudan, in January 2006. It deals with African cultural diversity, identity and renaissance, cultural development, use of African languages, use of mass media, the role of States in cultural development and intra and inter-african cultural co-operation. According to Article 35, "This Charter shall come into force immediately upon receipt by the Commission of the African Union of the instruments of ratification and adherence from two-thirds of the total membership of the African Union." Upon its entry into force, the present Charter shall replace the Cultural Charter for Africa adopted in 1976 by the Heads of States and Government of OAU. However, the provisions of original Cultural Charter for Africa shall govern the relationships between Parties to the original Cultural Charter for Africa of 1976 and Parties to this revised Charter.

48. **So far, nine (9) Member States, namely:** Benin, Burkina Faso, Chad, Gabon, Ghana, Mali, Nigeria, Senegal and Sierra Leone **have so far signed the Charter. It is yet to be signed and/or ratified by the remaining forty-four (44) Member States.**

## **XIII. THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS (1981)**

49. The African Charter on Human and Peoples' Rights, which deals with the promotion and protection of human and peoples' rights, was adopted by the 18<sup>th</sup> Ordinary Session of the Assembly of Heads of State and Government, in June 1981 in Nairobi, Kenya. It entered into force on 21 October 1986 in application of Article 63(3), which requires ratification/adherence of a simple majority of Member States to come into force. **All Member States have ratified the Charter.**

## **50. RESERVATIONS BY MEMBER STATES:**

**Zambia**: entered reservations as follows:

- **Article 13(3)- should be amended such that every individual has the right of access to any place, services or public property intended for use by the general public;**
- **Article 37- the Secretary-General of the Organization, rather than the Chairman of the Assembly should draw the lots to determine terms of office of the members of the Commission and non states parties to the Charter should also submit reports to the Commission.**

**Egypt**: entered reservations as follows:

- **Article 8 and Article 18(3)- Application of Article 8 and Article 18 (3) of the Charter should be in the light of Islamic Shariah Law and not to its demerit;**
- **Article 9(1)- Egypt shall interpret this paragraph as being applicable only to information, the obtaining of which is authorized by Egyptian laws and regulations.**

#### **XIV. CONVENTION FOR THE ESTABLISHMENT OF THE AFRICAN CENTRE FOR FERTILIZER DEVELOPMENT (1985)**

51. This Convention deals with the stabilization and improvement of agriculture through the training of technicians, technologists and related manpower in the manufacture and marketing of fertilizers in Africa. The 42<sup>nd</sup> Ordinary session of the Council of Ministers held in Addis Ababa, Ethiopia in July 1985 adopted and signed the Charter. Article XVIII (1) stipulates: "This Convention shall enter into force, with respect to all Member States that have ratified or acceded to it, on the date when the instruments of ratification or accession have been deposited by the Host Government and by the Governments of at least five (5) other States. Any other Member States of the Organization of African Unity shall become a party to this Convention on the date of the deposit of its instrument of ratification or accession."

52. **Only five (5) Member States: Comoros, Ethiopia, Gabon, Libya and Mali have ratified the Convention.**

53. **Twenty-six (26) Member States namely: Benin, Burkina Faso, Burundi, C.A.R, Cameroon, Chad, Congo, Cote d'Ivoire, Djibouti, D.R.C, Gambia, Ghana, Guinea, Liberia, Madagascar, Niger, Nigeria, Senegal, Sierra Leone, Somalia, Sudan, Swaziland, Togo, Uganda, Zambia and Zimbabwe have signed but not ratified the Convention.**

54. **The following twenty-two (22) Member States have neither signed nor acceded to the Convention: Algeria, Angola, Botswana, Cape Verde, Egypt, Eq. Guinea, Eritrea, Guinea-Bissau, Kenya, Lesotho, Malawi, Mauritania, Mauritius, Mozambique, Namibia, Rwanda, S.A.D.R, Sao Tome & Principe, Seychelles, South Africa, Tanzania, and Tunisia.**

## **XV. AGREEMENT FOR THE ESTABLISHMENT OF THE AFRICAN REHABILITATION INSTITUTE (ARI) (1985)**

55. The African Rehabilitation Institute deals with the harmonization of the principles and strategies for disability prevention and the rehabilitation of the disabled in facilitating the training of required manpower. The Institute established pursuant to Resolution CM/Res.834 (XXXVI) was adopted by the Council of Ministers at its Forty-Second Ordinary Session on 17 July 1985 in Addis Ababa, Ethiopia. By virtue of Article XVIII (3) of the Agreement, a deposit of nine instruments of ratification by Member States enables the Agreement to enter into force definitively. Accordingly, it entered into force on 2 December 1991.

56. **Twenty-four (24) Member States have ratified or acceded to it:** Angola, Botswana, Burkina Faso, Cameroon, Chad, Congo, Ethiopia, Guinea, Kenya, Lesotho, Libya, Malawi, Mali, Mauritania, Mozambique, Namibia, Niger, Nigeria, Senegal, Swaziland, Togo, Uganda, Zambia, and Zimbabwe.

57. **Twelve (12) Member States:** Benin, C.A.R., Comoros, Cote d'Ivoire, Djibouti, Egypt, Gambia, Gabon, Ghana, Liberia, Sierra Leone and Somalia **have signed but not ratified or acceded to the Agreement.**

58. **The following sixteen (16) Member States have neither signed nor ratified or acceded to it:** Algeria, Burundi, Cape Verde, D.R.C., Eq. Guinea, Eritrea, Guinea-Bissau, Madagascar, Rwanda, S.A.D.R., Sao Tome & Principe, Seychelles, Sudan, South Africa, Tanzania, and Tunisia.

59. **One (1) Member State:** Mauritius **withdrew its instrument of ratification** in 1991.

## **XVI. TREATY ESTABLISHING THE AFRICAN ECONOMIC COMMUNITY (1991)**

60. This Treaty deals with the economic integration of Member States and the establishment of the African Economic Community. It was adopted and signed in Abuja, Nigeria, on 3 June 1991, and entered into force on 12 May 1994. **The Treaty has been ratified by forty-nine (49) Member States.**

61. **One (1) Member State:** Eritrea **has neither signed nor acceded to the Treaty.**

62. **The following three (3) Member States have signed but have not ratified the Treaty:** Djibouti, Madagascar, and Somalia.

## **XVII. BAMAKO CONVENTION ON THE BAN OF THE IMPORT INTO AFRICA AND THE CONTROL OF TRANSBOUNDARY MOVEMENT AND MANAGEMENT OF HAZARDOUS WASTES WITHIN AFRICA (1991)**

63. This Convention adopted by the Conference of the Ministers of Environment in Bamako, Mali, in January 1991 and subsequently endorsed by the Council of Ministers by resolution CM/Res.1356 (LIV) on 1 June 1991, deals with the control of hazardous wastes and the growing threat to health and environment posed by the generation, complexity and movement of such wastes. It received the required number of 10 ratifications in January 1998 and, consequently, entered into force on 22 April 1998.

64. **Twenty-three (23) Member States have ratified or acceded to the Convention:** Benin, Burundi, Cameroon, Congo, Côte d'Ivoire, Comoros, D.R.C., Ethiopia, Egypt, Gabon, Gambia, Libya, Mali, Mauritius, Mozambique, Niger, Senegal, Sudan, Tanzania, Togo, Tunisia, Uganda, and Zimbabwe.

65. **Seventeen (17) Member States namely:** Burkina Faso, C.A.R, Chad, Djibouti, Ghana, Guinea, Guinea Bissau, Kenya, Lesotho, Liberia, Madagascar, Nigeria, Rwanda, Sierra Leone, Somalia, Swaziland and Zambia **have signed but not ratified or acceded to the Convention.**

66. **The following thirteen (13) Member States have neither signed nor acceded to the Convention:** Algeria, Angola, Botswana, Cape Verde, Eq. Guinea, Eritrea, Malawi, Mauritania, Namibia, S.A.D.R., Sao Tome & Principe, Seychelles, and South Africa.

#### **XVIII. THE AFRICAN CHARTER ON THE RIGHTS AND WELFARE OF THE CHILD (1990)**

67. This Charter deals with the promotion and protection of the rights and welfare of the African child. The 26th Ordinary Session of the Assembly of Heads of State and Government held in Addis Ababa, Ethiopia, in July 1990, adopted it. It entered into force on 29 November 1999, by virtue of Article XLVII (3).

68. **Forty-four (44) Member States have ratified or acceded to the Charter:** Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, Chad, Comoros, Congo, Côte d'Ivoire, Egypt, Eq. Guinea, Gabon, Ghana, Eritrea, Ethiopia, Gambia, Guinea, Guinea Bissau, Kenya, Lesotho, Liberia, Libya, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, Senegal, Seychelles, Sierra Leone, South Africa, Sudan, Tanzania, Togo, Uganda, and Zimbabwe.

69. **The following seven (7) Member States have signed but not ratified the Charter:** C.A.R., Djibouti, S.A.D.R., Somalia, Swaziland, Tunisia and Zambia.

70. **The following two (2) Member States have neither signed nor acceded to the Charter:** D.R.C. and Sao Tome & Principe.

#### **71. RESERVATIONS ENTERED BY MEMBER STATES:**

**Botswana:** Does not consider itself bound by:

- **Article II - Definition of a Child**

**Egypt**: Does not consider itself bound by these articles:

- **Articles XXI (2)- Child marriage and betrothal of girls and boys;**
- **Article XXIV- Adoption;**
- **Article XXX (a- e)- Children of imprisoned mothers;**
- **Article XLIV- Communications; and**
- **Article XLV (1)- Investigations by Committee.**

**Mauritania**: Does not consider itself bound by:

- **Article IX – Freedom of conscience and religion**

**Sudan**: Does not consider itself bound by these articles:

- **Article X – Protection of privacy;**
- **Article XI (6) – Education of children who become pregnant before completing their education; and**
- **Article XXI (2) – Child marriage and betrothal of girls and boys.**

#### **XIX. THE AFRICAN NUCLEAR-WEAPON-FREE ZONE TREATY (THE TREATY OF PELINDABA) (1996)**

72. The Treaty of Pelindaba adopted and opened for signature in Cairo, Egypt, on 11 April 1996, deals with the strengthening of the nuclear non-proliferation regimes, promotion and cooperation of the peaceful uses of nuclear energy and protection of the African states against possible nuclear attacks on their territories. The treaty shall enter into force on the date of the deposit of the twenty-eighth instrument of ratification.

73. **The Treaty has been ratified by twenty-six (26) Member States namely:** Algeria, Benin, Botswana, Burkina Faso, Côte d'Ivoire, Equatorial Guinea, Ethiopia, Gabon, Gambia, Guinea, Kenya, Libya, Lesotho, Madagascar, Mali, Mauritania, Mauritius, Mozambique, Nigeria, Rwanda, Senegal, South Africa, Swaziland, Tanzania, Togo and Zimbabwe.

74. **The following twenty-seven (27) Member States have signed but not ratified the Treaty:** Angola, Burundi, Cameroon, C.A.R., Cape Verde, Chad, Comoros, Congo, Djibouti, D.R.C., Egypt, Eritrea, Ghana, Guinea-Bissau, Liberia, Malawi, Namibia, Niger, Sao Tome & Principe, S.A.D.R, Seychelles, Sierra Leone, Somalia, Sudan, Tunisia, Uganda, and Zambia.

75. Protocols I, II and III of the Treaty were also signed the same day, 11 April, 1996, by France, while the United Kingdom of Great Britain & Northern Ireland, China, and the United States of America **signed only Protocols I and II**. The Russian Federation **signed Protocols I and II on 5 November 1996**.

- China and the United Kingdom have **ratified Protocols I and II.**
- France has **ratified Protocols I, II and III.**
- Spain **has neither signed nor ratified Protocol III of the Treaty.**

## **XX. THE AFRICAN MARITIME TRANSPORT CHARTER (1994)**

76. The adoption of the African Maritime Transport Charter is grounded on the importance of maritime transport in promoting foreign trade and economic development in Africa. It is also a major factor for regional and continental integration. It was adopted at the Conference of African Ministers of Maritime Transport meeting in its 3<sup>rd</sup> session in Addis Ababa, Ethiopia, from 13 to 15 December, 1993 and subsequently endorsed by the Council of Ministers, by Resolution CM/Res.1520 (LX) adopted on 11 June, 1994. Thereafter, the Thirtieth Ordinary Session of the Assembly of Heads of State and Government adopted it in June 1994.

77. The Charter is not in force definitely because it has not been ratified by two-thirds of Member States but it can be regarded as being in force provisionally since it has received at least twenty (20) signatures.

78. **At present, only twelve (12) Member States, namely, Comoros, Egypt, Ethiopia, Lesotho, Mali, Mauritius, Niger, Nigeria, Senegal, Tanzania, Tunisia and Uganda have ratified the Charter.**

79. **The following twenty-six (26) Member States:** Algeria, Benin, Burkina Faso, C.A.R., Chad, Congo, Cote d'Ivoire, Djibouti, D.R.C, Gabon, Gambia, Ghana, Guinea, Guinea Bissau, Kenya, Libya, Madagascar, Malawi, Mozambique, Namibia, Rwanda, Sierra Leone, Somalia, Swaziland, Togo and Zambia **have signed but not ratified the Charter.**

80. **The following fifteen (15) Member States have neither signed nor acceded to the Charter:** Angola, Botswana, Burundi, Cameroon, Cape Verde, Eq. Guinea, Eritrea, Liberia, Mauritania, S.A.D.R, Sao Tome & Principe, Seychelles, South Africa, Sudan, and Zimbabwe

## **XXI. PROTOCOL TO THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS ON THE ESTABLISHMENT OF AN AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS (1998)**

81. This Protocol establishes an African Court on Human and Peoples' Rights in order to strengthen the African human rights regime. The 34th Session of the Assembly of Heads of State and Government of the OAU in Ouagadougou, Burkina Faso on 9 June 1998 adopted the Protocol. The Protocol entered into force on 25 January 2004, thirty (30) days after the deposit of the fifteenth instrument of ratification in accordance with Article 34(3).

82. **The following twenty-five (25) Member States have ratified the Protocol:** Algeria, Burkina Faso, Burundi, Comoros, Côte d'Ivoire, The Gambia, Gabon, Ghana, Kenya, Libya, Lesotho, Mali, Malawi, Mauritania, Mauritius, Mozambique, Niger, Nigeria, Rwanda, Senegal, South Africa, Tanzania, Togo, Tunisia and Uganda.

83. **The following twenty-four (24) Member States have signed but not ratified the Protocol:** Angola, Benin, Botswana, Cameroon, C.A.R., Chad, Congo, Djibouti, D.R.C., Egypt, Eq. Guinea, Ethiopia, Guinea, Guinea-Bissau, Liberia, Madagascar, Namibia, Seychelles, Sierra Leone, Somalia, Sudan, Swaziland, Zambia, and Zimbabwe.

84. **The following four (4) Member States have neither signed nor acceded to the Protocol:** Cape Verde, Eritrea, S.A.D.R. and Sao Tome & Principe.

85. **DECLARATIONS ENTERED BY MEMBER STATES PURSUANT TO ARTICLE 34 (6) OF THE PROTOCOL**

Only Burkina Faso has entered a declaration on:

**Article 34(6) - The Court shall be competent to receive cases from its individuals and NGOs in accordance with Article 5 (3) of the Protocol.**

**XXII. OAU CONVENTION ON THE PREVENTION AND COMBATING OF TERRORISM (1999)**

86. The 35th Ordinary Session of the Assembly of Heads of State and Government in Algiers, Algeria, in July 1999, taking into account the objectives and principles of the OAU Charter and the relevant international Treaties, adopted this Convention to combat and eliminate all forms of terrorism and organized crimes. The Convention is aimed at strengthening cooperation among Member States to prevent and combat terrorism, which violates and affects human rights, freedom and security by destabilizing socio-economic development of states. The Convention entered into force on 6 December 2002, thirty (30) days after the deposit of the fifteenth instrument of ratification in accordance with Article 20.

87. **The following thirty-nine (39) countries have ratified the Convention:** Algeria, Angola, Benin, Burkina Faso, Burundi, Cape Verde, Chad, Comoros, Congo, Djibouti, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Ghana, Guinea, Guinea Bissau, Kenya, Lesotho, Libya, Madagascar, Malawi, Mali, Mauritius, Mauritania, Mozambique, Niger, Nigeria, Rwanda, S.A.D.R., Senegal, Seychelles, South Africa, Sudan, Tanzania, Togo, Tunisia and Uganda.

88. **The Convention has been signed by the following twelve (12) Member States that are yet to ratify or accede to it:** Botswana, Cameroon, C.A.R., Côte d'Ivoire, D.R.C., Gambia, Liberia, Namibia, Sierra Leone, Somalia, Swaziland, and Zambia.



89. **Two (2) Member States:** Sao Tome and Principe, and Zimbabwe have neither signed nor acceded to the Convention.

90. **RESERVATIONS ENTERED BY MEMBER STATES:**

**Mauritius:** entered a reservation as follows:

- **Article 22(2) - Disputes arising between it and any State Party regarding interpretation or application of the Convention, may failing amicable settlement only be referred to the International Court of Justice.**

**Mozambique:** entered a reservation as follows:

- **Article 8 - In conformity with Article 103 (3) of its Constitution, it shall not extradite from its territory nationals of Mozambique.**

**Tunisia:** entered a reservation as follows:

- **Article 22(2) - Disputes arising between it and any State Party regarding interpretation or application of the Convention, may failing amicable settlement only be referred to the International Court of Justice with the consent of the all the parties involved.**

**South Africa:** entered a reservation as follows:

- **Article 8(2) - Extradition shall not be granted if the Minister of Justice is satisfied that by reason of gender, race, religion, nationality or political opinion, the person concerned will be prosecuted, punished or prejudiced at his/her own trial by a foreign state and extradition shall not be granted if the punishment of the crime for which extradition is sought is the death penalty and an undertaking has not been provided in a specific case that the death penalty will not apply.**

### **XXIII. CONSTITUTIVE ACT OF THE AFRICAN UNION (2000)**

91. The Constitutive Act of the African Union was elaborated pursuant to the Sirte Declaration adopted by the Fourth Extra-ordinary Session of the Assembly of Heads of State and Government held in Sirte, Libya, on 9 September 1999. It aims at establishing a new institutional framework for coordination and cooperation between Member States and enhancing the political and economic integration of the continent through the establishment of the African Union.

92. The Thirty-sixth Ordinary Session of the Assembly of Heads of State and Government in Lome, Togo, on 11 July 2000, adopted the Act.

93. **All Member States have signed and ratified the Act** and the instruments of ratification have been deposited with the Commission.

94. In accordance with Article 28, the Constitutive Act entered into force on 26 May 2001.

#### **XXIV. PROTOCOL TO THE TREATY ESTABLISHING THE AFRICAN ECONOMIC COMMUNITY RELATING TO THE PAN-AFRICAN PARLIAMENT (2001)**

95. The Fifth Extraordinary Session of the Assembly of Heads of State and Government adopted the Protocol in Sirte, Libya, on 2 March 2001. It establishes the Pan-African Parliament; one of the institutions provided for under both the Treaty Establishing the African Economic Community and the Constitutive Act of the African Union. In accordance with Article 22, this Protocol entered into force on 14 December 2003.

96. **The following forty-six (46) Member States have ratified the Protocol:** Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, C.A.R., Chad, Congo, Comoros, Djibouti, Egypt, Ethiopia, Equatorial Guinea, Gabon, The Gambia, Ghana, Kenya, Lesotho, Liberia, Libya, Malawi, Madagascar, Mali, Mauritania, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, S.A.D.R., Senegal, Seychelles, Sierra Leone, South Africa, Sudan, Swaziland, Tanzania, Togo, Tunisia, Uganda, Zambia and Zimbabwe.

97. **The Protocol has been signed but not ratified or acceded to by the following four (4) Member States:** Côte d'Ivoire, D.R.C, Guinea and Somalia.

98. **The following three (3) Member States:** Eritrea, Guinea-Bissau, and Sao Tome & Principe, **have neither signed nor acceded to the Protocol.**

#### **XXV. THE CONVENTION OF THE AFRICAN ENERGY COMMISSION (2001)**

99. The need to deal with shortages of energy in many African countries, in spite of the vast energy potential, which has constrained their industrial development, formed the basis for the adoption of this Convention by the 37<sup>th</sup> Ordinary Session of the Assembly of Heads of State and Government, on 11 July 2001 in Lusaka, Zambia. Thus, the convention will promote cooperation, research and development, integration and harmonization of programmes as well as mobilization of resources for joint projects. In accordance with Article 27 (2), **the Convention entered into force on 13 December 2006.**

100. **The following twenty-five (25) Member States have ratified the Convention:** Algeria, Angola, Burundi, Comoros, Egypt, Ethiopia, Gambia, Guinea, Ghana, Kenya, Libya, Mali, Mozambique, Namibia, Niger, Nigeria, Rwanda, S.A.D.R., Senegal, Sudan, Tanzania, Togo, Tunisia, Zambia and Zimbabwe.

101. **Twenty-one (21) Member States namely:** Benin, Burkina Faso, Cameroon, C.A.R, Chad, Congo, Cote d'Ivoire, Djibouti, Democratic Rep. Of Congo, Eq. Guinea, Gabon, Guinea-Bissau, Lesotho, Liberia, Madagascar, Mauritius, Sierra Leone, Somalia, South Africa, Swaziland and Uganda **have signed but have not ratified to the Convention.**

102. **The following seven (7) Member States have neither signed nor acceded to the Convention:** Botswana, Cape Verde, Eritrea, Malawi, Mauritania, Sao Tome & Principe and Seychelles.

## **XXVI. THE PROTOCOL RELATING TO THE ESTABLISHMENT OF THE PEACE AND SECURITY COUNCIL OF THE AFRICAN UNION (2002)**

103. This Protocol was adopted by the 1<sup>st</sup> Ordinary Session of the Assembly of the Union which was held in Durban, South Africa, from 9 to 10 July 2002. It entered into force on 26 December 2003.

104. **Forty-four (44) Member States:** Algeria, Angola Benin, Botswana, Burkina Faso, Burundi, Cameroon, Chad, Comoros, Congo, Côte d'Ivoire, Djibouti, Egypt, Ethiopia, Equatorial Guinea, Gabon, Gambia, Ghana, Kenya, Lesotho, Libya, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, S.A.D.R., Sao Tome & Principe, Senegal, Sierra Leone, South Africa, Sudan, Swaziland, Tanzania, Togo, Tunisia, Uganda, Zambia, and Zimbabwe **have ratified the Protocol.**

105. **The following seven (7) Member States have so far signed but not ratified or acceded to the Protocol:** C.A.R, D.R.C., Guinea, Guinea Bissau, Liberia, Seychelles, and Somalia.

106. **The following two (2) Member States:** Cape Verde and Eritrea **have neither signed nor acceded to the Protocol.**

### **107. RESERVATIONS ENTERED BY MEMBER STATES:**

**Egypt:** entered a reservation as follows:

- **Article 7(1)(r); It shall respect this provision, if in its opinion, it is not in violation of its obligations under the UN Charter.**

## **XXVII. AFRICAN UNION CONVENTION ON PREVENTING AND COMBATING CORRUPTION (2003)**

108. The second Ordinary Session of the Assembly of the Union, held in Maputo, Mozambique in July 2003 adopted this Convention, which deals with preventing, detecting, punishing, and eradicating corruption on the continent through cooperation among State Parties and the establishment of essential conditions to foster transparency and accountability in the management of public affairs. Pursuant to Article XXIII (2), **the Convention entered into force on 5 August 2006.**

109. **Twenty-eight (28) Member States**, Algeria, Benin, Burkina Faso, Burundi, Comoros, Congo, Ethiopia, Ghana, Kenya, Lesotho, Liberia, Libya, Madagascar, Malawi, Mali, Mozambique, Namibia, Niger, Nigeria, Rwanda, Senegal, Seychelles, Sierra Leone, South Africa, Tanzania, Uganda, Zambia and Zimbabwe **have ratified the Convention.**

110. **Seventeen (17) Member States namely:** Angola, Cameroon, Chad, Cote d'Ivoire, Djibouti, D.R.C, Eq. Guinea, Gabon, Gambia, Guinea, Guinea-Bissau, Mauritania, Mauritius, Somalia, Sudan, Swaziland and Togo **have signed but not ratified or acceded to the Convention.**

111. **The following eight (8) Member States:** Botswana, Cape Verde, CAR, Egypt, Eritrea, SADR, Sao Tome & Principe and Tunisia **have neither signed nor acceded to the Convention.**

#### 112. **RESERVATIONS ENTERED BY MEMBER STATES**

**South Africa:** entered the following designations/reservations/interpretative declarations:

##### **Designations:**

- **Article 20:** The Director-General of the Department of Justice and Constitutional Development is designated as the National Authority authorised to make or receive requests for mutual legal assistance in terms of Article 20.

##### **Interpretative declarations:**

- **Article 13(1)(d):** The Jurisdiction of States Parties provided for in this Article will be applied and recognised in accordance with the general principles of International law and the applicable South African domestic law.

##### **Reservations:**

- **Article 15(2):** This article will be applied in accordance with South African law. Accordingly, an offence is not automatically deemed extraditable;
- **Article 21:** This article will be applied subject to the application of Article 14 of the Southern African Development Community Protocol against Corruption;
- **Article 25(3):** It will not be bound by an amendment to the Convention until it has been approved by the national executive and parliamentary authorities in accordance with the Constitution of South Africa (1996).

#### **XXVIII. PROTOCOL TO THE AFRICAN CHARTER ON HUMAN AND PEOPLE'S RIGHTS ON THE RIGHTS OF WOMEN IN AFRICA (2003)**

113. This Protocol adopted by the Second Ordinary Session of the Assembly of the Union, held in Maputo, Mozambique in July 2003, specifically identifies and addresses the various forms of discrimination against women and stipulates measures to ensure the promotion, protection and realisation of the rights of African women. According to Article XXIX (1) “This Protocol entered into force on 25 November, 2005, thirty (30) days after the deposit of the fifteenth (15) instrument of ratification.

114. **Twenty-six (26) Member States**, Angola, Benin, Burkina Faso, Cape Verde, Comoros, Djibouti, Gambia, Ghana, Guinea Bissau, Lesotho, Liberia, Libya, Mali, Malawi, Mauritania, Mozambique, Namibia, Nigeria, Rwanda, Senegal, Seychelles, South Africa, Tanzania, Togo, Zambia and Zimbabwe **have ratified or acceded to the Protocol.**

115. **Twenty-two (22) Member States namely:** Algeria, Burundi, Cameroon, Chad, C.A.R., Cote d’Ivoire, Congo, D.R.C, Ethiopia, Eq. Guinea, Gabon, Guinea, Kenya, Madagascar, Mauritius, Niger, SADR, Sierra Leone, Somalia, Sudan, Swaziland and Uganda **have signed but not ratified the Protocol.**

116. **Five (5) Member States**, Botswana, Egypt, Eritrea, Sao Tome & Principe and Tunisia **have neither signed nor acceded to the Protocol.**

#### 117. RESERVATIONS ENTERED BY MEMBER STATES

**The Gambia** withdrew its reservations on articles 5, 6, 7 and 14.

**South Africa** entered the following reservations/interpretative declarations:

##### **Reservations:**

- **Article 4(j): does not find application in the Republic of South Africa as the death penalty has been abolished.**
- **Article 6(d): South Africa does not consider itself bound by this article that a marriage be recorded in writing and registered in accordance with national laws in order to be legally recognised.**
- **Article 6(h): South Africa enters a reservation on this article, which subjugated the equal rights of men and women with respect to the nationality of their children to national legislation and national security interests, on the basis that it may remove inherent rights of citizenship and nationality from children.**

##### **Interpretative declarations:**

- **Article 1(f): definition of “discrimination against women” in the Protocol has the same meaning and scope as provided for in and interpreted by the Constitution of South Africa from time to time.**

- **Article 31: The South African Bill of Rights shall not be interpreted to offer less favourable protection of human rights than the protocol, which does not expressly provide for such limitations.**

## **XXIX. THE PROTOCOL ON AMENDMENTS TO THE CONSTITUTIVE ACT OF THE AFRICAN UNION (2003)**

118. The second Ordinary Session of the Assembly of the Union held in Maputo Mozambique in July 2003 adopted this Protocol, which contains the fundamental modifications pertaining to the Constitutive Act of the African Union. Article XIII stipulates that: "This Protocol shall enter into force thirty (30) days after the deposit of the instruments of ratification by a two-thirds majority of the Member States."

119. **Twenty-two (22) Member States:** Benin, Burkina Faso, Burundi, Chad, Comoros, Egypt, Eq. Guinea, Gabon, Ghana, Kenya, Lesotho, Liberia, Libya, Mali, Mauritania, Mozambique, Niger, Rwanda, Senegal, South Africa, Tanzania and Togo **have ratified the Protocol.**

120. **Twenty-three (23) Member States:** Algeria, Cameroon, C.A.R., Cote d'Ivoire, Congo, Djibouti, D.R.C., Gambia, Guinea, Guinea Bissau, Madagascar, Mauritius, Namibia, Nigeria, S.A.D.R., Sierra Leone, Somalia, Sudan, Swaziland, Tunisia, Uganda, Zambia and Zimbabwe **have signed the Protocol.**

121. **Eight (8) Member States:** Angola, Botswana, Cape Verde, Eritrea, Ethiopia, Malawi, Seychelles and Sao Tome & Principe **have neither signed nor acceded to the Protocol.**

## **XXX. THE PROTOCOL OF THE COURT OF JUSTICE OF THE AFRICAN UNION (2003)**

122. This Protocol deals with the composition, functions, competence and other matters pertaining to the Court of Justice of the African Union. The Heads of State and Government of the Member States of the African Union adopted the Protocol in Maputo, Mozambique in July 2003. Article 60 stipulates that: "This Protocol shall enter into force thirty (30) days after the deposit of the instruments of ratification by fifteen (15) Member States.

123. **Fifteen (15) Member States:** Algeria, Comoros, Egypt, Gabon, Lesotho, Libya, Mali, Mauritius, Mozambique, Niger, Rwanda, South Africa, Sudan, Tanzania and Tunisia **have ratified the Protocol.**

124. **Twenty-eight (28) Member States namely:** Benin, Burkina Faso, Burundi, Cameroon, C.A.R., Chad, Cote d'Ivoire, Congo, Djibouti, Eq. Guinea, Ethiopia, Gambia, Ghana, Guinea, Guinea Bissau, Kenya, Liberia, Madagascar, Namibia, Nigeria, Senegal,

Sierra Leone, Somalia, Swaziland, Togo, Uganda, Zambia and Zimbabwe **have signed the Protocol.**

125. **Ten (10) Member States:** Angola, Botswana, Cape Verde, DRC, Eritrea, Malawi, Mauritania, SADR, Sao Tome & Principe and Seychelles **have neither signed nor acceded to the Protocol.**

### **XXXI. PROTOCOL ON THE STATUTE OF THE AFRICAN COURT OF JUSTICE AND HUMAN RIGHTS (2008)**

126. The Protocol on the Statute of the African Court of Justice and Human Rights was adopted by the Assembly of the Union in Sharm El-Sheikh, Egypt, in July 2008. It merges into a single Court, the African Court on Human and Peoples' Right and the Court of Justice of the African Union. According to Article 9, "the 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". Upon its entry into force, the present Protocol and Statute annexed shall replace 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 and entered into force on January 2004 and the Protocol of the Court of Justice of the African Union, adopted on 11 July 2003.

127. **So far, ten (10) Member States, namely:** Benin, Burkina Faso, Chad, Gabon, Guinea, Mali, Nigeria, Senegal, Sierra Leone and Tanzania **have signed the Protocol. It is yet to be signed and/or ratified by the remaining forty-three Member States.**

### **XXXII. PROTOCOL TO THE OAU CONVENTION ON THE PREVENTION AND COMBATING OF TERRORISM (2004)**

128. This Protocol was adopted by the Third Ordinary Session of the Assembly in Addis Ababa, on 8 July 2004 to enhance the effective implementation of the Convention and to give effect to Article 3(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.

129. **Nine (9) Member States, namely:** Algeria, Burundi, Ethiopia, Gabon, Libya, Mali, Niger, South Africa and Tunisia **have thus far ratified the Protocol.**

130. **Twenty-seven (27) Member States,** namely: Benin, Burkina Faso, Cameroon, C.A.R., Chad, Comoros, Cote d'Ivoire, Congo, Djibouti, D.R.C., Eq. Guinea, Gambia, Ghana, Guinea, Guinea Bissau, Kenya, Madagascar, Nigeria, Rwanda, SADR, Senegal, Sierra Leone, Somalia, Sudan, Swaziland, Tanzania and Uganda **have signed the Protocol.**

131. **Seventeen (17) Member States:** Angola, Botswana, Cape Verde, Egypt, Eritrea, Lesotho, Liberia, Malawi, Mozambique, Mauritania, Mauritius, Namibia, Sao Tome &

Principe, Seychelles, Togo, Zambia and Zimbabwe **have neither signed nor acceded to the Protocol.**

### 132. RESERVATIONS ENTERED BY MEMBER STATES

**South Africa** entered the following interpretative declarations:

- **Article 3(1)(e): “The Government of the Republic of South Africa is not a Party to the African Union Convention for the Elimination of Mercenarism in Africa and notes that this is a Convention that has been identified by the Assembly of the Union as being suitable for review. In the interim the Government of the Republic of South Africa will interpret and apply Article 3(1)(e) in accordance with legislation of the Republic of South Africa applicable to mercenarism, which prohibits the recruitment, use, training of, or engagement in, any mercenary activity;”**
- **Article 8: “The Government of the Republic of South Africa shall apply the provisions of Article 8 of the Protocol in accordance with the obligations imposed upon States Parties in Article 8 of the OAU Convention on the Prevention and Combating Terrorism.”**

### XXXIII. AFRICAN UNION NON-AGGRESSION AND COMMON DEFENCE PACT (2005)

133. The Pact was adopted by the Heads of State and Government of the Member States of the African Union in Abuja, Nigeria in January 2005, in order to deal with threats to peace, security and stability in the continent and to ensure the well being of the African peoples. The Pact shall enter into force thirty (30) days after the deposit of the instruments of ratification by fifteen (15) Member States.

134. **Only twelve (12) Member States, namely:** Algeria, Chad, Congo, Gabon, Ghana, Libya, Mali, Mauritania, Mozambique, Niger, Senegal and Togo **have so far ratified the Pact.**

135. **Twenty-five (25) Member States, namely:** Benin, Burkina Faso, Burundi, Cameroon, C.A.R., Cote d’Ivoire, Djibouti, D.R.C., Eq. Guinea, Ethiopia, Gambia, Guinea Bissau, Guinea, Kenya, Liberia, Madagascar, Nigeria, Rwanda, S.A.D.R., Sierra Leone, Somalia, South Africa, Sudan, Tunisia and Zimbabwe **have signed the Pact.**

136. **Sixteen (16) Member States,** Angola, Botswana, Cape Verde, Comoros, Egypt, Eritrea, Lesotho, Malawi, Mauritius, Namibia, Sao Tome & Principe, Seychelles, Swaziland, Tanzania, Uganda and Zambia **have neither signed nor acceded to the Pact.**



**XXXIV. AFRICAN YOUTH CHARTER (2006)**

137. The Charter was adopted by the Heads of State and Government of the Member States of the African Union in Banjul, The Gambia, on 2 July 2006 to set out a political and legal framework for youth empowerment at the national and continental levels. In line with Article 30 (2) the Charter shall enter into force thirty (30) days after the deposit of the fifteenth instrument of ratification.

138. **Twelve (12) Member States, namely;** Burkina Faso, Djibouti, Gabon, Guinea Bissau, Libya, Mali, Mauritius, Mozambique, Namibia, Niger, Rwanda and Uganda **have so far ratified the Charter.**

139. **Twenty-two (22) Member States, namely:** Benin, Burundi, C.A.R., Chad, Congo, Cote d'Ivoire, D.R.C., Egypt, Ethiopia, Gambia, Kenya, Liberia, Ghana, Guinea, Nigeria, Senegal, Sierra Leone, Sudan, Tanzania, Togo, Tunisia and Zambia **have signed the Charter.**

140. **The remaining nineteen (19) Member States have neither signed nor acceded to the Charter.**

**XXXV. AFRICAN CHARTER ON DEMOCRACY, ELECTIONS AND GOVERNANCE (2007)**

141. The Charter was adopted by the Heads of State and Government of the Member States of the African Union in Addis Ababa, Ethiopia, on 30 January 2007 to entrench a culture of democracy, elections and good governance at the national and continental levels in order to bring together the declarations and decisions previously adopted relating to this matter. In line with its Article 48, the Charter shall enter into force thirty (30) days after the deposit of fifteen instruments of ratification.

142. **Only two (2) Member States, namely;** Ethiopia and Mauritania **have so far ratified the Charter. The Commission has received copy of an instrument of ratification for this treaty from Sierra Leone but the originals have not yet been deposited.**

143. **Twenty-six (26) Member States:** Benin, Burkina Faso, Burundi, C.A.R., Chad, Congo, Djibouti, D.R.C., Gambia, Ghana, Guinea, Guinea Bissau, Kenya, Liberia, Mali, Mauritius, Namibia, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, Sudan, Swaziland, Togo and Uganda **have signed the Charter.**

144. **The remaining twenty-five (25) Member States have neither signed nor ratified the Charter.**

**C. THE WAY THE COMMISSION HAS ADDRESSED THESE ISSUES:**

145. It is to be recalled that previously, Council had by virtue of decision CM/Dec.511 (LXXI), requested the Secretary-General to undertake a systematic review of all OAU Treaties with a view to establishing their relevance and to identify those that require to be updated or cancelled and identifying areas requiring the conclusion of new treaties. A meeting of Legal Experts was convened in 2004 whose recommendations were adopted with amendments by the Executive Council in July 2004. Council further authorized the Commission to convene meetings of experts to examine the recommendations and to elaborate the necessary legal instruments. The Commission has since developed a paper on the way forward to guide the next steps to be taken in this regard and advised concerned departments of the actions expected of them.

**D. ACHIEVEMENTS, PROGRESS AND CONSTRAINTS:**

146. As has been reported in the last three sessions of Council, the new and advanced database system that enables easy compilation and generation of status lists has been very helpful in popularising the OAU/AU treaties. It has also enabled the Member States to obtain their individual country status list as well as status list for each treaty from the Office of the Legal Counsel speedily. Moreover, the updated status lists for each treaty is readily available online at the AU website; [www.africa-union.org](http://www.africa-union.org)

**E. CONCLUSION AND RECOMMENDATIONS:**

147. In light of the foregoing, the Commission submits the following recommendations for consideration of the Executive Council:

- Take note of the report;
- Commend the Chairperson of the Commission and the Commission for the initiatives and efforts aimed at encouraging Member States to become State Parties to the OAU/AU Treaties;
- Appeal to Member States to prioritise and accelerate the signing and ratification/accession to OAU/AU Treaties;
- Reiterate its appeal to the members of the Pan-African Parliament to assist with advocacy and sensitization of Member States to expedite the process of ratification/accession to OAU/AU Treaties.

2009

# Report on the status of OAU/AU treaties (As at 22 January 2009)

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