

ASSEMBLY OF THE AFRICAN UNION
First Ordinary Session
9 – 10 July 2002
Durban, SOUTH AFRICA

ASSEMBLY/AU/Dec. 1- 5 (I)
ASSEMBLY/AU/Decl. 1- 3 (I)

DECISIONS AND DECLARATIONS ADOPTED BY THE
FIRST ORDINARY SESSION OF THE ASSEMBLY OF
THE AFRICAN UNION

DECISION ON THE INTERIM PERIOD

The Assembly:

1. TAKES NOTE of the Report of the Secretary General on the implementation of the Lusaka Decision AHG/Dec.160 (XXXVII);

2. DECIDES:

- i. **TO ADOPT** the Rules of Procedure of the Assembly and the Statutes of the Commission;
- ii. **THAT THE TRANSITION PERIOD** shall come to an end with the convening of the Inaugural Session of the Assembly;
- iii. **TO PROVIDE** for an interim period with effect from 9 July 2002 for a duration of one (1) year after which the Second ordinary session of the Assembly shall appoint the Chairperson, Deputy Chairperson as well as the Commissioners through the Executive Council.
- iv. **TO DESIGNATE** the Secretary General, the Assistant Secretaries General and the Staff of the General Secretariat of the OAU as the Interim Commission in accordance with Article 33 (4) of the Constitutive Act;
- v. **THAT THE SECRETARY GENERAL** shall be the Interim Chairperson of the Commission and the Assistant Secretaries General shall be acting Commissioners and to **AUTHORISE** him to allocate the portfolios as appropriate;
- vi. **TO AUTHORISE** the Interim Commission to complete its proposals on the structure of the Commission for submission to Member States and undertake all the necessary measures to facilitate the election and appointment of the Chairperson, the Deputy Chairperson and the Commissioners in July 2003;
- vii. **TO AUTHORISE** the Interim Chairperson to prepare the financial implications of the structure of the Commission and undertake the necessary consultations with Member States prior to submitting them to the Executive Council and ultimately to the Assembly in July 2003;
- viii. **TO AUTHORISE** the Interim Chairperson to continue implementing the other activities identified in the Secretary General's Report relating to the Lusaka Decision;
- ix. **TO AUTHORISE ALSO** the Interim Commission to continue with the process of transferring the assets and liabilities of the OAU to the African Union;
- x. **TO URGE** those countries which have not yet ratified the Constitutive Act to do so expeditiously; and to **REITERATE** its appeal to all Member States which have not yet done so to sign and ratify the Protocol on the Pan-African Parliament; and
- xi. **THAT** the African Commission on Human and Peoples' Rights and the African Committee of Experts on Rights and Welfare of the Child shall henceforth operate within the framework of the African Union;
- xii. **TO CONGRATULATE** and **EXPRESS** its appreciation to the Secretary General, the Assistant Secretaries General and the Staff of the General Secretariat on the excellent work done and their dedication and commitment to the cause of the African Union which has made the launching of the African Union possible.

**DECISION ON THE ESTABLISHMENT OF THE PEACE AND
SECURITY COUNCIL OF THE AFRICAN UNION**
- Doc. AHG/234 (XXXVIII)

The Assembly:

1. **RECALLS** Decision AHG/Dec.160 (XXXVII) of the 37th Ordinary Session of the OAU Assembly of Heads of State and Government, to incorporate the Central Organ of the OAU Mechanism for Conflict Prevention, Management and Resolution as one of the organs of the African Union, in accordance with Article 5 (2) of the Constitutive Act and to request the Secretary General to undertake a review of the structures, procedures and working methods of the Central Organ, including the possibility of changing its name;
2. **TAKES NOTE** of Decision AHG/Dec. 184 (XXXVIII) on the establishment of the Peace and Security Council of the African Union, adopted by the 76th Ordinary Session of the OAU Council of Ministers, held in Durban, South Africa, from 28 June to 6 July 2002;
3. **ADOPTS** the Protocol on the establishment of the Peace and Security Council of the African Union and **CALLS UPON** all Member States to sign and ratify the Protocol so as to ensure its early entry into force;
4. **DECIDES** in the interim that, pending the ratification and entry into force of the Protocol, the Cairo Declaration on the OAU Mechanism for Conflict Prevention, Management and Resolution shall remain valid.

DECISION ON THE PROPOSED AMENDMENTS TO
ARTICLES OF THE CONSTITUTIVE ACT OF
THE AFRICAN UNION
-Doc. AHG/238 (XXXVIII)

The Assembly :

HAVING CONSIDERED the proposal by the Great Socialist People's Libyan Arab Jamahiriya on Amendments to Articles of the Constitutive Act of the African Union.

DECIDES as follows:

1. The interim Chairperson of the Commission will circulate the Libyan amendments to all Member States;
2. All the proposals for amendment will first be examined by the Executive Council (in accordance with Article 32 of the Act) and submitted for consideration by an Extraordinary Session of the Assembly to be held in six (6) months' time.

DECISION ON THE SITUATION IN MADAGASCAR

The Assembly:

1. **RECALLS** Article 4 (p) of the Constitutive Act of the African Union on the condemnation and rejection of unconstitutional changes of Government;
2. **REAFFIRMS** its commitment to the Algiers Decision and the Lomé Declaration on Unconstitutional Changes of Government, adopted by the Assembly of Heads of State and Government during their ordinary sessions held in July 1999 and July 2000, respectively;
3. **COMMENDS** President Levy Patrick Mwanawasa, the outgoing Chairman of the OAU, President Abdoulaye Wade of Senegal and the other Heads of State who facilitated the Dakar I Agreement of 18 April 2002, and who proposed the Dakar II Settlement Plan for Madagascar, as well as the Secretary General of the OAU and the Personal Representative of the United Nations Secretary General for their efforts;
4. **ENDORSES** the Communiqué on the situation in Madagascar adopted by the Central Organ meeting, held at Summit level, in Addis Ababa, on 21 June 2002;
5. **ENCOURAGES** Mr. Marc Ravalomanana and all the Malagasy parties to pursue efforts aimed at achieving national reconciliation and cohesion and promoting a peaceful solution to the crisis;
6. **ENCOURAGES** further Mr. Marc Ravalomanana and other Malagasy parties concerned to organise, as soon as possible, elections** as recommended in the Communiqué adopted by the Central Organ meeting at Summit level held in Addis Ababa, Ethiopia, on 21 June 2002. These elections must be transparent and free and organised with the assistance of the African Union and the United Nations;
7. **REQUESTS** the Current Chairman of the African Union and the Interim Chairperson of the Commission to assist the Malagasy parties in seeking a peaceful and constitutional solution to the crisis in conformity with the principles enshrined in the Constitutive Act of the African Union.

*** Reservations expressed by Senegal, which proposes the organization of Legislative elections.**

DECISION ON A COMMON AFRICAN DEFENCE AND SECURITY
-Doc. Ass/AU/3 (I) Add.4

The Assembly:

Welcoming the initiative of Colonel Muammar Gaddafi, Leader of the Great Socialist People's Libyan Arab Jamahiriya, on the establishment of a single African army,

1. **Stresses** the need for a common African Defence and Security Policy in the context of the Constitutive Act of the African Union.
2. **Requests** the Chairman of the Assembly to establish a group of experts to examine all aspects related to the establishment of a common African defence and security and submit recommendations for the consideration of the next ordinary session of the Assembly.

DECLARATION ON THE PROCLAMATION BY THE AFRICAN UNION OF
A CAPACITY BUILDING DECADE IN AFRICA
- Doc. Ass/AU/3 (I) Add.1

We, Heads of State and Government of Member States of the African Union meeting in Durban, South Africa, from 9 to 10 July 2002.

RECOGNIZING the vital importance of Capacity Building for our countries and having taken and continuing to take measures to make Capacity Building a clear and intersectoral priority of our development policies, strategies and programmes,

CONSCIOUS of the efforts deployed by the international community to promote the strengthening and/or consolidation of the capacities of various sectors in Africa,

BEARING IN MIND the objectives and principles enshrined in the Charter of the Organization of African Unity of 25 May 1963, particularly its Articles I, II and III,

CONSIDERING the 3 June 1991 Treaty establishing the African Economic Community, and the various other decisions, declarations, resolutions and joint declarations aimed at promoting the economic, social and cultural integration of our continent,

RECALLING the Sirte Declaration of 9.9.99 adopted by the Fourth Extraordinary Session of the Assembly of Heads of State and Government,

RECALLING ALSO the adoption of the Constitutive Act of the African Union by the Thirty-sixth Ordinary Session of the Assembly of Heads of State and Government held in Lome, Togo, from 10 to 12 July 2001, as subsequently ratified by two thirds of Member States,

ALSO BEARING IN MIND the New African Initiative (now renamed NEPAD) adopted in July 2001 and **MINDFUL** of the determination of Africans to eradicate poverty and to commit their countries, individually and collectively, to sustainable growth and development, while taking an active part in the world economy and in decision-making fora,

COGNIZANT of the enormous capacity needs in the public and private sectors, as well as in the civil society of our respective countries, which constitute a major impediment to participatory development,

TAKING NOTE of the emergence of new actors on the political, social and economic scene of our respective countries, whose participation would be crucial in the reduction of poverty, promotion of sustainable development and strengthening of good governance,

MINDFUL of the fact that Capacity Building constitutes a vital link that is missing in the implementation of effective development strategies in Africa,

CONVINCED that capacity building in our respective countries and within the Regional Organizations will guarantee peace and security, and make it possible to attain high growth rates,

ANXIOUS to preserve our attachment to the development and utilization of the continent's human resources for the general well-being of our peoples in all areas of human endeavour,

ALSO COGNIZANT of the need for all African States and International Organizations operating in Africa to strengthen coordination and harmonization of their activities and enhance development for the benefit of our Member States,

NOTING that efforts so far made in the area of Subregional and Regional cooperation have produced encouraging results as far as the continent's socio-economic development is concerned,

CONSIDERING the tremendous results already achieved by multilateral institutions, particularly African-based institutions, notably the African Capacity Building Foundation (ACBF) and the United Nations Economic Commission for Africa (ECA), in the area of socio-economic policy analysis development and development management on the Continent,

DESIROUS to pursue such efforts, as evidenced by the establishment of the African Development Forum which brings together all the stakeholders with a view to reaching a consensus on Africa's development policies and priorities; the creation of the Joint African Institute whose role is to train officials from Member States in financial and economic matters, as well as in other development matters; and the implementation of the Capacity Building partnership in Africa (PACT) which offers a new framework for the provision by the international community for additional resources for Capacity Building on the continent,

ALSO CONSIDERING that these efforts will be critical in the promotion of tripartite dialogue and national coordination between the public and private sectors, and the civil society; will help strengthen capacities for regional cooperation and integration; and facilitate integration of African countries in the world economy,

RECOGNIZING FURTHER the need for African countries to take ownership of their development policies, strategies and programmes, and to pursue an effective partnership between Africa and the international community,

HEREBY:

DECIDE to proclaim 2002–2011 the “**DECADE FOR CAPACITY BUILDING IN AFRICA**” and solemnly:

AFFIRM our determination to ensure that local Capacity Building features prominently in the development policies of our respective countries;

AGREE to demonstrate greater commitment to Capacity Building on the continent by pooling our resources and capacities, and allowing our people to take ownership of their development process;

FURTHER AGREE to promote the multilateral organisations, particularly those based in Africa, namely the African Capacity Building Foundation (ACBF) whose task is to strengthen and develop capacities on the Continent;

CALL ON the international community to respond positively to this Resolution by supporting financially and otherwise our Capacity Building efforts; and

MANDATE the Council of Ministers to review, each year, the progress made in the implementation of this Resolution with a view to ensuring the success of the **DECADE FOR CAPACITY BUILDING IN AFRICA**.

**DECLARATION ON THE IMPLEMENTATION OF THE NEW
PARTNERSHIP FOR AFRICA'S DEVELOPMENT (NEPAD)**

1. **WE**, the Heads of State and Government of Member States of the Organisation of African Unity, meeting at the 38th Session of our Assembly in Durban, South Africa on 8th July 2002:
2. **RECALLING** our decision regarding the then New African Initiative taken at the 37th Session of the Assembly of Heads of State and Government of the Organization of African Unity in Lusaka, Zambia from 9 to 11 July 2001 (AHG/Decl. 1 (XXXVII);
3. **NOTING WITH APPRECIATION** the report provided to us by the Chairperson of the New Partnership for Africa's Development (NEPAD) Heads of State and Government Implementation Committee, H.E. President O. Obasanjo of the Federal Republic of Nigeria, describing the developments in the NEPAD process over the course of the past year;
4. **FURTHER NOTING** the document submitted to us by H.E. President Obasanjo entitled "Towards the Implementation of the New Partnership for Africa's Development (NEPAD) - Summary of Progress Report and Initial Action Plan" (hereinafter referred to as "Progress Report and Initial Action Plan"), elaborating the first phase for the implementation of NEPAD;
5. **FURTHER NOTING** the Declaration on Democracy, Political, Economic and Corporate Governance submitted by H.E. President Obasanjo, which seeks to foster a strong statement of reaffirmation by African leaders of their commitment to the principles and core values of democracy and good political, economic and corporate governance;
6. **FURTHER NOTING** the document submitted by H.E. President Obasanjo on the African Peer Review Mechanism (APRM) which is an instrument that will be voluntarily acceded to by Member States of the African Union for the purpose of self-monitoring, and which aims to foster the adoption of policies, standards and practices that will lead to political stability, high economic growth, sustainable development and accelerated regional integration in the continent;
7. **EMPHASISING** the long term nature of the NEPAD programme and our determination to use all available resources to ensure its successful implementation;
8. **ENDORSE** the Progress Report and Initial Action Plan and **RECOMMENDS** that Member States wishing to do so, should submit written comments to the Chairman of HSIC;
9. **CALL** for the detailed documents relating to each priority area of the Progress Report and Initial Action Plan to be distributed to all Member States of the African Union;
10. **URGE** that the programmes in each priority area be urgently implemented and that each Member State provide assistance in the further development and implementation of these programmes and in

the continued popularization of NEPAD amongst all sectors of society on the African continent;

- 11. REAFFIRM** our commitment to the principles and core values contained in the Declaration on Democracy, Political, Economic and Corporate Governance;
- 12. ENCOURAGE** all Member States of the African Union to adopt the Declaration on Democracy, Political, Economic and Corporate Governance and accede to the African Peer Review Mechanism;
- 13. MANDATE** the Heads of State and Government Implementation Committee of NEPAD and its Steering Committee to continue the vital task of further elaborating the NEPAD Framework and ensuring the implementation of NEPAD Initial Action Plan until reviewed at the 2nd Assembly of the African Union in Maputo, Mozambique, in 2003;
- 14. DECIDE** to increase the number of the members of the Implementation Committee by one per region of the African Union, thus bringing the total number of members of the Committee to twenty;
- 15. CALL UPON** the international community to provide continued and enhanced support for our efforts to regenerate the continent.

**THE DURBAN DECLARATION IN TRIBUTE TO THE
ORGANIZATION OF AFRICAN UNITY ON THE OCCASION OF
THE LAUNCHING OF THE AFRICAN UNION**

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

1. Thirty nine years ago, the Heads of State and Government of the then independent African Countries gathered in Addis Ababa Ethiopia to found the Organization of African Unity.
2. The main objectives for establishing the organisation were, *inter alia*, to rid the continent of the remaining vestiges of colonisation and apartheid; to promote unity and solidarity among African States; coordinate and intensify cooperation for development; for the defence of sovereignty, territorial integrity and consolidation of the independence of African States, as well as promoting international cooperation within the framework of the United Nations.
3. The common identity and unity of purpose engendered by the OAU, became a dynamic force at the service of the African people in the pursuit of the struggle for the total emancipation of the African Continent in the political, economic and social fields. Nowhere has that dynamic force proved more decisive than in the African struggle for decolonisation. Through the OAU Coordinating Committee for the Liberation of Africa, the Continent worked and spoke as one with undivided determination in forging an international consensus in support of the liberation struggle. Today, we celebrate a fully decolonised Africa and Apartheid has been consigned to the ignominy of history.
4. Pursuant to one of the major objective of its Charter, the OAU has strived to address Africa's problem of poverty and under development and adopted strategies in this regard, including the 1980 Lagos Plan of Action and the Final Act of Lagos which continue to be the blue print for Africa's integration and development.
5. In June 1991, the Treaty establishing the African Economic Community was signed and is now in force. The Treaty seeks to build the African Economic Community through a Common Market built on the Regional Economic Communities. Today, Regional Economic Communities are consolidating and proving to be engines for integration. ECCAS, SADC, COMESA, UMA, ECOWAS, IGAD and CENSAD are making great effort at economic development and integration as well as at promoting peace through conflict resolution in their region. We remain committed to continental and global cooperation including the strengthening of Afro-Arab cooperation.
6. In the political realm, the OAU Declaration on the Political and Socio-economic Situation in Africa and the Fundamental Changes taking place in the World of 1900, underscored Africa's resolve to seize the initiative, to determine its destiny and to address the challenges to peace, democracy and security. The Mechanism for Conflict Prevention, Management and Resolution that was established in 1993 was a practical expression of that determination to begin in earnest, the task of promoting peace and stability in Africa.

7. Through the Mechanism, the OAU has managed to address constructively many of the conflicts which have and continue to afflict our Continent. The Mechanism has made a fundamental difference, not only in its political significance of our determination to strive for peace, but more so in the practical framework it has provided for the continent to address conflicts and conflict situations.
8. The OAU has been on the vanguard in the promotion of the observance of human and people's rights. The OAU Charter on Human and People's Rights and the Grand Bay Declaration and Plan of Action on Human Rights are among the instruments adopted by the Organization to promote human rights. Underlying these instruments is a determination to ensure that Africa responds to the challenge of observing, promoting and protecting human rights and the rule of Law.
9. The OAU has also responded to the yearning of the African people for greater political freedoms inherent in democratic government. To this effect, it was at the forefront in galvanizing governments around a new determination to progressively place the people at the centre of decision making. The Charter on Popular Participation adopted in 1990 was a testimony to this new determination.
10. Today, Africa is firmly on the road to democratisation. In our Algiers decision on unconstitutional changes of Government and our Lome Declaration on the Framework for an OAU Response to Unconstitutional Changes adopted in 1999 and 2000 respectively, we reiterated our determination to see Africa governed on the basis of democracy and by governments emanating from the will of the people expressed through transparent, free and fair elections.
11. Similarly, in our 2000 Solemn Declaration on the Conference on Security, Stability, Development and Cooperation, we agreed on fundamental principles to govern our cooperation in security, and development and in the promotion of Democracy and Good Governance in the Continent.
12. Through the OAU, Africa has been able to respond to the many other challenges it faces. Whether in the protection of the environment, in fighting international terrorism, in combating the scourge of the HIV/AIDS pandemic, malaria and tuberculosis or dealing with humanitarian issues such as refugees and displaced persons, landmines, small and light weapons among others, Africa has found collective action through the OAU.
13. We, the Heads of State and Government, meeting in the inaugural session of the Assembly of our African Union, honour the founding leaders of the OAU and pay tribute to their tenacity, resilience and commitment to African Unity. They stood firm in the face of the divisive manipulations of the detractors of Africa and fought for the integrity of Africa and the human dignity of all the peoples of the continent. In the same vein, we pay tribute to all the Secretaries General and all the men and women who served the OAU with dedication and commitment.
14. As we hail the achievements of the OAU, we rededicate ourselves more resolutely to its principles and objectives and to the ideals of freedom, unity and development which the founding leaders sought to achieve in establishing the Organization thirty-nine years ago. As we bid farewell to the OAU, we rededicate ourselves to its memory as a pioneer, a liberator, a unifier, an organizer, and the soul of our continent. We pledge to strive more resolutely in pursuing the ultimate goals of the OAU and in furthering the cause of Africa and its people under the African Union.

15. We reiterate our continuing commitment to the objectives of the African Union which was initiated at the fourth extraordinary session of the OAU Assembly of Heads of State and Government in the Great Socialist People's Libyan Arab Jamahiriya and as embodied in our 9.9.99 Sirte Declaration. We further rededicate ourselves to the objectives on the New Partnership of Africa's Development (NEPAD), as a programme of the African Union for strengthening inter-African cooperation and integration in a globalising world and to overcome the prevalence of poverty and strive for a better quality of life for all the peoples of Africa.
16. We commit ourselves to urgently establish all institutional structures to advance the agenda of the African Union and call on all Member States to honour their political and financial commitments and to take all the necessary actions to give unwavering support to all the Union's initiatives aimed at promoting peace, security, stability, sustainable development, democracy and human rights in our continent.
17. In order to ensure the involvement of our peoples and their civil society organisations in the activities of the Union, we recommit ourselves to the early establishment of the Pan African Parliament and the Economic, Social and Cultural Council (ECOSOCC) as envisaged in the Constitutive Act of our Union.
18. We welcome and recognise the important contribution of the youth, women, business community, parliamentary representatives and civil society and call upon these stakeholders to continue participating fully as partners in the regeneration of the African Continent through the programmes of the African Union. We reaffirm, in particular, the pivotal role of women in all levels of society and recognise that the objectives of the African Union cannot be achieved without the full involvement and participation of women at all levels and structures of the Union.
19. We note the importance of continuing to cooperate with Africa's partners as well as regional and continental organisations in the furtherance of the objectives of the African Union.
20. As we enter a new era in the history of our continent, we commit ourselves to the principles and objectives that we set out in the Constitutive Act of our Union in order to ensure that our peoples live in peace and prosperity. We also rededicate ourselves to implementing all programmes, policies and decisions of the African Union.

Durban, South Africa, 10 July 2002

DECISION ON THE DRAFT RULES OF PROCEDURE

The Executive Council:

1. **TAKES NOTE** of the Report of the Special Session of the Council of Ministers on the African Union;
2. **DECIDES** to adopt its own Rules of Procedure and those of the Permanent Representatives' Committee.

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