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INTRODUCTION AND BACKGROUND

A. PREAMBLE

1. The 4th Extraordinary Summit Meeting of the Organization of African Unity (OAU), held in September 1999 in Sirte, Libya, with the theme "Strengthening OAU capacity to enable it to meet the challenges of the new millennium" adopted the Sirte Declaration which, inter-alia called for:
 - i the establishment of "an African Union in conformity with the ultimate objectives of the Charter of our Continental Organization and the provisions of the Treaty establishing the African Economic Community",*
 - ii the acceleration of "the process of implementing the Treaty establishing the African Economic Community"*
2. The 36th Summit of the OAU in July 2000 in Lome, Togo, decided to establish the African Union, whose Constitutive Act was adopted at the 37th and last Summit of the OAU in July 2001 in Lusaka, Zambia.
3. Three years after the formal launching of the AU in 2002 in Durban, South Africa, member states realized the need to deepen efforts at concretizing some of the cardinal objectives of the African Union.
4. The fourth Ordinary Session of the Assembly of the African Union, at its meeting in Abuja, Nigeria, in January 2005 took note of the proposals of the Great Socialist People's Libyan Arab Jamahiriya for the creation of the posts of Ministers of Defense, Foreign Affairs, Transport and Communications, Foreign Trade and the cancellation of Customs and harmonization of custom tariffs among Member States. The Assembly accepted the proposals as pertinent and forward looking and in line with the vision of the African Union and decided to set up a Committee of Heads of State and Government chaired by the

President of the Republic of Uganda and composed of Botswana, Chad, Ethiopia, Niger, Senegal and Tunisia to consider with the Chairperson of the Commission the said Proposals and submit report to the next meeting of the Assembly in Sirte.

5. The Committee met in Kampala, Uganda, in June 2005 and decided on a set of recommendations which were submitted to the 5th Ordinary Session of the Assembly of the Union in Sirte in July 2005. The Assembly commended the Committee for its work and decided to establish another Committee of Heads of States to be chaired by President Olusegun Obasanjo, the then Chairperson of the African Union and composed of the Heads of States and Government of Algeria, Kenya, Senegal, Lesotho, Uganda and Gabon. It requested the Committee to consider all ideas discussed during the Summit and submit a report to the next session of the Assembly, including the steps that should be taken for the realization of this objective, the structure, the process, and the time frame required for its achievement. It was also to consider the measures that should be undertaken, in the meantime, to strengthen the ability of the Commission to fulfill its mandate effectively.

6. Pursuant to this decision and with a view to facilitating was a deeper reflection and broad based consultation with different segments of the African publics, President Obasanjo convened a two-day conference on the theme, "*Africa and the Challenges of the Changing Global Order: Desirability of a Union Government*". The conference was held on November 12-13, 2005 at the State House Banquet Hall, Abuja, Nigeria. The recommendations of the conference was reviewed by the Committee of Seven, which in its final report to the AHG, noted among others that
 - i. "*The necessity for eventual Union Government is not in doubt. It is even characterized as an imperative in the fulfillment of the dream of the successive generations of African leadership and as a response to the collective aspirations of African peoples as well as developments in other regions of the world...*"

 - ii. "*As a corollary to the above... the envisaged Union Government must be a union of the African people and not merely a union of states and governments...*"

 - iii. "*A multi-pronged and multi layered campaign (should) be undertaken to inculcate the ideals of Pan-Africanism in African learning institutions, media and other organs of civil society*"

 - iv. "*The union government must be motivated by a set of clearly identifiable goals*"

- v. *"The pursuit of these goals must be based on a set of clearly identifiable shared values and commonality of interest, which are non-negotiable, (and which) may include among others democracy and human rights, social solidarity, good neighborliness and peace"*
- vi. *"These values must determine the constitutive and regulative rules of the Union (which) are expected to be based on the principle of strict adherence"*
- vii. *"The African Union Commission must establish a team of experts, which will work with the seven-member AU committee to draw up detailed recommendations for submission to the African Union Summit..."*

7. Decision Assembly/AU/Dec.99 (VI) of January 2006 on the Report of the Committee of Seven Heads of States, chaired by President Olusegun Obasanjo, President of the Federal Republic of Nigeria and then Chairperson of the African Union, reaffirmed "that the ultimate goal of the African Union is full political and economic integration leading to the United States of Africa". The AU Commission was requested to follow up on this Report in accordance with the Work Plan and framework of action contained therein".

8. Subsequently, a Study was prepared whose main purpose was to:

- i. *elaborate further the necessity for an African Union Government, based on shared values and common interests of African countries and peoples,*
- ii. *propose possible strategic areas of focus for the African Union Government and the future United States of Africa, bearing in mind Article 13 of the Constitutive Act of the African Union, and taking into account recent proposals by African policy makers, researchers and civil society organisations,*
- iii. *examine the institutional and programme framework required to set up the African Union Government, taking into account the present situation at national, regional and continental levels,*
- iv. *suggest alternative scenarios (i.e. Road Map) for an African Union Government and the United States of Africa, bearing in mind the necessity for a phased, multilayered and differentiated approach, depending on the level of operation (national, regional and continental), and on a given strategic focus area.*

9. The roadmap assumes incremental movement towards the Union that will require the identification of strategic focus areas, which can be exclusive or concurrent. It also indicates the financial implications for the establishment of the Union.
10. A major conclusion of the study is that the African Union should move from being an intergovernmental organization to a continental integration framework. This shift from intergovernmental cooperation to continental integration has significant consequences for the strengthening of the structure, powers and functions of the organs of the Union, as well as interrelationships among them, and their relationship with the Regional Economic Communities (RECs) and other continental institutions.
11. The reformed African Union is the logical outgrowth of the idea of Pan Africanism, which has been long in gestation, and is now being propelled forward by a new and dynamic political will by African heads of state and government, to forge ahead in a determined and principled response to contemporary globalization and the pressing imperative of the democratization of development within Africa, under the historically enduring Pan Africanist spirit of continental unity and transnational cooperation.
12. The reformed African Union, therefore, combines cultural, economic, political, social and scientific-technological objectives and goals, which revolve around shared African values and common interests, all of which have been historically forged and stoked under the anvil of Pan-Africanism, a philosophy of state-building at local, regional and continental levels, and a social movement of black and African resistance to and emancipation from racism and imperial domination, especially in their specific forms under various epochs of globalization.
13. Viewed against the dynamic development and maturation of Pan-Africanism, the reformed African Union imaginatively seeks to redesign and deepen the rich and dynamic tapestry of the historical and concrete institutional representations of Pan African thought, especially since the first Pan-African Congress in 1900, the better and more positively to attain those objectives, around the following ideas and building blocks:
 - i. *Respect for human dignity.*
 - ii. *Freedom and Justice.*
 - iii. *Supra-nationalism, in the form of progressive cooperation and collaboration between African state actors and African non-state actors.*
 - iv. *A new internationalism at the global level, founded on the basis of equality and justice among nations and peoples, as a springboard for holistic African development, and global peace and*

Security.

14. These ideas are shared by all independent African countries which constitute the members of the Union. They are also shared by non-African countries with a majority of people of African descent, as well as by organisations of the African Diaspora. Current prognosis suggests that Associate membership could be granted to the last two categories by the Assembly.
15. These ideas are reaffirmed in such landmark post-independence doctrinal and policy formulations of African Unity as:
 - i The Charter of the Organization of African Unity (1963);*
 - ii The Lagos Plan of Action (1980);*
 - iii The Final Act of Lagos (1980);*
 - iv The Treaty Establishing the African Economic Community (1991);*
 - v The African Charter on Human and Peoples' Rights (1981)*
 - vi The Solemn Declaration on the Conference on Security, Stability, Development and Cooperation in Africa (CSSDCA) (2000);*
 - vii The African Charter for Popular Participation in Development (1990);*
 - viii The Constitutive Act of the African Union (2001);*
16. Viewed against the background of this philosophical and historical context, the proposals contained in the study should move Africa a significant step forward towards continental integration by reenergizing the African Union.
17. The major conclusions of this study (now generally referred to as the **Base Document**) were presented to the AHG meeting in Banjul, July 2006 by President Olusegun Obasanjo of Nigeria. While commenting on the report of the Committee of Seven, the Assembly expressed the need for additional time to further reflect on the proposals contained in the report. Thereafter, the Assembly in Banjul, The Gambia, took the decision, the Decision Assembly/AU/Dec.123 (vii), which states as follows:

"DECISION ON THE UNION GOVERNMENT DOC. ASSEMBLY/AU/2(VII):

The Assembly:

1. *TAKE NOTE of the Report of the Committee of Seven on an African Union Government towards the United States of Africa;*
2. *COMMENDS the Committee of Seven and the Commission for a good work accomplished so far;*
3. *REQUESTS the Commission to convene an Extraordinary Session of the Executive Council as soon as possible to consider the Report and propose an appropriate framework of action:*
4. *DIRECTS that financial resources be provided for the implementation of this decision."*

B. PURPOSE OF PRESENT REPORT

19. The report was prepared to facilitate the effective operationalisation of the above referred decision, with the view to providing the elements required for the implementation of the main findings and recommendations contained in the Base Document. In effect, this report should thus be read in conjunction with the Base Document. It is noted that, first, on the basis of gradual incrementalism, and taking into account the strategic focus areas identified in the Base Document, , the strategic focus areas were narrowed down.
20. As a result of this, six exclusive policy areas have been proposed in this report as follows:
 - i. *building consensus*
 - ii. *promoting common development tools*
 - iii. *exchange of experiences*
 - iv. *enhancing interregional cooperation and integration*
 - v. *promoting common policy*
 - vi. *external partnerships*

- 21.. The criteria used in narrowing the strategic focus areas to these six exclusive policy areas were the principle of comparative advantage and African experiences with collective community action at the intergovernmental and regional levels.
22. Secondly, the report provides a comprehensive review of the structures, powers, and functions of the organs of the Union and the RECs, and of their interrelationships. In doing this, the report delineates the legislative, executive and judicial structures and powers of the Union. It also offers justification for the consequential review and the proposed amendments to the Constitutive Act and the statutes, protocols and rules of procedure of the various organs, and the creation of the Office of the President of the Union, the African Union Board of Auditors and the National Commission on African Union Affairs (NCAUA).

C. ORGANISATION OF THIS REPORT

23. This report is divided into five parts:

- Part One:** The Union Exclusive Policy Focus Areas referred to in Section B above.
- Part Two:** Specific recommendations on various organs and institutions of the African Union and the proposed changes emanating from the base document as well as the proposed changes in relevant parts of the Constitutive Act and related protocols, rules of procedure and statutes.
- Part Three:** New institutions which are being proposed for consideration in light of proposed changes in the preceding part of the document
- Part Four:** *Proposals as they relate to the Regional Economic Communities*

Part Five: Indication of the imperative of additional funding as a result of the proposed changes and an outline of possible strategies for securing additional funds for the activities if the Union.

PART ONE



Union Exclusive Policy
Focus Areas



UNION EXCLUSIVE POLICY FOCUS AREAS

A: INTRODUCTION

24. In the '*Study on an African Union Government: Towards the United States of Africa*', 16 strategic focus areas, generally sector based, were identified. The main criterion of their selection is that the effective implementation of the actions contained in each of them would make, in the short, medium and long run, the process of continental integration irreversible.

The selected areas are as follows:

- i. Continental Integration
- ii. Education, Training, Skill Development, Science and Technology;
- iii. Energy;
- iv. Environment
- v. External Relations
- vi. Food, Agriculture and Water Resources
- vii. Gender and Youth
- viii. Governance and Human Rights
- ix. Health
- x. Industry and Mineral Resources
- xi. Money and Finance

- xii. Peace and Security
- xiii. Social Affairs and Solidarity
- xiv. Sport and Culture
- xv. Trade and Customs Union, Free Movement of Persons, Rights of Residence and Establishment
- xvi. Infrastructure, ICT and Biotechnology

25. These strategic focus areas have been further narrowed down to policy focus areas which will be described as the Union Exclusive Policy Focus Areas. These are policy focus areas that are best dealt with at continental level. The criteria for selecting the Exclusive Policy focus Areas are outlined below:

The extent or limit of Union competences is based on the principles of

- i. *comparative advantage;*
- ii. *the successful experience with collective community action at the regional level by the RECs and in intergovernmental cooperation among the individual countries.*

26. The use of Union competences shall be informed by the principle of devolution.
27. Under the principle of comparative advantage and successful experience with collective action at the regional level by RECs and in intergovernmental cooperation, the Union shall legislate/act within the limits of the competences devolved to it by the Member States.
28. The RECs shall be the implementation and coordination organs at the regional level for union policies, programmes and projects under the Exclusive Union Competence. Competences not devolved on the Union shall be concurrent or rests exclusively with the Member States.
29. Flowing from the above and based on the principle of devolution and subsidiarity, the Union shall legislate or act only if and insofar as the objectives of the proposed legislation/action can best be attained at the Union level.

30. Member States are obliged to support and promote the Union's policies and programmes under the Union Exclusive Policy Focus Areas in the spirit of the common interest and shared values of the Union. They shall implement, as appropriate, Union policies in these focus areas. Member States are obliged to desist or refrain from policies, actions and pronouncements likely to undermine the common position of the Union in these areas.

B. PROPOSED EXCLUSIVE POLICY FOCUS AREAS

31. Based on the principle of gradual incrementalism and a multi-layered approach, the six Union Exclusive Policy Focus Areas shall be as follows:

- i. *Building consensus,*
- ii. *Promoting common development tools,*
- iii. *Exchange of experience,*
- iv. *Enhancing regional cooperation and integration,*
- v. *Promoting common policies and*
- vi. *External partnerships.*

32. **Building Consensus**

Under the principle of strict adherence, Africa shall speak with one voice on major global political, social and economic matters such as:

- i. *intercontinental migration,*
- ii. *major political crisis,*
- iii. *international trade negotiations,*
- iv. *environmental protection;*
- v. *role and structures of international organizations, including their respective governance framework;*
- vi. *all other relevant areas covered by the Specialized and Executing Agencies of the Union's Commission, as contained in the statutes of the latter.*

Once consensus is achieved and the Union's position approved, it shall be conveyed at major world gatherings by the President of the Union with the assistance and support of the President of the Commission. It shall also be obligatory for Member States to abide by the Union's position and defend it. Any deviation by any Member State shall also attract sanctions.

33. Promoting common development tools

The Union shall be entrusted with the promotion or the establishment of common development centres, taking into account the comparative advantages of the existing ones. These centres would provide direct support to Union members. The areas that require immediate attention include:

- i. *Science and technology*
- ii. *Higher technical training and research*
- iii. *Energy*
- iv. *Health, including traditional medicines*
- v. *Continental/ regional maritime and air transport*
- vi. *Money and finance (continental financial institutions)*
- vii. *Interregional infrastructure*

34. Exchange of Experiences

The Union should facilitate experience sharing in capacity building among its members, particularly in the following areas:

- i. *Agricultural production techniques and practices, particularly food production*
- ii. *Information and communication technologies*
- iii. *Coastal erosion*
- iv. *Desertification and Afforestation*
- iv. *Combating major diseases*
- v. *Water resources management*
- vi. *Industrial development*
- viii. *Educational policies and reforms*

35. Enhancing inter-regional cooperation and integration

The overall objective of the Union at the regional level is the transformation of the RECs into regional integrations communities (RICs). In line with Article 3 (f) of the Constitutive Act, urgent steps should be taken in the following direction:

- i. *Formulation of Union guidelines for sector-based policies that would facilitate policy convergence among RECs in critical sectors such as agriculture, industrial development, energy and environmental protection;*
- ii. *Providing a coordination framework for inter-regional cooperation for the establishment of*

Transcontinental transport and communications networks, and a continental power pool;

- iii. *Harmonization and rationalization of the RECs through support to existing regional Free Trade Areas (FTA) in their efforts towards Customs Unions, and through cooperation among Regional Customs Unions (RCU) for the purpose of attaining a Continental Customs Union (CCU), as a step towards full integration.*

36. Common Policies

The Union shall promote common internal policies, particularly on:

- i. *Environmental protection*
- ii. *Trans-border diseases*
- iii. *Drug control*
- iv. *Air Transport (Yamoussoukro Agreement)*
- v. *Employment*

37. External partnership

The Union shall be responsible for entering into, following up, monitoring and evaluating, partnerships with other countries and organizations, including the African Diaspora

PART TWO



Specific Recommendations
on Various Organs and Institutions
of The African Union
and the Proposed Changes



THE ASSEMBLY

PART ONE: PROPOSED CHANGES

A. INTRODUCTION

38. The review of the Constitutive Act and related statutes is necessary because of the following recommendations:
- (i) *The need to describe the African Union as a legal entity with its own flag, anthem and emblem as symbols of its authority.*
 - (ii) *The ascription of legislative competence to the Assembly in the Union Exclusive Policy Focus Areas.*
 - (iii) *The establishment of the office of President of the Union.*

B. PRESIDENT OF THE ASSEMBLY OF HEADS OF STATE AND GOVERNMENT

39. Powers and Functions of President of Assembly shall be as follows:
- (i) *The tenure of the President of the Assembly shall be 6 months*
 - (ii) *During that period, he shall also chair any extra-ordinary session of the Assembly*
 - (iii) *He/she shall be briefed about the activities of the Commission by the President of the Commission*
 - (iv) *The President of the Union shall also hold consultations with him or her as may be necessary during the duration of his tenure*
 - (v) *Hosting of the Assembly will alternate between the Headquarters and member states based on geographical rotation.*

C. POWERS AND FUNCTIONS OF THE ASSEMBLY

40. Powers and functions of the Assembly shall be as follows:

- i. *Appoint and remove the President of the Union;*
- ii. *Determine and approve the terms and conditions of the appointment of the President of Union;*
- iii. *Receive, consider and take decisions on the Annual Report of the President on the State of the Union, taking into account the observations of the Pan African Parliament;*
- iv. *Appoint the Governor of the African Central Bank;*
- v. *Appoint the Head of the African Investment Bank;*
- vi. *Appoint the Head of the African Monetary Fund;*
- vii. *Appoint members of the African Union Permanent Board of Auditors;*
- viii. *Determine and approve the terms and conditions of the appointment of members of the African Union Permanent Board of Auditors;*
- ix. *Approve policies submitted by the President of the Union in consultation with the Council and Commission*

PART TWO: IMPLEMENTATION MODALITIES

41. Review the Constitutive Act
42. Review the Rules of Procedure of the Assembly

PART THREE: PROPOSED AMENDMENTS

54 *CONSTITUTIVE ACT*

43. Amend Article 2:

Current Formulation:

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

Proposed amendment:

Article 2.1 The African Union is hereby established as a legal entity in accordance with the provisions of this act.

Article 2.2 The Union shall have its own flag, anthem and emblem as symbols. These symbols shall also be adopted and utilized by the Regional Economic Communities (RECS)

44. **Amend Article 9: Powers and Functions of the Assembly**

Add the following to Article 9 (1):

- i. Appoint and terminate the appointment of the President of the Union;
- ii. Appoint the Governor of the African Central Bank;
- iii. Receive, consider and take decisions on the Annual Report of the President on the State of the Union, taking into account the observations of the Pan African Parliament;
- iv. Appoint and remove the President of the Union;
- v. Determine and approve the terms and conditions of the appointment of the President of Union;
- vi. Appoint the Governor of the African Central Bank;
- vii. Appoint the Head of the African Investment Bank;
- viii. Appoint the Head of the African Monetary Fund;
- ix. Appoint members of the African Union Permanent Board of Auditors;
- x. Determine and approve the terms and conditions of the appointment of members of the African Union Permanent Board of Auditors;
- xi. Approve policies submitted by the President of the Union in consultation with the Council and Commission

45. **Amend Article 9 (f) as follows:**

Current formulation:

Adopt the budget of the Union

Proposed Amendment:

Adopt the budget of the Union after its consideration by the Council and taking into account the comments and observations of the Pan-African Parliament.

■ **RULES OF PROCEDURE OF THE ASSEMBLY OF THE UNION**

46. **Amend Rule 4: Powers & Functions:**

Add the following to Rule 4 (1):

Appoint and remove the President of the Union;

Determine and approve the terms and conditions of service for the President of Union.

47. Rule 17: Attendance and Participation:

Amend Rule 17 (2):

Current formulation:

The following personalities shall attend the sessions of the Assembly in their official capacity:

- a) The Chairperson and the Deputy Chairperson of the Commission and the Commissioners;
- b) The President of the Parliament and the Heads of the other organs of the Union;
- c) The Chief Executives of the RECs.

Proposed amendment:

The following personalities shall attend the session of the Assembly in their official capacity:

- a) The President of the Union;
- b) The President and Vice President of the Commission and the Commissioners;
- c) The President of the Parliament and the Heads of the other organs of the Union;
- d) The Chief Executives of the RECs.”

48. Amend Rule 16(3)

Current formulation:

In between sessions of the Assembly, the Chairperson of the Assembly in consultation with the Chairperson of the Commission shall represent the Union in conformity with the fundamental objectives and principles enshrined in the Constitutive Act.

Proposed formulation:

The President of the Union shall be the Spokesperson of the Union on major continental and global issues within the Union Exclusive Policy Focus Areas in conformity with the policies, objectives and principles of the Union. At such major events the President of the Union will be accompanied and assisted by the President of the Commission or the Vice President of the Commission or a duly designated Commissioner. The President of the Commission shall speak for the Union on matters outside of the Union Exclusive Policy Focus Areas in conformity with the policies, objectives and principles of the Union

49. **Amend Rule 37(4):**

Current formulation

Whenever an unconstitutional change of Government takes place, the Chairperson of the Assembly and the Chairperson of the Commission shall:

- a) immediately, on behalf of the Union, condemn such a change and urge speedy return to constitutional rule;
- b) convey a clear and unequivocal warning that such an illegal change shall not be tolerated or recognized by the Union;
- c) ensure consistency of action at the bilateral, interstate, sub-regional and international levels;
- d) request the PSC to convene in order to discuss the matter;
- e) immediately suspend the member State from the Union and from participating in the organs of the Union, provided that exclusion from participating in the Organs of the Union shall not affect that State's membership of the Union and its obligations towards the Union

Proposed formulation:

Whenever an unconstitutional change of Government takes place, the President of the Union and the President of the Commission shall:

- a) immediately, on behalf of the Union, condemn such a change and urge speedy return to constitutional rule;
- b) convey a clear and unequivocal warning that such an illegal change shall not be tolerated or recognized by the Union;
- c) ensure consistency of action at the bilateral, interstate, sub-regional and international levels;
- d) request the PSC to convene in order to discuss the matter;
- e) immediately suspend the member State from the Union and from participating in the organs of the Union, provided that exclusion from participating in the Organs of the Union shall not affect that State's membership of the Union and its obligations towards the Union

50. **Add New Rule 38:**

1. The Office of the President of the Union shall be held for a period of three years, non-renewable.
2. The President of the Union shall cease to hold office:

- (a) In case of death or resignation;
- (b) Permanent incapacitation duly certified by a medical panel: The President of the Commission shall notify the Assembly of permanent incapacitation on the part of the President of the Union and thereafter the Assembly shall direct the President of the Commission to set up a medical panel, the report of which shall be subject to approval of the Assembly;
- (C) Upon a resolution of the Assembly carried by simple Majority that he/she is guilty of gross misconduct in the performance of the functions of his/her office.

THE EXECUTIVE COUNCIL

PART ONE: PROPOSED CHANGES

INTRODUCTION

51. The current Executive Council shall be called **The Council** of the Union, which shall consist of Ministers of Foreign Affairs and Chairpersons of Ministerial Meetings of the STCs.
52. **The Council** shall be the policy engine room in terms of taking policy initiatives and the exercise of their co-legislative powers.
53. The Council shall be responsible to the Assembly on all issues in the Union Exclusive Policy Focus Areas and other matters.

Rationale

54. The change of name is to underscore the fact that, under the Union Government, the Organ will function in a shared executive capacity with the Assembly and the Commission and in a shared legislative capacity with the Pan-African Parliament.
55. The added impetus for the change derives from the adoption of the new Union Exclusive Policy Focus Areas.

56. Powers and functions of the Council shall be as follows:

- i. *Considers draft decisions for the consideration of the Assembly in all areas of interest to the Union;*
- ii. *Takes appropriate action on issues referred to it by the Assembly, including monitoring the implementation of policies, decisions and agreements adopted by the Assembly;*

- iii. *Considers the draft budget of the Union before submission to the Assembly for approval;*
- iv. *Promotes cooperation with the African Development Bank (ADB) and other African institutions as well as the United Nations Economic Commission of Africa (UNECA);*
- v. *Coordinates the activities of African Development Bank (ADB, the United Nations Economic Commission for Africa (UNECA) and other African institutions in areas where their activities impinge on the Union Exclusive Policy Focus Areas;*
- vi. *Receives the recommendations from the President of the Commission on the members of the Board of African Central Bank (ACB), African Investment Bank (AIB), African Monetary Fund (AMF) and the African Union Permanent Board of Auditors for the consideration of the Assembly;*
- vii. *Harmonizes the actions of the Regional Economic Communities (RECs) and Member States and adopts common measures on broad economic, social, political and foreign policy issues, for the consideration of the Assembly.*

PART TWO: IMPLEMENTATION MODALITIES

- 57. **Review of Current Provisions of the Constitutive Act**
- 58. **Review Rules of Procedure of the Executive Council**
- 59. **Review of related instruments for other organs and institutions of the Union**

PART THREE: THE PROPOSED AMENDMENTS

■ THE CONSTITUTIVE ACT:

- 60. Amend Article 10 (1):

Current formulation:

The Executive Council shall be composed of Ministers of Foreign Affairs or such other ministers or authorities as are designated by the governments of the Member States”

Proposed formulation:

The new Council shall be composed of Ministers of Foreign Affairs and Chairpersons of Ministerial Meetings on sectoral issues

61. Amend Article 13: Functions and Powers of the Council

Insert new paragraphs in 13 (1) as follows:

- i. Considers draft decisions for the consideration of the Assembly in all areas of interest to the Union;
- ii. Takes appropriate action on issues referred to it by the Assembly, including monitoring the implementation of policies, decisions and agreements adopted by the Assembly;
- iii. Considers the draft budget of the Union before submission to the Assembly for approval;
- iv. Promotes cooperation with the African Development Bank (ADB) and other African institutions and the United Nations Economic Commission for Africa (UNECA);
- v. Coordinates the activities of African Development Bank (ADB), the United Nations Economic Commission for Africa (UNECA) and other African institutions in areas where their activities impinge on the Union Exclusive Policy Focus Areas;
- vi. Recommends members of the Board of African Central Bank (ACB), African Investment Bank (AIB), African Monetary Fund (AMF) and the African Union Board of Auditors for the consideration of the Assembly;
- vii. Harmonizes the actions of the Regional Economic Communities (RECs) and Member States and adopts common measures on broad economic, social, political and foreign policy issues, for the consideration of the Assembly;
- viii. Contribute to the determination of the external policies of the Union, including in relation to cooperation between the Union and Africa's partners.

RULES OF PROCEDURE OF THE EXECUTIVE COUNCIL:

62. Insert the following in Rule 5 (1) as appropriate:

- i. Council may consult Parliament for its opinion on any matter concerning the Union;
- ii. Parliament may, on its own initiative invite the Chairperson or any member of the Council to discuss any issue it may so request;
- iii. The Council receives directives from the Assembly, including in the political, economic, social and foreign policy spheres within the **Union Exclusive Policy Focus Areas**.
- iv. The Council's structure, functions and powers shall be determined by the Assembly;
- v. The Council proposes items for the agenda of the Assembly, including

- those on which the Council has not been able to reach agreement;
- vi The Council recommends to the Assembly, sanctions/measures to be imposed on States for failure to comply with Union policies, regulations and directives;
 - vii The Council may request the Commission to undertake any study the Council considers desirable for the attainment of the common objectives, and submit any appropriate proposals to it;
 - viii The Council shall give guidance and directives to the Commission as necessary for the representation and defense of the interests of the Union;
 - ix "The Council may decide on disciplinary measures against elected members of the Commission in the event of any breach of Union standards and obligations".
 - x When the Council acts in the exercise of its legislative powers; it shall do so on the basis of proposals submitted to it by the Commission"
 - xi The Commission shall provide administrative coordination for the meetings of the Council.

THE PEACE AND SECURITY COUNCIL

PART ONE: PROPOSED CHANGES

A. INTRODUCTION

63. The proposals are designed to accommodate the participation of the President of the Union in the Peace and Security Council at the Heads of State and Government level and to take cognizance of the provisions of the African Charter on Human and Peoples' Rights.

B. PRESIDENT OF THE UNION

64. President of the Union shall attend meetings of the Peace and Security Council at Heads of State and Government level.

PART TWO: IMPLEMENTATION MODALITIES

65. Amend the relevant sections of the Constitutive Act

66. Amend the relevant sections of the Protocol Relating to the Establishment of the Peace and Security Council

PART THREE: OTHER RECOMMENDATIONS

67. Amend Article 4 of the Protocol on Peace and Security Council, Principles:

Current formulation:

The Peace and Security Council shall be guided by the principles enshrined in the Constitutive Act, the Charter of the United Nations and the Universal Declaration of Human Rights. It shall, in particular, be guided by the following principles:

Proposed Amendment:

The Peace and Security Council shall be guided by the principles enshrined in the

Constitutive Act, the Charter of the United Nations, the Universal Declaration of Human Rights as well as the African Charter on Human and Peoples' Rights

68. Amend Article 8 (2) of the Protocol Relating to the Establishment of the Peace and Security Council:

Current formulation:

The Peace and Security Council shall meet at the level of Permanent Representatives, Ministers or Heads of State and Government. It shall convene as often as required at the level of Permanent Representatives, but at least twice a month. The Ministers and Heads of State and Government shall meet at least once a year, respectively

Proposed formulation:

The Peace and Security Council shall meet at the level of Permanent Representatives, Ministers or Heads of State and Government. It shall convene as often as required at the level of Permanent Representatives, but at least twice a month. The Ministers and Heads of State and Government shall meet at least once a year, respectively. When it meets at the Heads of State and Government level, the President of the Union shall be in attendance.

69. Amend Article 12 of the Protocol relating to the Establishment of the Peace and Security Council as follows

Current formulation:

Each member of the Peace and Security Council shall have one vote.

Proposed formulation:

Member of the Peace and Security Council shall have one vote each, with the exception of the President of the Union who shall have no voting right.

THE COMMISSION

PART ONE: PROPOSED CHANGES

A. INTRODUCTION

70. The Commission, together with the Assembly and the Council, shall constitute the Executive arm of the Union. In this respect, it shall no longer be a secretariat as stipulated in the Constitutive Act. As such, it shall exercise executive authority in the implementation of the decisions and programmes of the Union in its exclusive policy focus areas;
71. Also, taking into account the necessity to enable the Commission to effectively exercise its executive authority and to efficiently discharge its functions, the Portfolios/Departments and their respective Directorates have been reconfigured. In view of its increased workload, the Commission would therefore require adequate human and financial resource base to increase its efficiency and effectiveness.

Rationale

72. The rationale for the changes is for the Commission to:
- i Interact regularly with other organs, including the Assembly, the Peace and Security Council, the Council, the Pan-African Parliament, the African Court of Justice and Human Right and ECOSOCC, in initiating legislations, and in formulating draft programmes and projects, related budget proposals and for their implementation after approval by the Assembly;*
 - ii Coordinate and harmonize the activities of the RECs to ensure overall convergence towards continental integration;*
 - iii Monitor and evaluate the implementation of Union decisions and policies at the national level under the aegis of the National Commission for African Union Affairs;*
 - iv Enter into agreements with third parties on behalf of the Union in carrying out its mandate.*

B. POWERS

73. The Executive authority of the Commission consists of:

- i. *Ensuring compliance with implementation, follow up, monitoring and evaluation of the decisions, programmes and projects of the Union at the continental, regional and national levels;*
- ii. *Harmonizing and coordinating the activities of the RECs in the Union Exclusive Policy Focus Areas;*
- iii. *initiating laws in the Union Exclusive Policy Focus Areas for consideration by the Council and the Pan-African Parliament;*
- iv. *follow up of Union decisions, programmes and projects with external bilateral and multilateral partners to ensure coherence with the objectives of the Union;*
- v. *mobilization and management of the financial resources of the Union.*

C. THE GOVERNANCE FRAMEWORK

74. The governance framework of the Commission shall conform to its executive authority as outlined below:

- i. *The Commission shall be headed by the President of the Commission appointed by the Assembly, for a term of 6 years non-renewable. He/she shall be assisted by a Vice President, Commissioners and staff,*
- ii. *The Vice President shall also be appointed by the Assembly, but his/her responsibilities shall be determined by the President;*
- iii. *In conformity with the principle of gender parity the offices of the President and Vice president of the Commission may not be occupied by persons of the same gender;*
- iv. *The President of the Commission shall be the legal representative of the Union;*

- v. *The Commission is supported by Specialized / Executing Agencies in various fields, For the implementation of agreed decisions, programmes and projects;*
- vi. *The Commissioners shall be appointed by the Council from a shortlist of candidates submitted by the President of the Commission;*
- vii. *For each Portfolio, the President of the Commission shall submit to the Council for selection names of 3 candidates, taking into cognizance the need for equitable geographical distribution, gender parity and technical competence;*
- viii. *The names of the selected Commissioners shall be submitted to the Assembly for appointment;*
- ix. *The President of the Commission may delegate any of his/her functions to the Vice President who will act on his/ her behalf;*
- x. *The President of the Commission shall be responsible for assigning portfolios to the Commissioners. He/She shall be entitled to recommend the removal and replacement of the Vice President or a Commissioner to the Assembly through the Council based on lack of performance or misconduct;*
- xi. *The President, Vice President and the Commissioners shall be assisted by a requisite cabinet in the performance of their duties;*
- xii. *The Cabinet of the President shall be headed by a Director-of Cabinet with the rank of a Commissioner. He/She shall be appointed by the President and shall be responsible for policy and programme coordination, monitoring and evaluation;*
- xiii. *The Cabinet of the Commission shall have the following directorates, Gender Directorate, Communication and Information Directorate, Directorate of Research and Analysis, Legal Directorate, Directorate for Protocol Services, CIDO Directorate, the Directorate for Policy Coordination, and Directorate for Strategic Policy Planning, Monitoring, Evaluation and Resource Mobilization*
- xiv. *In the event of death, resignation or permanent incapacity of the President, the Vice President shall act as President of the Commission until the appointment of a new President by the Assembly;*

- xv. *The enhanced powers of the Commission will require the establishment of a portfolio of Administration, Finance and Conference Services;*
- xvi. *Taking into account the objective of continental integration and the need for collective visibility of the Union, a Portfolio of External Relations shall be established. Its main focus would be to ensure that formal external partnerships of the continent with other countries or organizations are geared towards the consolidation of the Union's long term objective. This New Portfolio would also oversee the activities of the external representations of the Union. It will also be responsible for promoting common foreign policy positions among member states on global issues;*
- xvii. *The reconfigured Portfolios/Departments and their respective Directorates shall be as follows:*

a) Administration, Finance and Conference Services

- Directorate of Administration
- Directorate of Finance
- Directorate of Conference Services

b) Peace and Security

- Directorate of Peace Keeping Operations
- Directorate of Conflict Prevention, Management and Resolution

c) Governance, Human Rights and Solidarity

- Directorate of Governance and Solidarity
- Directorate of Human Rights and Humanitarian Affairs

d) External Relations

- Directorate of Partnerships
- Directorate of Representation

- e) **Infrastructure, Transport and Energy**
 - Directorate of Infrastructure
 - Directorate of Energy
 - Directorate of Transport and Tourism

- f) **Trade and Industry**
 - Directorate of Trade
 - Directorate of Industry

- g) **Agriculture, Water Resources and Environment**
 - Directorate of Food and Agriculture
 - Directorate of Water Resources
 - Directorate of Environment

- h) **Culture, Education and Health**
 - Directorate of Culture
 - Directorate of Education
 - Directorate of Health

- i) **Employment, Youth and Sports**
 - Directorate of Employment and Youth
 - Directorate of Sports

- j) **Human Settlements and Migration**
 - Directorate of Human Settlements
 - Directorate of Migration

- k) **Science and Technology**
 - Directorate of Scientific Capacity Building and Technology Adaptation
 - Directorate of Scientific, Research, Information and Communication Technologies

1) **Economic Affairs**

- Directorate of Economic Integration
- Directorate of Development Policy Analysis and
- Development Financing.

75. The position of the Secretary-General of the Commission shall be enhanced as the main custodian of the institutional memory of the Union and placed under the supervision of the Director of Cabinet. The function of the Secretary-General to the Commission shall be to:

- i. *ensure documentation of all AU Meetings and dissemination of outcomes to member states;*
- ii. *Coordination of the meetings of all STCs in its various configurations;*
- iii. *Ensure proper storage of AU Documents in a databank;*
- iv. *Establish horizontal linkages between various departments' directorates and units for smooth implementation of decisions.*
- v. *Organize meetings of the Commission*

7. The Directorate shall be responsible for developing common policies for containing migration and for implementing and coordinating the operations of the member states.

D. FUNCTIONS OF THE COMMISSION

76. The main functions of the Commission with reinforced executive powers in its areas of competence shall be, among others, to:
- i. Implement the agreed policies, programmes and projects of the Union;
 - ii. Oversee the use of the African Standby Force (ASF) taking into account the existing Non-aggression Pact and Common Defence Policy of the Union, including for the purpose of peace keeping operations;
 - iii. Develop benchmarks and indicators for the implementation of policies, programmes and projects within the Union, at the continental, regional and national levels;
 - iv. Assist Union Members in setting up National Commissions for African Union Affairs;
 - v. Liaise with Member States, through their National Commissions for African Union Affairs, so as to ensure their contribution to the implementation of decisions, programmes and projects agreed upon by Union Members within the exclusive and concurrent domains;
 - vi. Delegate partial or total implementation of decisions programmes and projects to Specialized and Executing Agencies of the Commission;
 - vii. Establish and coordinate external representations of the Union;
 - viii. Follow-up and monitor external partnerships of the Union with a view to ensuring conformity with the objective of continental integration;
 - ix. Prepare the budget of the Union;
 - x. Organise and service the meetings of the Assembly, the Council, the Peace and Security Council, the PRC, the STCs, PAP, ECOSOCC and the Court of Justice and Human Rights (ACJHR) and other organs of the Union as appropriate;

- xi. Assist the President of the Union in the preparation of reports on the State of the Union to the Assembly;
- xii. Draft legislations;
- xiii. Coordinate the contribution of external partnerships to the Union's objectives in the Union Exclusive Policy Focus Areas;
- xiv. Forward consolidated budget proposal of the Union to the Council for approval, and on its approval ensure the execution of the budget of the Union;
- xv. Receive guidance and directives from the Council as may be necessary for the representation and defense of the interests of the Union;
- xvi. Work closely with the Council in its various Configurations by proposing subject matters for deliberations and further studies, and in the preparation of draft legislations related to decisions, programmes and projects to be implemented;
- xvii. work together with the Permanent Representatives Committee (PRC) in the preparation of the agenda for the meeting of the Council;
- xviii. receive the views and recommendations of the PAP relating to draft legislations and other issues;
- xix. work closely with ECOSOCC, on programmes and projects of the Union as may be necessary and provide, on request, information as may be required;
- xx. seek legal opinion from or institute proceedings before the CJHR;
- xxi. May establish working groups and task forces as may be necessary;
- xxii. work closely with the AIB upon its establishment in the process of implementation of programmes and projects;
- xxiii. ensure that the instruments and sectoral policies of the RECs are consistent among them, and with those at Union levels, bearing in mind the

Objective of achieving continental integration;

- xxiv. ensure adequate inter-regional coordination in the implementation of programmes and projects of the Union;
- xxv. Promote cooperation among Custom Unions, and in the fields of transport, communications, infrastructures and energy;
- xxvi. Perform any other tasks assigned by the Assembly.

PART THREE: IMPLEMENTATION MODALITIES

- i Review and amend relevant provisions of the Constitutive Act
- ii Review and amend relevant provisions of the Statutes of the Commission

PART FOUR: PROPOSED AMENDMENTS

THE CONSTITUTIVE ACT

77. **Amend Article 20 (1):**

Current formulation:

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

Proposed Amendment:

There shall be established a Commission of the Union which shall exercise executive authority in the implementation of decisions, programmes and projects of the Union. The Commission shall be supported by its Specialized/Executing Agencies in various fields, whose structure and mandates shall be determined in its Statutes.

78. **Amend Article 20 (2)**

Current formulation:

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

Proposed Amendment:

The Commission shall be composed of the President his or her Vice and the Commissioners. They shall be assisted by the necessary staff for the smooth functioning of the Commission

79. Amend other relevant sections of the Constitutive Act to reflect the new nomenclature

THE STATUTES OF THE COMMISSION

80. Amend Article 1

Current Formulation:

In these Statutes: "Chairperson" means the Chairperson of the Commission unless otherwise specified

Proposed Formulation:

In these statutes `` President of the Commission means the executive head of the Commission

- 81 Article 2 (1):

Current formulation:

The Commission shall be composed of the following members:

- a) a Chairperson;
- b) Deputy- Chairperson; and
- C) eight (8) Commissioners.

Proposed Amendment

The Commission shall be composed of the following members:

- i a President
- ii a Vice President
- iii 12 Commissioners.

82. Amend Article 6 (2):

Current formulation:

The region, from which the Chairperson and the Deputy Chairperson are appointed, shall be entitled to one (1) Commissioner each. All other regions shall be entitled to two (2) Commissioners.

Proposed Amendment:

The Commission shall be composed in such a manner that ensures gender parity and equitable geographical distribution among the regions.

83. Amend Article Article 9 (1)

Current formulation:

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

Proposed Amendment:

The Vice President of the Commission shall, in the discharge of his/her responsibilities, be accountable to the President. He/she shall have responsibilities as may be assigned by the Chairperson.

84. Insert a new Article 9 (3):

Proposed Formulation:

The Director- of Cabinet shall work closely with the National Commissions for African Union Affairs and with RECs, for the purpose of follow up, monitoring, and evaluation of the implementation of national and regional components of policies, programmes, and projects of the Union at the national level. There shall also be a Directorate on Policy Coordination and Implementation under his/her supervision.

85. Amend Article 10 (1):

Current formulation:

The term of office of the members of the Commission shall be four (4) years. The Members may be eligible to compete for re-election for another term of four (4) years.

Proposed Amendment:

The term of office of the President of the Commission shall be six (6) years non renewable. The term of office of the Commissioners shall be 6 years. However, Commissioners may be removed at the request of the President. In the event of death or resignation of the President, the Commissioners shall remain in office until the appointment of new Commissioners.

86 Amend Articles 12 (1):

Current formulation:

The portfolios of the Commission shall be as follows:

- a) PEACE AND SECURITY (Conflict Prevention, Management and Resolution, and Combating Terrorism...);
- b) POLITICAL AFFAIRS (Human Rights, Democracy, Good Governance, Electoral Institutions, Civil Society Organizations; Humanitarian Affairs, Refugees, Returnees and Internally Displaced Persons);
- c) INFRASTRUCTURE AND ENERGY (Energy, Transport, Communications, Infrastructure and Tourism...);
- d) SOCIAL AFFAIRS (Health, Children, Drug Control, Population, Migration, Labour and Employment, Sports and Culture...);
- e) HUMAN RESOURCES, SCIENCE AND TECHNOLOGY (Education, Information Technology Communication, Youth, Human Resources, Science and Technology...);
- f) TRADE AND INDUSTRY (Trade, Industry, Customs and Immigration Matters...);
- g) RURAL ECONOMY AND AGRICULTURE (Rural Economy, Agriculture and Food Security, Livestock, Environment, Water and Natural Resources and Desertification...);
- h) ECONOMIC AFFAIRS (Economic Integration, Monetary Affairs, Private Sector Development, Investment and Resource Mobilization...).

Proposed Amendment:

The portfolios of the Commission shall be as follows:

- a) Administration, Finance and Conference Services
- b) Peace and Security
- c) Governance, Human Rights and Solidarity
- d) External Relations
- e) Infrastructure, Transport and Energy
- f) Trade and Industry
- g) Agriculture, Water Resources and Environment
- h) Culture, Education and Health
- i) Employment, Youth and Sports
- j) Human Settlements and Migration
- k) Science and Technology
- l) Economic Affairs

87. The following should be inserted between Article 12(1) and Article 12(2):

The President of the Commission shall determine the specific responsibilities of each Portfolio.

88. The following Articles should be inserted between articles 12 and 13:

The Commission shall be supported by the following Specialized Agencies under its supervision, whose number and nature are subject to change depending on progress achieved in continental integration:

- i. *The Pan-African Civil Aviation Commission;*
- ii. *The Pan-African Telecommunications Union;*
- iii. *The Pan-African Railways Union;*
- iv. *The Pan-African Postal Union;*
- v. *Pan African Institute For Education And Development*
- vi. *African Rehabilitation Institute;*
- vii. *African Academy of Language (Bamako);*
- viii. *Pan African Youth Union.*

89. The Commission shall also be supported by the following Union programmes: New

Partnership for Africa's Development (NEPAD) and the African Peer Review Mechanism (APRM). The status of these programmes will be determined by the decision to be taken during the next Assembly of Heads of State and Government Meeting and the Maputo Decision on the Integration of NEPAD into the African Union Structures and Processes.

90. These Specialized Agencies shall support the Commission in the Union Exclusive Policy Focus Areas as outlined below:

Specialized Agencies

i. The African Civil Aviation Commission (AFCAC)

AFCAC shall work with the Commission in devising and promoting common policy in Air Transport, particularly the implementation of the Yamoussoukro Agreement, and in encouraging the adoption, by African Airlines, of international standards set by the International Civil Aviation Organization (ICAO). AFCAC will also support the Commission in its exclusive policy focus area of promoting common development tools, by facilitating the creation of multinational, regional or continental Air Transport Companies.

ii. The Pan African Telecommunications Union (PATU)

The Commission shall work with PATU mainly in three of its exclusive policy focus areas namely:

- a. Building consensus among Union Members in preparation for "global decision-making conferences for treaty-making, standards-setting and policy-formulation" with a view to deriving maximum benefits for the continent, given the increasing importance of information in the development process;
- b. Enhancing inter-regional cooperation by facilitating the interconnections of national and regional telecommunications networks, thus contributing to integrating the continent's domestic markets;

- c. Facilitating the exchange of experiences in the field of information technologies in organizing capacity building training courses in more advanced African countries.

iii. The Pan-African Railways Union

The Commission shall work with the Pan African Railways Union in its exclusive policy focus area of enhancing inter-regional cooperation, railways being the most suitable means of transport in moving large volume of goods over long distances. In addition to promoting investment for extending the existing capacity of the continent, the support would also consist of harmonization of national and regional gauges, with a view to facilitating the interconnection of various railways networks.

iv. The Supreme Council for Sports in Africa (SCSA)

The Supreme Council of Sports in Africa shall work with the Commission in devising and promoting policies in various disciplines of sports. It shall also support the Commission in ensuring effective participation in major sportive events involving the continent.

v. The Pan-African Postal Union (PAPU)

The Commission shall work with PAPU in its Exclusive Policy Focus Areas to:

- a. build consensus on African positions in preparation for global conferences of importance for the development of postal services in Africa;
- b. facilitate exchange of experiences in the development and rational use of postal services;
- c. Promote common development tools through the establishment of continental and regional postal training institutes;
- d. Promote common policies, with respect to tariffs with the objective of ensuring quality service and sound financial management

vi. Pan African Institute for Education and Development (IPED)

As an observatory of the Union with respect to issues linking Education and development, IPED shall support the Commission in organizing exchanges of experience among member states in this area.

vi.i The African Rehabilitation Institute (ARI)

The African Rehabilitation Institute shall work with the Commission in:

- a. Devising and promoting common policies for the development of prevention and rehabilitation services and developing continental or regional training and research programmes for rehabilitation and for disability prevention;
- b. Establishing common rehabilitation centers and providing an appropriate framework for the formulation and launching of training and research programmes in the field of rehabilitation and other special projects to be carried out at continental or regional level;
- c. Organizing the exchange of experiences and information among African countries on areas of comprehensive rehabilitation development.

viii. Pan African Youth Union (PYU)

PYU shall provide support to the Commission, through the exchange of experiences and the adoption of common policies, in facilitating the implementation, by Union Members, of the African Charter for Youth which "commits African governments to ensuring that issues affecting youth in the areas of employment, sustainable livelihood, education, health, youth participation, national youth policy, peace and security, law enforcement, youth in the Diaspora and youth with disabilities,

among other, are adequately addressed within the framework of national youth policy and youth development programming initiatives”

ix African Academy of Languages (AAL)

AAL shall support the Commission in the implementation of African Language Action Plan of 1987 by defining common policies for the promotion of African languages as working languages in all the fields of public life. Not only would this contribute to reducing substantially the exclusive reliance on foreign languages, it would also facilitate continental integration through the use of cross-border official working languages. AAL will also support in the exchange of experiences among Union Members in the use of African languages as official working languages, and in the establishment of continental centers for the preparation of the necessary didactic training materials.

91. The following technical offices and committees of the Union shall also be mainstreamed into the work of the Commission:

- i. Inter African Bureau for Animal Resources (Nairobi)
- ii. Inter-African Phytosanitary Council (Yaoundé)
- iii. Scientific, Technical and Research Commission (Lagos)
- iv. Semi-arid, Food Grain and Development Coordination Office (Ouagadougou)
- v. Coordination Office of the Fouta-Djallon Highlands Development Project (Conakry)
- vi. Center for Historical Studies by Oral Tradition (Niamey)
- vii. International Center for Education/Training of Girls in Africa (Ouagadougou)
- viii. African Committee on the Rights of the Child (Addis Ababa)
- ix. African Union Women Committee (Addis Ababa)
- x. African Energy Commission (Algiers)
- xi. African Centre for the Study and Research on Terrorism (Algiers)

92. If the above proposals are accepted there will be the need to delete Articles 13, 14 and 15 of the Statutes of the Commission.

SPECIALIZED TECHNICAL COMMITTEES

PART ONE: PROPOSED CHANGES

A INTRODUCTION

93. The Specialized Technical Committees (STCs) constitute the technical organ of the Union. While the STCs may meet at the official level, however, a major proposed change is that when they meet at the ministerial level, they shall be constituted as Council in configuration.
94. Chairpersons of the ministerial meetings of the STC shall therefore attend and participate as members of the Council.
95. The present ministerial conferences, inherited from the Abuja Treaty should therefore be absorbed into these sectoral Councils, so as to ensure coherence in the follow-up process of the reports emanating from the various meetings.
96. The ministerial meetings should be organized in order to ensure that the composition of delegations from Union members is limited to one Minister, while meetings at official level may include representatives of more than one ministry.
97. The structure of the STCs should be such that they cover all technical subject matters within the competence of the Portfolios of the Commission, but not necessarily identical.
98. Given the overall objective of accelerating continental integration and the importance attached to the effective implementation of programmes and projects of the Union, the STCs should meet as often as necessary.
99. At official level, the STCs shall work closely with the Commission in the identification of subject matters for deliberations and further studies, and in the preparation and implementation of decisions, programmes and projects in the exclusive and concurrent domains.

100. In the conduct of pre-feasibility and feasibility studies, the STCs may seek the support of the financial institutions particularly the AIB, when these institutions become operational.

B. POWERS AND FUNCTIONS

101. The powers and functions of the STCs shall be as follows:

- i. The STCs are responsible for identifying subject matters in their areas of competence to be studied and deliberated upon, with a view to preparing draft decisions or legislations to be forwarded to the Council through the Commission, and programmes and projects for implementation by the Commission;*
- ii. The structure of the STCs should be such that they cover all technical subject matters within the competence of the Portfolios of the Commission, but not necessarily identical;*
- iii. The STCs deliberate on the technical aspects of subject matters in their respective areas, with a view to preparing programmes and projects;*
- iv. They ensure supervision, coordination, follow up and evaluation of the implementation of such programmes and projects;*
- v. To that effect, the STCs should be involved in the process of developing the related necessary benchmarks;*
- vi. They may, as necessary, direct the conduct of pre-feasibility or feasibility studies of specific projects, and assess their impact on the Union objectives;*
- vii. The Chairperson of a ministerial meeting may wish, or be requested, to address the Assembly on a specific subject deliberated upon with respect to programmes and projects of the Union;*
- viii. The STCs may, through the Commission, delegate specific tasks to the Specialized or Executing Agencies, including pre-feasibility and feasibility studies;*
- ix. They shall also work with the Commission in the harmonization of the RECs through the formulation of common sectoral policies and the coordination of inter-regional programmes and projects;*

- x. *The Council in Configuration on Monetary and Financial Affairs shall approve the consolidated budget proposal prepared by the Commission for the adoption of the Assembly;*
- xi. *The STCs may request inputs from Sectoral Cluster Committees of ECOSOCC, so as to provide a larger base to policies, programmes and projects of the Union;*
- xii. *The STCs shall follow- up:*
 - (a) *the formulation and implementation of sectoral harmonization policies of the RECs, formulated by the Commission, and*
 - (b) *the coordination of the inter-regional programmes and projects.*
- xiii. *The Secretariat of each STC will be entrusted to the corresponding portfolios;*
- xiv. *The Secretary General of the Commission shall be responsible for coordination of the meetings of the STCs in its various configurations.*

PART TWO: IMPLEMENTATION MODALITIES

- 102. Review and amend relevant sections of the Constitutive Act
- 103. Review and amend relevant sections of the Rules of Procedure of the Executive Council

PART THREE: PROPOSED AMENDMENTS

- 104. Insert a new paragraph in (14) to read as follows:

The STC meetings at ministerial level shall be considered as meetings of the Council in configuration and their reports shall be submitted to the Assembly.

- 105. Insert in Article 15 new paragraphs (f), (g) and (h) as follows:

- f) Direct, as may be necessary, the conduct of pre-feasibility and feasibility studies of specific projects, including their impact on the Union objectives;

- g) Participate in the process of developing benchmarks for monitoring and evaluation of programmes and projects of the Union;
- h) Follow up on the formulation and implementation of sectoral harmonization policies of the RECs, formulated by the Commission, and the coordination of the implementation, by the RECs, of inter-regional programmes and projects.

THE PERMANENT REPRESENTATIVES COMMITTEE

PART ONE: PROPOSED CHANGES

A. INTRODUCTION

106. The Permanent Representatives Committee (PRC) shall continue to act in an advisory capacity to the Council of the Union.

B. POWERS AND FUNCTIONS

107. Powers and functions of PRC shall be as follows:
- i. Shall draft common policies and positions in the Union Exclusive Policy Focus Areas, working together with relevant Union organs and institutions, for the consideration of the Council
 - ii. Shall work with the Commission for the implementation of policies in the Union Exclusive Policy Focus Areas
 - iii. Shall provide support for the Council on budgetary matters as well as in the proposed Union legislative competences and, in the context of its shared functional roles with other Union organs and institutions.

PART TWO: IMPLEMENTATION MODALITIES

108. Review of relevant sections of the Rules of Procedure of the Permanent Representative Council

PART THREE: PROPOSED AMENDMENTS

⌘ RULES OF PROCEDURE OF PRC

109. Amend Rule 4 (1) (a) as follows:

Current formulation:

Act as an advisory body to the Executive Council

Proposed amendment:

Act as an advisory body to the Council on draft common policies and positions in the Union Exclusive Policy Focus Areas, working together with relevant Union organs and institutions, for the consideration of the Council

110. Delete Rule 4 (1) (l) and replace with the following:

Current formulation:

Monitor the implementation of the policies, decisions and agreements adopted by the Council

Proposed amendment:

Work with the Commission for the implementation of policies in the **Union Exclusive Policy Focus Areas**

111. If the above proposals are accepted the following sections of the rules of procedure would require amendment: Rules 4 (1) (f), 4 (1) (g), 4 (1) (h) and 4 (1) (i)

ECONOMIC, SOCIAL AND CULTURAL COUNCIL (ECOSOCC)

PART ONE: PROPOSED CHANGES

A. INTRODUCTION

112. The Economic, Social and Cultural Council (ECOSOCC) shall be a much more autonomous body than is currently the case. All Union Engagement with Civil Society shall therefore be undertaken by ECOSOCC.
113. To achieve this objective, the ECOSOCC shall be strengthened by making it not only an advisory but also a consultative organ of the Union, with the consequential provision that other organs of the Union shall not only seek but also take into account the views and recommendations of ECOSOCC in preparing or arriving at decisions.
114. In view of the foregoing, ECOSOCC shall be given its own Secretariat and requisite human and financial resources.

B. POWERS AND FUNCTIONS

115. Powers and functions of ECOSOCC shall be as follows:
- i. The Presiding Officer of ECOSOCC shall attend meetings of the Assembly of Heads of State and Government.*
 - ii. Reports on the State of the Union shall be submitted to ECOSOCC;*
 - iii. ECOSOCC shall make recommendations to the Assembly relating to the accountability and transparency in the functioning of the other organs of the Union;*
 - iv. The Presiding Officer of ECOSOCC shall participate in the Proceedings of PAP as an ex-officio member;*
 - v. ECOSOCC shall make in-put into the deliberations and activities of the Specialized Technical Committees at the official level, through its Sectoral Cluster Committees;*
 - vi. ECOSOCC shall receive the annual reports of the PAP for its deliberation*

116. Revise and amend the **Constitutive Act**
117. **Revise and amend the Rules of Procedure of ECOSOCC**
118. Revise and amend the Statutes of the Commission and the Rules and Procedure of other organs of the Union as appropriate in order to underscore the status of ECOSOCC as a consultative and autonomous organ

PART THREE: PROPOSED AMENDMENTS

■ THE CONSTITUTIVE ACT

119. Amend Article 22: The Economic, Social and Cultural Council:
- i Add 'consultative' to Article 22(1) to read as follows:
"The Economic, Social and Cultural Council shall be an advisory and consultative organ composed of different social and professional groups of the Member States of the Union."
 - ii Add a new Article 22(3) to read, "The views and recommendations of ECOSOCC shall be taken into account by other Organs of the Union in preparing or arriving at decisions

■ STATUTES OF THE ECOSOCC

120. Article 2: Objectives:
Amend Article 2(3):

Current formulation:

Promote the participation of African civil society in the implementation of the policies and programmes of the Union.

Proposed amendment:

"Promote and ensure the participation of African civil society in discussion and processes relating to the formulation and implementation of the policies and

programmes of the Union.”

121. Insert in Article 2:

- i Serve as an advisory and consultative organ of the African Union.
- ii Promote, encourage and ensure the democratic principles of openness, participation and representation/reflection of diversity in its own decision making and electoral processes

THE PAN AFRICAN PARLIAMENT

PART ONE: PROPOSED CHANGES

A. INTRODUCTION

122. Proposals contained in this section are contingent on a review of the Protocol Relating to the Establishment of the Pan African Parliament at the end of the initial period in conformity with Article 17(2) of the Constitutive Act.
123. The proposed changes to the Pan African Parliament (PAP) are designed to transform its present advisory functions to co-legislative, including limited budgetary and oversight ones, within the Union Exclusive Policy Focus Areas.
124. The membership of Pan African Parliament shall reflect the elective principle of proportional representation modified to reflect a weighted combination of a generalized minimum representation for each Member-state and thereafter a graduated additional representation for each Member State on the basis of its population up to a prescribed maximum.

Rationale

125. This is justified because with respect to the co-legislative status of the Council, the representation on the Council shall be based on the non-elective principle of equality of Member-States.

B. POWERS AND FUNCTIONS

126. The PAP shall
 - i. Initiate proposals and recommendations to relevant Executive organs and institutions for due consideration
 - ii. Inquire about the activities of the Union to ensure that the objectives of the Union are met

- iii. Exercise legislative functions solely or jointly with the Council and make laws in specific areas as determined by the Assembly
- iv. Have a role in evaluation, monitoring and implementation of decisions and policies of the Union. In this regard, the Assembly shall determine the nature and extent of the oversight functions of the Pan African Parliament
- v. Jointly with the Council exercise the power to determine the budget and together with the Council shall constitute the Union's Budgetary Authority
- vi. Be informed of the appointments of the President of the Union, the Judges of the Court of Justice and Human Rights and the Governor of the African Central Bank
- vii. Forward its budget proposals to the Commission for consolidation into the budget of the Union
- viii. Present its annual and other reports to the President of the Union and the President of the Commission as well as the Assembly of Heads of State and Government, the Council and ECOSOCC
- ix. May consult the ECOSOCC, the Council, the AU Commission, the Peace and Security Council on any matter before it
- x. Have powers to pass laws in specific areas together with the Executive Council
- xi. Be informed by the Commission about the activities and decisions of the Commission and other organs and institutions of the Union in order to facilitate its deliberations
- xii. Present its annual and other reports to the President of the Union and the President of Commission as well as the Assembly, the Council and ECOSOCC
- xiii. Have *locus standi* before the Court of Justice and Human Rights to submit cases before it or request it for an advisory opinion
- xiv. Receive the annual and other reports of the President of the Union and the President of the Commission as well as the Assembly, the Council and ECOSOCC

- xv. Submit to the President of the Union and the President of the Commission its recommendations on any matter concerning the Union for consideration

PART TWO: IMPLEMENTATION MODALITIES

127. The Protocol establishing PAP has an inbuilt review mechanism under Article 25. In this regard, five years after the entry into force of the Protocol, a Conference of the States Parties to the Protocol shall be held to review the operation and effectiveness of the Protocol. The objective is to ensure that the objectives and purposes of the Protocol, as well as the vision underlying the Protocol, are being realised and that the Protocol meets with the evolving needs of the African Continent. This implies that until the year 2008, the debate on the reconstitution of PAP by States Parties to the Protocol cannot commence formally. Thus, the amending of the PAP to reduce this timeline will be required in order to jump-start the review process.

PART THREE: PROPOSED AMENDMENTS

■ THE CONSTITUTIVE ACT

128. Advisory/consultative powers

Additional Provisions to the Constitutive Act/ PAP

- i The Assembly shall consult with PAP on the Union Exclusive Policy Focus Areas and on other areas and issues as may be considered necessary;
- ii PAP may submit to the President of the Union and the President of the Commission its recommendations on any matter concerning the Union for consideration.

129. Legislative Powers

Additional Provisions to the Constitutive Act and the PAP

- i The Assembly shall determine the areas in which laws shall be passed taking into account the recommendations of Parliament and the areas in which laws shall be passed by the PAP and the Council jointly.

- ii The PAP may request the Commission to propose a law on any matter that it considers appropriate for purposes of achieving the Union's objectives. The PAP's Rules of Procedure shall state the criteria by which PAP shall identify such areas and make its decision.

130. **Budgetary Functions**

PAP shall:

- i Forward its budget proposals to the Commission for consolidation into the budget of the Union
- ii Debate the AU budget
- iii Review the AU budget in conjunction with the Executive Council for approval by the Assembly

■ **RULES OF PROTOCOL**

131. **Amendment to Article 25 (1) (to shorten the time from 5 years)**

Current formulation:

Five years after the entry into force of this Protocol, a Conference of the States Parties to this Protocol shall be held to review the operation and effectiveness of this Protocol, with a view to ensuring that the objectives and purposes of this Protocol, as well as the vision underlying the Protocol, are being realised and that the Protocol meets with the evolving needs of the African Continent.

Proposed amendment

At any point in time after the entry into force of this Protocol, a Conference of the States Parties to this Protocol shall be held to review the operation and effectiveness of this Protocol, with a view to ensuring that the objectives and purposes of this Protocol, as well as the vision underlying the Protocol, are being realised and that the Protocol meets with the evolving needs of the African Continent.

132. **Composition of the PAP**

The following provision shall apply to the composition of PAP after the revision of its Protocol:

The Commission and the Executive Council in consultation with the PAP shall establish guidelines on the modalities for the election of members of the PAP based on the elective principle of proportional representation modified to reflect a weighted combination of a generalized minimum representation for each Member-state and thereafter a graduated additional representation for each Member State on the basis of its population up to a prescribed maximum.

AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

PART ONE: PROVISIONAL CHANGES

INTRODUCTION

133. The proposal to merge the Court of Justice and Court of Human and Peoples' Rights was made for purposes of expediency in the face of the financial and administrative costs that were likely to arise in operating two separate entities and in light of the current financial constraints faced by the Union. Since the merged Court is intended to be an aggregate and integration of the functions of the two Courts as originally intended under their respective enabling legislation, the final document should reflect consistency, coherence and adherence to the objectives and purpose of the previous separate instruments. It therefore becomes imperative to stress the complementarity of the African Court of Justice and Human Rights and the African Commission on Human and Peoples' Rights (ACHPR).
134. This complementarity is in fact underscored by the provisions of Article 45 of the African Charter on Human and Peoples' Rights giving the African Commission the mandate to interpret the provisions of the Charter at the request of the AU and its institutions or other African organizations. Unfortunately, a measure of uncertainty surrounds the status of the African Commission due to omitted provisions that were contained in the Protocol establishing the African Court on Human Rights but which were not retained in the Statute of the Court of Justice and Human Rights. Similarly, the functions of the African Commission have been whittled away by the power given to the Court to
- i. *receive submissions of cases of human rights violations directly, without mentioning the role of the African Commission*
 - ii. *Interpret legal questions, functions that fall under the jurisdiction of the African Commission too under the African Charter on Human and Peoples' Rights.*

Several ambiguities regarding the relationship of the African Commission on Human and Peoples' Rights with the Court may therefore limit the effective performance of the two institutions.

PART TWO: IMPLEMENTATION MODALITIES

135. Since the above equally applies to the African Court of Justice and Human Rights, it would therefore be necessary to clearly indicate that the African Commission on Human and Peoples' Rights shall have a role in assessing the admissibility and eligibility of cases of human rights violations brought before the merged Court.
136. To facilitate this process, Member States would have to cooperate closely with the Court of Justice and Human Rights in both their reporting obligations and the provision of feedback as and when necessary. This would require the strengthening of the African Commission on Human and Peoples' Rights in terms of both human and financial resources.

PART THREE: PROPOSED AMENDMENTS

137. The following provision should be made in the Protocols relating to the establishment of the African Commission on Human and Peoples' Rights and the African Court of Justice and Human Rights as well as the Constitutive Act:

The African Commission on Human and Peoples' Rights and the African Court of Justice and Human Rights shall design a common framework that would guide:

- i). *the implementation of their respective prerogatives in the promotion and protection of human rights;*
 - ii). *the handling of cases of human rights violations brought before their respective authorities and;*
 - iii). *relations and interaction in the execution of their respective mandates"*
138. The following provision should be included in the Protocol relating to the establishment of the ACHPR:

"Following the Executive Council Decision EX.CL/Dec.306(IX), on the strengthening of the powers and resources of the ACHPR, the number of Commissioners should be increased to fifteen (15) to ease the burden on the current eleven (11) Commissioners in the face of increasing demands. The Secretariat should be accordingly strengthened with additional human and financial resources".

- 138b. As has been decided by the Assembly of Heads of State and Governments in their meeting

in Durban, South Africa in 2002, the ACPHPR should be clearly stipulated as one of the organs of the Union. Consequently, Article 5 of the Constitutive Act should be amended to include the ACHPR as was done for the Peace and Security Council when the constitutive Act was amended in 2003. Furthermore, a new article should also be inserted in the Constitutive Act on ACHPR as was done for other organs of the Union.

THE AFRICAN COURT OF JUSTICE AND HUMAN RIGHTS

PART ONE: PROPOSED CHANGES

A. CAVEAT EMPTOR

139. The proposals below are subject to the outcome of the meeting of Ministers of Justice to consider the merger of the African Court of Justice and African Court of Human Rights.

B. INTRODUCTION

140. The African Court of Justice and Human Rights (ACJHR), which is the merger of the African Court of Justice and the African Court of Human and Peoples Rights, is the judicial arm of the UG. Its functions are complementary to and reinforce those of the African Commission on Human and Peoples Rights.
141. The Court has an important role to play in interpreting the Constitutive Act and Union legislation under the Union Exclusive Policy Focus Areas. Apart from Member States and the Union, civil society organizations that are accredited to the Union and individuals are eligible to appear before the Court.

C. POWERS AND FUNCTIONS

142. The court shall
- i. *Complement and reinforce the functions of the African Commission on Human and Peoples' Rights*
 - ii. *Request the opinion of the African Commission on Human and Peoples' Rights in deciding cases brought before it*
 - iii. *Consider cases or transfer them to the African Commission on Human and Peoples' Rights*
 - iv. *Submit all its judgments to both the AU Commission and the African Commission on Human and Peoples' Rights.*

PART TWO: IMPLEMENTATION MODALITIES

143. While the Judges of the Court of Human and Peoples' Rights have already been sworn-in, the Protocol on the merger of the Court of Justice and Human Rights is to be adopted in January 2007.

PART THREE: PROPOSED AMENDMENTS

■ THE CONSTITUTIVE ACT

144. Amend Article 1 Definitions-

Current formulation:

Court “means the Court of Justice of the Union;

Proposed amendment:

Court “means the Court of Justice and Human Rights of the Union

145. Amend Article 18

Current formulation:

“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.”

Proposed amendment

The Court of Justice *and Human Rights*

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

■ RULES OF PROCEDURES AND PROTOCOL

146. Admissibility of cases

Add the following provisions:

- a. The Court of Justice and Human Rights shall complement and reinforce the functions of the African Commission on Human and Peoples' Rights.
- b. The Court, when deciding on the admissibility of a case instituted under Article 31 of this Statute Protocol, may request the opinion of the African Commission on Human and Peoples' Rights which shall give it as soon as possible.
- c. The Court may consider cases or transfer them to the African Commission on Human and Peoples' Rights. The conditions under which cases will be identified for transfer to the Commission shall be determined by the Court's Rules of Procedure
- d. The Court shall consider cases brought before it, bearing in mind the complementarity between the African Commission on Human and Peoples' Rights and the Court.
- e. Judgments of the Court shall be submitted to the AU Commission and the African Commission on Human and Peoples' Rights.

147. **When the Court is considering the Admissibility of cases**
Additional provisions:

- a. The Court shall rule on the admissibility of cases taking into account the provisions of Article 56 of the African Charter on Human and Peoples' Rights
- b. The Human Rights Section shall determine the admissibility of cases brought to the Court under Article 31.

148. **Harmonizing the Interpretative Powers of the African Commission on Human and Peoples' Rights and the Court**

Amend Article 29 (1) (b):

Current formulation:

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

"... The interpretation, application or validity of other Union treaties and all subsidiary legal instruments adopted within the framework of the union or the Organization of African Unity.

Proposed amendment:

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

"...The interpretation and the application of the African Charter, provided that the subject matter of the opinion is not related to a matter being examined by the African Commission on Human and Peoples' Rights"

149. Inclusion of CSOs and NGOs accredited to the African Commission on Human and Peoples' Rights

Amend Article 31 (f):

Current formulation:

Individuals or relevant *Non-Governmental Organisations* accredited to the African Union or its organs.

Proposed amendment:

Individuals or relevant *Civil Society Organisations* accredited to the African Union or its organs.

150. Consequential Amendments to the Rules of Procedure of the Assembly, the Executive Council, PRC, ECOSOCC and the Statutes of the African Union Commission.
151. In all the definition sections of these rules, the definition of the Court should be amended to read *"The Court of Justice and Human Rights."*

PART THREE



Proposed New Institutions
for Consideration in Light
of the Proposed Changes



THE PRESIDENT OF THE UNION

A. INTRODUCTION

152. Based on the recommendation contained in section 2.3.2 (Paragraph 36) of the Base Document, it is proposed that the Office of the President of the Union shall be created and that the office shall be held on a full time basis.

Rationale

153. The legitimacy and justification for the Office of the President of the Union are anchored on the principles that the President of the Union shall:
- i* Serve as the embodiment of the Union, its guiding spirit, providing energy and leadership to propel the Union forward;
 - ii* Ensure continuity at the highest political level possible in the pursuit of the overall objectives of the Union;
 - iii* Serve as the external representative of the Union

B. ELIGIBILITY CRITERIA

154. The Office of the President of the Union shall be held for a non-renewable term of three years, by a distinguished former elected Head of State or Government or an eminent and accomplished African, with a demonstrated record of commitment to the objectives and principles of the Union set out in Articles 3 and 4 of the Constitutive Act.

C. LOCATION

155. The President of the Union shall function from his/her country of residence, but shall be equipped with a secretariat and appropriate budget.

D. FUNCTION AND RESPONSIBILITIES

156. The President of the Union shall:

- i. *Hold office for a non-renewable term of three years;*
- ii. *Serve as the embodiment of the Union, its guiding spirit, providing energy and leadership, especially in times of crisis so as to propel the Union forward;*
- iii. *Be the official Spokesperson of the Union at major international meetings outside Africa, strictly on the Union Exclusive Focus Areas;*
- iv. *Mobilize resources for the operations of the Union institutions and for the implementation of programmes and projects;*
- v. *Attend meetings of the Assembly and other organs of the Union as appropriate;*
- vi. *Submit an Annual Report on the State of the Union to the Assembly;*
- vii. *Attend the meetings of the Peace and Security Council at the Heads of State and Government level;*
- viii. *Address meetings of the Council of the Union;*
- ix. *Declare open the inaugural sessions of the Pan African Parliament;*
- x. *Perform any other duty as may be assigned by the Assembly*

FINANCIAL INSTITUTIONS

PART ONE: INTRODUCTION

157. The base document of the African Union Government Study includes a strategy for the establishment of three Pan-African financial institutions recommended by the African Heads of State and Government in Article 19 of the Constitutive Act of the African Union. The financial institutions are:

- i. *The African Central Bank (ACB)*
- ii. *The African Monetary fund (AMF)*
- iii. *The African Investment bank (AIB).*

PART TWO: IMPLEMENTATION MODALITIES

158. Prior to the establishment of these institutions, preparatory work, consisting of a technical study and the drafting of protocol for each institution is required.

159. To undertake this preparatory work, three separate Technical Steering Committees (TSCs) will be set up in the proposed headquarters of the financial institutions. To the extent possible, the TSCs will work in collaboration with national and multinational African Central banks, the African Development Bank, the regional clearinghouses and the regional development banks.

160. The African Union Commission will follow closely the evolution of work of each Technical Steering Committee. To ensure this follow-up, a coordination secretariat should be created within the African Union Commission. The main responsibility of that secretariat will be to submit quarterly reports to the Chairperson of the Commission on the progress achieved by the three committees in their preparatory works.

PART THREE: PREPARATORY WORK FOR THE ACB

161. The Chairperson of the African Union Commission will establish a Technical Steering Committee (hereinafter to be called the ACB-committee). The ACB-committee will work

from Nigeria, which is the proposed host country for the ACB. Members of the committee will be citizens of Member States of the African Union with profound theoretical knowledge and experience on issues facing central banks and credit institutions in African and/or other developing countries.

162. The ACB-Committee will design both the technical study and the Draft Protocol. The terms of reference for the conduct of the technical study are as follows:

- i. *Membership: The ACB-committee will indicate the conditions required for an African Central Bank to become a member of the (African System of Central Banks) ASCB.*
- ii. *Capital of the ACB: The initial capital of the ACB will be determined after consultations with Governors of the national and multinational central banks. The national and multinational African Central Banks will be the sole subscribers to and holders of the capital of the ACB. The ACB-committee will propose a method for the distribution of subscriptions to the capital by the Member States.*
- iii. *Organization and management of the ACB: The ACB-committee will propose an organization and management structure for the ACB. This organization structure will include the establishment of branches of the ACB in all regional economic communities.*
- iv. *Transfer of international reserve assets to the ACB: The ACB shall receive international reserves from national and multinational central banks other than Member States' own currencies or those of other Member States, AFRI (after its creation), International Monetary Fund reserve positions and special drawing rights (SDR). The ACB-committee will indicate the practical modalities for the transfer of these assets.*
- v. *International reserves to be held by national and multinational central banks: Within the ASCB, national and multinational central banks will continue to perform transactions in fulfillment of their obligations vis-à-vis international organizations. In that context, the ACB-committee will indicate the limits to be imposed on these transactions.*
- vi. *Supervision of national central banks by the ACB: The ACB-committee will propose a mechanism through which the supervision of the activities of the national and multinational African central banks can be conducted in an effective manner.*
- vii. *Deposit insurance schemes: The ACB-committee will examine the possibility of creating*

"Deposit Insurance Schemes" that will protect depositors, especially small depositors, against the risk of losing their savings in the event of bank's inability to meet its liabilities. It is expected that the existence of such schemes will help the banks to increase their deposits.

- viii. *Open market operations: The ACB-committee will recommend general principles for open market and credit operations carried out by the national and multinational African central banks, including the announcement of conditions under which central banks stand ready to undertake such transactions. It will also propose steps towards the creation of a continent-wide market for the trading of treasury bills of all African governments.*
- ix. *Minimum reserve requirements: The ACB-committee will propose rules for the calculation and determination of minimum reserves that the credit institutions may have to hold on the accounts of the national central banks.*
- x. *Interest rate policy: The ACB-committee will analyze the factors that explain the large spread between the lending rates charged to borrowers and the rates credited to deposits. It will then propose measures that would improve the transmission mechanism between the African central banks and the commercial banks.*
- xi. *Direct instruments of monetary policy: The ACB-committee will propose measures to improve the use of direct instruments of monetary policy given the lack of organized financial markets in Africa.*
- xii. *Financing of public entities: The ACB-committee will define the conditions under which public entities, including governments of Member States can borrow from national and multinational African central banks. In that context, it will recommend a uniform ceiling on the financing of the budget deficits by the central banks.*
- xiii. *Public ownership of credit institutions: The ACB-committee will propose regulations for the ownership of credit and other financial institutions by the governments of African countries.*
- xiv. *External operations of the African Central Banks: The ACB-committee will spell out the conditions under which African Central Banks may establish relations with central banks and financial institutions in other countries within and outside Africa and with international organizations.*
- xv. *Management of international reserves: The ACB-committee will define the eligibility criteria that*

national and multinational African Central Banks will have to meet in order to borrow resources available in the common pool of reserves managed by the ACB.

- xvi. The ACB and the existing monetary arrangements in Africa: The ACB-committee will examine the consequences of the establishment of the ACB on the existing monetary zones in Africa. This is important particularly with regard to the agreements presently linking the West African Economic and Monetary Union (UEMOA) and the Central Bank of Central African States (CEMAC) to the French Treasury.*
 - xvii. The ACB and the formation of new regional monetary unions: The ACB-committee will propose the establishment of ACB branches in each regional economic community. These branches will work closely with the RECs in their monetary integration efforts. In particular, they will monitor progress in regional programs of macro-economic convergence. Therefore, there will be no conflict between the efforts being made by some regional groupings to advance with their monetary integration and the establishment of the ACB.*
 - xviii. Cooperation with other central banks and financial institutions: The ACB-committee will define the conditions under which the ACB can conclude cooperation agreements with other central banks or other financial institutions, including the World Bank and the International Monetary Fund.*
 - xix. Agreement with Nigeria: The ACB-committee will propose a draft host agreement between the ACB and Nigeria. This agreement will be an annex to the Protocol establishing the ACB.*
 - xx. Ratification of the agreement: The ACB-committee will explain the procedure for the ratification of the Agreement establishing the ACB.*
 - xxi. Miscellaneous: The technical study will cover other issues that may be relevant for the drafting of a protocol.*
163. Based on the recommendations contained in the technical study, a group of legal experts will join the other experts of the ACB-committee to draft an "Agreement" or a "Protocol" establishing the ACB.
164. On the basis of the different tasks to be performed by the ACB-committee, the President of the Commission shall determine the human and financial resource requirement as well as the appropriate time frame of the work of the Technical Steering Committee.

165. The ACB-committee will be financed through the contributions of Member States. These contributions will be part of the budget of the AU Commission. The African Central Banks could also provide voluntary financial contributions to the African Union Commission to cover some of the activities of the ACB-committee.

PART FOUR: PREPARATORY WORK FOR THE ESTABLISHMENT OF THE AMF

166. The President of the Commission will appoint a Technical Steering Committee (hereinafter to be called the AMF-committee) to conduct the related preparatory work. This preparatory work will consist of a technical study and the preparation of a draft protocol. The ACB-committee will work from the country in central Africa which is still to be determined. The head (Chairperson) of the AMF-committee and its other members will be citizens of Member States of the African Union. They will need a profound theoretical knowledge and experience on trade and payments issues facing African countries. The terms of reference for the conduct of that preparatory study are as follows:
- i. Membership: The AMF-committee will spell out the conditions required for a Member State to acquire membership in the AMF.
 - ii. Capital of the AMF: The AMF-committee will propose a method to determine the distribution of subscriptions to the capital to be made by the Member States.
 - iii. Transfer of resources to the AMF: The AMF-committee will propose a method to determine how the amount to be supplied by each Member State will be determined.
 - iv. Settlement of balances between Member States: The AMF-committee will propose a mechanism through which the existing payments balances between the African Central Banks will be settled every six months or every year.
 - v. Macro-economic surveillance: The AMF-committee will define the purpose and the format of the surveillance exercise to be carried out annually by the AMF in Member States of the African Union.

- vi. Convertibility of African currencies: The AMF-committee will conduct study to determine the rates of exchange between the various currencies with the purpose of introducing a "Unit of Account" for the settlement of payment balances between the Member countries.
- vii. Prudential supervision and regulation of financial institutions: The AMF-committee will define a framework which will enable the AMF to offer advice and participate in the implementation of prudential rules related to the supervision of financial institutions and the stability of financial systems in African countries.
- viii. Export credit guarantee: The AMF-committee will examine the export credit problems in Africa despite the existence of the African EXIM Bank (Afrexim Bank) in Cairo Egypt. Answers will be needed to the following questions: (1) what could be the solution to problems arising from assisting exporters of new products in Africa? (2) What are the current costs of export credit at various stages? (3) What mechanism can the AMF put in place to assist banks in the provision of export credit? The AMF-committee will recommend a strategy to improve the provision of credit to African enterprises exporting to other African countries.
- ix. Export insurance: The AMF-committee will examine the possibility of establishing an Export Risk Insurance Scheme within the AMF to promote intra-African trade. This scheme will cover risks of insolvency and default, civil wars and conflicts between countries, the imposition of unanticipated trade restrictions and any other risk which is caused by factors beyond the control of the exporter. In that regard, it would be useful to work closely with the African EXIM Bank.
- x. Research activities of the AMF: The AMF-committee will prepare the terms of reference for future research activities (surveys and economic studies) to be conducted later by the AMF on the possibilities of promoting and developing intra-African trade. The AMF-committee will also propose a system for the efficient collection, compilation and dissemination of market and credit information in respect of intra-African trade.
- xi. Cooperation with other central banks and financial institutions: The AMF

committee will define the conditions under which the AMF can conclude cooperation agreements with other financial institutions, including the World Bank and the International Monetary Fund.

- xii. Ratification of the agreement: The AMF-committee will explain the procedure for the ratification of the Agreement establishing the AMF.
- xiii. Miscellaneous: The technical study will cover other issues that may be relevant in the process of establishing the AMF.

PART FIVE: DRAFT AGREEMENT FOR THE ESTABLISHMENT OF THE AMF

- 167. Based on the recommendations contained in the technical study, a group of legal experts will join some experts of the AMF-committee to draft an "Agreement" or a "Protocol" establishing the AMF.
- 168. On the basis of the different tasks to be performed by the AMF -committee, the President of the Commission shall determine the human and financial resource requirement as well as the appropriate timeframe of the work of the Technical Steering Committee.
- 169. The President of the Commission shall determine the appropriate remunerations of the AMF-committee members.
- 170. The work of the AMF-committee will be financed through the contributions of Member States. These contributions will be part of the budget of the AU Commission. The Commission may also request voluntary contributions from the African Central Banks.

PART SIX: PREPARATORY WORK FOR THE ESTABLISHMENT OF THE AIB

- 171. The President of the Commission will appoint the head and members of the Technical Steering Committee (hereinafter to be called the AIB-Committee) to conduct a technical study and prepare a draft protocol for the establishment of the AIB. The AIB-committee will work from Libya which is the proposed host country for AIB. The AIB-committee will have the following terms of reference for its work:

- i. *Membership: The AIB-committee will indicate the conditions required for an African country to become a member of the AIB.*
- ii. *Authorized Capital of the AIB: The AIB-committee will propose conditions for Member States and the private sector and the African Diaspora to subscribe to the capital stock of the AIB. It will also propose a split between paid-in subscriptions and "callable shares".*
- iii. *Payment of subscriptions to the capital: The AIB-committee will propose a number of installments for paid-in shares.*
- iv. *AIB operations: The AIB-committee will indicate how the resources of the AIB, would be used which will include those obtained through subscriptions to the capital stock by Member States and the private sector and borrowings.*
- v. *Terms and conditions for direct loans and guarantees: The AIB-committee will indicate the terms and conditions for the loans or guarantees extended by the AIB.*
- vi. *Use of special funds: The AIB-committee will indicate how special funds should be used. In particular, it will indicate how projects in the form of Build-Operate-Transfer (BOT) arrangements can be realized.*
- vii. *Ratification of the agreement: The AIB-committee will explain the procedure for the ratification of the Agreement establishing the AIB.*
- viii. *Miscellaneous: This feasibility study may cover other issues that must be addressed in the creation of an institution such as the AIB.*

PART SEVEN: DRAFT AGREEMENT FOR THE ESTABLISHMENT OF THE AIB

172. Based on the recommendations contained in the technical study, a group of legal experts will join the AIB-committee to draft an "Agreement" or a "Protocol" establishing the AIB.
173. On the basis of the different tasks to be performed by the AIB -committee, the President of the Commission shall determine the human and financial resource requirement as well as the appropriate timeframe of the work of the Technical Steering Committee. The President of

the Commission shall determine the appropriate remunerations of the AIB-committee members.

THE AFRICAN UNION PERMANENT BOARD OF AUDITORS

PART ONE: PROPOSED CHANGES

INTRODUCTION

174. The proposed African Union Government with the attendant enormous financial implications, as well as the need to assure Member-States that their contributions to the Union Government are managed in an accountable and transparent manner, subject to rigorous scrutiny of independent professional auditors of indisputable reputation, provide the justification for the creation of an additional organ, an independent institution charged with specific responsibility for the audit of union revenue and expenditure. The Board is not intended to replace the internal audit units of the Commission and other organs.

Rationale

175. The existence of a Union budget separate from that of Member-States and the fact that the budget will be managed by Union institutions are strong arguments in favour of the creation of the African Union Permanent Board of Auditors with specific responsibilities for the audit of the Union's revenues and expenditures. Similarly, in line with anticipated increase in the Union resources, and the granting to the Commission of additional executive power in the discharge and implementation of the Union activities, it is desirable to make an innovative and fundamental change in the external auditing of the Union, which hitherto has been carried out by a board of external auditors.

PART TWO: IMPLEMENTATION MODALITIES

176. Invoke the powers conferred on the AHG by Article 5(2) of the Constitutive Act and establish the African Union Permanent Board of Auditors

177. Amend Article 26 (2) and (3) of the Statutes of the Commission of the African Union
178. Adopt the mandate, structures and terms of reference of the African Union Permanent Board of Auditors and facilitate its immediate establishment.

**PART THREE: DRAFT INSTRUMENTS FOR THE AFRICAN UNION
PERMANENT BOARD OF AUDITORS**

179. **Article 1**

Establishment

There is hereby established the African Union Permanent Board of Auditors as an Organ of the African Union

180. **Article 2**

Objectives

The objectives shall include

- i. Proper effective and efficient use of resources
- ii. Development of sound financial management
- iii. Orderly execution of administrative activities
- iv. Transparency and accountability to authorities and to the public

181. **Article 3**

Functions

The functions of the African Union Permanent Board of Auditors are to:

- i. Make comments and observations on the implementation of policies, programmes and decisions
- ii. Suggest changes that may be deemed necessary indicating where and why they should be made. The African Union Permanent Board of Auditors shall leave the matter to the relevant organ responsible for the management of resources to establish how its suggestions and observations shall be carried out.
- iii. Monitor the Union finances and point out areas where improvements are needed

- iv. Assist the Commission in exercising its powers of control over the implementation of the projects
- v. Deliver opinions at the request of one of the Union's organs or institutions
- vi. Provide the Union with a statement of assurance as to the reliability of the accounts as well as legality and regularity of the underlying transactions and revenues received and payments to final beneficiaries.
- vii. examine the accounts of all revenue and expenditure of the Commission. It shall also examine accounts of all revenue and expenditure of all organs and bodies set up by the Union.
- viii. Examine whether all revenue has been received and all expenditure incurred in a lawful and regular manner and if the financial management has been observed.
- ix. Draw up an annual report after the close of each financial year. It shall be forwarded to other organs and institutions of the Union and shall be published for general information, together with the replies of these organs/institutions to the observations of the Board.
- x. Adopt its annual reports, special reports or opinions by majority of members.
- xi. The audit of revenue shall be carried out on the basis both of the amount established as due and the amount actually paid to the Union.
- xii. The audit of expenditure shall be carried out on the basis both of commitments undertaken and payments made.
- xiii. These audits may be carried out before the closure of account for the financial year in question.
- xiv. Other organs and institutions of the Union may also request the Board to deliver opinions on particular questions. The opinion so expressed is an obligatory requirement for the adoption of any legislation that is financial in nature e.g. legislation concerning financial regulations.

182. **Article 4**

Powers of the Board

The Board shall:

- i. organize its own work in particular plan its own auditing activities
- ii. decide when and how to present its observations, including recommendations for sanctions
- iii. determine the extent of publicity to be given to its report and opinion
- iv. have access to various forms of legal redress available within the Union
- v. organize its own audits independently and explicitly include sound financial management
- vi. carry out its audit functions based on records and if necessary, may perform its functions on the spot where any of the Union's organ is located
- vii. Request documents and information to carry out its duties or functions afforded to it by any organ, institution or member state, including access to accounting and administrative documents, such as data held on the computer system of the commission and the member states in connection with operations under the budget of the Union.

183. **Article 5**

Composition

- i. **The Permanent Board of Auditors** shall be composed of five members appointed by the Assembly for a term of five (5) years non-renewable.
- ii. When the first appointments are made, two members of the Board chosen by lot shall be appointed for a term of three years only renewable once for a full term of five years
- iii. The board shall be assisted by necessary support staff

184. **Article 6**

Qualifications

- i. Members of the Board shall be independent and qualified as auditors. They shall be chosen from among persons who belong or have belonged to external audit bodies and are especially qualified for this office.
- ii. They must be completely independent as they may neither seek nor take instructions from any government or any other body
- iii. The members of the Board may not engage in any other occupation, whether gainful or not

185. **Article 6**

The Chairmanship of the Board

The Chairperson of the board shall be elected by members of the Board for a term of three years, renewable.

186. **Article 7**

Internal organization of the Board

The Board shall:

- i. enjoy organizational autonomy
- ii. adopt its own rules of procedure
- iii. carry out its audit functions by audit groups, dividing the various auditing sectors among its members

187. **Article 8**

Termination of Office

Apart from normal replacements, death or permanent incapacity, the term of office of a member of the Board shall come to an end:

- i. when he/she resigns
- ii. when he/she is removed by a decision of the Assembly.

188. The vacancy thus created shall be filled for the remainder of the members' term of office by another member from the same region.

189. Save in the case of removal as above, a member of the Board shall remain in office until he/she has been replaced by another Member from the same region.

190. A member of the Board may be relieved of his/her office and his right to a pension or other benefits only if the Assembly based on the recommendation of the Permanent Board of Auditors decides that he/she no longer fulfills the requisite conditions or meet the obligations arising from his/her office

191. **Article 9**

Conditions of Service

The Assembly shall determine the conditions of the employment of the Chairperson and members of the Board and in particular their salaries, allowances and pension. The Assembly may also determine any payment to be made to the Chairperson and members of the Board instead of remuneration.

192. **Article 10**

Privileges and Immunities

Members of the Permanent Board of Auditors shall in the performance of their duties enjoy diplomatic privileges and immunities.

193. **Article 11**

Entry into Force

This instrument shall enter into force upon its adoption by the Assembly of the Union upon the recommendation of the Council.

NATIONAL COMMISSION ON AFRICAN UNION AFFAIRS

A. INTRODUCTION

194. The National Commission on African Union Affairs (NCAUA) is designed as a national institutional mechanism for monitoring and tracking the implementation of Union decisions and programmes within the Member States.
195. While the establishment of the NCAUA will solve an age long problem, one of the challenges is that of developing the appropriate institutional framework, processes and procedures that will be inclusive and also guarantee sufficient flow and utilization of information by appropriate organs of the Union. The issue of institutional framework is critical and central to effective implementation of Union decisions especially in the Union Exclusive Policy Focus Areas.
196. While the NCAUA will essentially remain and be driven by the state, the involvement of non-state actors as well as its linkage with the Commission of the AU would be critical. In the same vein the parliament should be involved through the national representatives at the PAP.
197. As part of the process leading to greater integration on the continent, it is proposed that each Member State will designate a Minister as the coordinator of Union Affairs at the national level. This individual shall be responsible for coordinating and monitoring all activities relating to the Union at the national level. He or she shall also head the NCAUA and shall undertake, on annual basis, monitoring of the country's compliance with Union decisions and programmes.
198. The focal point for the activities of the NCAUA within the Commission shall be the Directorate of Policy Coordination and Implementation in the Cabinet Office of the Chairperson.

Rationale:

199. A structured monitoring, evaluation and reporting system is required for the effective functioning of a union government both at the national and continental levels.

B. COMPOSITION OF THE NATIONAL COMMISSION ON AFRICAN UNION AFFAIRS

200. The National Commission on Union Affairs (NCAUA) shall work as a national coordinating mechanism, consisting of all ministries whose primary responsibilities impinge on the Union Exclusive Policy Focus Areas and other stakeholders as defined below:

- i. Ministers of Cabinet Rank
- ii. Representatives of Ministries/Departments
- iii. PAP Representative
- iv. ECOSOCC Representative
- v. APRM National Focal Point
- vi. National NEPAD Focal Point
- vii. Representative of Organised Private Sector
- viii. Representative of Professional Associations
- ix. Representative of CSOs
- x. Representatives of labour, women and youth organisations
- xi. National Focal Points of RECs

201. The composition is meant to promote the principle of inclusiveness and participation and to also capture the critical continental initiatives being implemented at the national level.

C. OPERATIONAL FUNCTIONS

202. Essentially the National Commission on African Union Affairs shall perform the following functions:

- i. Collate on a regular basis, with inputs from the AU Commission, all the obligatory policy decisions of the African Union;
- ii. Disseminate such decisions to appropriate units, departments and

Organs of the National Government of Member States of the African Union for implementation;

- iii. Mainstream and ensure effective integration of such decisions into national legislation and administrative mechanism of the state when it is so required by the obligation under examination;
- iv. Operate a feedback mechanism and liaison with the Commission through the Directorate on Policy Coordination;
- v. Popularise the activities of the Union in Member States and ensure that various segments of the country are well informed about the objectives and the progress of the Union;
- vi. Monitor the implementation of the programmes and obligatory policy decisions of the Union within the National Government of Member States;
- vii. Prepare an annual report on the status of implementation of the policy decisions and programmes of the Union;
- viii. Mobilise resources for the implementation of Union projects and programmes;
- ix. Perform any other function that will lead to the realization of the objectives of the Union in Member states

D. RELATIONS WITH THE COMMISSION: DIRECTORATE OF POLICY CO-ORDINATION AND IMPLEMENTATION (DPCI)

203. With the creation of NCAUA by member states, there is need to have a focal point in the Commission which will liaise with the NCAUA. It is proposed that a Directorate on Policy Co-ordination and Implementation be established within the office of the President of the Commission.
204. This office will be responsible for the continental coordination of the

implementation of the policy decisions and programmes of the Union on regular basis. Specifically this office will:

- i. Liaise with the all the National Commissions on African Union Affairs in terms of dissemination of the various decisions of the Union;
- ii. Receive and collate reports from the NCAUAs for the generation of Commission reports on the status of implementation of Union programmes in Member States;
- iii. Provide technical insights and analysis that will assist in taking informed decisions on the activities of the Union within Member States;
- iv. Take necessary steps to enforce the implementation of Union decisions in Member States;
- v. Perform any other function that may be assigned to this office by the President of the Commission;
- vi. The Head of the Office shall report to the Director of Cabinet of the President of the Commission.

E. RELATIONS WITH THE COUNCIL AND THE ASSEMBLY

205. In relation to the work of the NCAUA, the Council and the Assembly shall, as part of its meetings, give priority to the continental reports on the status of the implementation of Union policy decisions and programmes in Member States as prepared by the Commission. Their recommendations and decisions on this will form the basis for subsequent actions of both the Commission and the NCAUAs

THE REGIONAL ECONOMIC COMMUNITIES IN THE UNION

PART ONE: PROPOSED CHANGES

INTRODUCTION

206. The overall intent of the proposed changes is to redefine the relationship between the Union and the RECs.
- i The changes are aimed at integrating the Regional Economic Communities into the governance framework of the Union by converting them into instruments and mechanism for the rationalization, harmonization and implementation of common policies and programmes in the Union Exclusive Policy Focus Areas.
 - ii To this end the RECs shall be reengineered as Regional Integration Communities (RICs).
 - iii Flowing from the above, a greater involvement of the principal functionaries of the AU and RICs in each other's meetings at all levels becomes imperative to advancing continental integration.
 - iv Aspects of the proposed Union Exclusive Policy Focus Areas, should be identified, under which the Union will be given competence and conferred with **supranational status** for the rationalization, harmonization and implementation through the RECs.

Rationale

207. The rationale for the proposals arises from the need to bring the RECs into the governance framework of the Union and to consolidate their gains towards continental integration.

PART TWO: IMPLEMENTATION MODALITIES:

208. In view of the foregoing, the following measures should be immediately pursued:

- i RECs should be rationalized based on the following principles:
- a. *Composition of RECs should be based on the five geographical regions of the Union;*
 - b. *The principle of single membership should be strictly adhered to;*
 - c. *Flag, emblems, anthems and all symbols of the Union should be adopted by the RECs;*
 - d. *Responsibilities for External representation of RECs and participation in major global events should be assumed by the Union;*
 - e. *To this end the RECs shall be reengineered as Regional Integration Communities (RICs).*
- ii In the frame of the RICS the present secretariats of the RECs should have at the regional level executive authority similar to that of the Commission at Continental level. To that effect, they should be given the corresponding powers and functions and their respective instruments should be amended accordingly to reflect the shift from Regional Intergovernmental Cooperation to regional integration framework. The RICs should also ensure gender parity in their respective executive authorities. They should also strive to have limitations to the tenure of office of the chief executives of RICs;
- iii The sector policies drafted by the AEC should be revised to focus on REC policy coordination, which should reflect common policies negotiated and agreed to, by RECs Member-States. The Union will concentrate on providing guidelines for use by RECs to articulate and harmonize their sub-regional sector policies, aimed at integrating into the continental sector policies;
- iv The Union should define extra-regional (inter-regional) development priorities which go beyond the framework of the regions, e.g. energy sector (electricity grids), inter-regional railway and road networks. These continental projects will be coordinated and harmonized at the continental level by AU for implementation by RECs at the regional levels, with a transmission mandate of going across adjacent sub-regional RECs.
- v The coordination of inter-regional transport and communications

Infrastructure and energy (power pool) projects will be coordinated by the Union along other relevant continental development oriented bodies, such as the AfDB and ECA.

- vi The RECs should be encouraged to move towards free trade areas and customs unions with the view to serving as the building blocks for a continental customs union.
- vii The Union should coordinate policy on international relations of the RECs that have continental implications (e.g. EU, and WTO matters of trade and investment.)

209. Accordingly, there is need to review the 1998 protocol on relations between the African Economic Communities (AEC) and RECs. The revised 1998 protocol should:

- i. Spell out the mandate, functions and capacities of the Commission to spearhead the co-ordination of the RECs' work programmes and targets;
- ii. Set up a mechanism that will assist with all the activities concerning the mobilisation of the private sector among the RECs;
- iii. Set up mechanisms for coordinating with other bodies the mobilisation of international financial inflows and domestic savings in Africa, as well as REC programmes and activities;
- iv. Define and stipulate modalities of the RECs' involvement in the formulation and implementation of all programmes of the Union.
- v. The new Protocol should give the RECs a formal status in the AU Commission and the Organs of the AU to define the following:
 - a. *formal mechanisms for the respective Chairpersons of the Council of Ministers of each REC to report directly to the AU policy organs: the Executive Council and Assembly;*
 - b. *formal mechanism to report to or brief the policy organs of their respective RECs by a representative of the ambassadors of the RECs accredited to the AU /constituting the Permanent Representative Council (PRC).*

PART THREE: INTERFACE WITH ORGANS OF THE AFRICAN UNION:

210. The Assembly

The current Chairperson of each REC shall make a report to the Assembly on the general status of the progress of the respective REC.

211. The Council

The Chairperson of the ministerial meetings of RECs should, as necessary, address the Council, including at sectoral levels, on cooperation of the Union with their respective RECs.

212. The Peace and Security Council

In order to consolidate peace, stability and security in their respective regions, RECs should constitute formal structures of the Council of Ministers dealing with Politics and Conflict Resolution and other political matters at their level.

213. The Specialised Technical Committees

- i. To be effective, similar structures should be replicated at the level of RECs. The RECs should structure their specialized Technical Committees to be in line with the Committees in Article 14 of the Constitutive Act.
- ii. In order to facilitate policy and programme design, and implementation, the outputs of the Union's Specialized Technical Committees should receive inputs from the corresponding committees of the RECs. This will enable the STCs' report to the Union's policy organs on sectoral programme and integration, to take into account the sectoral programme activities of the RECs. This coordinated approach will effectively facilitate rationalization and harmonization of the African sectoral and programmatic activities.

214. The Commission

- i. The Commission should play the role of coordination of the sectoral activities of the RECs through the Specialised Technical Committees
- ii. The Proposed Structure and Human Resources Requirements of the AU Commission should address the capacity of the Commission to coordinate economic matters covering the RECs. There should be adequate professional and

technical capacity at the Commission to provide leadership in matters of economic integration ..

PARTE IV



An Outline of Possible Strategies
for Securing Additional Funds



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