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**REPORT OF THE AFRICAN UNION ADVISORY BOARD
ON THE FIGHT AGAINST CORRUPTION**

**AFRICAN UNION ADVISORY BOARD ON
CORRUPTION**

المجلس الاستشاري للإتحاد الإفريقي
لمحاربة الفساد



**CONSEIL CONSULTATIF DE L'UNION
AFRICAINNE SUR LA CORRUPTION**

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8TH ACTIVITY REPORT OF THE AFRICAN UNION ADVISORY BOARD ON CORRUPTION TO THE EXECUTIVE COUNCIL (January 2017)

**Submitted in Accordance with
Article 22 of the African Union Convention on
Preventing and Combating Corruption**

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**8TH ACTIVITY REPORT OF THE AFRICAN UNION ADVISORY BOARD
ON CORRUPTION TO THE EXECUTIVE COUNCIL
(January 2017)**

I. INTRODUCTION

1. The African Union Advisory Board on Corruption (AUABC) was established in accordance with the provisions of article 22 (5) (a) of the African Union Convention on Preventing and Combating Corruption (AUCPCC). The Convention was adopted at the second ordinary session of the Assembly of the Union in Maputo, Mozambique, on 11th July 2003, and entered into force on 5th August 2006, thirty (30) days after the deposit of the fifteenth instrument of ratification. As at December 2016, the Convention had been signed by 48 states and ratified or acceded to by 37 states.

2. According to article 22 (5) of the Convention, the functions of the Board are, among others: “to promote and encourage the adoption and application of anti-corruption measures by States Parties to prevent, detect, punish and eradicate corruption and related offences in Africa” and “to submit a report to the Executive Council on a regular basis on the progress made by each State Party in complying with the provisions of this Convention.”

3. This is the eighth Report of the Advisory Board on Corruption to the Executive Council. The report contains details of the activities of the Advisory Board covering the period January to December, 2016 including an assessment of the implementation of the AUCPCC. It also serves as an end of tenure report as the Board’s mandate ends in January 2017.

4. The Board is composed of eleven (11) members, nominated by States Parties and elected by the Executive Council from a list of experts. The Board, whose mandate ran from January 2015 to January 2017, comprises of the following:

- Mr. Daniel Batidam (Ghana) - Chairperson
- Ms. Florence Ziyambi (Zimbabwe) – Vice Chairperson
- Mr. John Kithome Tuta (Kenya) - Rapporteur
- Mr. Joseph Fitzgerald Kamara (Sierra Leone)
- Mr. Ekwabi Webster Mujungu (Tanzania)
- Mr. Isa Ozi Salami (Nigeria)
- Ms. Angèle Barumpozako (Burundi)
- Ms. Akossiwa Antoinette Ayena (Togo)
- Mr. Jacques III Achiaou (Cote d’Ivoire)
- Dr. Jean Baptiste Elias (Benin)
- Mr. Sefako Aaron Seema (Lesotho)

a. The Bureau

5. Comprising of the Chairperson, the Vice Chairperson and the Rapporteur, the Bureau ensures the planning and coordination of activities of the Board that are

essential in the fulfilment of its functions in accordance with article 22 (5) of the Convention. The Members of the Bureau do not work from the headquarters of the Advisory Board, but they fulfil their functions from their countries of residence and only come to the headquarters during scheduled meetings.

b. The Secretariat of the Board

6. Under the overall and direct supervision of the Executive Secretary and the Rapporteur respectively, the Secretariat provides technical, professional, administrative and logistical support to the Advisory Board. Its organisational structure, which is based on African Union (AU) policies, is designed to integrate professional, technical and administrative staff.

➤ The Staff of the Secretariat

7. As at 31 December 2016, the staff of the Secretariat had reduced from the approved minimum of seven (7) to five (5) staff members as follows:

- An Executive Secretary
- A Finance and Administration Officer
- A Documentalist
- A Bilingual Secretary
- A Driver/ Messenger

II. STATUTORY MEETINGS

8. Four Statutory meetings were held during the period January - December 2016 while in past year (i.e. January December - 2015) the Board only held two statutory meetings.

III. STATUS OF RATIFICATION OF THE AFRICAN UNION CONVENTION ON PREVENTING AND COMBATING CORRUPTION

9. To date, out of 54 AU Member States, there are forty-eight (48) signatures and thirty-seven (37) ratifications. Seventeen (17) States have not yet ratified the Convention.

10. Below is the list of signatures and ratifications:

No Signature/Signatures only

No.	COUNTRY/PAYS	DATE OF/DE SIGNATURE	DATE OF/ DE RATIFICATION/ ACCESSION	DATE DEPOSITED/ DATE DE DEPOT
1	Angola	22/01/2007	-	-
2	Cameroun	30/06/2008	-	-
3	Central African Rep.	-	-	-
4	Cape Verde	-	-	-
5	Djibouti	15/11/2005	-	-

6	Democratic Rep. Of Congo	05/12/2003	-	-
7	Egypt	-	-	-
8	Equatorial Guinea	30/01/2005	-	-
9	Eritrea	25/04/2012	-	-
10	Mauritania	30/12/2005	-	-
11	Mauritius	06/07/2004	-	-
12	Somalia	23/02/2006	-	-
13	Sao Tome & Principe	01/02/2010	-	-
14	South Sudan	24/01/2013	-	-
15	Sudan	30/06/2008	-	-
16	Swaziland	07/12/2004	-	-
17	Tunisia	27/01/2013	-	-

Ratifications (37)

No.	COUNTRY/PAYS	DATE OF/DE SIGNATURE	DATE OF/ DE RATIFICATION/ ACCESSION	DATE DEPOSITED/ DATE DE DEPOT
1	Algeria	29/12/2003	23/05/2006	06/07/2006
2	Benin	11/02/2004	20/09/2007	07/11/2007
3	Botswana	-	14/05/2014	19/08/2014
4	Burkina Faso	26/02/2004	29/11/2005	15/02/2006
5	Burundi	03/12/2003	18/01/2005	10/03/2005
6	Chad	06/12/2004	03/03/2015	27/04/2015
7	Côte d'Ivoire	27/02/2004	14/02/2012	05/11/2012
8	Comoros	26/02/2004	02/04/2004	16/04/2004
9	Congo	27/02/2004	31/01/2006	24/04/2006
10	Ethiopia	01/06/2004	18/09/2007	16/10/2007
11	Gabon	29/06/2004	02/03/2009	08/04/2009
12	Gambia	24/12/2003	30/04/2009	09/07/2009
13	Ghana	31/10/2003	13/06/2007	20/07/2007
14	Guinea-Bissau	21/01/2006	23/12/2011	04/01/2012
15	Guinea	16/12/2003	05/03/2012	12/04/2012
16	Kenya	17/12/2003	03/02/2007	07/03/2007
17	Libya	05/11/2003	23/05/2004	30/06/2004
18	Lesotho	27/02/2004	26/10/2004	05/11/2004
19	Liberia	16/12/2003	20/06/2007	20/07/2007
20	Madagascar	28/02/2004	06/10/2004	09/02/2005
21	Mali	09/12/2003	17/12/2004	14/01/2005
22	Malawi	-	26/11/2007	27/12/2007
23	Mozambique	15/12/2003	02/08/2006	24/10/2006
24	Namibia	09/12/2003	05/08/2004	26/08/2004
25	Nigeria	16/12/2003	26/09/2006	29/12/2006
26	Niger	06/07/2004	15/02/2006	10/05/2006
27	Rwanda	19/12/2003	25/06/2004	01/07/2004
28	South Africa	16/03/2004	11/11/2005	07/12/2005
29	Sahrawi Arab Democratic Rep.	25/07/2010	27/11/2013	27/01/2014
30	Senegal	26/12/2003	12/04/2007	15/05/2007
31	Seychelles	-	01/06/2008	17/06/2008
32	Sierra Leone	09/12/2003	03/12/2008	11/12/2008
33	Tanzania	05/11/2003	22/02/2005	12/04/2005
34	Togo	30/12/2003	14/09/2009	22/10/2009
35	Uganda	18/12/2003	30/08/2004	29/10/2004
36	Zambia	03/08/2003	30/03/2007	26/04/2007
37	Zimbabwe	18/11/2003	17/12/2006	28/02/2007

IV. ACTIVITIES

(a) Report on the implementation of the Convention by States Parties

11. In May 2015, the Advisory Board on Corruption sent a *Note Verbale* with questionnaires to the Ambassadors of States Parties to the African Union Convention on Preventing and Combating Corruption in Addis Ababa, Ethiopia. The duly-completed questionnaires were to be sent back to the Secretariat by 31st July 2015. To date, only twelve (12) States have responded:

1. Burkina Faso
2. Comoros
3. Ethiopia
4. Kenya
5. Madagascar
6. Namibia
7. Nigeria
8. Rwanda
9. Sierra Leone
10. Tanzania
11. Togo
12. Uganda

12. During the period January to May, 2016, an analysis of the received questionnaire was done by the Secretariat and specific recommendations made under each Country (See attached report). Due to resource constraints, the Board was unable to verify or confirm the responses sent back by the above member states. One questionnaire (Namibia) was considered un-responsive as it was not complete. Zambia sent a response to the effect that the information supplied for the 2014 report had not changed.

13. An analysis of the responses revealed the following:-

- **Legislative Measures Required to Define Acts as Criminal Offences in Domestic Law**
- A study of the reports of the States Parties showed that these States met their obligations under Article 5 (1) which requires them to adopt legislative and other measures necessary to define the acts provided for by Article 4 Paragraph 1 of the Convention as criminal offences. Laws meant to specifically combat corruption were adopted. Out of the eleven States (Burkina Faso, Comoros (Islands), Ethiopia, Kenya, Madagascar, Namibia, Nigeria, Uganda, Rwanda, Sierra Leone, Tanzania and Togo) presented in this report, only Togo has no specific legislation to combat corruption. However, the laundering of the proceeds of corruption as a crime has been

the subject of a specific law in Togo, namely Law No. 2007-016 of 6 July, 2007 on the fight against money laundering.

- **Institutional Framework and Other Measures**

- *Establishment and Strengthening of Anti-Corruption Bodies*

- The reports of the States Parties show that all of them have established public bodies tasked with combating corruption. Their mandates vary in the sense that some of them have powers to prosecute persons suspected of acts of corruption and other related offences.

- *Protection of Witnesses and Informants (Article 5 (5))*

- With the exception of Togo, the legislation of the ten other States Parties mentioned above ensures the protection of witnesses and informants of acts of corruption and other related offences. In Rwanda, it is an obligation to report an infringement of the law.

- *Declaration of Assets (Article 7 (1))*

- The legislation of the States Parties lists public officers and personalities who must declare their assets.

- *Access to Information (Article 9)*

- Article 9 of the Convention provides that “Each State Party shall adopt such legislative and other measures to give effect to the right of access to any information that is required to assist in the fight against corruption and related offences.” Such a provision was factored into the legislation of the ten (10) States Parties. In Togo, it will be factored a future legislation.

- *Civil Society and the Media (Article 12)*

- Article 12 of the Convention requires States Parties to “Ensure and provide for the participation of Civil Society in the monitoring process and consultation of Civil Society in the implementation of this Convention.” The reports provided by the twelve (12) States Parties reveal that such measures were taken in the eleven (11) States Parties, with the exception of Togo whose report states that “such measures could be adopted in a future legislation.”

- *Confiscation and Seizure of the Instrumentalities and Proceeds of Corruption (Article 16)*

- Legislative measures have been adopted in the legislation of the States Parties for the purposes of the confiscation and seizure of the instrumentalities and proceeds of corruption, in accordance with Article 16 of the Convention.

**LEVEL OF DOMESTICATION OF THE CONVENTION
BY THE ELEVEN STATES PARTIES STUDIED**

- Matrix – Analysis on Progress made by the States Parties towards the Promotion of Certain Provisions of the AUABC.

No.	States Parties	Specific Anti-Corruption Legislation	Relevant Provisions of the Convention Adopted in the National Legislations						Public Anti-Corruption Bodies
			Article 4 (1)	Article 5 (5)	Article 7 (1)	Article 9	Article 12	Article 16	
1	Burkina Faso	Yes	Yes	Yes	Yes	Yes	Yes	Yes	High State Monitoring Authority (A.S.C.E)
2	Comoros (Islands)	Yes	Yes	Yes	Yes	Yes	Yes	Yes	National Commission for the Prevention and Fight Against Corruption (CNPLC)
3	Ethiopia	Yes	Yes	Yes	Yes	Yes	Yes	Yes	National Anti-Corruption Commission (FEACC)
4	Kenya	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Independent Ethics and Anti-Corruption Commission
5	Madagascar	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Independent Anti-Corruption Bureau (BIANCO)
6	Nigeria	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Independent Commission on Corrupt Practices and Other Related Crimes (ICPC) Economic and Financial Crimes Commission (EFCC) Nigerian Code of Conduct Board and Nigerian Financial Intelligence Unit (NFIU)
7	Uganda	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Government Inspectorate (IGG)
8	Rwanda	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Office of the Ombudsman
9	Sierra Leone	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Anti-corruption Commission (ACC)
10	Tanzania	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Bureau for Preventing and Combating Corruption. (PPCB)
11	Togo	No	Yes	No	Yes	No	No	Yes	Anti-Corruption Commission

(b) Advocacy Missions

14. In November, 2016 the Board undertook an advocacy mission to Mauritius to lobby for the ratification of the Convention. The delegation held meetings with the country's anti-corruption agency and the Ministry in charge of good governance. The delegation also held a multi-stakeholder workshop which drew participants from a wide range of the civil society and academia.

(c) Collaboration with Stakeholders

15. During the African Union Summit held in South Africa in June 2015, Member States requested the Board to work closely with African anti-corruption organisations. This recommendation is in line with one of the objectives of the 2011-2015 Strategic Plan of the Board which aims to "Establish formal links with relevant anti-corruption organisations and networks".

16. In 2016, as in 2015, the Board continued to participate in activities organised by some anti-corruption organisations such as the Network of National Anti-Corruption Institutions in West Africa (NACIWA) which is an anti-corruption organisation within the Economic Community of West African States (ECOWAS). The Board also interacted with the East African Association of Anti-Corruption Authorities (EAAACA).

17. The Board also participated in the 16th International Anti-Corruption Conference (16th IACC) held in Putrajaya in Malaysia, from 2nd to 4th September 2015 and in the 17th IACC which was held on 1-4 December 2016 in Panama

18. The Board in conjunction with Open Society Foundations' Africa Regional Office, the Pan African Lawyers Union, and the Multi-Sectoral Working Group on Combating Corruption- East Africa co-organised and hosted the 'Second Civil Society Forum on the African Union Advisory Board on Corruption' from 7-9th December, 2016 in Arusha Tanzania. The forum which saw more than 75 representatives of African Social Movements, Youth and Faith Based Organisations, Civil Society Organisations, academia, Research institutions, Members of Parliament, Government Officials and independent African Constitutional bodies discussed various aspects of the Anti-Corruption fight on the continent under the theme 'United against Corruption for Development, Peace and Security' The Forum culminated in the commemoration of the International Anti-Corruption Day on 9th December, 2016.

19. Other institutions the Board initiated contact with include the Pan African Lawyers Union, the Open Society Foundation, the African Development Bank, the UN Millennium Campaign/UN SDG Action Campaign, and the Commonwealth.

(d) Collaboration with African Union organs and other institutions

20. During its' tenure, the Board was engaged in a number of activities organised by organs of the Union.

21. The Board was represented in the 59th joint Session of the African Commission on Human and People's Rights and 28th Session of the African Committee of Experts on the Rights and Welfare of the Child. The joint session was preceded by the celebrations of the human rights day where the Board participated in the Dialogue.

22. The Board in conjunction with the Department of Political Affairs co-hosted a joint panel discussion entitled, 'The Nexus between Corruption and Human Rights: Exploring the year of Human Rights for Solutions'. This discussion was held during the African Union 5th High Level Dialogue in November 2016 in Arusha Tanzania.

(e) Development of the 2016-2020 Strategic Plan

23. The review of the 2011-2015 Strategic Plan which started in October 2015 culminated in the development of the 2016-2020 Draft Strategic Plan. The draft was further subjected to review by Consultants in 2016 to align it to the aspirations under Agenda 2063.

(f) Review of a tool/ mechanism to produce country reports

24. The Board started the process of reviewing its mechanism of producing country reports in order to adapt same to its functions. Until now, the report on the implementation of the Convention is developed through the use of questionnaires sent to States Parties. After a few years, these questionnaires will become ineffective as a means of measuring the level of domestication and the implementation of the Convention by States Parties. The Board will be looking at mechanisms employed by other anti-corruption regimes, with a view to adopting a mechanism which suits the African context.

(g) Partnerships and funding

25. The Board, in its' tenure has engaged several potential partners to finance its programme of activities or to collaborate with the Board through joint activities.

V. PERSPECTIVES AND WAY FORWARD

(a) Strengthening the Capacity of the Secretariat

26. The greatest challenge that the Board has been faced in 2016 and throughout its' tenure is the lack of adequate human resources. That is the substance of the Decision Doc. EX.CL/925(XXVII) which "STRESSES the need to equip the AUABC with requisite human and financial resources to enable the Board carry out its mandate."

(b) Ratification of the Convention by all Member States

27. The ratification of the Convention by all the Member states is one of the priorities of the Board. It is, in fact, one of the issues that the Advisory Board requests the decision-making bodies of the Union to emphasise strongly. Although this relates to the sovereignty of States, the Board would like to encourage all States that have not ratified the Convention, to proceed to accede to the same. Ratification of the Convention by Member States is not only a manifestation of the willingness of States to contribute to the realisation of the noble ideals and objectives of the African Union but also a strong signal to the international community and to our partners about our shared values and commitment to fighting corruption. Additionally, if all African States ratified the Convention, this would not only raise the political profile of the fight against corruption in Africa but also enhance inter-state co-operation in confronting the cancer.

28. The Board looks forward to strong mobilisation by Member States in favour of ratification of the Convention.

(c) Mobilisation of funds to support the 2016-2020 Strategic Plan of the Board

29. The greatest challenge that the Board has been faced with is the mobilisation of funds to support the implementation of its Strategic Plan for 2016-2020. As in the past, the Board counts on the support of States to mobilise funds for this critical assignment it is preparing to execute. The Board is aware of the financial and budgetary constraints being faced by the Union as a whole but is persuaded that sacrifices will be made to enable the Board to carry out its mandate to fight corruption on the continent. It is estimated that the continent losses in excess of USD100b due to corruption every year hence the need to fight the scourge cannot be over-emphasised.

VI. CONCLUSION

30. Member States voluntarily adopted the African Union Convention on Corruption and voluntarily ratified it. The level of support given to the Board by Member States signifies the level of commitment of Members to fighting corruption on the continent; it also gives a signal to potential partners about their personal commitment to the cause.

The Board wishes to thank Member States for supporting the work of the Board until now and for renewing this commitment through the budgetary allocation for programmes in the year 2017. The Board can be assured of the programme's budget which has been lacking during the last two years.

VII. RECOMMENDATIONS

31. The Board recommends as follows:-

- **To the Assembly of Heads of State and Government:**

- The AU must consider reviewing the Convention for it to provide for:
 - i) The appointment of members of the Board for a fixed term of five years instead of the current two years, as is the case with other organs, in order to give them a reasonable period of time to design and implement various programmes as per their mandate;
 - ii) The presentation of an annual report by the Advisory Board to the Executive Council, and not merely on "a regular basis", as provided for in the Convention.
- The AU declares 11th July to be "African Anti-Corruption Day" to be celebrated annually and the year 2018 to be "African Anti-Corruption Year" with the theme "Think Africa, Think Integrity." This is necessary to marshal support in the fight against corruption and to diffuse its impact.

- **To the AU Member States and the States Parties to the Convention:**

- i) The States Parties should make firm commitments to provide their national anti-corruption agencies with adequate resources and independence.
- ii) The States Parties should form stronger alliances with non-state actors in order to prevent and put an end to corruption.

DRAFT DECISION
ON THE REPORT OF THE AFRICAN UNION ADVISORY BOARD ON CORRUPTION
Doc. EX.CL/1000(XXX)

The Executive Council

1. **TAKES NOTE** of the report of the African Union Advisory Board on Corruption and **ADOPTS** the recommendations contained therein;
2. **CONGRATULATES** the Advisory Board for its role in the fight against corruption in Africa and the realisation of the African Union's vision for good governance and a corruption-free Africa. ;
3. **TAKES NOTE** of the need to review the African Union Convention on Preventing and Combating Corruption in order to take into account the relevant recommendations made by the Advisory Board;
4. **URGES** States Parties to comply with Article 20 (1) of the AUCPCC, which provides that every State Party shall, at the time of the signing of this Convention or submission of the ratification instruments, communicate the relevant national authority or agency to handle applications concerning the offences under Article 4 (1) of this Convention to the Chairperson of the Commission, and, therefore, urges States Parties that had supplied such information to update the same, where necessary, and for the States that had not supplied such information, to provide the required information within sixty (60) days of the making of this Decision;
5. **FURTHER URGES** African Union Member States which have not yet signed and ratified the Convention, to proceed to accede to and implement the African Union Convention on Preventing and Combating Corruption and to submit a regular report on the implementation of the provisions of the Convention to the Advisory Board as provided for under Article 22 (7) of the Convention;
6. **ENCOURAGES** the Advisory Board to continue with the efforts it is making to promote the ratification and implementation of the African Union Convention on Preventing and Combating Corruption.
7. **REQUESTS** the AU Commission to address the necessary financial and human resource requirements of the Board so as to build an effective Secretariat to provide the necessary technical and administrative support to the work of the Board.

8. **DECLARES** the date of 11th July to be “African Anti-Corruption Day”, to commemorate the adoption of the African Union Convention on Preventing and Combating Corruption in Maputo, Mozambique on 11th July, 2003, so as to constantly remind Africans about the adverse effects of corruption in Africa and the need for every African or African institutions to participate in the fight against corruption.
9. **FURTHER DECLARES** the year 2018 to be “the African Anti-Corruption Year” under the theme “Think Africa, Think Integrity”, so as to marshal all the necessary efforts towards campaigning against corruption in Africa in 2018.
10. **REQUESTS** the Advisory Board to prepare a concept note for the two events (the African Anti-Corruption Day (11th July), and the African Anti-Corruption Year, 2018) and to present it to the AU Summit in June/July 2017, for consideration and appropriate directions.

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