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**REPORT ON THE STATUS OF OAU/AU TREATIES**  
**(As at 11 July 2012)**

**REPORT OF THE COMMISSION ON THE  
STATUS OF OAU/AU TREATIES  
(As at 11 July 2012)**

**A. INTRODUCTION**

1. The Report of the Chairperson of the Commission on the Status of OAU/AU Treaties was first prepared at the request of the 66<sup>th</sup> Ordinary Session of the Council of Ministers held in Harare, Zimbabwe, from 26 to 28 May, 1997 and submitted to the 67<sup>th</sup> Ordinary Session of Council held in Addis Ababa, Ethiopia in February 1998. In taking note of the Report, Council emphasized that Member States should be reminded regularly of the status of signatures and ratification of or accession to these treaties. Accordingly, the Report has become a regular item on the agenda of the ordinary sessions of Council.

**B. ISSUES AND CURRENT SITUATION**

2. Since its inception in 1963, the policy organs of the Organization of African Unity (OAU) and the African Union (AU) have adopted **forty-two (42)** treaties, the most recent being the African Charter on the Values and Principles of Public Service and Administration adopted by the Assembly in Addis Ababa, Ethiopia, in January 2011. **Twenty-seven (27)** of these treaties have entered into force the most recent ones being the African Charter on Democracy, Elections and Governance (15 February 2012) and the Constitution of the Association of African Trade Promotion Organizations (28 March 2012). Furthermore, two (2) additional treaties namely: the African Maritime Transport Charter (1994) and the Constitution of the African Civil Aviation Commission (revised version) (2009) are in force provisionally in conformity with the provisions of the respective treaties which allow for provisional entry into force. The remainder are in various stages of signature and ratification or accession. The list of treaties in force is indicated in paragraph 7 below by an asterix as well as in Annex I.

3. Additionally, South Sudan as the 54<sup>th</sup> Member State of the African Union since 15 August 2011 is called upon to start the process of signature and ratification or accession to OAU/AU Treaties thus becoming a State Party to those treaties and participating fully in the activities of the Union and the realization of its objectives.

4. Furthermore, since the submission of the last report in January 2012, Member States have continued to make efforts to sign, ratify and or accede to OAU/AU Treaties. It should be pointed out that the pace of signature has been higher than during the previous reporting period but ratifications/accessions have been disappointing. Indeed, it should be noted that forty-one (41) new signatures were appended to the treaties as compared to eighteen (18) during the previous reporting period. However, only nineteen (19) instruments of ratification/accession were deposited against thirty-one (31) during the previous reporting period.

5. Against the above, attention should be drawn to the fact that a lot remains outstanding and that it is important for Member States to give utmost priority to signing

and ratification of or accession to treaties adopted under the aegis of the OAU/AU, which by definition address issues of specific concern to Africa would underline the commitment of Member States to be bound by the common principles, values and standards of the Union and thus contribute to the realization of its objectives.

6. It will be recalled that an assessment of the process and pace of ratification or accession to the OAU/AU treaties by Member States was undertaken by the Commission and submitted to a meeting of Ministers of Justice and Attorneys General which was held in Kigali, Rwanda in November 2008. It will further be recalled that the report had identified that whilst the process is generally very slow due to a number of factors which constitute obstacles to the signing and ratification of some treaties and other treaties are signed by Member States much more expeditiously. In this regard, it was noted that the treaties that enter into force more quickly tend to be those that among others deal with noncontroversial subjects, whose negotiation did not attract a substantial number of reservations, and those that are not perceived as affecting state sovereignty. This would then seem to suggest that Member States are still wary of any proposals that affect or are perceived to impact on their sovereignty. Another issue which was identified as an obstacle to the process for Member States is that of harmonization in different linguistic versions as well as up-dating of AU treaties/conventions which the Commission is in the process of addressing.

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

- 1) General Convention on the Privileges and Immunities of the Organization of African Unity \*
- 2) Additional Protocol to the OAU General Convention on Privileges and Immunities \*
- 3) Phyto-Sanitary Convention for Africa
- 4) 1968 African Convention on the Conservation of Nature and Natural Resources \*
- 5) Revised African Convention on the Conservation of Nature and Natural Resources (this Convention will replace No. 4 when it enters into force)
- 6) African Civil Aviation Commission Constitution (this Constitution will be replaced by No. 40 upon entry into force) \*
- 7) OAU Convention Governing the Specific Aspects of Refugee Problems in Africa \*
- 8) Constitution of the Association of African Trade Promotion Organizations \*

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\*Treaties that have entered into force definitively.

- 9) Inter-African Convention Establishing an African Technical Co-operation Programme
- 10) OAU Convention for the Elimination of Mercenarism in Africa \*
- 11) Cultural Charter for Africa \* (this Charter will be replaced by No. 12 upon entry into force)
- 12) Charter for African Cultural Renaissance (this Charter will replace No. 11 upon entry into force)
- 13) The African Charter on Human and Peoples' Rights \*
- 14) Convention for the Establishment of the African Center for Fertilizer Development
- 15) Agreement for the Establishment of the African Rehabilitation Institute \*
- 16) Treaty Establishing the African Economic Community \*
- 17) Bamako Convention on the Ban of the Import into Africa and the Control of Trans-Boundary Movement and Management of Hazardous Waste within Africa \*
- 18) African Charter on the Rights and Welfare of the Child \*
- 19) The African Nuclear-Weapon-Free-Zone Treaty (The Treaty of Pelindaba) \*
- 20) The African Maritime Transport Charter \*\* (this Charter will be replaced by No. 41 upon entry into force)
- 21) Protocol to the African Charter on Human and Peoples' Rights on the establishment of the African Court on Human and Peoples' Rights (this Charter will be replaced by No. 31 upon entry into force) \*
- 22) OAU Convention on the Prevention and Combating of Terrorism \*
- 23) Constitutive Act of the African Union \*
- 24) Protocol to the Treaty Establishing the African Economic Community relating to the Pan-African Parliament \*
- 25) Convention of the African Energy Commission\*

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

- 26) Protocol relating to the establishment of the Peace and Security Council of the African Union \*
- 27) African Union Convention on Preventing and Combating Corruption\*
- 28) Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa \*
- 29) Protocol on Amendments to the Constitutive Act of the African Union
- 30) Protocol of the Court of Justice of the African Union (this Protocol will be replaced by No. 31 upon entry into force) \*
- 31) Protocol on the Statute of the African Court of Justice and Human Rights (this Protocol and the annexed Statute will replace Nos. 21 and 30 upon entry into force)
- 32) Protocol to the OAU Convention on the Prevention and Combating of Terrorism
- 33) African Union Non-Aggression And Common Defence Pact \*
- 34) African Youth Charter \*
- 35) African Charter on Democracy, Elections and Governance \*
- 36) Statute of the African Union Commission on International Law (AUCIL) [This legal instrument does not require signature or ratification and thus entered into force on the date of its adoption on 4 February 2009] \*
- 37) African Charter on Statistics
- 38) Protocol on the African Investment Bank
- 30) African Union convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention).
- 40) Constitution of the African Civil Aviation Commission (revised version) [This Constitution does not require signature or ratification and thus entered into force on the date of its adoption. It replaces No. 6] \*\*
- 41) Revised African Maritime Transport Charter (this Charter will replace No. 20 when it enters into force)
- 42) African Charter on the Values and Principles of Public Service and Administration

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

**8.** The General Convention adopted and signed in Accra, Ghana, on 25 October 1965 ensures the privileges and immunities of the OAU/AU, its officials and staff members in the territories of Member States in the exercise of their functions. It entered into force on 25 October 1965. Article X(2) of the Convention stipulates that: “The accession provided for in paragraph 1 of this Article shall be effected by the signature of the Heads of State and Government; this signature implies the immediate entering into force of the General Convention on the Privileges and Immunities of the Organization of African Unity.”

**9. The following thirty-six (36) Member States have ratified or acceded to the Convention:** Algeria, Benin, Burkina Faso, Burundi, Cameroon, C.A.R.<sup>H</sup>, Comoros, Congo, Côte d’Ivoire, D.R.C.<sup>HH</sup>, Egypt, Ethiopia, Eq. Guinea, Gabon, Gambia, Ghana, Guinea, Kenya, Liberia, Libya, Madagascar, Malawi, Mali, Mauritania, Mozambique, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, Somalia, Sudan, Swaziland, Tanzania, Tunisia, and Uganda.

**10. Seven (7) Member States:** Angola, Chad, Djibouti, Guinea Bissau, Sao Tome & Principe, Togo and Zambia **have signed but not ratified the Convention.**

**11. The following eleven (11) Member States have neither signed nor ratified or acceded to the Convention:** Botswana, Cape Verde, Eritrea, Lesotho, Mauritius, Namibia, S.A.D.R.<sup>HHH</sup>, Seychelles, South Africa, South Sudan and Zimbabwe.

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

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

**13. Only seven (7) Member States namely:** Benin, Cameroon, Ethiopia, Gabon, Liberia, Mozambique and Rwanda **have ratified the Protocol.** Accordingly, the Additional Protocol has come into force only as regards these seven (7) countries.

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<sup>H</sup> Central African Republic

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

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

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

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

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

**16. The following forty-four (44) Member States have not ratified the Convention:** Algeria, Angola, Botswana, Burkina Faso, Cape Verde, Chad, Comoros, Congo, Cote d'Ivoire, D.R.C, Djibouti, Eq. Guinea, Eritrea, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Kenya, Liberia, Libya, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mozambique, Namibia, Nigeria, S.A.D.R, Sao Tome & Principe, Senegal, Seychelles, Sierra Leone, Somalia, South Africa, Sudan, Swaziland, South Sudan, Tanzania, Tunisia, Uganda, Zambia and Zimbabwe.

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

**17.** This Convention deals with the conservation of nature and natural resources on the continent. The Heads of State and Government adopted and signed it in Algiers, Algeria, on 15 September 1968. It came into force on 16 June, 1969 in accordance with Article XXI which stipulates that: "This Convention shall come into force on the thirtieth day following the date of deposit of the fourth instrument of ratification or accession with the Administrative Secretary-General of the Organization of African Unity..." This Convention has been revised and the Revised Convention was adopted in Maputo, Mozambique, in July 2003<sup>1</sup>.

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

**19. Seventeen (17) Member States namely:** Angola, Benin, Botswana, Burundi, Chad, Eq. Guinea, Ethiopia, Gambia, Guinea, Guinea Bissau, Lesotho, Libya, Mauritania, Mauritius, Sao Tome & Principe, Sierra Leone and Somalia **have signed but not ratified or acceded to the Convention.**

**20. The following seven (7) Member States have neither signed nor ratified or acceded to it:** Cape Verde, Eritrea, Namibia, S.A.D.R., South Africa, South Sudan and Zimbabwe.

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<sup>1</sup>Paragraph 20 of this Report

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

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

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

**23. Thirty-two (32) Member States namely:** Angola, Benin, Burkina Faso, Cape Verde, Chad, Cote d'Ivoire, Congo, Djibouti, DRC, Ethiopia, Eq. Guinea, Gambia, Guinea, Guinea Bissau, Kenya, Liberia, Madagascar, Mozambique, Namibia, Nigeria, Sao Tome & Principe, Senegal, Sierra Leone, Somalia, South Africa, Sudan, Swaziland, Tanzania, Togo, Uganda, Zambia and Zimbabwe **have signed but not ratified the Convention.**

**24. The following fourteen (14) Member States:** Algeria, Botswana, Cameroon, CAR, Egypt, Eritrea, Gabon, Malawi, Mauritania, Mauritius, SADR, Seychelles, South Sudan and Tunisia **have neither signed nor acceded to the Convention.**

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

**25.** The African Civil Aviation Commission's objectives are to provide Member States with a framework for coordination and cooperation in the activities relating to civil aviation and in the utilization of African air transport systems. The Constitution signed in Addis Ababa, Ethiopia on 17 January 1969 entered into force on 15 March 1972 in accordance with its Para 14. This Convention has been revised and the Revised Convention was adopted in Maputo, Mozambique, in July 2003

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



**27. Seven (7) Member States:** Central African Republic, Djibouti, Eq. Guinea, Guinea-Bissau, Sao Tome & Principe, Seychelles and Zimbabwe **have signed but not ratified or acceded to the Constitution.**

**28. The following three (3) Member States have not signed or acceded to it:** Cape Verde, S.A.D.R. and South Sudan.

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

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

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

**31. Seven (7) Member States:** Djibouti, Eritrea, Madagascar, Mauritius, Namibia, Sao Tome & Principe and Somalia **have signed but not ratified or acceded to the Convention.**

**32. The following two (2) Member States have neither signed nor ratified or acceded to the Convention:** S.A.D.R. and South Sudan.

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

**33.** This Constitution adopted in Addis Ababa, Ethiopia, on 18 January 1974, deals with the study, discussion and promotion of African trade matters. Article XV(3) stipulates that: “This Constitution shall provisionally come into force upon signature by twelve States and shall formally come into force upon ratification or approval by twelve States signatory to this Constitution.” **The Constitution entered into force on 28 March 2012, upon ratification by twelve (12) States Signatories, in accordance with Article XV(3).**

**34. The following twelve (12) Member States signatory to the Constitution have ratified it, namely:** Algeria, Benin, Egypt, Ethiopia, Ghana, Liberia, Niger, Nigeria, Sudan, Togo, Tunisia, and Zambia.

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

**36. The following twenty-six (26) Member States signatories to the Convention, have not yet ratified it:** Burkina Faso, Burundi, Cameroon, C.A.R., Chad, Cote d'Ivoire, Comoros, Congo, Djibouti, D.R.C., Eq. Guinea, Gabon, Gambia, Guinea Bissau, Kenya, Libya, Madagascar, Mali, Rwanda, Sao Tome & Principe, Senegal, Sierra Leone, Somalia, Swaziland, Tanzania, and Uganda

**37. The following fifteen (15) Member States have neither signed nor acceded to the Constitution:** Angola, Botswana, Cape Verde, Eritrea, Lesotho, Malawi, Mauritania, Mauritius, Mozambique, Namibia, S.A.D.R., Seychelles, South Africa, South Sudan and Zimbabwe.

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

**38.** This Convention caters for the need to enhance cooperation among African countries in the deployment of their human resources to overcome the shortage of specialized personnel in Africa. Accordingly, African Heads of State and Government meeting in Kampala, Uganda from 28 July to 1 August 1975 agreed to establish an Inter-African Technical Co-operation Programme. Article 28(2) of the Convention stipulates that: "The Convention shall come into force thirty (30) days after the date of the reception of the tenth instrument of ratification."

**39. So far, only six (6) Member States;** Comoros, Ethiopia, Gabon, Gambia, Mali and Niger **have ratified it.**

**40. Twenty-four (24) Member States, namely:** Angola, Benin, Burkina Faso, C.A.R., Chad, Congo, Cote d'Ivoire, Djibouti, D.R.C, Egypt, Eq. Guinea, Ghana, Guinea, Guinea Bissau, Liberia, Madagascar, Sao Tome & Principe, Senegal, Sierra Leone, Somalia, Swaziland, Togo, Uganda and Zambia **have signed but not ratified or acceded to the Convention.**

**41. The following twenty-four (24) Member States have neither signed nor acceded to the Convention:** Algeria, Botswana, Burundi, Cameroon, Cape Verde, Eritrea, Kenya, Lesotho, Libya, Malawi, Mauritania, Mauritius, Mozambique, Namibia, Nigeria, Rwanda, S.A.D.R, Seychelles, South Africa, South Sudan, Sudan, Tanzania, Tunisia and Zimbabwe.

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

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

**43. Thirty (30) Member States have ratified or acceded to it:** Algeria, Benin, Burkina Faso, Cameroon, Congo, Comoros, D.R.C., Egypt, Ethiopia, Eq. Guinea, Gabon, Gambia, Ghana, Guinea, Lesotho, Liberia, Libya, Madagascar, Mali, Niger, Nigeria, Rwanda, Senegal, Seychelles, Sudan, Tanzania, Togo, Tunisia, Zambia and Zimbabwe.

**44. Fourteen (14) Member States:** Angola, Cape Verde, Chad, Côte d'Ivoire, Djibouti, Eritrea, Guinea Bissau, Kenya, Mauritania, Sao Tome & Principe, Sierra Leone, Somalia, Swaziland and Uganda **have signed but not ratified or acceded to the Convention.**

**45. Ten (10) Member States have neither signed nor acceded to the Convention:** Botswana, Burundi, C.A.R, Malawi, Mauritius, Mozambique, Namibia, S.A.D.R, South Africa and South Sudan.

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

**46.** The Cultural Charter, adopted in Mauritius on 5 July 1976, does not require signature by Member States. It deals with the respect of the inalienable right of peoples to practice and enjoy their cultural lives in harmony with their political, economic, social, philosophical and spiritual ideas. **This Charter came into force on 19 September 1990 in application of Article 34, which requires ratification by two-thirds of the total membership of the OAU.**

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

**48. The following twenty (20) Member States have neither ratified nor acceded to the Convention:** Botswana, Cape Verde, C.A.R., Comoros, Côte d'Ivoire, D.R.C, Eq. Guinea, Eritrea, Gambia, Lesotho, Liberia, Mauritania, Mozambique, Namibia, S.A.D.R., Sao Tome & Principe, Sierra Leone, South Africa, South Sudan and Swaziland.

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

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

**50. Only three (3) Member State, namely: Mali, Nigeria and Senegal have so far ratified the Charter.**

**51. Twenty-one (21) Member States, namely: Algeria, Angola, Benin, Burkina Faso, Chad, Comoros, Congo, Côte d'Ivoire, D.R.C., Egypt, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Niger, Sao Tome & Principe, Sierra Leone, Togo and Zambia have signed but not ratified or acceded to the Charter.**

**52. It is yet to be signed and/or ratified by the following thirty (30) Member States:** Botswana, Burundi, Cameroon, Cape Verde, C.A.R., Djibouti, Eq. Guinea, Eritrea, Ethiopia, Kenya, Lesotho, Libya, Madagascar, Malawi, Mauritania, Mauritius, Mozambique, Namibia, Rwanda, S.A.D.R., Seychelles, Somalia, South Africa, South Sudan, Sudan, Swaziland, Tanzania, Tunisia, Uganda and Zimbabwe.

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

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

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

**Zambia:** entered reservations as follows:

- **Article 13(3)- should be amended such that every individual has the right of access to any place, services or public property intended for use by the general public;**

- **Article 37- the Secretary-General of the Organization, rather than the Chairman of the Assembly, should draw lots to determine the terms of office of members of the Commission; and non-State Parties to the Charter should also submit reports to the Commission.**

**Egypt**: entered reservations as follows:

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

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

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

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

**57. Twenty-seven (27) Member States, namely:** Benin, Burkina Faso, Burundi, C.A.R, Cameroon, Chad, Congo, Cote d'Ivoire, Djibouti, D.R.C, Gambia, Ghana, Guinea, Liberia, Madagascar, Niger, Nigeria, Sao Tome & Principe, Senegal, Sierra Leone, Somalia, Sudan, Swaziland, Togo, Uganda, Zambia and Zimbabwe **have signed but not ratified the Convention.**

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

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

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

**60. Twenty-six (26) Member States have ratified or acceded to it:** Angola, Botswana, Burkina Faso, Cameroon, Chad, Congo, Cote d'Ivoire, Ethiopia, Guinea, Kenya, Lesotho, Libya, Malawi, Mali, Mauritania, Mozambique, Namibia, Niger, Nigeria, Rwanda, Senegal, Swaziland, Togo, Uganda, Zambia and Zimbabwe.

**61. Fourteen (14) Member States:** Benin, C.A.R., Comoros, D.R.C., Djibouti, Egypt, Gambia, Gabon, Ghana, Guinea-Bissau, Liberia, Sao Tome & Principe, Sierra Leone and Somalia **have signed but not ratified or acceded to the Agreement.**

**62. The following thirteen (13) Member States have neither signed nor ratified or acceded to it:** Algeria, Burundi, Cape Verde, Eq. Guinea, Eritrea, Madagascar, S.A.D.R., Seychelles, South Africa, South Sudan, Sudan, Tanzania and Tunisia.

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

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

**64.** This Treaty deals with the economic integration of Member States and the establishment of the African Economic Community. It was adopted and signed in Abuja, Nigeria, on 3 June 1991, and **entered into force on 12 May 1994.**

**65. The Treaty has been ratified by forty-nine (49) Member States.**

**66. The following four (4) Member States have signed but have not ratified the Treaty:** Djibouti, Eritrea, Madagascar and Somalia.

**67. South Sudan is the only Member State that has neither signed nor acceded to the Treaty.**

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

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

**69. Twenty-four (24) Member States have ratified or acceded to the Convention:** Benin, Burkina Faso, Burundi, Cameroon, Congo, Côte d'Ivoire, Comoros, D.R.C., Ethiopia, Egypt, Gabon, Gambia, Libya, Mali, Mauritius, Mozambique, Niger, Senegal, Sudan, Tanzania, Togo, Tunisia, Uganda and Zimbabwe.

**70. Nineteen (19) Member States, namely:** Angola, C.A.R, Chad, Djibouti, Ghana, Guinea, Guinea Bissau, Kenya, Lesotho, Liberia, Madagascar, Mauritania, Nigeria, Rwanda, Sao Tome & Principe, Sierra Leone, Somalia, Swaziland and Zambia **have signed but not ratified or acceded to the Convention.**

**71. The following eleven (11) Member States have neither signed nor acceded to the Convention:** Algeria, Botswana, Cape Verde, Eq. Guinea, Eritrea, Malawi, Namibia, S.A.D.R., Seychelles, South Africa and South Sudan.

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

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

**73. Forty-six (46) Member States have ratified or acceded to the Charter:** Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, Chad, Comoros, Congo, Côte d'Ivoire, Djibouti, Egypt, Eq. Guinea, Gabon, Ghana, Eritrea, Ethiopia, Gambia, Guinea, Guinea Bissau, Kenya, Lesotho, Liberia, Libya, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, Senegal, Seychelles, Sierra Leone, South Africa, Sudan, Tanzania, Togo, Uganda, Zambia and Zimbabwe.

**74. The following seven (7) Member States have signed but not ratified the Charter:** C.A.R., D.R.C., S.A.D.R., Sao Tome & Principe, Somalia, Swaziland and Tunisia.

**75. South Sudan is the only Member State that has neither signed nor acceded to the Treaty.**

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

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

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

**Egypt**: Does not consider itself bound by the following Articles:

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

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

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

**Sudan**: Does not consider itself bound by the following Articles:

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

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

**77.** The Treaty of Pelindaba adopted and opened for signature in Cairo, Egypt, on 11 April 1996, deals with the strengthening of nuclear non-proliferation regimes, promotion and cooperation of the peaceful uses of nuclear energy and protection of African States against possible nuclear attacks on their territories. **Pursuant to Article 18(2), the Treaty entered into force on 15 July 2009,** the date of deposit of the twenty-eighth instrument of ratification.

**78. The Treaty has been ratified by thirty-five (35) Member States namely:** Algeria, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Chad, Côte d'Ivoire, Equatorial Guinea, Ethiopia, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Kenya, Libya, Lesotho, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mozambique, Namibia, Nigeria, Rwanda, Senegal, South Africa, Swaziland, Tanzania, Togo, Tunisia, Zambia and Zimbabwe.



**79. The following eighteen (18) Member States have signed but not ratified the Treaty:** Angola, C.A.R., Cape Verde, Comoros, Congo, Djibouti, D.R.C., Egypt, Eritrea, Liberia, Niger, Sao Tome & Principe, S.A.D.R, Seychelles, Sierra Leone, Somalia, Sudan and Uganda.

**80. South Sudan is the only Member State that has neither signed nor acceded to the Treaty.**

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

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

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

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

**83.** The Charter has not entered into force definitely because it has not been ratified by two-thirds of Member States; however, it can be regarded as having entered into force provisionally since it has received at least twenty (20) signatures.

**84. At present, only thirteen (13) Member States, namely:** Comoros, Egypt, Ethiopia, Lesotho, Mali, Mauritius, Niger, Nigeria, Rwanda, Senegal, Tanzania, Tunisia and Uganda **have ratified the Charter**.

**85. The following twenty-nine (29) Member States:** Algeria, Angola, Benin, Burkina Faso, C.A.R., Chad, Congo, Cote d'Ivoire, Djibouti, D.R.C, Eq. Guinea, Gabon, Gambia, Ghana, Guinea, Guinea Bissau, Kenya, Liberia, Libya, Madagascar, Malawi, Mozambique, Namibia, Sao Tome & Principe, Sierra Leone, Somalia, Swaziland, Togo and Zambia **have signed but not ratified the Charter**.

**86. The following twelve (12) Member States have neither signed nor acceded to the Charter:** Botswana, Burundi, Cameroon, Cape Verde, Eritrea, Mauritania, S.A.D.R, Seychelles, South Africa, South Sudan, Sudan and Zimbabwe

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

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

**88. The following twenty-six (26) Member States have ratified the Protocol:** Algeria, Burkina Faso, Burundi, Comoros, Congo, Côte d'Ivoire, Gambia, Gabon, Ghana, Kenya, Libya, Lesotho, Mali, Malawi, Mauritania, Mauritius, Mozambique, Niger, Nigeria, Rwanda, Senegal, South Africa, Tanzania, Togo, Tunisia and Uganda.

**89. The following twenty-five (25) Member States have signed but not ratified the Protocol:** Angola, Benin, Botswana, Cameroon, C.A.R., Chad, Djibouti, D.R.C., Egypt, Eq. Guinea, Ethiopia, Guinea, Guinea-Bissau, Liberia, Madagascar, Namibia, S.A.D.R., Sao Tome & Principe, Seychelles, Sierra Leone, Somalia, Sudan, Swaziland, Zambia and Zimbabwe.

**90. The following three (3) Member States have neither signed nor acceded to the Protocol:** Cape Verde, Eritrea and South Sudan.

**91. DECLARATIONS ENTERED BY MEMBER STATES:**

Article 34 of the Protocol [Ratification] stipulates that *"at the time of ratification of this Protocol or any time thereafter, the State shall make a declaration accepting the competence of the Court to receive cases under Article 5(3) of this Protocol. The Court shall not receive any petition under article 5 (3) involving a State which has not made such a declaration."* Article 5(3) states as follows: *"The Court may entitle relevant Non-Governmental Organizations (NGOs) with observer status before the Commission, and individuals to institute cases directly before it, in accordance with article 34(6) of this Protocol."*

The following Member States have entered a declaration in conformity with Article 34(6) as follows:

**Burkina Faso:** The Court shall be competent to receive cases from individuals and NGOs with observer status within the African Commission on Human and Peoples' Rights.

**Malawi:** Accepts the competence of the Court to receive cases under Article 5(3) of the Protocol.

**Mali:** Accepts the competence of the Court to receive cases in accordance with Article 5(3) of the Protocol.

**Tanzania:** The Court may entitle Non-governmental Organizations (NGOs) with observer status before the Commission and individuals to institute cases directly before it in accordance with Article 34(6) of the Protocol. However, without prejudice to Article 5(3) of the aforesaid Protocol, such entitlement is only to be granted to such NGOs and Individuals once all domestic legal remedies have been exhausted and in adherence to the Constitution of the United Republic of Tanzania.

**Ghana:** Accepts the competence of the Court to receive cases against the Republic of Ghana under Article 5(3) of the Protocol.

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

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

**93. The following forty (40) countries have ratified the Convention:** Algeria, Angola, Benin, Burkina Faso, Burundi, Cape Verde, Chad, Comoros, Congo, Djibouti, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Gambia, Ghana, Guinea, Guinea Bissau, Kenya, Lesotho, Libya, Madagascar, Malawi, Mali, Mauritius, Mauritania, Mozambique, Niger, Nigeria, Rwanda, S.A.D.R., Senegal, Seychelles, South Africa, Sudan, Tanzania, Togo, Tunisia and Uganda.

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

**95. South Sudan and Zimbabwe are the only Member States that have neither signed nor acceded to the Convention.**

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

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

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

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

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

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

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

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

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

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

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

**98.** The Thirty-Sixth Ordinary Session of the Assembly of Heads of State and Government in Lomé, Togo, on 11 July 2000, adopted the Act.

**99.** **All Member States have signed and ratified the Act** and the instruments of ratification have been deposited with the Commission; the Republic of South Sudan being the 54<sup>th</sup> Member State of the African Union since 15 August 2011.

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

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

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

**102. The following forty-seven (47) Member States have ratified the Protocol:** Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, C.A.R., Chad, Congo, Comoros, Djibouti, Egypt, Ethiopia, Equatorial Guinea, Gabon, Gambia, Ghana, Guinea-Bissau, Kenya, Lesotho, Liberia, Libya, Malawi, Madagascar, Mali, Mauritania, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, S.A.D.R., Senegal, Seychelles, Sierra Leone, South Africa, Sudan, Swaziland, Tanzania, Togo, Tunisia, Uganda, Zambia and Zimbabwe.

**103. The Protocol has been signed but not ratified or acceded to by the following five (5) Member States:** Côte d'Ivoire, D.R.C., Guinea, Sao Tome & Principe and Somalia.

**104.** Eritrea and South Sudan **are the only Member States that have neither signed nor acceded to the Protocol.**

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

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

**106. The following thirty (30) Member States have ratified the Convention:** Algeria, Angola, Burkina Faso, Burundi, Cameroon, Comoros, Congo, Cote d'Ivoire, Egypt, Ethiopia, Gambia, Guinea, Ghana, Kenya, Libya, Mali, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, S.A.D.R., Senegal, Sudan, Tanzania, Togo, Tunisia, Zambia and Zimbabwe.

**107. Seventeen (17) Member States, namely:** Benin, C.A.R., Chad, Djibouti, Democratic Rep. of Congo, Eq. Guinea, Gabon, Guinea-Bissau, Lesotho, Liberia,

Madagascar, Sao Tome & Principe, Sierra Leone, Somalia, South Africa, Swaziland and Uganda **have signed but have not ratified the Convention.**

**108. The following seven (7) Member States have neither signed nor acceded to the Convention:** Botswana, Cape Verde, Eritrea, Malawi, Mauritania, Seychelles and South Sudan.

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

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

**110. Forty-seven (47) Member States:** Algeria, Angola Benin, Botswana, Burkina Faso, Burundi, Cameroon, Chad, Comoros, Congo, Côte d'Ivoire, Djibouti, Egypt, Eritrea, Ethiopia, Equatorial Guinea, Gabon, Gambia, Ghana, Guinea, Guinea Bissau, Kenya, Lesotho, Libya, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, S.A.D.R., Sao Tome & Principe, Senegal, Sierra Leone, South Africa, Sudan, Swaziland, Tanzania, Togo, Tunisia, Uganda, Zambia, and Zimbabwe **have ratified the Protocol.**

**111. The following six (6) Member States have so far signed but not ratified or acceded to the Protocol:** Cape Verde, C.A.R, D.R.C., Liberia, Seychelles, and Somalia.

**112. South Sudan is the only Member State that has neither signed nor acceded to the Protocol.**

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

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

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

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

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

**115. Thirty-three (33) Member States**, Algeria, Benin, Burkina Faso, Burundi, Comoros, Congo, Ethiopia, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Kenya, Lesotho, Liberia, Libya, Madagascar, Malawi, Mali, Mozambique, Namibia, Niger, Nigeria, Rwanda, Senegal, Seychelles, Sierra Leone, South Africa, Tanzania, Togo, Uganda, Zambia and Zimbabwe **have ratified the Convention.**

**116. Fifteen (15) Member States namely:** Angola, Cameroon, Chad, Côte d'Ivoire, Djibouti, D.R.C, Eq. Guinea, Eritrea, Mauritania, Mauritius, S.A.D.R., Sao Tome & Principe, Somalia, Sudan and Swaziland **have signed but not ratified or acceded to the Convention.**

**117. The following six (6) Member States:** Botswana, Cape Verde, CAR, Egypt, South Sudan and Tunisia **have neither signed nor acceded to the Convention.**

**118. RESERVATIONS ENTERED BY MEMBER STATES**

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

**Designations:**

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

**Interpretative declarations:**

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

**Reservations:**

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

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

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

**120. Thirty-two (32) Member States, namely:** Angola, Benin, Burkina Faso, Cape Verde, Comoros, Cote d'Ivoire, D.R.C, Djibouti, Eq. Guinea, Gabon, Gambia, Ghana, Guinea Bissau, Kenya, Lesotho, Liberia, Libya, Mali, Malawi, Mauritania, Mozambique, Namibia, Nigeria, Rwanda, Senegal, Seychelles, South Africa, Tanzania, Togo, Uganda, Zambia and Zimbabwe **have ratified or acceded to the Protocol.**

**121. Eighteen (18) Member States, namely:** Algeria, Burundi, Cameroon, Chad, C.A.R., Congo, Eritrea, Ethiopia, Guinea, Madagascar, Mauritius, Niger, SADR, Sao Tome & Principe, Sierra Leone, Somalia, Sudan and Swaziland **have signed but not ratified the Protocol.**

**122. Four (4) Member States, namely:** Botswana, Egypt, South Sudan and Tunisia **have neither signed nor acceded to the Protocol.**

**123. RESERVATIONS ENTERED BY MEMBER STATES**

**Rwanda** entered a reservation on Article 14(2)(c).

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

**Reservations:**

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



**Interpretative declarations:**

- **Article 1(f): definition of “discrimination against women” in the Protocol has the same meaning and scope as provided for in and interpreted by the Constitution of South Africa from time to time.**
- **Article 31: The South African Bill of Rights shall not be interpreted to offer less favourable protection of human rights than the protocol, which does not expressly provide for such limitations.**

**Uganda** entered the following reservations:

- **Article 14(1)(a): In respect to the women’s right to control their fertility interpreted to mean; women entirely have the right to control their fertility regardless of their marital status.**
- **Article 14(2)(c): interpreted in a way conferring an individual right to abortion or mandating a State Party to provide access thereto. The State is not bound by this clause unless permitted by domestic legislation expressly providing for abortion.**

**Kenya** entered the following reservations:

- **“The Government of the Republic of Kenya does not consider as binding upon itself the provisions of Article 10(3) and Article 14(2)(c) which is inconsistent with the provisions of the Laws of Kenya on health and reproductive rights.”**

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

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

**125. Twenty-seven (27) Member States:** Benin, Burkina Faso, Burundi, C.A.R., Chad, Comoros, Egypt, Eq. Guinea, Gabon, Gambia, Ghana, Guinea, Guinea Bissau, Kenya, Lesotho, Liberia, Libya, Mali, Mauritania, Mozambique, Niger, Rwanda, S.A.D.R., Senegal, South Africa, Tanzania and Togo **have ratified the Protocol.**

**126. Twenty-two (22) Member States:** Algeria, Angola, Cameroon, Cape Verde, Cote d’Ivoire, Congo, Djibouti, D.R.C., Eritrea, Madagascar, Mauritius, Namibia, Nigeria, Sao

Tome & Principe, Sierra Leone, Somalia, Sudan, Swaziland, Tunisia, Uganda, Zambia and Zimbabwe **have signed the Protocol.**

**127. Five (5) Member States:** Botswana, Ethiopia, Malawi, Seychelles and South Sudan **have neither signed nor acceded to the Protocol.**

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

**128.** This Protocol deals with the composition, functions, competence and other matters pertaining to the Court of Justice of the African Union. The Heads of State and Government of Member States of the African Union adopted the Protocol in Maputo, Mozambique in July 2003. According to Article 60, this Protocol entered into force on 11 February 2009, thirty (30) days after the deposit of the fifteenth instrument of ratification. However, it will be recalled that the Assembly of the Union decided on the merger of the African Court on Human and Peoples' Rights with the Court of Justice of the African Union and thus a Protocol on the merger of the two Courts was adopted in Sharm El-Sheikh, Egypt in July 2008 (see paragraphs 127 to 129).

**129. Sixteen (16) Member States:** Algeria, Comoros, Egypt, Gabon, Gambia, Lesotho, Libya, Mali, Mauritius, Mozambique, Niger, Rwanda, South Africa, Sudan, Tanzania and Tunisia **have ratified the Protocol.**

**130. Thirty (30) Member States, namely:** Angola, Benin, Burkina Faso, Burundi, Cameroon, C.A.R., Chad, Cote d'Ivoire, Congo, D.R.C., Djibouti, Eq. Guinea, Ethiopia, Ghana, Guinea, Guinea Bissau, Kenya, Liberia, Madagascar, Namibia, Nigeria, Sao Tome & Principe, Senegal, Sierra Leone, Somalia, Swaziland, Togo, Uganda, Zambia and Zimbabwe **have signed the Protocol.**

**131. Eight (8) Member States:** Botswana, Cape Verde, Eritrea, Malawi, Mauritania, SADR, Seychelles and South Sudan **have neither signed nor acceded to the Protocol.**

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

**132.** The Protocol on the Statute of the African Court of Justice and Human Rights was adopted by the Assembly of the Union in Sharm El-Sheikh, Egypt, in July 2008. It merges into a single Court, the African Court on Human and Peoples' Rights and the Court of Justice of the African Union. According to Article 9, "the Protocol and the Statute annexed to it shall enter into force thirty (30) days after the deposit of the instruments of ratification by fifteen (15) Member States". Upon its entry into force, the present Protocol and Statute annexed shall replace the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, adopted on 10 June 1998 and entered into force on January 2004 and

the Protocol of the Court of Justice of the African Union, adopted on 11 July 2003 and entered into force in February 2009.

**133. Only three (3) Member States, namely:** Burkina Faso, Libya and Mali **have thus far ratified the Protocol.**

**134. The following twenty-four (24) Member States, namely:** Algeria, Angola, Benin, Chad, Congo, Côte d'Ivoire, D.R.C., Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Lesotho, Liberia, Mozambique, Niger, Nigeria, S.A.D.R., Sao Tome & Principe, Senegal, Sierra Leone, Tanzania, Togo and Zambia **have signed the Protocol.**

**135. It is yet to be signed and/or ratified by the following twenty-seven (27) Member States:** Botswana, Burundi, Cameroon, Cape Verde, C.A.R., Comoros, Djibouti, Egypt, Eq. Guinea, Eritrea, Ethiopia, Kenya, Madagascar, Malawi, Mauritania, Mauritius, Namibia, Rwanda, Seychelles, Somalia, South Africa, South Sudan, Sudan, Swaziland, Tunisia, Uganda and Zimbabwe.

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

**136.** This Protocol was adopted by the Third Ordinary Session of the Assembly in Addis Ababa, on 8 July 2004 to enhance the effective implementation of the Convention and to give effect to Article 3(d) of the Protocol Relating to the Establishment of the Peace and Security Council of the African Union, on the need to coordinate and harmonize continental efforts in the prevention and combating of terrorism in all its aspects, as well as the implementation of other relevant international instruments.

**137. Twelve (12) Member States, namely:** Algeria, Burundi, Ethiopia, Gabon, Guinea, Libya, Mali, Mozambique, Niger, Rwanda, South Africa and Tunisia **have thus far ratified the Protocol.**

**138. Thirty-two (32) Member States, namely:** Angola, Benin, Burkina Faso, Cameroon, Cape Verde, C.A.R., Chad, Comoros, Cote d'Ivoire, Congo, Djibouti, D.R.C., Eq. Guinea, Eritrea, Gambia, Ghana, Guinea Bissau, Kenya, Liberia, Madagascar, Nigeria, S.A.D.R., Sao Tome & Principe, Senegal, Sierra Leone, Somalia, Sudan, Swaziland, Tanzania, Togo, Uganda and Zambia **have signed the Protocol.**

**139. Ten (10) Member States, namely:** Botswana, Egypt, Lesotho, Malawi, Mauritania, Mauritius, Namibia, Seychelles, South Sudan and Zimbabwe **have neither signed nor acceded to the Protocol.**

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

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

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

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

**141.** The Pact was adopted by the Heads of State and Government of the Member States of the African Union in Abuja, Nigeria in January 2005, to deal with threats to peace, security and stability in the continent and to ensure the wellbeing of the African peoples. **The Pact has entered into force on 18 December 2009, thirty (30) days following the deposit of the fifteenth instrument of ratification.**

**142. Eighteen (18) Member States, namely:** Algeria, Burkina Faso, Chad, Congo, Gabon, Gambia, Ghana, Guinea, Guinea Bissau, Libya, Mali, Mauritania, Mozambique, Niger, Rwanda, S.A.D.R., Senegal and Togo **have so far ratified the Pact.**

**143. Thirty-four (34) Member States, namely:** Angola, Benin, Burundi, Cameroon, C.A.R., Comoros, Cote d’Ivoire, Djibouti, D.R.C., Eq. Guinea, Eritrea, Ethiopia, Kenya, Liberia, Madagascar, Namibia, Nigeria, Sao Tome & Principe, Sierra Leone, Somalia, South Africa, Sudan, Tunisia and Zimbabwe **have signed the Pact.**

**144. Twelve (12) Member States, namely:** Botswana, Cape Verde, Egypt, Lesotho, Malawi, Mauritius, Seychelles, South Sudan, Swaziland, Tanzania, Uganda and Zambia **have neither signed nor acceded to the Pact.**

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

**145.** The Charter was adopted by the Heads of State and Government of Member States of the African Union in Banjul, The Gambia, on 2 July 2006 to set out a political and legal framework for youth empowerment at the national and continental levels. **Pursuant to Article 30 (2), the Charter entered into force on 8 August 2009.**

**146. Twenty-nine (29) Member States, namely:** Angola, Burkina Faso, Cameroon, Cape Verde, Cote d'Ivoire, Djibouti, Gabon, Gambia, Guinea, Guinea Bissau, Lesotho, Libya, Malawi, Mali, Mauritania, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, Senegal, Seychelles, South Africa, Togo, Tunisia and Uganda, Zambia and Zimbabwe **have so far ratified the Charter.**

**147. Nineteen (19) Member States, namely:** Algeria, Benin, Burundi, C.A.R., Chad, Comoros, Congo, D.R.C., Egypt, Ethiopia, Eq. Guinea, Ghana, Kenya, Liberia, S.A.D.R., Sao Tome & Principe, Sierra Leone, Sudan and Tanzania **have signed the Charter.**

**148. Six (6) Member States, namely:** Botswana, Eritrea, Madagascar, Somalia, South Sudan and Swaziland **have neither signed nor acceded to the Charter.**

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

**149.** The Charter was adopted by the Heads of State and Government of Member States of the African Union in Addis Ababa, Ethiopia, on 30 January 2007 to entrench a culture of democracy, elections and good governance at the national and continental levels in order to put together the declarations and decisions previously adopted on this matter. **The Charter has entered into force on 15 February 2012, thirty (30) days following the deposit of the fifteenth instrument of ratification, in accordance with Article 48.**

**150. Sixteen (16) Member States, namely:** Burkina Faso, Cameroon, Chad, Ethiopia, Ghana, Guinea, Guinea Bissau, Lesotho, Mauritania, Niger, Nigeria, Rwanda, Sierra Leone, South Africa, Togo and Zambia **have so far ratified the Charter.**

**151. Twenty-five (25) Member States:** Angola, Benin, Burundi, Cape Verde, C.A.R., Comoros, Congo, Côte d'Ivoire, Djibouti, D.R.C., Eq. Guinea, Gabon, Gambia, Kenya, Liberia, Mali, Mauritius, Mozambique, Namibia, S.A.D.R., Sao Tome & Principe, Senegal, Sudan, Swaziland and Uganda **have signed the Charter.**

**152. Thirteen (13) Member States, namely:** Algeria, Botswana, Egypt, Eritrea, Libya, Madagascar, Malawi, Seychelles, Somalia, South Sudan, Tanzania, Tunisia and Zimbabwe **have neither signed nor ratified the Charter.**

#### **XXXVI. STATUTE OF THE AFRICAN UNION COMMISSION ON INTERNATIONAL LAW – AUCIL (2009)**

**153.** The Statute was adopted by the Heads of State and Government of Member States of the African Union in Addis Ababa, Ethiopia, on 4 February 2009, to act as an independent advisory organ to the Union mainly in the areas of codification of the laws of the Union and the progressive development of international law in Africa. In terms of its Article 2, the Statute is established pursuant to the provisions of Article 5(2) of the

Constitutive Act. **In line with its Article 27, the Statute does not require signature or ratification and came into force upon its adoption by the Assembly on 4 February 2009.**

#### **XXXVII. AFRICAN CHARTER ON STATISTICS (2009)**

**154.** The Charter was adopted by the Heads of State and Government of Member States of the African Union in Addis Ababa, Ethiopia, on 4 February 2009, to provide a common legal framework for statistics development in the African continent. In line with its Article 15, the Charter shall enter into force thirty (30) days after the deposit of the instruments of ratification by fifteen (15) Member States.

**155. Only five Member State, namely:** Malawi, Mali, Mauritius, Mozambique and Niger **have so far ratified the Charter.**

**156. The following twenty-two (22) Member States, namely:** Angola, Benin, Burkina Faso, Cape Verde, Comoros, Congo, Côte d'Ivoire, D.R.C., Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Kenya, Liberia, Rwanda, Sao Tome & Principe, Senegal, Sierra Leone, Tanzania, Togo and Zambia **have so far signed the Charter.**

**157. It is yet to be signed and/or ratified by the following twenty-seven (27) Member States:** Algeria, Botswana, Burundi, Cameroon, Chad, C.A.R., Djibouti, Egypt, Eq. Guinea, Eritrea, Ethiopia, Lesotho, Libya, Madagascar, Mauritania, Namibia, Nigeria, S.A.D.R., Seychelles, Somalia, South Africa, South Sudan, Sudan, Swaziland, Tunisia, Uganda and Zimbabwe.

#### **XXXVIII. PROTOCOL ON THE AFRICAN INVESTMENT BANK (2009)**

**158.** The Protocol was adopted by the Heads of State and Government of Member States of the African Union in Addis Ababa, Ethiopia. The African Investment Bank, which is one of the financial institutions provided for by the Constitutive Act, is an important organ of the Union. It will, among other things, foster economic integration and development through investment in development projects in line with the objectives of the Union. In line with Article 10, the Protocol and the Statute annexed to it shall enter into force thirty (30) days after the deposit of the fifteenth instrument of ratification.

**159. Only two (2) Member States, namely:** Libya and Congo **have so far ratified the Protocol.**

**160. The following seventeen (17) Member States, namely:** Angola, Benin, Burkina Faso, Comoros, Côte d'Ivoire, D.R.C., Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Niger, Sao Tome & Principe, Senegal, Sierra Leone, Togo and Zambia **have so far signed the Protocol.**

**161. Thirty-five (35) Member States, namely:** Algeria, Botswana, Burundi, Cameroon, Cape Verde, Chad, C.A.R., Djibouti, Egypt, Eq. Guinea, Eritrea, Ethiopia,

Gabon, Kenya, Lesotho, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mozambique, Namibia, Nigeria, Rwanda, S.A.D.R., Seychelles, Somalia, South Africa, South Sudan, Sudan, Swaziland, Tanzania, Tunisia, Uganda and Zimbabwe **have neither signed nor ratified the Protocol.**

**XXXIX. AFRICAN UNION CONVENTION FOR THE PROTECTION AND ASSISTANCE OF INTERNALLY DISPLACED PERSONS IN AFRICA (KAMPALA CONVENTION) (2009)**

**162.** The Convention was adopted by the Special Summit of the Assembly of the African Union in Kampala, Uganda, on 23 October 2009. The Convention deals mainly with promoting and strengthening regional and national measures to prevent or mitigate, prohibit and eliminate the root causes of internal displacement as well as provide for durable solutions. In line with its Article 17, the Convention shall enter into force thirty (30) days after the deposit of the instruments of ratification or accession by fifteen (15) Member States.

**163. Thirteen (13) Member States, namely:** Benin, C.A.R., Chad, Gabon, Gambia, Guinea-Bissau, Lesotho, Niger, Nigeria, Uganda, Sierra Leone, Togo and Zambia **have so far ratified the Convention.**

**164. The following twenty-four (24) Member States, namely:** Angola, Burkina Faso, Burundi, Comoros, Congo, Côte d'Ivoire, D.R.C., Djibouti, Eq. Guinea, Eritrea, Ethiopia, Ghana, Guinea, Liberia, Mali, Mozambique, Namibia, Rwanda, S.A.D.R., Sao Tome & Principe, Senegal, Somalia, Tanzania and Zimbabwe **have signed the Convention.**

**165. It is yet to be signed and/or ratified by the following seventeen (17) Member States:** Algeria, Botswana, Cameroon, Cape Verde, Egypt, Kenya, Libya, Madagascar, Malawi, Mauritania, Mauritius, Seychelles, South Africa, South Sudan, Sudan, Swaziland and Tunisia.

**XL. CONSTITUTION OF THE AFRICAN CIVIL AVIATION COMMISSION (revised version) (2009)**

**166.** The Constitution was adopted by a Meeting of Plenipotentiaries in Dakar, Senegal on 16 December 2009. This new Constitution implements Executive Council decision EX.CL/Dec.359 (XI) which inter alia entrusts the African Civil Aviation Commission (AFCAC) with the functions of the "Executing Agency" for the implementation of the Yamoussoukro Decision on the liberalization of Air Transport in Africa. **According to Article 19(4), the Constitution has provisionally entered into force on 11 May 2010 upon signature by fifteen African States.** It shall definitively enter into force upon ratification by fifteen (15) African States. Upon its entry into force, the present Constitution shall replace the 1969 AFCAC Constitution, adopted on 17 January 1969.

**167. Only one (1) Member State, namely: Mali has so far ratified the Protocol.**

**168. So far, thirty-one (31) Member States, namely:** Angola, Benin, Burkina Faso, Chad, C.A.R., Comoros, Congo, Cote d'Ivoire, Egypt, Ethiopia, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mauritania, Namibia, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, Somalia, South Africa, Sudan, Tanzania, Togo, Uganda, Zambia and Zimbabwe **have signed the Convention.**

**169. It is yet to be signed and/or ratified by the following twenty-two (22) Member States:** Algeria, Botswana, Burundi, Cameroon, Cape Verde, D.R.C., Djibouti, Eq. Guinea, Eritrea, Kenya, Lesotho, Libya, Madagascar, Malawi, Mauritius, Mozambique, S.A.D.R., Sao Tome & Principe, Seychelles, South Sudan, Swaziland and Tunisia **have neither signed nor ratified the Protocol.**

#### **XLI. REVISED AFRICAN MARITIME TRANSPORT CHARTER (2010)**

**170.** The Charter was adopted by the Assembly of Heads of State and Government of Member States of the African Union in Kampala, Uganda on 26 July 2010. The Revised African Maritime Transport Charter aims at strengthening cooperation among States Parties in maritime transport, inland waterways navigation, ports and related activities and seeks to promote cooperation between States parties, regional and international organizations. In line with Article 49, the Charter shall enter into force thirty (30) days after the deposit of the fifteenth (15<sup>th</sup>) instrument of ratification. Upon its entry into force, the present Charter shall replace the 1994 African Maritime Transport Charter.

**171. Only one (1) Member State, namely: Togo has so far ratified the Protocol.**

**172. So far, ten (10) Member States, namely:** Angola, Benin, Cote d'Ivoire, Gambia, Guinea, Guinea-Bissau, Mozambique, Niger, Sierra Leone and South Africa **have signed this Charter.**

**173. It is yet to be signed and/or ratified by the remaining forty-three (43) Member States:** Algeria, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, C.A.R., Chad, Comoros, Congo, D.R.C, Djibouti, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Ghana, Kenya, Lesotho, Liberia, Libya, Madagascar, Malawi, Mali, Mauritania, Mauritius, Namibia, Nigeria, Rwanda, S.A.D.R., Sao Tome and Principe, Senegal, Seychelles, Somalia, South Sudan, Sudan, Swaziland, Tanzania, Tunisia, Uganda, Zambia and Zimbabwe.

#### **XLII. AFRICAN CHARTER ON THE VALUES AND PRINCIPLES OF PUBLIC SERVICE AND ADMINISTRATION (2011)**

**174.** The African Charter on the Values and Principles of Public Service and Administration was adopted by the Assembly of Heads of State and Government of Member States of the African Union in Addis Ababa, Ethiopia in January 2011. The Charter aims at promoting the principles and values of public service and administration; enhancing the political commitment of Member States to strengthen professionalism and



ethics in public service as well as encourage the efforts of Member States in modernising administration and strengthening capacity for the improvement of public service on the continent. In line with Article 30, the Charter shall enter into force thirty (30) days after the deposit of the instruments of ratification by fifteen (15) Member States.

**175. Kenya and Mauritius are the only Member States that have so far ratified this Charter.**

**176. The following seventeen (17) Member States, namely:** Angola, Benin, Burundi, Congo, Cote d'Ivoire, Gambia, Ghana, Guinea, Guinea-Bissau, Mozambique, Namibia, Nigeria, S.A.D.R., Senegal, Sierra Leone, Togo and Zambia **have so far signed the Charter.**

**177. It is yet to be signed and/or ratified by the remaining thirty-five (35) Member States:** Algeria, Botswana, Burkina Faso, Cameroon, Cape Verde, C.A.R., Chad, Comoros, D.R.C, Djibouti, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Lesotho, Liberia, Libya, Madagascar, Malawi, Mali, Mauritania, Niger, Rwanda, Sao Tome and Principe, Seychelles, Somalia, South Africa, South Sudan, Sudan, Swaziland, Tanzania, Tunisia, Uganda and Zimbabwe.

#### **XLIII. OUTCOME OF THE MEETING OF MINISTERS OF JUSTICE/ATTORNEYS GENERAL HELD IN KIGALI, RWANDA IN 2008**

**178.** The Executive Council at its 14<sup>th</sup> Ordinary Session adopted the recommendations of the Ministers of Justice/Attorneys General, and among others that Member States should:

- Identify substantive issues which frequently delay or prevent ratification of OAU/AU treaties by some Member States;
- Develop national policies and strategies aimed at addressing these issues and renewing their commitment to respect and implement international obligations enshrined in the OAU/AU treaties to which they are signatory ratifying them expeditiously and adopting the necessary legislative and administrative measures to domesticate them.
- Review, on a continuous and periodic basis, those OAU/AU treaties that they have not yet signed and authorize their designated officials and Representatives to sign them as a preliminary step towards their ratification, and address the factors delaying or preventing the ratification of those treaties that they have already signed as well as accession to treaties already in force.
- Authorize the Commission to establish a standing Committee of Experts on the Ratification of OAU/AU Treaties with a mandate to review systematically the positions of AU Member States on ratification and accession to, OAU/AU

treaties on a periodic basis, monitor the process of ratification of and compliance with the treaties and make recommendation thereon to the Policy Organs of the AU.

- Establish institutional frameworks within Member States to speed up the ratification process as well as to ensure incorporation into national law and implementation of treaties.
- Determine appropriate roles that AU organs, in particular the Pan-African Parliament, the Commission, the Specialized Technical Committees and the Economic, Social and Cultural Council, may play in advocacy and sensitization campaigns for the ratification of OAU/AU treaties.

## **E. CONCLUSION AND RECOMMENDATIONS:**

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

- Member States should prioritise and accelerate the signing and ratification of/accession to OAU/AU Treaties;
- Member States should ensure that they comply with the recommendation of the policy organs and initiate the process of ratification of new treaties within a period of one (1) year after adoption in accordance to Executive Council Decision EX.CL/Dec. 459 (XIV) on the Status of Signature and Ratification of OAU/AU Treaties and the Harmonization of Ratification Procedures adopted in Addis Ababa, Ethiopia in January 2009;
- The Pan-African Parliament should continue to assist with advocacy and sensitization of Member States to expedite the process of ratification of/accession to OAU/AU Treaties;
- The Commission and its offices throughout the continent as well as all other relevant Organs should assist in the process of promoting signature and ratification of and or accession to as well as creating awareness about OAU/AU treaties;
- Adopts the modalities for the establishment of a Sub-Committee of the Executive Council on the Challenges of Ratification/Accession and Implementation of OAU/AU Treaties, as annexed to this Report in implementation of the recommendations of the Ministers of Justice/Attorneys General held in Kigali, Rwanda and endorsed by the 14<sup>th</sup> Ordinary Session of the Executive Council and the 12<sup>th</sup> Ordinary Session of the Assembly respectively held in January/February 2009.

**ANNEX: LIST OF OAU/AU TREATIES AND THEIR STATUS**

<b><u>Treaties that have entered into force definitely (27 treaties)</u></b>	<b><u>Entry into force</u></b>	<b><u>No. of States Parties</u></b>
1. General Convention on the Privileges and Immunities of the Organisation of African Unity	October 1965	36
2. Additional Protocol to the OAU General Convention on Privileges and Immunities*	Respective date of deposit	7
3. African Convention on the Conservation of Nature and Natural Resources (1968)	June 1969	30
4. African Civil Aviation Commission – Constitution	March 1972	44
5. OAU Convention Governing the Specific Aspects of Refugee Problems in Africa	June 1974	45
6. OAU Convention for the Elimination of Mercenarism in Africa	April 1985	30
7. Cultural Charter for Africa*	Sept. 1990	34
8. African Charter on Human and Peoples' Rights	Oct. 1986	53
9. Agreement for the Establishment of the African Rehabilitation Institute (ARI)	Dec. 1991	26
10. Treaty Establishing the African Economic Community	May 1994	49
11. Bamako Convention on the Ban of the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa	April 1998	24
12. African Charter on the Rights and Welfare of the Child	Nov. 1999	46
13. Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights	Jan. 2004	26
14. OAU Convention on the Prevention and Combating of Terrorism	Dec. 2002	40
15. Constitutive Act of the African Union	May 2001	54

16. Protocol to the Treaty establishing the African Economic Community relating to the Pan-African Parliament	Dec. 2003	47
17. Convention of the African Energy Commission	Dec. 2006	30
18. Protocol relating to the establishment of the Peace and Security Council of the African Union	Dec. 2003	47
19. African Union Convention on Preventing and Combating Corruption	Aug. 2006	33
20. Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa	Nov. 2005	32
21. Protocol of the Court of Justice of the African Union	Feb. 2009	16
22. Statute of the African Union Commission on International Law (AUCIL)**	Feb. 2009	---
23. The African Nuclear-Weapon-Free Zone Treaty (the Treaty of PELINDABA)	July 2009	35
24. African Youth Charter	Aug. 2009	29
25. African Union Non-Aggression and Common Defence Pact	Dec. 2009	18
26. African Charter on Democracy, Elections and Governance	Feb. 2012	16
27. Constitution of the Association of African Trade Promotion Organizations	March 2012	12
<b><u>Treaties that have entered into force provisionally (2 treaties)</u></b>		
1. African Maritime Transport Charter		13
2. Constitution of the African Civil Aviation Commission (revised version)		1
<b><u>Treaties that are yet to enter into force (13 treaties)</u></b>		
1. Phyto-sanitary Convention for Africa*		10
2. African Convention on the Conservation of Nature and Natural Resources		8

(revised version)	
3. Inter-African Convention Establishing an African Technical Co-operation Programme	6
4. Charter for African Cultural Renaissance	3
5. Convention for the Establishment of the African Centre for Fertilizer Development	5
6. Protocol on Amendments to the Constitutive Act of the African Union	27
7. Protocol on the Statute of the African Court of Justice and Human Rights	3
8. Protocol to the OAU Convention on the Prevention and Combating of Terrorism	12
9. African Charter on Statistics	5
10. Protocol on the African Investment Bank	2
11. African Union Convention for the Protection and Assistance of Internally Displaced Persons in Africa (Kampala Convention)	13
12. Revised African Maritime Transport Charter	1
13. African Charter on the Values and Principles of Public Service and Administration	12

\* **These three (3) legal instruments do not require signatures**

\*\* **This Statute does not require signature or ratification. In line with its Article 27, the Statute has come into effect upon its adoption by the Assembly on 4 February 2009.**

EX CL 728(XXI)  
Annex

**DRAFT**  
**MODALITIES FOR THE ESTABLISHMENT OF A MINISTERIAL COMMITTEE ON**  
**THE CHALLENGES OF RATIFICATION/ACCESSION AND IMPLEMENTATION OF**  
**OAU/AU TREATIES WITHIN THE CONTEXT OF**  
**THE 50<sup>th</sup> ANNIVERSARY OF THE OAU**

**DRAFT**  
**MODALITIES FOR THE ESTABLISHMENT OF A MINISTERIAL COMMITTEE ON  
THE CHALLENGES OF RATIFICATION/ACCESSION AND IMPLEMENTATION OF  
OAU/AU TREATIES WITHIN THE CONTEXT OF  
THE 50<sup>th</sup> ANNIVERSARY OF THE OAU**

**I. BACKGROUND NOTES**

1. Since its inception in 1963, the policy organs of the Organization of African Unity (OAU) and the African Union (AU) have adopted **forty-two (42)** treaties, the most recent being the African Charter on the Values and Principles of Public Service and Administration adopted by the Assembly in Addis Ababa, Ethiopia, in January 2011. **Twenty-Seven (27)** of these treaties have entered into force.
2. These treaties provide the basis for collective actions and solutions in addressing the political, economic and social challenges that impede Africa's integration and development.
3. It should be noted that some of these treaties adopted under the aegis of the OAU/AU are very important due to their direct relevance and role in fostering shared values and their standard-setting and norm-creating character for AU Member States.
4. It is recalled also that all the treaties adopted since the inception of the OAU reflect the principle of inter-linkage between peace, stability, development, integration and cooperation in Africa.
5. Member States believe that the adoption of this principle first expressed in various declarations and then reflected in a number of treaties would create synergy between the various activities currently undertaken by AU and therefore help to consolidate the integration of Africa. The treaties also provide a policy development forum for the elaboration and advancement of shared values within the Continent.
6. At a Meeting of Experts on the Review of the Organisation of African Unity/African Union (OAU/AU) Treaties held from 18 to 20 May, 2004 in Addis Ababa, Ethiopia, the Chairperson of the AU Commission ("Commission") stated that *"it was worrying to note the slow pace of signature and ratification [of these treaties] by Member States, bearing in mind the process of integration that the Member States had embarked on"*.

7. Subsequently, in order to encourage Member States to become State Parties to OAU/AU treaties, the Executive Council by its Decision (EX.CL/Dec.128 (V)), adopted at its Fifth Ordinary Session held from 30 June to 3 July, 2004 in Addis Ababa, Ethiopia, appealed to all Member States who had not yet signed and ratified or adhered to all treaties adopted under the aegis of the OAU /AU to proceed to do so.

8. The Executive Council further requested the Commission of the AU to conduct a study on the procedures for ratification of treaties in Member States as well as how to harmonize them with a view to speeding up the ratification process.

9. Council also requested the Commission to find ways and means of resolving the problem of inconsistency between the various linguistic texts and submit appropriate recommendations thereon to enable the Policy Organs of the Union to take appropriate decisions in this regard, and Member States to take the necessary measures to speed up ratification of or accession to all OAU/AU treaties.

10. Furthermore, Council requested the Commission to establish a technical assistance program aimed at assisting Member States overcome obstacles encountered in their efforts to ratify OAU/AU treaties, for example training programs for personnel to deal with ratification issues and explain the significance of particular treaties to relevant domestic constituencies, including parliamentarians.

11. The current modalities have been prepared with a view to address the slow pace of signature and ratification or accession, and in order to implement the recommendations of the Ministers of Justice/Attorneys General, held in Kigali, Rwanda in 2008, subsequently adopted by the 14th Ordinary Session of the Executive Council and endorsed by the 12th Ordinary Session of the Assembly in January and February 2009, respectively.

12. Accordingly, due account has been taken of Decision EX.CL/Dec.459 (XIV) on the Procedures for Ratification of Treaties in Member States of the African Union and harmonization of ratification procedures and measures to speed up the ratification of OAU/AU Treaties, adopted by the 14th Ordinary Session of the Executive Council in January 2009.

13. During consideration of the report on the status of signature and ratification of OAU/AU Treaties by the 20<sup>th</sup> Ordinary Session of the Executive Council, held in Addis Ababa, Ethiopia, in January 2012, the Executive Council with a view to speeding up the signature, ratification/accession of OAU/AU treaties, took note of the report related to the status of signature and ratification of OAU/AU treaties which contained the recommendation, to establish a “Standing Ministerial Committee on the Challenges of Signature, Ratification/Accession and implementation of OAU/AU Treaties within the context of the 50<sup>th</sup> Anniversary of the OAU”.

14. In this document, the proposal for the establishment of a Ministerial Committee on the challenges of ratification/accession and implementation of OAU/AU Treaties for



consideration by the Executive Council through the PRC, within the context of the 50th Anniversary of the OAU is being renewed. This recommendation is in conformity with Rule 5 (n) of the Executive Council, which empowers the Executive Council to set up such ad-hoc committees and working groups as it may deem necessary.

## II. COMPOSITION OF THE COMMITTEE

15. It is proposed that the Committee be composed of ten (10) representatives in conformity with the following geographical distribution:

- i. Central Region: (2)
- ii. Eastern Region: (2)
- iii. Northern region: (2)
- iv. Southern Region: (2)
- v. Western Region: (2)

16. The Committee shall be supported in its work by the AU Commission on international Law. The Committee may invite any other person whose contribution is deemed useful for the accomplishment of its mission (exchange of views/experience sharing in the matter). The Committee may also establish such Sub-Committees as it may deem necessary.

## III. DESIGNATION OF MEMBERS OF THE COMMITTEE

17. Each region shall designate its representatives after consultation among the Member States of the respective regions.

## IV. FUNCTIONS OF THE COMMITTEE

18. The Committee shall:

- i. Elaborate guidelines, policies and strategies to deal with lack of political will, administrative red tape, lack of required administrative coordination and technical capacity problems, and renew their commitment to respect and implement the international obligations established by OAU/AU treaties;
- ii. Identify strategies to encourage Member States through the RECs to implement the **EX.CL/Dec.495 (XV)**, which “**REITERATES**” its appeal to Member States to commence the process of ratification of existing treaties not yet ratified or acceded to, within the next one (1) year; and for future treaties, within one (1) year of their adoption, and to ensure that they ratify, domesticate and apply OAU/AU treaties.
- iii. Initiate, if necessary, national dialogues with the national stakeholders concerned, including political leaders, parliamentarians, Non-Governmental Organizations and other civil society groups, with a view to sensitizing them

on the importance of specific OAU/AU treaties, and the need to ratify them as part of commitments made by each nation to join other Member States;

- iv. Work with Member States to establish institutional mechanisms with a view to speeding up the ratification process and ensuring the incorporation of OAU/AU treaties into national legislations as well as the implementation of the treaties;
- v. Authorise the AU Commission and the AU Commission on International Law and provide it with the necessary resources and mandate to:
  - a. Systematically review the status of ratification and accession to OAU/AU treaties by AU Member States on a regular basis;
  - b. consider the evolution of status of signatures, ratification/Accession of all OAU/AU treaties in order to make recommendations to Executive Council on the way forward;
  - c. Consider and recommend to the Executive Council the viability and opportuneness for the creation and adoption of a Special Fund supported by the budget of the African Union and by voluntary contributions from partners for Technical Assistance Programme to Member States;
  - d. The principal objective of the Fund would be to provide to Member States training and capacity building in areas pertinent to treaty negotiation and ratification processes and activities, legislative drafting, as well as dissemination, sensitization and popularization campaigns;
  - e. Identify ways and means of encouraging other organs of the Union, such as the Pan African Parliament, the ECOSOCC, the African Commission on Human and Peoples' Rights, the African Committee of Experts on the Rights and Welfare of the Child to contribute to the promotion of ratification, domestication and implementation of OAU/AU treaties by Member States.
- vi. Identify strategies to encourage Member States to organise political consultations and debates within the regional domestic spheres to determine both the feasibility and desirability of harmonizing the constitutional approaches and legislative procedures and practices for ratification of OAU/AU treaties.

## **V. TERMS OF OFFICE**

19. Members of the Committee shall hold office for a period of two (2) years. Their terms of office shall be renewable only once.

## **VI. SESSIONS AND VENUE**

20. The Committee shall meet in ordinary session once a year, on the margins of the ordinary session of the Executive Council in January.

21. At the request of any Member of the Committee and on approval by a two-thirds majority of the members, the Committee shall meet in extraordinary session.

22. The Committee shall hold its sessions at the same venue as the ordinary sessions of the Executive Council, unless a Member invites the Committee to hold a session in its country.

23. In the event a Member of the Committee invites the Committee to hold a session in its country, that Member shall be responsible for all extra expenses incurred by the Commission as a result of the session being held outside the Headquarters of the Union.

## **VII. PARTICIPANTS TO THE MEETINGS**

24. The Committee may invite representatives of relevant AU organs such as the Pan-African Parliament, the Economic, Social and Cultural Council (ECOSOCC), the African Commission on Human and Peoples' Rights (ACHPR) and the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) or any other organs of the Union or civil society to attend its meetings, as observers to assist it in its work.

25. The Committee shall be entitled to develop modalities for the participation of civil society in the process of promoting ratification/accession.

## **VIII. THE BUREAU AND SECRETARIAT**

26. The Bureau shall be composed of a Chairperson, three (3) Vice Chairpersons and a Rapporteur, who shall be elected for a term of office of two (2) years. The Members of the Bureau shall be eligible for re-election only once.

27. The Members of the Bureau shall be elected on the basis of agreed geographical distribution and after due consultations.

28. The secretariat of the Committee shall be the responsibility of the Office of the Legal Counsel.

**IX. DECISION-MAKING PROCEDURES AND REPORTING**

**29.** The Committee shall be answerable to the Executive Council. Its recommendations shall be binding after endorsement by the Executive Council.

**30.** The Committee shall take its decisions by consensus or, failing which by a simple majority of the members of the Committee eligible to vote. The Committee shall adopt its report before submission to Executive Council for consideration.

**X. QUORUM**

**31.** The quorum for a session of the Committee shall be two-thirds of its Members.

**XI. BUDGET**

**32.** The budget for organization of the meetings of the Committee shall be part of the African Union regular budget.

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