

AFRICAN UNION
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UNION AFRICAINE
UNIÃO AFRICANA

Addis Ababa, ETHIOPIA P. O. Box 3243 Telephone: +251-115517700 Fax: +251 115517844
Website: www.au.int

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EXECUTIVE COUNCIL
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Addis Ababa, ETHIOPIA

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**REPORT OF THE SECOND ORDINARY SESSION OF THE
SPECIALIZED TECHNICAL COMMITTEE ON JUSTICE AND LEGAL
AFFAIRS, LOME, TOGO, 01-9 SEPTEMBER 2016**

**REPORT OF THE SECOND ORDINARY SESSION OF
THE STC ON JUSTICE AND LEGAL AFFAIRS,
LOME, TOGO, 01 – 09 SEPTEMBER 2016**

I. INTRODUCTION

1. The Second Ordinary Session of the Specialized Technical Committee (STC) on Justice and Legal Affairs was held in Lomé, Togo from 01 to 07 September 2016 (Expert Session) and 08 to 09 September 2016 (Ministerial Session).
2. The Second Ordinary Session was attended by twenty-Seven (27) Member States and one (1) Specialized Agency of the African Union.
3. The purpose of the meeting was to finalize four (4) Draft Legal Instruments prior to their submission to and adoption by the Policy Organs.
4. Consequently, the meeting adopted the following three (3) Draft Legal Instruments:
 - i) *Draft African Charter on Maritime Security and, Safety and Development;*
 - ii) *Draft Statutes of the African Union Mechanism for Police Cooperation (AFRIPOL);*
 - iii) *Draft Amendment to the Constitution of the African Civil Aviation Commission.*
5. The Draft African Charter on Maritime Security and, Safety and Development in Africa was adopted during the Extraordinary Summit held in Lomé, Togo on 15 October 2016.
6. The Second Ordinary Session did not recommend to the Council the Consideration of the *Draft Amendment to Article 5(1) of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights*. The Session decided that the proposed Amendment to the said Article be referred to the African Union Commission who should study the proposed amendment from a procedural and legal perspective with a view to ensure compliance with the amendment procedure detailed in the Article 35 of the Protocol establishing the Court prior, to re-submission to the STC on Justice and Legal Affairs.
7. The Report containing recommendations and the Draft Legal Instruments adopted by the STC on Justice and Legal Affairs are attached hereto as annexes.

**REPORT OF THE SECOND ORDINARY SESSION OF
THE STC ON JUSTICE AND LEGAL AFFAIRS,
LOME, TOGO, 01 – 09 SEPTEMBER 2016**

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UNION AFRICAINE

UNIÃO AFRICANA

Addis Ababa, Ethiopia

P. O. Box 3243

Telephone: 5517 700

Fax: 5517844

Website: [www. Africa-union.org](http://www.Africa-union.org)

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**2nd Ordinary Ministerial Session of the Specialized
Technical Committee on Justice and Legal Affairs
8-9 September 2016**

Lome, Togo STC/Legal/Min/Rpt.
Original: English

REPORT

REPORT

I. INTRODUCTION

1. Pursuant to Decision Assembly/AU/Dec.365(XVII) adopted by the 17th Ordinary Session of the Assembly of the African Union held in Malabo, Equatorial Guinea, in July 2011, and the Decision EX. CL/Dec.701(XXI) adopted by the 21st Ordinary Session of Executive Council of the Africa Union held in Addis Ababa, Ethiopia, in July 2012, the African Union Commission convened the First Extra Ordinary Ministerial Session of the Specialized Technical Committee (STC) on Justice and Legal Affairs to consider various Draft Legal instruments. The STC on Justice and Legal Affairs comprises Ministers of Justice and Attorneys General or Keepers of the Seals, Ministers responsible for Human Rights, Constitutionalism and the Rule of Law or such other Ministers or authorities duly accredited by the Governments of Member States.

II. ATTENDANCE

2. The following Member States were in attendance:

Algeria; Angola; Burkina Faso; Cameroon; Central African Republic; Congo; Cote D'Ivoire; Democratic Republic of Congo; Egypt; Ethiopia; Equatorial Guinea; Ghana; Kenya; Lesotho; Malawi; Namibia; Niger; Nigeria; Rwanda; Sahrawi Republic, South Africa; South Sudan; Sudan; Swaziland; Togo; Uganda; and Zambia.

III. OPENING SESSION

Statement by Minister of Foreign Affairs of the Republic of Togo

3. The Minister of Foreign Affairs of the Republic of Togolese welcomed the delegates on behalf of the President of the Republic of Togo. He took the opportunity to congratulate the Commission and Member States for the place given to the legal instruments in the integration process and the development of the Continent. He noted that the drafting of new legal instruments is an answer to the current challenges faced by the Continent and highlights the necessary combination to be built, first, between the law and the action, and secondly between conceptualization and operationalization.

4. Reaffirming his Government's honour to welcome the Member States to this important meeting, the Minister encouraged the delegates to feel at home in Togo. He then underlined that the draft texts to be considered will contribute to the fulfilment of the objectives enshrined in the Constitutive Act of the African Union.

Statement by the Commissioner of Peace and Security of the African Union Commission

5. H.E. the Commissioner of Peace and Security welcomed the delegates on behalf of H.E. The Chairperson of the African Union Commission, Dr. Nkosazana Dlamini Zuma to the meeting of the STC on Justice and Legal Affairs and thanked them for attending the meeting which is strategically convened to implement the decision of the

Assembly, Decision AU/Dec.593 (XXXVI). He informed the delegates that their attendance to this STC Session to develop legal instruments that state the Common African position on issues of mutual interest to the Member States of the African Union, bears testimony to their own unflinching commitment and that of their Member States to address the challenges faced by the Continent including those relating to justice and the rule of law.

6. The Commissioner recalled that this STC is challenged, based on the obvious skills of its Experts, to develop normative and regulatory instruments, in order to coordinate the African Union Member States' action in the field of maritime security and safety and development in Africa. He stated that this coordinating instrument is a necessity in Africa to regulate, at the Continental level, all implementing mechanisms already in this field.

7. Regarding the other draft legal instruments submitted to the STC on Justice and Legal Affairs for consideration, the Commissioner mentioned that the second item that requires the Session's attention is the Draft Statute of the African Union Mechanism for Police Cooperation (AFRIPOL). He noted that pursuant to the first ever meeting of the African Chiefs of Police held in Algiers from 10 to 11 February 2014, the Algiers Declaration on the Establishment of the African Mechanism for Police Cooperation (AFRIPOL) was adopted. The Commission submitted the draft Statute of AFRIPOL to this meeting of the STC on Justice and Legal Affairs as part of the efforts for speedy operationalization of AFRIPOL.

8. Regarding the Amendment to Article 5 (1) of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, the Commissioner reminded the delegates that the African Committee of Experts on the Rights and Welfare of the Child (ACERWC) does not currently have the locus standi to submit cases to the Court, it can only request an advisory opinion. He recalled that in order for ACERWC to deal with Human Rights issues that are within its mandate, the Executive Council in its 29th Ordinary session in Kigali in 2016 adopted Decision EX.CL/923 (XXIX) which requests this Committee on Justice and Legal Affairs to consider the Amendment to Article 5 (1) of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, that sets out the persons entitled to appear before the Court. Pursuant to the adoption of the amendment, ACERWC can appear before the AfCHPR. He urged the Honorable Ministers and Delegates present to consider the request of the Executive Council to amend the provisions of Article 5(1) of the Court Protocol to enable ACERWC to fulfil its mandate of advancing the rights of the African child.

9. Finally, the Commissioner addressed the last instrument on the agenda, the Draft Amendment to the Constitution of the African Civil Aviation Commission (AFCAC), which arises from a decision of its 25th Plenary session of AFCAC to amend the majority required to constitute quorum at Plenary Meetings from two thirds to simply majority. He stressed that as a specialized agency of the Union, the Decision to amend the AFCAC constitution must be approved by the relevant policy organs of the Union, hence the consideration of the Amendment at this STC. He then closed his statement by thanking the Ministers and all the delegations present, the other participants, the AU Commission,

the interpreters, translators and the technical staff for the work accomplished in convening the meeting.

Statement by Minister of State, Minister of Justice and Keeper of the Seals of the Republic of Cameroon

10. H.E. the Minister of State, Minister of Justice and Keeper of the Seals of the Republic of Cameroon welcomed the delegates and thanked them for attending the meeting. He also recalled the decision of the Assembly, Decision AU/Dec.593 (XXXVI), which requested the relevant Specialized Technical Committees as well as the Commission to expedite actions to ensure the development, adoption and signing of the Draft Charter on Maritime Security and Safety and Development in Africa during the Extraordinary Summit in October, 2016. He reminded the experts that following the above, the Office of the Legal Counsel convened this meeting to ensure the consideration and recommendation of the Charter to the Assembly in October 2016. The Chairperson of the STC noted that considering the upcoming Extraordinary Session on Maritime Security and Safety and Development in Africa, the Charter to be considered by the delegate has a significant importance. He recalled that securing the seas is a challenge on the way to peace and development, the same ideal of security being also the justification for the establishment of the AFRIPOL. Addressing the question of the amendments to the AFCAC Constitution and the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights, the Chairperson reaffirmed that these amendments were consistent with the will of Member States to improve the functioning of our pan-African Institutions.

11. The Chairperson concluded by highlighting the importance of each of the legal instrument to be considered by the meeting and thereafter declared the meeting open.

III. CONSIDERATION AND ADOPTION OF THE DRAFT AGENDA

12. The meeting adopted the Agenda as follows:

1. Opening Ceremony
2. Consideration and Adoption of the Draft Agenda
3. Organization of Work
4. Consideration of the draft Report of the Meeting of Government Legal Experts
5. Consideration of the draft legal instruments:
 - i. *Draft African Charter on Maritime Security and Safety and Security and Development;*
 - ii. *Draft Statutes of the African Union Mechanism for Police Cooperation (AFRIPOL);*

- iii. *Draft Amendment to Article 5(1) of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights;*
- iv. *Draft Amendment to the Constitution of the African Civil Aviation Commission.*

6. Adoption of the draft legal instruments and the Draft Report
7. Any Other Business.
8. Closing Ceremony

IV. ORGANISATION OF WORK

13. The meeting adopted its organisation of work as follows:

- Morning: 10.00 to 13.00
- Afternoon: 14.30 to 18.00

V. CONSIDERATION OF THE DRAFT AFRICAN CHARTER ON MARITIME SECURITY AND SAFETY AND DEVELOPMENT

14. The Commission informed the meeting that the Draft Charter had been validated at a meeting of Government Legal Experts, Regional Economic Communities (RECs) and International Partners in Addis Ababa, Ethiopia in April 2016 and subsequently considered by the Specialized Technical Committee on Defense, Safety and Security in July, 2016, where it was recommended that the Draft Charter be submitted for consideration by the STC on Justice and Legal Affairs.

15. No observations were made by Member States and the draft Charter was approved and recommended for consideration by the Assembly of Heads of States and Government of the African Union.

VI. CONSIDERATION OF THE DRAFT STATUTE OF THE AFRICAN UNION MECHANISM FOR POLICE COOPERATION (AFRIPOL)

16. The Commission introduced the draft Statute. As background, the Commission informed the meeting that the 7th ordinary meeting of the Specialized Technical Committee on Defense, Safety and Security (STCDSS), which was held in Addis Ababa, on 14 January 2014, adopted a Declaration in which the STCDSS welcomed the offer by Algeria to host the Conference of Chiefs of Police in Algiers. The Commission noted that the Declaration was endorsed by the 22nd Ordinary Session of the Assembly of Heads of State and Government of the African Union that was held in Addis Ababa, from 30 to 31st January 2014, Thereafter, the first meeting of African Chiefs of Police was held in Algiers from 10 to 11 February 2014. The meeting adopted the "Algiers Declaration on the Establishment of the African Mechanism for Police Cooperation – AFRIPOL" and

agreed to, among others, designate Algeria as the host country for the headquarters of AFRIPOL in Algiers.

17. At its Twenty-Fifth Ordinary Session of the Assembly held in Johannesburg, South Africa, from 14 to 15 June 2015, the Assembly welcomed the further progress made in the operationalization of AFRIPOL as well as efforts undertaken by Algeria in setting up the headquarters of AFRIPOL. Thus, the Commission submitted the Statute of AFRIPOL to the meeting of the STC on Justice and Legal Affairs as part of the efforts for speedy operationalization of AFRIPOL.

18. The Commission further summarised the main issues which were deliberated upon by the Experts Meeting; referring to Article 8 of the instrument where the Experts provided input on alignment of the document as well as Article 20 relating to quorum for decision making where a discrepancy existed in the English and French text regarding quorum.

19. The following observations were made:

- i) The functions and objectives of AFRIPOL confer legal capacity on it. AFRIPOL needn't be conferred with legal capacity as has been done by article 8 of the protocol since the agency is there to assist Member States.
- ii) The Deputy Legal Counsel clarified that it is very important for AFRIPOL to have legal capacity so it can the acquire goods and property it needs in the exercise of its functions and also institute legal proceedings.
- iii) Withholding legal personality from AFRIPOL would put it in a fragile position.
- iv) There needs to be clarity in Article 20 to have one mode of decision-making, i.e., whether by consensus and simple majority, but not two-thirds majority.
- v) There is a need for a qualified majority for decision-making and the quorum for decisions should be two-thirds majority as AFRIPOL is an important institution of the African Union.
- vi) AFRIPOL's role in peace support operations as it relates to the principle of non-interference in the internal affairs of Member States should be clarified.

20. The Commission clarified that AFRIPOL will only act in accordance within mandate of peace support operations taking into account the principle of non-interference and sovereignty of member states. Following the observations, Article 20 of the draft Statute should read "two third majority" instead of "simple majority" and the meeting recommended the draft Statute for consideration and adoption by the Assembly.

VII. CONSIDERATION OF DRAFT AMENDMENT TO ARTICLE 5(1) OF THE PROTOCOL TO THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS ON THE ESTABLISHMENT OF AN AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS

21. The meeting decided that the proposed Amendment to Article 5(1) of the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights be referred to the African Union Commission who should study the proposed amendment from a procedural and legal perspective with a view to ensuring compliance with the amendment procedure detailed in the Article 35 of the Protocol establishing the Court prior to re-submission to the STC on Justice and Legal Affairs.

VIII. CONSIDERATION OF THE DRAFT AMENDMENT TO THE CONSTITUTION OF THE AFRICAN CIVIL AVIATION COMMISSION (AFCAC)

22. The Representative of the African Civil Aviation Commission (AFCAC) presented the background and context of the amendment proposed by a Member State, after which it was considered by the AFCAC Plenary Session and was now being tabled before the STC on Justice and Legal Affairs for consideration before submission to the Executive Council and then the Assembly for adoption.

23. Following the presentation, the following observations were made:

- i) An amendment of this nature would encourage indiscipline by Member States in non-attendance of meetings.
- ii) In order to be able to move forward in the activities of AFCAC this amendment is necessary and should therefore be adopted. It would therefore be convenient to remove the obstacle of two-thirds majority as a quorum requirement as civil aviation is an important issue in Africa.
- iii) AFCAC makes serious efforts to have attendance and in some instances, out of current membership of 54 only about 33 members attend most of its plenary sessions. The difficulties are sometimes to do with issues of accreditation.
- iv) AFCAC commits to encourage States Parties to attend meetings, as this is an important issue.

24. The proposal for amendment to Article 10(4) of the Revised Constitution of the African Civil Aviation Commission adopted in 2009, was recommended for adoption by the Assembly of Heads of States and Governments of the African Union.

IX. ANY OTHER BUSINESS

25. No item was considered in any other business.

X. ADOPTION OF THE REPORT OF THE SECOND MEETING OF THE SPECIALIZED TECHNICAL COMMITTEE ON JUSTICE AND LEGAL AFFAIRS

26. The Ministers adopted the Report with some amendments.

XI. CLOSING CEREMONY

27. In his closing remarks, the Minister of Justice of the Togolese Republic thanked the delegates for their commitment and tireless work in considering the draft legal instruments. He reminded delegates of the need for Member States to attend and fully participate in the Extraordinary Summit, which will take place in October 2016 in Lome, Togo, and wished all delegates well as they return to their countries.

28. In her remarks, the Deputy Legal Counsel thanked the Government of the Republic of Togo for the collaborations in ensuring the success of the meeting of the STC on Justice and Legal Affairs. She thanked the delegations for their constructive observations and cooperation with the Chairperson and the Commission. She also thanked the experts, staff in the Office of the Legal Counsel, the Representatives of Departments of the Commission and the interpreters and translators for their indulgence and understanding. The Deputy Legal Counsel paid special tribute to the Chairperson for the excellent manner in which he had chaired the meeting.

29. In his closing remarks, the Chairperson of the meeting, H.E, the Honourable Minister of State, Minister of Justice and Keeper of the Seals of the Republic of Cameroon thanked the Ministers and Delegates, the Government Legal Experts, the Legal Counsel and staff of the Office of the Legal Counsel, the Representatives of various Departments, Interpreters, Translators and Technicians for their support and cooperation. He wished the distinguished delegates safe journey to their various destinations.



EX.CL/1013(XXX)
Annex 1

**AFRICAN CHARTER ON MARITIME SECURITY AND SAFETY AND
DEVELOPMENT IN AFRICA
(LOM É CHARTER)**

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website : [www. au.int](http://www.au.int)

**ASSEMBLY OF THE AFRICAN UNION
SIXTH EXTRAORDINARY SESSION
11 - 15 OCTOBER 2016
LOME, TOGO**

Ext/Assembly/AU/1(VI)

**AFRICAN CHARTER ON MARITIME SECURITY AND SAFETY AND
DEVELOPMENT IN AFRICA
(LOMÉ CHARTER)**

**AFRICAN CHARTER ON MARITIME SECURITY AND
SAFETY AND DEVELOPMENT IN AFRICA
(LOMÉ CHARTER)**

PREAMBLE

We, the Heads of State and Government of the Member States of the African Union (AU);

CONSIDERING the Constitutive Act of the African Union of 11 July 2000, in particular Articles 3 (a), (b), (e) and (f);

HAVING REGARD to the provisions of the Charter of the United Nations of 26 June 1945, in particular its Chapters VI, VII and VIII;

COGNISANT of the United Nations Convention on the Law of the Sea of 10 December 1982, in particular its Articles 100, 101 and 105, defining the legal framework for the fight against piracy and armed robbery against ships and the International Convention for the Safety of Life at Sea, 1 November 1974;

CONSIDERING the International Convention for the Prevention of Pollution from Ships of 2 November 1973;

CONSIDERING the Convention for the Suppression of Unlawful Acts against the safety of Maritime Navigation of 10 March 1988 and its Protocol of 14 October 2005;

NOTING the Basel Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal of 22 March 1989;

CONSCIOUS of the United Nations Convention against Transnational Organised Crime (Palermo Convention) of 15 November 2000, and its three Supplementary Protocols;

CONSIDERING the Bamako Convention on the Ban on the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa of 30 January 1991;

CONSIDERING also the Convention for the Suppression of Unlawful Acts against the Safety of Maritime Navigation adopted in Rome on 10 March 1988;

RECALLING the provisions of the OAU Convention on the Prevention and Combating of Terrorism of 14 July 1999 and the Protocol to the OAU Convention on the Prevention and Combating of Terrorism of 1 July 2004;

FURTHER RECALLING the provisions of the Revised African Maritime Transport Charter of 26 July 2010;

MINDFUL of the African Union Agenda 2063 and the United Nations 2030 Agenda;

FURTHER MINDFUL of the relevant provisions of the United Nations Security Council Resolutions, which call for the development and implementation of regional, sub-regional and national maritime safety and security and fight against piracy strategies;

RECALLING 2050 Africa's Integrated Maritime Strategy (2050 AIM Strategy) adopted on 27 January 2014, whose implementation shall be in conformity with International Maritime Law;

AWARE of the geostrategic importance of the seas, oceans and inland waterways in the socio-economic development of Africa and of their role in the sustainable development of the continent;

FURTHER CONSIDERING that the persistence of conflicts constitutes a serious threat to peace and security and undermines our efforts to raise the standard of living of our peoples;

DEEPLY CONCERNED by the scourge of terrorism, extremism in all its forms and transnational organised crime as well as the different threats against peace and security in Africa;

ACKNOWLEDGING that the proliferation of small arms and light weapons as well as cross-border crime contribute to the spread of insecurity and instability and pose serious risks to international maritime navigation;

REAFFIRMING our commitment to combat maritime crime, threats and challenges to protect and secure our seas and oceans;

CONVINCED that the prevention, management and the eradication of these scourges can only succeed through the enhancement of cooperation, with a view to coordinating the efforts of coastal, island and land-locked African States within the framework of the African Union;

CONCERNED about the protection of biodiversity and the sustainable use of marine resources of the planet in accordance with the Convention on Biological Diversity, adopted in Rio de Janeiro, on 5 June 1992, the Convention on the Protection, Management and Development of the Marine and Coastal Environment in Eastern Africa, adopted in Nairobi on 21 June 1985 and the Convention for Cooperation in the Protection, Management and Development of the Marine and Coastal Environment of the Atlantic Coast of the West, Central and Southern Africa Region adopted in Abidjan on 23 March 1981;

DEEPLY COMMITTED to peace and security in the Mediterranean Sea, the Red Sea, the Gulf of Aden, the Atlantic Ocean and the Indian Ocean, and **WELCOMING** the determination, through the Maritime Strategies of the Regional Economic Communities/Regional Mechanisms, the Indian Ocean Commission, and the Gulf of

Guinea Commission to work closely with the Commission of the African Union on the implementation, in conformity with International Maritime Law, of the 2050 AIM Strategy;

ALSO WELCOMING the convening in Yaoundé, Cameroon from 24 to 25 June 2013 of the Joint Summit of the Economic Community of Central African States (ECCAS), the Economic Community of West African States (ECOWAS) and the Gulf of Guinea Commission (GGC) on Maritime Safety and Security, which culminated in the establishment of the Interregional Coordination Centre (ICC) based in Yaoundé, Cameroon.

FIRMLY RESOLVED to work tirelessly to ensure peace, security, safety and stability, protection of the marine environment and facilitation of trade in the maritime space and development of our countries;

HEREBY AGREE AS FOLLOWS:

CHAPTER I: GENERAL PROVISIONS

ARTICLE 1 DEFINITIONS

1) For the purpose of this Charter, the following terms and expressions shall apply:

“African Space Policy and Strategy” refers to the first concrete steps to realize an African Space Programme, as one of the flagship programmes of the AU Agenda 2063 adopted on 31 January 2016;

“2050 AIM Strategy” refers to the 2050 Africa’s Integrated Maritime Strategy adopted by the Assembly on 27 January 2014;

“Armed robbery against ships” means any illegal act of violence or detention or any act of depredation, or threat thereof, other than an act of piracy, committed for private ends and directed against a ship or against persons or property on board such a ship, in an area falling within the jurisdiction of a State;

“Assembly” means the Assembly of Heads of State and Government of the African Union;

“AU Agenda 2063” refers to the African Union vision adopted on 27 January 2014;

“Bamako Convention” refers to the Bamako Convention on the ban on the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa adopted by the Organisation of African Unity on 30 January 1991;

“Blue/Ocean Economy” means sustainable economic development of oceans using such technics as regional development to integrate the use of seas and oceans, coasts, lakes, rivers, and underground water for economic purposes, including, but without being limited to fisheries, mining, energy, aquaculture and maritime transport, while protecting the sea to improve social wellbeing;

“Charter” means the African Union Charter on Maritime Security and Safety and Development in Africa;

“Coastal State” refers to any state having a coast;

“Commission” means the African Union Commission;

“Drug trafficking” means the global illicit trade involving the cultivation, manufacture, distribution and sale of substances which are subject to drug prohibition laws;

“Flag State” means - the State under whose laws a vessel is registered or licensed which has authority and responsibility to enforce regulations over vessels registered under its flag, including those relating to inspection, certification, and issuance of safety and pollution prevention documents.

“Illegal, unreported and unregulated (IUU) fishing” means:

- i) Illegal fishing means activities:
 - a) conducted by national or foreign vessels in waters under the jurisdiction of a State, without the permission of that State, or in contravention of its laws and regulations;
 - b) conducted by vessels flying the flag of States that are parties to a relevant regional fisheries management organization but operate in contravention of the conservation and management measures adopted by that organization and by which the States are bound, or relevant provisions of the applicable international law; or
 - c) in violation of national laws or international obligations, including those undertaken by cooperating States to a relevant regional fisheries management organization.
- ii) Unreported fishing means fishing activities:
 - a) which have not been reported, or have been misreported, to the relevant national authority, in contravention of national laws and regulations; or

- b) undertaken in the area of competence of a relevant regional fisheries management organization which have not been reported or have been misreported, in contravention of the reporting procedures of that organization.
- iii) Unregulated fishing means fishing activities:
- a) in the area of application of a relevant regional fisheries management organization that are conducted by vessels without nationality, or by those flying the flag of a State not party to that organization, or by a fishing entity, in a manner that is not consistent with or contravenes the conservation and management measures of that organization; or
 - b) in areas or for fish stocks in relation to which there are no applicable conservation or management measures and where such fishing activities are conducted in a manner inconsistent with State responsibilities for the conservation of living marine resources under international law.

“Inland waterways” means any navigable rivers, creeks, lakes, tidelands, lagoons, below water baseline, or channel leading into such place having facilities for ships to moor and load or discharge including offshore cargo handling facilities, harbour, berths, jetties, pontoons or buoys and wharves within the limits of the inland waterways in any place in a country and includes any place declared to be an inland waterway under relevant national legislation, as defined in the 2050 AIM Strategy;

“International Maritime Organisation (IMO) SOLAS Convention” refers to the International Maritime Organisation International Convention for the Safety of Life at Sea of 1 November 1974;

“Marine biodiversity” refers to the variety and variability of life on Earth; It is a measure of the variety of organisms present in different ecosystems including genetic variations, ecosystem variations or species variations (number of species) within the Maritime Domain;

“Marine Governance” means the national and international, legal and regulatory framework and associated enforcement processes that ensure the peaceful and sustainable use of the seas for commerce, food, energy and raw material;

“Marine Pollution” refers to the introduction and or spread of invasive organisms into the ocean or the harmful, or potentially harmful effects resulting from the entry into the ocean of chemicals, particles, industrial, agricultural and residential waste or noise and any other polluting factors carried by means of air or land pollution;

“Marine Resources” means the things that plants, animals and humans need for life that originate in the sea;

“Maritime Awareness” means the effective understanding of anything associated with the maritime domain that could impact upon the security, safety, economy, or environment;

“Maritime Domain”- refers to all areas and resources of, on, under, relating to, adjacent to, or bordering on the sea, ocean, or lakes, intra-coastal and inland navigable waterways, including all maritime-related activities, infrastructure, cargo, vessels and other means of conveyance. It also includes the air above the seas, oceans, lakes, intra-coastal and inland navigable waterways and the oceans’ electromagnetic spectrum as well, as defined in the 2050 AIM Strategy;

“Maritime Safety” means all measures taken for the safety of ships and offshore installations, their crews and where appropriate, their passengers, the safety of navigation and the facilitation of maritime traffic, maritime infrastructure, maritime facilities and maritime environment;

“Maritime Security” means the prevention of and fight against all acts or threats of illicit acts against a ship, its crew and its passengers or against the port facilities, maritime infrastructure, maritime facilities and maritime environment;

“Maritime Territories” means maritime spaces under the jurisdiction or responsibility of the State Party;

“Maritime Zones” means maritime zones as defined in the United Nations Convention on the Law of the Sea (UNCLOS) adopted on 10 December 1982;

“Member State” means a Member State of the African Union;

“Palermo Convention” refers to the United Nations Convention against Transnational Organized Crime adopted by the United Nations General Assembly on 15 November 2000;

“Pavilion State” means the state under whose legislation a merchant ship is registered and which has authority and responsibility to ensure compliance with the regulations on ships flying its flag, including regulations relating to inspection, certification and issuance of safety and anti-pollution documents;

“Piracy” means:

- a) any illegal act of violence or detention committed for private ends by the crew or passengers of a private ship or a private aircraft, and directed:
 - i. on high seas against another ship or aircraft, or against persons or property, on board such ship or aircraft;
 - ii. against a ship, aircraft or property in a place outside the jurisdiction of any State;

- b) any act of voluntary participation in the operation of a ship or of an aircraft with knowledge of facts making it a pirate ship or aircraft;
- c) any act of inciting or of intentionally facilitating an act as described in paragraphs (a) or (b);

“Pirate Ship” means a ship under the effective control of individuals who have the intention to use it to commit an act of piracy, or a ship which has been used to commit such an act as long as they are under the control of these individuals;

“Port State Control” means the inspection of foreign ships in national ports to verify that the condition of the ship and its equipment comply with the requirements of international regulations and that the ship is manned and operated in compliance with these rules;

“Revised African Maritime Transport Charter” refers to the Revised African Maritime Transport Charter adopted by the African Union on 26 July 2010;

“Requested State” means the State that is requested for something;

“Requesting State” means the State that is requesting for something;

“Ship” means a vessel or mobile facility of any type whatsoever operating in the marine and or inland waterways environments and includes hydrofoil boat, aircushion vehicles, submersibles, floating craft and fixed or floating platforms operated for the purpose of providing movement of goods and passengers and the provision of marine services ;

“Signatory” means a Member State that has signed this Charter;

“States Parties” means Member States that have ratified, accepted, approved or acceded to this Charter in accordance with their respective constitutional rules and the Charter has entered into force for those States;

“Subsidiarity Principle” refers to the principle that seeks to guarantee a degree of independence for a lower authority in relation to a higher body or for a local authority in relation to central government. It therefore involves the sharing of powers between several levels of authority;

“Terrorist acts” refers to terrorist:

- a) Any act or threat of act in violation of the criminal laws of the State Party likely to endanger the life, physical integrity, freedoms of an individual or group of individuals, which results or may result in damages to private or public property, natural resources, the environment or cultural heritage and committed with the intention of:

- i. Intimidating, creating a situation of terror, forcing, exerting pressure or compelling any government, body, institution, population or section thereof to take or refrain from taking any initiative, adopt, abandon any particular standpoint or act according to certain principles;
 - ii. Disrupting the normal functioning of public services, providing essential services to populations or creating a crisis situation within the populations;
 - iii. Creating general insurrection in a State Party.
- b) Any promotion, financing, contribution, order, aide, incitement, encouragement, attempt, threat, conspiracy, organization or equipment of any individual with the intention of committing any act mentioned in paragraphs a) (i) to (iii).

“Trafficking in persons” means the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms or coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation;

“Transnational Organised Crime” means organized crime coordinated across national borders, involving groups of three or more persons existing for a while acting together, to or committing one or more serious offenses to obtain, directly or indirectly, a financial or other material benefit or networks of individuals working in more than one country to plan and execute illegal business ventures. In order to achieve their goals, these criminal groups use systematic violence and corruption;

“United Nations 2030 Agenda” refers to the United Nations plan for achieving a better future for all adopted by the United Nations General Assembly on 25 September 2015;

“UN Basel Convention” refers to the Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal adopted by the United Nations General Assembly on 31 April 1989; and

“UNCLOS” refers to the Convention on the Law of the Sea adopted by the United Nations on 10 December 1982.

- 2) In this Charter, any reference to sea includes oceans and inland waterways.

ARTICLE 2 PRINCIPLES

Each State Party reaffirms its commitment to the principles and objectives contained in the Charter of the United Nations adopted on 26 June 1945, the Constitutive Act of the African Union adopted on 11 July 2000, the Universal Declaration of Human Rights adopted on 10 December 1948, the African Charter of Human and Peoples' Rights adopted on 27 June 1981, the Agenda 21 on Sustainable Development, adopted in Rio de Janeiro, on 14 June 1992, the Palermo Convention adopted on 15 November 2000, the Bamako Convention adopted on 30 January 1991, and other relevant legal instruments as well as the following fundamental principles:

- a) the promotion of peace, security, stability and development;
- b) the protection of fundamental human rights and freedoms, as well as the observance of the rules of International Humanitarian Law;
- c) the free movement of people and goods;
- d) the sovereign equality and interdependence of the Member States;
- e) the territorial integrity and national sovereignty of Member States; and
- f) subsidiarity.

ARTICLE 3 OBJECTIVES

The objectives of the present Charter shall be to:

- a) prevent and suppress national and transnational crime, including terrorism, piracy, armed robbery against ships, drug trafficking, smuggling of migrants, trafficking in persons and all other kinds of trafficking transiting through the sea and IUU fishing;
- b) protect the environment in general and the marine environment in the space of coastal and insular States, in particular;
- c) promote a flourishing and sustainable Blue/Ocean Economy;
- d) promote and enhance cooperation in the fields of maritime domain awareness, prevention by early warning and fight against piracy, armed robbery against ships, illicit trafficking of all kinds, the pollution of the seas, cross-border crime, international terrorism and the proliferation of small arms and light weapons;

- e) establish appropriate national, regional and continental institutions and ensure the implementation of appropriate policies likely to promote safety and security at sea;
- f) promote the inter-agency and transnational coordination and cooperation among Member States, within the spirit of the African Peace and Security Architecture of the African Union;
- g) boost the implementation of the 2050 AIM Strategy in conformity with International Maritime Law;
- h) promote the training and capacity building of the maritime, port and industrial sector, for safe and responsible use of the maritime domain;
- i) cooperate in the field of Search and Rescue in line with the IMO SOLAS Convention;
- j) further sensitize communities living next to seas for sustainable development of African coastline and biodiversity;
- k) To promote and protect the right of access to the sea of landlocked countries in accordance with the provisions of this Charter, the legal instruments of the AU and other regional and international instruments;
- l) raise the level of social welfare of the concerned population;

ARTICLE 4 SCOPE

The present Charter shall cover:

- a) the prevention and control of all transnational crime at sea, including terrorism, piracy, armed robbery against ships, drug trafficking, smuggling of migrants, trafficking in persons and all other kinds of trafficking, IUU fishing, prevention of pollution at sea and other unlawful acts at sea, under the jurisdiction of a State Party in its area of responsibility;
- b) all measures to prevent or minimize accidents at sea caused by ships or crew or aimed at facilitating safe navigation.
- c) all measures for the sustainable exploitation of marine resources and optimization of the development opportunities of sectors related to the sea.

CHAPTER 2: MEASURES TO PREVENT AND COMBAT CRIMES AT SEA

ARTICLE 5

SOCIO-ECONOMIC MEASURES TO PREVENT CRIMES AT SEA

Each State Party shall endeavour to:

- a) continue its efforts to take appropriate measures to create productive jobs, reduce poverty and eliminate extreme poverty, encourage awareness of maritime related issues in order to establish the best living conditions, and to strengthen social cohesion through the implementation of a fair, inclusive and equitable policy to address the socio-economic issues;
- b) stimulate the creation of jobs along the coasts, particularly by codifying and promoting artisanal fishery through the training of sector stakeholders, encouraging the local processing of fishery products, and facilitating their marketing at national, sub-regional and international levels.

ARTICLE 6

STATES PARTIES RESPONSIBILITY

Each State Party undertakes, according to its own realities, where applicable, to:

- a) organise its actions at sea and to develop its capacity to protect its maritime area and provide assistance to other States Parties or third States as may be required;
- b) strengthen law enforcement at sea, through the training and the professionalization of navies, coast guards, and agencies responsible for maritime safety and security, custom authorities and port authorities;
- c) maintain patrols, surveillance and reconnaissance in the anchorage areas, the exclusive economic zone and continental shelf for law enforcement, search and rescue operations.

ARTICLE 7

NATIONAL COORDINATING STRUCTURES

- 1) Each State Party shall take measures to curb maritime crime and other forms of unlawful acts, as part of on-going dialogue and effective cooperation between their relevant national institutions.
- 2) Each State Party shall establish a national coordinating structure and centre for awareness on maritime related issues to ensure the coordination of actions aimed at safeguarding and enhancing maritime safety and security.

**ARTICLE 8
HARMONIZING OF NATIONAL LEGISLATION**

Each State Party shall, where appropriate:

- a) harmonise its national laws to conform with relevant international legal instruments including UNCLOS, SOLAS and the Protocol of the 2005 Convention for the Suppression of Unlawful Acts Against the Safety of Maritime Navigation of 1 November 2005; and
- b) train the staff responsible for their implementation, in particular personnel within the justice system.

**ARTICLE 9
RESOURCES TO GUARANTEE MARITIME SECURITY AND SAFETY**

Each State Party shall adopt policies that guarantee the availability of resources either by public funds or by forging public-private partnerships, needed for investment in equipment, operations and training in the field of maritime security and safety in accordance with their domestic procedures.

**ARTICLE 10
FINANCIAL OBLIGATIONS OF FLAG STATES AND COSTAL STATES**

Each State Party shall encourage cooperation between Flag States and Coastal States, so that, in a spirit of co-responsibility, the financial obligations of security and safety in the African maritime domain are shared and supported by the different actors concerned.

**ARTICLE 11
MARITIME SECURITY AND SAFETY FUND**

State Parties undertake to establish a Maritime Security and Safety Fund.

CHAPTER 3: MARITIME GOVERNANCE

**ARTICLE 12
MARITIME GOVERNANCE**

Each State Party shall ensure good maritime governance based on better information sharing, effective communication, and efficient coordination of their actions.

**ARTICLE 13
MARITIME BOUNDARIES**

Each State Party shall endeavour to delimit its respective maritime boundaries in conformity with provisions of relevant international instruments.

**ARTICLE 14
PROTECTION OF MARITIME TERRITORIES**

Each State Party shall protect its maritime territories and ensure its maritime security and safety in conformity with the relevant international laws and principles.

**ARTICLE 15
FLAG STATE RESPONSIBILITIES AND PORT STATE CONTROL**

Each State Party shall fulfil its Flag State and Port State Control responsibilities within their jurisdictions to:

- a) eradicate sub-standard shipping practices;
- b) enhance security and safety; and
- c) protect the marine environment from pollution.

**ARTICLE 16
TRAFFICKING IN HUMAN BEINGS AND SMUGGLING OF MIGRANTS BY SEA**

Each State Party shall develop and implement sound migration policies aimed at eliminating trafficking in human beings, especially women and children, as well as smuggling of migrants by sea.

**ARTICLE 17
DRUG TRAFFICKING**

Each State Party shall develop and implement balanced and integrated strategies aimed at combatting drug trafficking and related challenges in the maritime domain.

**ARTICLE 18
SAFETY OF NAVIGATION**

Each State Party undertakes to promote safety of navigation as well as the protection and sustainable use of the marine environment by:

- 1) providing appropriate aids to navigation according to available resources;

- 2) ensuring the best possible standardisation in aids to navigation; and
- 3) facilitating access to information relating to aids to navigation.

CHAPTER 4: DEVELOPMENT OF THE BLUE /OCEAN ECONOMY

ARTICLE 19 EXPLOITATION OF THE MARITIME DOMAIN

- 1) Each State Party shall explore and exploit their respective maritime domains in accordance with relevant international principles and standards.
- 2) Each State Party shall facilitate the engagement of non-state actors, especially the private sector, in the development and implementation of the blue/ ocean economy.

ARTICLE 20 FISHERIES AND AQUACULTURE

- 1) Each State Party shall implement appropriate fisheries and aquaculture policies for the conservation, management and sustainable exploitation of fish stocks and other biological resources.
- 2) Each State Party shall carry out the necessary reforms for good governance in the fishery sector and the promotion of continental fishing and aquaculture to contribute to the creation of employment in the sector, reduce food insecurity and malnutrition and promote economic diversification.
- 3) Each State Party shall take appropriate measures to effectively combat IUU fishing activities within the framework of its respective national jurisdictions and to take legal steps aimed at prosecuting the perpetrators engaged in IUU fishing.

ARTICLE 21 CREATION OF WEALTH AND JOBS THROUGH COASTAL AND MARITIME TOURISM

Each State Party undertakes to promote coastal and maritime tourism as a key sector, with due consideration to the environmental dimensions, that generates considerable revenue and creates jobs, and agree to promote the sustainable development of all associated activities.

ARTICLE 22 INTEGRATED HUMAN RESOURCE STRATEGY FOR MARITIME DEVELOPMENT

- 1) Each State Party shall develop an integrated human resources strategy for the maritime sector to support the provision of skills, taking into account gender

balance, in the entire maritime value chain which includes shipping and logistics, offshore activities, fishing, coastal and maritime tourism, and safety and security.

- 2) Each State Party shall set up a human resources development agenda, including training, in accordance with the potential for economic growth and job creation opportunities more widely along the maritime value chain.

ARTICLE 23 COMPETITIVENESS IMPROVEMENT

Each State Party shall improve competitiveness of its maritime industries, particularly in international trade. To this end, each State Party commits to:

- a) Encourage the creation and development of African maritime companies;
- b) Promote access of African operators to maritime transport auxiliary services and professions;
- c) Create an enabling environment to foster equity investment by African operators in foreign companies operating in Africa in maritime transport auxiliary services and professions;
- d) Prioritize trans-African cabotage to national and regional African maritime companies, in order to promote intra-African trade and facilitate the socio-economic integration of the continent.

ARTICLE 24 DEVELOPMENT OF INFRASTRUCTURE AND EQUIPMENT RELATING TO MARITIME ACTIVITIES

- 1) Each State Party shall develop and strengthen its infrastructure to enable its port facilities to achieve its economic growth potential and competitiveness.
- 2) Each State Party shall encourage public-private partnerships to facilitate modernisation of African maritime industries in order to provide standard quality services and contribute to the attainment of the objectives of sustainable development.

ARTICLE 25 MEASURES TO MITIGATE CLIMATE CHANGE AND ENVIRONMENTAL THREATS

- 1) Each State Party shall adopt specific adaptation and mitigation measures to contain climate change and environmental threats to the marine environment in conformity with relevant international instruments.

- 2) Each State Party shall establish information exchange and early warning systems on marine pollution, including the dumping of toxic and hazardous waste and unauthorized emissions from the high seas.

ARTICLE 26

PROTECTION OF MARINE BIOLOGICAL SPECIES, FAUNA AND FLORA

Each State Party shall preserve the marine environment and protect the biological species of marine fauna and flora in the development process of its environment and biodiversity.

ARTICLE 27

TOXIC AND HAZARDOUS WASTE DUMPING

- 1) Each State Party shall develop a mechanism for the detection, prevention and reporting of marine pollution, particularly through the dumping of toxic and hazardous waste.
- 2) Each State Party shall prohibit the import, export, handling, accumulation or dumping of trans-boundary hazardous waste, including radioactive materials, chemical and organic waste in conformity with provisions of the Bamako and Basel Conventions.

ARTICLE 28

PREVENTION OF ILLEGAL EXPLOITATION AND THEFT OF MARINE RESOURCES

- 1) Each State Party shall endeavour to prevent and effectively fight the illegal exploitation and theft of marine resources in its respective maritime territory.
- 2) Each State Party shall prohibit trade in products derived from illegal exploitation and plundering of marine resources within its maritime domain.
- 3) Each State Party shall prohibit trade in products derived from illegal exploitation and plundering of marine resources from any State Party.

ARTICLE 29

MARITIME DISASTER RISK MANAGEMENT

Each State Party shall develop an integrated multi-sectoral and multidisciplinary strategy for ensuring disaster risk management and reducing the severity and impacts of a disaster.

CHAPTER 5: COOPERATION

ARTICLE 30 COOPERATION IN THE EXPLOITATION OF THE MARITIME DOMAIN

State Parties shall cooperate at national, regional and continental levels, in:

- 1) developing and exploiting marine resources in their territorial waters through scientific and technological exchanges, partnerships for research and innovation, as well as the promotion and strengthening of the blue/ocean economy, in accordance with relevant international principles and standards;
- 2) facilitating business partnerships in the maritime domain;
- 3) harnessing state-of-the-art technologies, in conformity with the African Space Policy and Strategy and other relevant instruments for maritime security and safety.

ARTICLE 31 COOPERATION IN FISHING AND AQUACULTURE

- 1) State Parties shall cooperate in order to ensure the sustainability of marine biodiversity.
- 2) State Parties shall cooperate within the framework of the Fisheries Committees established by its regional competent bodies and specialized institutions in order to strengthen and promote sustainable management of fishery resources.

ARTICLE 32 COOPERATION IN COMBATING CRIMES AT SEA

- 1) State Parties shall cooperate and coordinate their actions in combating transnational organized crimes of all kinds including the circulation and trafficking of arms, maritime terrorism, drug trafficking, trafficking in protected species or of its trophies, money laundering and its predicate offences, acts of piracy and armed robbery against ships, taking of hostages at sea, theft of oil and gas, trafficking in persons, smuggling of migrants, pollution of the seas and oceans, IUU fishing, and illegal dumping of toxic and hazardous waste.
- 2) State Parties shall take adequate measures, individually and collectively, to effectively fight organized crime, including transnational organized crime, and ensure that the perpetrators of such crimes are effectively prosecuted and denied the advantage of the proceeds of their crimes.

**ARTICLE 33
MARITIME INFORMATION SHARING**

- 1) State Parties shall establish a platform for exchange and sharing of experiences and best practices on maritime security and safety.
- 2) State Parties shall endeavour to develop a system of information-sharing integrating national, regional and continental structures for maritime domain awareness aimed at:
 - a) preventing the commission of unlawful acts at sea;
 - b) the arrest and detention of individuals preparing to or committing any unlawful acts at sea; and
 - c) the seizure or confiscation of ships and equipment used in the commission of any unlawful acts at sea.

**ARTICLE 34
COOPERATION IN INTELLIGENCE SHARING**

State Parties shall encourage cooperation in sharing intelligence between its national services, regional and continental agencies and appropriate international specialized organs, to ensure the effectiveness of the fight against unlawful acts at sea.

**ARTICLE 35
STRATEGIES FOR AWARENESS ON MARITIME RELATED ISSUES**

Each State Party shall adopt appropriate maritime strategies for awareness on maritime related issues adapted to its national, regional and international maritime security and safety situations in order to create greater awareness of the seas and oceans.

**ARTICLE 36
SCIENTIFIC AND ACADEMIC COOPERATION**

Each State Party shall encourage:

- 1) the strengthening of cooperation between its universities and training and research institutes in relation to seas and oceans including those of the Pan African University;
- 2) maritime scientific research campaigns for development purposes; and
- 3) support initiatives by training institutions in respect of capacity building in maritime security and safety.

ARTICLE 37
CONTINENTAL COOPERATION FRAMEWORK

State Parties shall establish a framework for close cooperation in the field of maritime security and safety with the national cross-sectoral mechanisms, the Regional Economic Communities and other relevant bodies.

ARTICLE 38
REGIONAL COOPERATION STRUCTURES

State Parties shall establish, where they do not exist, regional cooperation structures in the fight against crime at sea.

ARTICLE 39
NATIONAL COORDINATION FRAMEWORK

- 1) Each State Party shall develop national legal frameworks to coordinate their respective legal interventions at sea.
- 2) Each State Party shall endeavour to incorporate cooperation mechanisms in its national legal frameworks with a view to effectively combatting crime at sea.
- 3) Each State Party undertakes to promote, strengthen and sustain maritime rescue coordination centres and the maritime rescue sub-centres for the efficient organization of maritime search and rescue services.

ARTICLE 40
JUDICIAL AND LEGAL COOPERATION

- 1) State Parties agree to mutual judicial and legal cooperation on the basis of the present Charter;
- 2) Each State Party shall cooperate on the basis of its bilateral or multilateral agreements, or in the absence of a cooperation agreement, on the basis of its national legislation.
- 3) Notwithstanding the differences in the legal framework of each State Party, national legislation shall guarantee joint investigation mechanisms, secure information exchange procedures, judicial requests, extradition and transfer of detainees and other related mechanisms.

CHAPTER 6: MONITORING AND CONTROL

ARTICLE 41 COMMITTEE OF STATES PARTIES

- 1) A 15-member Committee of States Parties is hereby established which shall be responsible for monitoring the implementation of this Charter and recommending follow-up actions.
- 2) The Committee shall be composed of the Ministers responsible for maritime affairs or such other Ministers or Authorities as may be designated by the governments of the States Parties.
- 3) The Committee members shall be elected every three years, from among the five regions of the continent on the basis of rotation, gender and geographical distribution in accordance with AU procedures and practice.
4. States Parties shall adopt the rules of procedure of the Committee.

ARTICLE 42 STATE PARTIES REPORTS

Each State Party to the present Charter shall undertake to submit to the Committee a report on the measures they have undertaken to give effect to the provisions of this Charter:

- 1) within two years of the entry into force of the Charter for the State Party concerned; and
- 2) thereafter, every five years.

ARTICLE 43 REPORTS OF THE COMMITTEE

The Committee of the States Parties shall present, every two years, to the Assembly of the Union, a report on the progress made in the implementation of the Charter.

ARTICLE 44 SECRETARIAT OF THE COMMITTEE

The Commission shall act as the Secretariat of the Committee of the States Parties.

**ARTICLE 45
SETTLEMENT OF DISPUTES**

- 1) Any dispute or difference arising between States Parties with regard to the interpretation, application and implementation of this Charter shall be settled by mutual consent between the States concerned, including through negotiations, mediation, conciliation or other peaceful means;
- 2) In the event of failure by the disputing parties to settle the dispute or difference in accordance with Article 45 (1), the disputing Parties may, by mutual consent, refer the dispute to:
 - a) The African Court of Justice Human and Peoples' Rights, where applicable; or
 - b) An Arbitration Panel of three (3) Arbitrators whose appointment shall be as follows:
 - i) two (2) Arbitrators each appointed by a Party to the dispute; and
 - ii) a third Arbitrator who shall be President of the Panel and appointed by the Chairperson of the African Union Commission;
- 3) The decision of the Panel of Arbitrators shall be final and binding.

**ARTICLE 46
ANNEXES, GUIDELINES AND MODALITIES**

- 1) Member States shall adopt, as and when necessary, Annexes to complement this Charter. The Annexes shall be an integral part of this Charter.
- 2) A State Party which accedes to this Charter prior to the adoption of Annexes retains the right to subsequently accede to the Annexes.
- 3) In the event of a State Party acceding to this Charter after the adoption of annexes, the State Party must declare its intention to be bound by one or all of the Annexes.
- 4) State Parties shall also adopt guidelines and modalities to guide State Parties in fulfilling their obligations under this Charter.

CHAPTER 7: FINAL PROVISIONS

ARTICLE 47 POPULARIZATION OF THE CHARTER

Each State Party shall take all appropriate measures to ensure the widest possible dissemination of this Charter.

ARTICLE 48 SAFEGUARD CLAUSE

- 1) No provision in this Charter shall be interpreted as derogating from the principles and values contained in other relevant instruments for the promotion of Maritime Security and Safety and Development in Africa.
- 2) Nothing in this Charter shall be construed as preventing a Party from taking any action, compatible with the provisions of the United Nations Charter or any other international instrument and that is limited to the exigencies of the situation, as it considers necessary to its external or internal security.

ARTICLE 49 SIGNATURE, RATIFICATION AND ACCESSION

- 1) This Charter shall be open to Member States of the Union for signature, ratification or accession.
- 2) The instrument of ratification or accession to the present Charter shall be deposited with the Chairperson of the Commission who shall notify Member States of the Union of the deposit of the instruments of ratification or accession.

ARTICLE 50 ENTRY INTO FORCE

- 1) This Charter shall enter into force thirty (30) days after the deposit of the fifteenth (15th) instrument of ratification.
- 2) The Chairperson of the Commission shall notify all Members States of the entry into force of the present Charter.
- 3) For any Member State acceding to the present Charter, the Charter shall come into force in respect of that State on the date of the deposit of its instrument of accession.

**ARTICLE 51
RESERVATIONS**

- 1) A State Party may, when, ratifying or acceding to this Charter, submit in writing, a reservation with respect to any of the provisions of this Charter. Reservation shall not be incompatible with the object and purpose of this Charter.
- 2) Unless otherwise provided, a reservation may be withdrawn at any time.
- 3) The withdrawal of a reservation must be submitted in writing to the Chairperson of the Commission who shall notify other States Parties of the withdrawal accordingly.

**ARTICLE 52
DEPOSITORY**

This Charter shall be deposited with the Chairperson of the Commission, who shall transmit a certified true copy of the Charter to the Government of each signatory State.

**ARTICLE 53
REGISTRATION**

The Chairperson of the Commission shall upon the entry into force of this Charter, register the Charter with the United Nations Secretary General in conformity with Article 102 of the Charter of the United Nations.

**ARTICLE 54
WITHDRAWAL**

- 1) At any time after three years from the date of entry into force of this Charter a State Party may withdraw by giving written notification to the Depository.
- 2) Withdrawal shall be effective one year after receipt of notification by the Depository, or on such later date as may be specified in the notification.
- 3) Withdrawal shall not affect any obligation of the withdrawing State Party prior to the withdrawal.

**ARTICLE 55
AMENDMENT AND REVISION**

- 1) Any State Party may submit proposal(s) for the amendment or revision of this Charter. Such proposal(s) shall be adopted by the Assembly.
- 2) Proposals for amendment or revision shall be submitted in writing to the Chairperson of the Commission who shall transmit such proposals to the

Assembly at least six months before the meeting at which it shall be considered for adoption.

- 3) Amendments or revisions shall be adopted by the Assembly by consensus or, failing which, by a two-thirds majority of the Assembly.
- 4) The amendment or revision shall enter into force thirty (30) days after the deposit of the receipt of the fifteenth (15th) instrument of ratification to the Chairperson of the Commission of the African Union.

**ARTICLE 56
AUTHENTIC TEXTS**

This Charter is drawn up in four (4) original texts, in Arabic, English, French and Portuguese languages, all four (4) texts being equally authentic.

IN WITNESS WHEREOF the undersigned, being duly authorized to that effect, has signed this Charter.

**ADOPTED BY THE EXTRAORDINARY SESSION OF THE ASSEMBLY, HELD IN
LOMÉ, TOGO, ON 15 OCTOBER 2016.**



EX.CL/1013(XXX)
Annex 2

**DRAFT STATUTE OF THE AFRICAN UNION MECHANISM FOR
POLICE COOPERATION (AFRIPOL)**

PREAMBLE

We, Member States of the African Union,

RECALLING the objectives and principles enshrined in the Constitutive Act of the African Union;

INSPIRED by the need to fully operationalise the African Architecture for Peace and Security provided for in the Protocol on the Establishment of the African Union Peace and Security Council (PSC);

RECALLING the Solemn Declaration on a Common African Defence and Security Policy (CADSP), premised on a common African perception of what is required to be done collectively by African States;

GUIDED by the various instruments on the fight against transnational organised crime and terrorism adopted by AU Member States;

RECALLING the Algiers Declaration of 11 February 2014, adopted by African Chiefs of Police in Algiers, Algeria relating to the establishment of the African Union Mechanism for Police Cooperation;

FURTHER RECALLING Decision EX.CL/Dec.820(XXV) in which the Executive Council, at its 25th Ordinary Session held in Malabo, Equatorial Guinea, from 20 to 24 June 2014, endorsed the Algiers Declaration on the establishment of the African Union Mechanism for Police Cooperation;

CONCERNED about the growing scale of crime in several sub regions of Africa, especially those related to information and communication technologies, illicit capital transfers, illicit trafficking of natural resources and smuggling;

COGNIZANT of the ever increasing sophistication with which organized crime syndicates, including terrorist groups, drug traffickers and arms traffickers, human smuggling, kidnapping-for-ransom, illicit proliferation of arms and money laundering are becoming intimately intertwined;

CONVINCED of the need to promote African police coordination at strategic, operational and tactical levels through the assessment of threats, analysis of criminal intelligence, planning and implementation of actions;

CONVINCED of the importance of Police cooperation through exchange of information and intelligence between Member States;

FURTHER CONVINCED that an effective response to the various forms of crime on the African Continent requires the harmonization of police methods, the exchange and extension of best practices in terms of training, prevention, investigative techniques and expertise, as well as, the strengthening of African police capabilities;

RECOGNIZING that the need for greater cooperation between security and intelligence agencies is more crucial than ever before;

RECALLING the commitment of the Member States of the African Union and their determination to promote human rights, good governance, the rule of law and to work together to ensure peace, security, safety and stability on the African Continent;

RECOGNISING that such an objective requires increased coordination and cooperation, especially with Interpol and other relevant organizations;

ACKNOWLEDGING the progress achieved thus far, which needs to be consolidated in an overall strategic African framework for the prevention and combating of crime;

DETERMINED to establish an African Union Mechanism for Police Cooperation;

HAVE AGREED AS FOLLOWS:

Article 1 Definitions

In this Statute, unless otherwise indicated:

“**AFRIPOL**” means the African Union Mechanism for Police Cooperation;

“**Assembly**” means the Assembly of Heads of State and Government of the African Union;

“**CAPCCO**” means the Central African Police Chiefs Committee or its successor;

“**Commission**” means the Commission of the African Union;

“**Constitutive Act**” means the Constitutive Act of the African Union;

“**EAPCCO**” means the Eastern Africa Police Chiefs Cooperation Organization or its successor;

“**Executive Council**” means the Executive Council of Ministers of the Union;

“**General Assembly of AFRIPOL**” means the Conference of the Chiefs of Police of the African Union Member States;

“**INTERPOL**” means the International Criminal Police Organisation;

“**Member States**” means Member States of the African Union;

“**NARC**” means North African Regional Capability;

“**Police Strategic Support Group**” means the unit designated as such and established within the Peace Support Operations Division of the AU Peace and Security Department;

“Policy Organs” means the African Union policy Organs as defined in the Constitutive Act;

“RPCOs” means the Regional Police Chiefs Cooperation Organizations, and includes CAPCCO, EAPCCO, SARPCCO, WAPCCO and any other regional Police Chiefs Cooperation Organisations as may be established;

“SARPCCO” means the Southern African Regional Police Chiefs Co-operation Organization or its successor;

“Statute” means the present Statute establishing AFRIPOL;

“Secretariat” means the Permanent Technical and Operational Office of AFRIPOL;

“Steering Committee” means the executive body of AFRIPOL;

“STCDSS” means the Specialized Technical Committee on Defence, Safety and Security or its successor;

“Union” or **“AU”** means the African Union established by the Constitutive Act;

“WAPCCO” means the West African Police Chiefs Committee or its successor.

Article 2 Establishment and Legal Capacity of AFRIPOL

1. **AFRIPOL** is hereby established as a technical Institution of the Union for the mechanism for police cooperation for Member States of the Union.
2. **AFRIPOL** derives its Juridical personality from and through the African Union and shall:
 - (a) enter into agreements within the applicable Rules and Regulations of the Union;
 - (b) acquire and dispose of movable and immovable property in accordance with the said Rules and Regulations; and
 - (c) institute legal proceedings.

Article 3 Objectives

The objectives of AFRIPOL are to:

- (a) establish a framework for police cooperation at the strategic, operational and tactical levels between Member State police institutions;
- (b) facilitate the prevention, detection and investigation of transnational organized crime in coordination and collaboration with national, regional and international police institutions;

- (c) develop Member States' police capacities, through the establishment of African centers of excellence, for targeted police training programs adapted to the realities of the African context;
- (d) prepare a harmonized African strategy to fight against transnational organised crime, terrorism and cyber-crime within the framework of the implementation of the relevant African Union policies;
- (e) enhance coordination with similar structures in preventing and combating transnational organized crime;
- (f) enhance mutual technical assistance in training, exchange of experiences, experts and good practices between police institutions; and
- (g) enhance coordination among police forces deployed in the context of peace support operations and work with the Police Strategic Support Group in planning, mobilization, deployment, management and liquidation elements, plus, where applicable, other law enforcement components, in the police element in AU-led peace support operations

Article 4 Functions

In carrying out its mandate, **AFRIPOL** shall pursue in particular the following functions:

- (a) assist Member States' police institutions to set up a framework of cooperation for police institutions at national, regional, continental and international levels;
- (b) assist Member States' police institutions to improve their efficiency and effectiveness through enhancement of their organisational, technical, strategic, operational and tactical capacities;
- (c) facilitate, where appropriate, and in accordance with the applicable national and international laws, mutual legal assistance or extradition arrangements between Member States;
- (d) facilitate the exchange or sharing of information or intelligence to prevent and combat transnational organized crimes, terrorism and cyber-crime;
- (e) prevent, detect and investigate transnational organized crime in cooperation and collaboration with national, regional and international Police and law enforcement agencies;
- (f) assist Member States to develop or improve good practices in governance and management of police institutions and respect for human and peoples' rights.
- (g) assist Member States to develop and improve community-based policing to encourage citizen involvement in preventing and combatting crime;

- (h) enable planning and coordination of joint patrols and operations;
- (i) support Member States in developing a continental vision and strategies for coordination and collaboration among police institutions;
- (j) assist Member States to develop common African positions on police matters;
- (k) undertake studies on trends in transnational organized crimes and develop continental tools for crime prevention;
- (l) develop appropriate communication strategies, systems and databases for the fulfilment of the above functions;
- (m) act as an interface with the Police Strategic Support Group in the areas of planning, mobilization, and where applicable deployment of law enforcement agents and police officers in peace support operations conducted by the African Union; and
- (n) carry out any other functions given by the AU Policy Organs.

Article 5 Principles

AFRIPOL shall function in accordance with the following principles:

- (a) non-interference in the internal affairs of any Member State, respect for the sovereignty and National Laws of the Members States;
- (b) respect for democratic principles, human rights, the rule of law and good governance in accordance with the Constitutive Act, the African Charter on Human and Peoples' Rights, the Universal Declaration on Human Rights and other relevant instruments;
- (c) respect for police ethics, the principles of neutrality, integrity and the presumption of innocence;
- (d) Respect and recognition of African ownership of AFRIPOL.

Article 6 The Specialized Technical Committee on Defence, Safety and Security

The STCDSS shall have the responsibility to provide leadership and direction regarding police affairs in Africa.

Article 7 Structure of AFRIPOL

The structure of AFRIPOL shall consist of:

- (a) General Assembly;
- (b) Steering Committee;
- (c) Secretariat; and
- (d) National Liaison Offices.

Article 8 **The General Assembly**

1. The General Assembly shall be the supreme technical and deliberative organ of AFRIPOL, with the responsibility to provide leadership direction regarding police cooperation in Africa.
2. The General Assembly is composed of Chiefs of Police from Member States.
3. The General Assembly shall:
 - (a) work out the policies and set the guidelines and strategic priorities of AFRIPOL;
 - (b) ensure the supervision of the implementation of the Policies, Guidelines and strategic priorities of AFRIPOL upon their adoption by the AU Policy Organs;
 - (c) consider the draft budget and the proposed structure of AFRIPOL and submit them to the relevant AU Policy Organs in accordance with the AU Financial Rules and Regulations;
 - (d) ensure and follow up on the implementation of the Statute;
 - (e) appoint and terminate the appointment of the Executive Director of AFRIPOL;
 - (f) recommend the amendment of the Statute through the relevant AU procedures;
 - (g) adopt its Rules of Procedure subject to approval by the Executive Council through the STCDSS;
 - (h) consider and approve the Rules of Procedure of the Steering Committee and review its composition and functions;
 - (i) Submit an annual report on its work to the relevant AU Policy Organs through the STCDSS.
 - (j) elect on the basis of rotation, for a non-renewable term of two (2) years, five (5) members of the Bureau representing the five (5) Regions in accordance with AU;
 - (k) The Bureau shall be composed as follows :

- (i) the President;
 - (ii) three (3) Vice Presidents; and
 - (iii) one (1) Rapporteur.
- (l) decide on the venue of its meetings; and
- (m) carry out any other functions assigned to it by the AU Policy Organs for the purpose of ensuring the implementation of this Statute and other relevant instruments or policies.

Article 9 Steering Committee

1. The Steering Committee of AFRIPOL shall be composed as follows:
 - (a) the five (5) Members of the Bureau of the General Assembly;
 - (b) the Commissioner for Peace and Security of the African Union;
 - (c) the Chiefs of the RPCOs; and
 - (d) the Executive Director of AFRIPOL.
2. The Steering Committee shall be chaired by the serving President of the General Assembly.
3. The functions, frequency of meetings and the proceedings of the Steering Committee shall be provided in its Rules of Procedure.

Article 10 Secretariat

1. There is hereby established a Secretariat of AFRIPOL.
2. The Director shall be the Chief Executive Officer of AFRIPOL who shall be assisted by the necessary and proper staff.
3. The staff members of the Secretariat shall be recruited and shall hold positions in accordance with the African Union Staff Rules and Regulations.
4. The structure of the Secretariat shall be determined in accordance with the rules and procedures in force in the African Union.
5. The Director shall be appointed by the General Assembly upon recommendation of the Steering Committee. The modalities of appointment of the Executive Director of AFRIPOL and other procedural matters shall be provided in the Rules of Procedure of the General Assembly.
6. The Executive Director shall work closely and provide regular reports to the African Union Commission through the Department of Peace and Security.

7. The Secretariat shall:
- (a) ensure the efficient administration of AFRIPOL;
 - (b) convene and servicing the meetings of General Assembly , the Steering Committee, or other meetings of AFRIPOL;
 - (c) maintain contact with national and international law enforcement authorities;
 - (d) implement the decisions of the General Assembly and the Steering Committee;
 - (e) draw up the annual draft program of work for the consideration and approval of the General Assembly and subsequently by the STCDSS;
 - (f) draft, circulate and file Minutes of meetings and all other records of AFRIPOL;
 - (g) submit annual activity and financial reports to the General Assembly on the AFRIPOL activities; and
 - (h) carry out any other functions assigned to it by the General Assembly, the Steering Committee or the relevant organs of the African Union.

Article 11
National Liaison Offices

Each Member State, shall in accordance with its National legislation, establish an AFRIPOL National liaison office for the smooth running of the AFRIPOL activities.

Article 12
Attendance and Participation

1. In accordance with Article 10, the Chiefs of police shall attend and participate personally in the AFRIPOL sessions. In the event that they are not in a position to attend personally, duly accredited representatives shall represent them.
2. The Representatives of the Organs of the Union or any other relevant AU institutions may be invited to attend the AFRIPOL sessions.
3. AFRIPOL may invite, as Observers, any person or Institution to attend its sessions. Such Observers, may be invited to make written or oral interventions but shall not be entitled to vote.

Article 13
Venue

1. AFRIPOL Sessions shall be held at the AFRIPOL Headquarters, unless a Member State offers to host any such session.
2. In the event the session is held outside the AFRIPOL Headquarters, the host country shall be responsible for all extra expenses incurred by the AFRIPOL as a result of holding the session outside the Headquarters.

Article 14 Quorum

The quorum of the Sessions of the General Assembly shall be two thirds majority and the Steering committee of AFRIPOL shall be simple majority.

Article 15 Ordinary Sessions

1. AFRIPOL shall meet in Ordinary Session once every year and shall adopt its Agenda at the opening of each session.
2. The Provisional Agenda of an Ordinary Session shall be drawn up by the Secretariat in consultation with the Steering Committee and may include item (s) proposed by Member States.
3. The Secretariat shall communicate the Agenda as well as the working documents to Member States at least thirty (30) days before the opening of the session.

Article 16 Extraordinary Sessions

1. AFRIPOL may meet in an extraordinary session subject to availability of funds, at the request of:
 - a) General Assembly;
 - b) the policy organs of the Union; or
 - c) any Member State, upon approval by a simple majority of the Member States.
2. The Agenda of an extraordinary session shall comprise only the item(s) submitted for consideration in the request for convening the said session;
3. AFRIPOL Secretariat shall communicate the Provisional Agenda and working documents of an extraordinary session to Member States at least fifteen (15) days before the opening of the session.

Article 17 Majority Required For Decisions

The General Assembly of AFRIPOL shall take its decisions by consensus, failing which, by two-thirds majority of the Member States present and eligible to vote;

Article 18
Flag, Anthem and Logo

1. The AFRIPOL flag and anthem shall be that of the Union.
2. AFRIPOL may adopt the AU logo or its own logo.

Article 19
Cooperation with Member States, African Union Organs and Institutions

AFRIPOL shall cooperate with Member States, organs and institutions of the AU on any subject matter related to its objectives and functions.

Article 20
Relations with INTERPOL and other Organisations

1. In the fulfilment of its mandate, AFRIPOL shall cooperate and work closely with INTERPOL and any other relevant organisation.
2. AFRIPOL may establish relations and collaborate with similar, intergovernmental and international organisations that will enhance its capacity to deliver on its mandate and as approved by the General Assembly.

Article 21
Budget and Resources

1. The budget of AFRIPOL shall constitute an integral part of the regular budget of the Union.
2. For purposes of attaining its objectives, AFRIPOL shall have its own operational and programme budget.
3. AFRIPOL may mobilize resources from extra-budgetary sources in accordance with the AU Financial Rules and Regulations.
4. The AFRIPOL may receive donations and voluntary contributions subject to the approval of the General Assembly.
5. The budget of AFRIPOL shall be submitted for approval to the Policy Organs of the Union in accordance with the relevant provisions of the AU Financial Rules and Regulations.

Article 22
Terms and Conditions of Service of Staff Members

The terms and conditions of service of the staff members of AFRIPOL Secretariat shall be governed by the African Union Staff Rules and Regulations.

Article 23 Membership

AFRIPOL shall be composed of Police Institutions of Member States of the African.

Article 24 Headquarters of AFRIPOL

1. The Headquarters of AFRIPOL shall be in Algiers, Peoples' Democratic Republic of Algeria.
2. A Headquarters Agreement shall be concluded between the Government of the Host Country and the African Union upon the adoption of the present Statute by the Assembly.

Article 25 Languages

The official and working languages of the AFRIPOL shall be those of the Union.

Article 26 Privileges and Immunities

AFRIPOL and its staff shall enjoy the privileges and Immunities as provided in the General Convention on the Privileges and Immunities of the Organisation of African Unity, the Vienna Convention on Diplomatic Relations of 1961 and the host agreement that shall be concluded between the AU and the Government of the Host Country.

Article 27 Transitional Arrangements

Following the adoption of the present Statute by the Assembly of the Union, the Chairperson of the Commission, shall:

- (a) in consultation with the host country take the necessary measures to establish an Interim Secretariat; and
- (b) appoint the required staff in order to facilitate the speedy establishment of AFRIPOL in accordance with the present Statute and subject to the endorsement by the relevant Policy Organs of the AU.

Article 28 Amendment

1. The present Statute may be amended by the Assembly upon the recommendation of either:
 - (a) the General Assembly; or
 - (b) the STCDSS after obtaining the opinion of the General Assembly.
2. Any amendment to this Statute shall enter into force upon its adoption by the Assembly of the Union.

Article 29
Entry into Force

1. The present Statute shall enter into force upon its adoption by the Assembly of the Union.
2. The present Statute, of which the Arabic, English, French and Portuguese texts are equally authentic shall be transmitted to the Executive Director and to all Member States.

Adopted by the...Ordinary Session of the Assembly, held.....

Rapport de la Deuxième Session Ordinaire du Cts sur la Justice et les Affaires Juridiques, Lomé (Togo), 1er - 9 Septembre 2016

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