

AFRICAN UNION

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**DRAFT CRITERIA FOR GRANTING OBSERVER STATUS
AND FOR A SYSTEM OF ACCREDITATION
WITHIN THE AU**

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GENERAL INTRODUCTION

1. Since the early years after its inception, the OAU has instituted modalities for granting Observer Status to Non-Governmental Organizations (NGOs) and for cooperation with various organisations and institutions both in Africa and beyond which could contribute to its aims and objectives. This cooperation has been formalised through the granting of Observer Status with the OAU, or through conclusion of Cooperation Agreements or Memoranda of Understanding between the OAU and various organisations and institutions for specific purposes.

2. With regard to the granting of Observer Status within the OAU, the Criteria contained in document AHG/192(XXIX) Rev.1 entitled “Criteria for Granting Observer Status” was adopted by the Twenty Ninth Ordinary Session of the Assembly of Heads of State and Government held in Cairo, Egypt, from 28 to 30 June 1993 *vide* its resolution AHG/Res. 222(XXIX). The Criteria was based on amendments proposed by the Advisory Committee and approved by the Council of Ministers in document CM/170(LVII). However, there is need to revise and update the Criteria for the granting of Observer Status applicable under the OAU to realign it with the new realities of the AU.

3. In light of the foregoing, the Commission undertook a review of the Criteria to align it with the new developments and submitted concrete proposals to the 5th Ordinary Session of the Executive Council held in Addis Ababa from 25-28 June 2004, through the Permanent Representatives Committee (PRC). For its part, the PRC adopted the proposed Criteria for Granting AU Observer Status to NGOs. However, subsequently, when considering the other documents relating to accreditation of regional integration and international Organisations and non-African States, the PRC recommended that all of them be consolidated into one. This proposal was subsequently endorsed by the Executive Council which requested that the consolidated document be finalised and submitted to its 6th Ordinary Session through the PRC.

4. The new Draft Criteria is intended to create a more dynamic medium whereby those organisations which will be granted the observer status within the Union will be able to play a more constructive and visible role in the affairs of the Union than at present. Currently, the role of these observers is minimal and the benefits to the OAU, if any, have been equally insubstantial. The new Draft Criteria is meant to provide for such relationship, which can play the type of role envisaged in the Constitutive Act of the African Union.

5. In addition, it has also become necessary to elaborate a formal system of accreditation for regional integration and international Organisations and non-African States, such that the duly accredited Representatives of these

Organisations and States in Addis Ababa can be formally accredited to the AU. This has been necessitated by the increasing role of the African Union in international affairs and where some States have already appointed two Ambassadors to based in Addis Ababa, one to the host country and one to the African Union, e.g., Denmark. Additionally, the African Union has also been approached by friendly Member States wishing that their representatives in Addis Ababa, Ethiopia be also accredited to the African Union.

6. The Commission has consolidated the documents into one as requested by Council. However, in doing so, the Commission has changed somewhat the original format such that the procedure for accrediting Regional Integration and International Organisations is one document and the document on accreditation of non-African States will deal with the accreditation of such representatives irrespective of whether or not their countries belong to regional integration or international organizations accredited to the AU. Thus, the document is made up of three (3) sections as follows:

- a) Granting of observer status to non-governmental Organisations (NGOs);
- b) Accreditation of regional integration and international Organisations;
- c) Accreditation of non-African States.

SECTION I¹**DRAFT CRITERIA FOR GRANTING AFRICAN UNION
OBSERVER STATUS TO NON-GOVERNMENTAL ORGANISATIONS (NGOs)****PART I****Principles to be applied in granting Observer Status
with the African Union**

1. The aims and purposes of Organisations requesting Observer Status shall be in conformity with the spirit, objectives and principles of the Constitutive Act of the African Union.
2. The Organisation shall undertake to support the work of the African Union and to promote knowledge of its principles and activities in conformity with its aims and purposes and the nature and scope of its competence and activities.
3. Observer status may be granted to sub-regional, regional or inter-African organisations in accordance with the present criteria.
4. Observer status may also be granted to an organisation of persons of African origin in the Diaspora as may be defined by the Executive Council.
5. The Organisation shall be of recognised standing within the particular field of its competence. Where there exists a number of organisations with similar objectives, interests and basic views in a given field, they shall be encouraged, for the purposes of observer status with the African Union, to form a joint Committee or other body for the group as a whole.
6. The Organisation shall:
 - a) Be registered in a Member State of the Union without any restriction to undertake regional and continental activities; and
 - a) Show a minimum of three (3) years proof of registration as either an African or an African Diaspora Civil Society Organization prior to the date of submission of the application, including proof of operation for those years.
7. The Organisation shall have:

¹ Except where expressly stated otherwise, the term “Organisation” shall refer to non-governmental Organisations at the sub-regional, regional and inter-African levels.

- a) An established headquarters with an Executive body;
 - b) A democratically adopted constitution, a copy of which shall be deposited with the Chairperson of the Commission.
 - c) A representative structure and possess appropriate mechanisms of accountability to its members, who shall exercise effective control over its policies through appropriate democratic and transparent decision-making processes.
 - d) A management with a majority of African citizens or Africans in the Diaspora as may be defined by the Executive Council.
8. The basic resources of such an Organisation shall substantially, at least two-thirds, be derived from contributions of the members of the Organisation. Where external voluntary contributions have been received, their amounts and donors shall be faithfully revealed in the application for membership. Any financial or other support or contribution, direct or indirect, from a government to the Organisation shall be declared and fully recorded in the financial records of the Organisation.
9. An Organisation that discriminates on the basis of specific criteria, such as gender, colour, religion, ethnicity, tribe or race, shall not be eligible for observer status.

PART II

Application Process by non-Governmental Organisations

1. An organisation wishing to apply for Observer Status shall be required to submit:
- a) A written application to the Commission indicating its intention at least six (6) months before it can be considered by the Executive Council, in order to allow for sufficient time for processing the application;
 - b) Its Constitution or Charter; up-to-date list of membership; sources of its finances including copies of its most recent balance sheet; and memorandum of its activities.
2. The memorandum of activities should contain the past and present activities of the organisation; its connections, including any connections external to Africa, and any other information, which will assist in determining its identity, and especially its scope of activities.

3. All the documents should be submitted in at least two of the official languages of the African Union and in sufficient quantities to facilitate circulation to representatives of Member States.
4. If the Organisation is a non-governmental organisation in the Diaspora, it shall, in addition, also provide full particulars and names of at least two (2) Member States of the Union that have intimate knowledge of it and are prepared to attest to its authenticity.
5. No application for Observer Status by an Organisation shall be submitted for consideration of the Executive Council, unless it has been submitted at least six (6) months before the session of the Executive Council at which the application will be considered and fully processed by the Commission and submitted to the Executive Council through the Permanent Representatives Committee.
6. The granting of Observer Status to an organisation entails no obligation on the Commission to grant a subvention or any material assistance to that organisation.

PART III

Observer Organisations participation in the proceedings of the African Union

1. Representatives of observer Organisations may:
 - a) be present in the public galleries for the open sessions of AU Conferences relevant to their field;
 - b) participate in the meetings of AU Organs only in accordance with the conditions laid down in this part.
2. An observer may have access to AU documents provided that they are
 - a) Not of a confidential nature;
 - b) Dealing with matters of interest to the observers concerned.
3. Distribution of AU documents may be against payment in those cases where there is no reciprocity.
4. Observers may be invited to attend closed meetings during discussion of a subject in which they are concerned.
5. With the authorisation of the Chairperson, observers may participate in the proceedings of meetings to which they are invited, without the right to vote.

6. Observers may be authorised by the Chairperson of the Conference to make a statement on a matter with which they are concerned, subject to the text of the statement being communicated before, through the Chairperson of the Commission.

7. The Conference Chairperson may give the floor to observers in order to enable them to reply to questions, which might be addressed to them by Member States.

PART IV

Special provisions dealing with participation of observers in the work of the Economic, Social and Cultural Council (ECOSOCC) and other Specialised Technical Committees (STCs)

1. Observer Status shall be granted to the following category:

- a) Inter-African non-governmental Organisations;
- b) Non-governmental organisations of the Diaspora.

2. Observers in this category may:

- a) Attend the public sessions of the ECOSOCC and relevant STCs during discussion of a matter concerning them;
- b) Communicate a written declaration to the Commission.

PART V

Relations between the African Union and the Observers

1. The organisation enjoying Observer Status shall undertake to establish close relations of cooperation with the African Union and enter into regular consultations with the latter on all matters of common interest.

2. All Organisations enjoying observer status with the African Union shall be required to submit a summary report on their activities every three (3) years. Such reports which shall be submitted in conformity with a format to be supplied by the Commission shall:

- a) indicate its financial status and viability;
- b) its activities over that period and specifically as regards the support they have given to the work of the AU or the African Economic Community; and
- c) the office bearers, when elected and whether the elections were held in accordance with the statutes of the Organization.

3. The Commission shall submit an annual summary report on the status and activities of Organisations granted observer status to the Executive Council through the Permanent Representatives Committee.
4. The Chairperson of the Commission may authorize any organization enjoying observer status which has legally changed its name or which has legally succeeded an organization previously granted observer status to continue to enjoy such status under the new name.
5. The Executive Council may on the recommendation of the Permanent Representative Committee, withdraw the Observer Status, if it appears that any organization enjoying such status has ceased to satisfy the requirements laid down in this criteria, such as to be viable or to exist, to function properly, or has lost representative character or its independence.
6. The granting, suspension and withdrawal of observer status of a non-governmental organisation, are the prerogative of the African Union and shall not be the object of adjudication in any Court of Law or tribunal.

PART VI

Final Provisions

1. The provisions of the General Convention on Privileges and Immunities, and those relating to the Headquarters Agreement of the Union, shall not be applicable to observers, save for those regarding facilities provided for the granting of visas.
2. Observers shall themselves be responsible for expenses incurred as a result of their travel to and from, and their stay at the venue of the Conference.
3. Organisations that have been granted African Union Observer Status under the old arrangements shall conform to the present criteria.

SECTION II

DRAFT CRITERIA FOR ACCREDITATION OF REGIONAL INTEGRATION AND INTERNATIONAL AND ORGANIZATIONS

INTRODUCTION

1. The OAU established collaborative relations with International Organisations, particularly the UN and its Specialized Agencies with which it had close working relations. Thus, most of the UN Agencies have already

established vibrant relations with the African Union, which as the successor of the OAU, maintained the working relations already established.

2. These relations had been regulated by Cooperation Agreements or Memoranda of Understanding concluded between the OAU and the concerned organization which granted reciprocal rights to each other meetings. Through this mechanism, the OAU accredited international Organisations by granting them and being granted some form of observer status or representation at each other's meetings on a reciprocal basis.

3. In addition, some of the international Organisations have appointed Special Representatives or Senior Liaison Officers to the AU separate and distinct from their missions to Ethiopia, who are tasked with issues concerning their organization and the AU. This is the case with the UN, UNDP, UNICEF, WHO, UNFPA, UNEP, LAS (League of Arab States) and the Francophone. In addition some of the international Organisations have representatives concurrently accredited to Ethiopia and to the AU: FAO, ITU and OHCHR. For its part, the AU Representatives in some countries are accredited to international organizations, for example, to the United Nations in New York, USA; the European Commission in Brussels, Belgium; the UN Office in Geneva, Switzerland.

4. Furthermore, there was no established system, under the aegis of the OAU, for accrediting Regional Integration Organizations and no distinction was made between them and International Organizations. Thus, the European Union has a cooperation agreement with the AU under which the two organizations, *inter alia*, invite representatives of the each other to relevant meetings of interest to the other organization. Since Regional Integration organizations are closer in philosophy and orientation to the ultimate aim of the AU, it is indeed necessary to establish a formal mechanism to regulate the relationship between them and the AU in order to learn from the experiences, mistakes and best practices of each other. To this end, strengthening the bonds of friendship and cooperation with well defined Regional Integration Organisations such as the European Union, Association of South East Asian Nations (ASEAN), and the European Free Trade Association (EFTA), Organization of American States (OAS), to mention just a few, on reciprocal basis would have significant advantages to the African Union.

5. While the existing mode of cooperation should continue, it is desirable to formalize it within the African Union.

PART I²

Principles to be applied in accrediting Regional Integration and International and Organisations to the African Union

1. The aims and purposes of Organisations wishing to be accredited to the AU shall be in conformity with the spirit, objectives and principles of the Constitutive Act of the African Union.
2. The Organisation shall undertake to cooperate with and support the work of the African Union and to promote knowledge of its principles and activities in conformity with its aims and purposes and the nature and scope of its competence and activities.
3. The present Criteria shall not affect the Status of International Organisations currently accredited to the AU.
4. Regional Integration Organisations as well as International Organisations that are not currently accredited to the AU may be accredited to the AU in accordance with the present Criteria.
5. Sub-regional, regional or inter-African Organisations that are not recognized as Regional Economic Communities in accordance with the present criteria

PART II

Process of Accreditation for Organisations

1. A Regional Integration Organisation or an International Organisation wishing to be accredited to the AU shall communicate its request to the Chairperson of the Commission.
2. The Chairperson shall consider such requests on the basis of the principles and objectives of the Constitutive Act and this Criteria. He/she will then make arrangements to receive the letter of accreditation and thereafter notify periodically the policy organs of the name and designation of the accredited representative.

² Except where expressly stated otherwise, the term “Organization” for the purposes of this section, shall refer to a Regional Integration, International Organisation or intergovernmental organization, including sub-regional, regional or inter-African Organisations that are not recognized as Regional Economic Communities. For the purposes of this Draft Criteria, a Regional Integration Organization is an organization that has been established with the aim of ensuring socio-economic integration, and to which some countries have ceded certain competences to act on their behalf.

3. The same procedure shall be followed for African inter-governmental Organisations that are not recognized as Regional Economic Communities but whose involvement or partnership in the work of the Union are considered beneficial

PART III

Rights of Accredited Organisations in proceedings of the African Union

The Heads of Mission or Representatives of Regional Integration or International Organisations accredited to the AU may:

1. Be present for the open sessions of AU Conferences relevant to their field;
2. Participate in the meetings of AU Organs only in accordance with the conditions laid down in this part;
3. Have access to AU documents provided that they are:
 - a) Not of a confidential nature;
 - b) Dealing with matters of interest to the organizations concerned.
4. With the authorisation of the Chairperson of the Conference, participate in the proceedings of meetings to which they are invited, without the right to vote;
5. Be authorised by the Chairperson of the specialised Conferences to which they are invited to make a statement on a matter with which they are concerned, subject to the text of the statement being communicated before hand to the Chairperson of the conference, through the Chairperson of the Commission; and
6. Be given the floor by the Chairperson of the meeting in order to enable them to reply to questions, which might be addressed to them by Member States.

PART IV

Relations between the African Union and the Accredited Organisations

1. The accredited Organisation shall undertake to establish close relations of cooperation with the African Union and enter into regular consultations with the latter on all matters of common interest.

2. The granting, suspension and withdrawal of accreditation of an Organization, is the prerogative of the African Union and shall not be the object of adjudication in any Court of Law or tribunal.

PART VI
Final Provisions

1. The provisions of the General Convention on Privileges and Immunities, and those relating to the Headquarters Agreement of the Union, shall not be applicable to accredited Organisations.

2. Accredited Organisations shall themselves be responsible for expenses incurred as a result of their travel to and from, and their stay at the venue of the Conference.

SECTION III

DRAFT CRITERIA FOR ACCREDITATION OF
NON-AFRICAN STATES

INTRODUCTION

1. Throughout its existence the OAU did not adopt the practice of accrediting Non-African States. It is however common for States to request for Accreditation with international Organisations on reciprocal basis, and such requests have in fact been made to the OAU in the past. It should be noted that the United Nations has extended accreditation privileges to non-Member States in the past including to Switzerland and the Vatican, which for many years was not a Member State of the UN. The AU Commission is of the view that establishing such accreditation procedures with some Non-African States on reciprocal basis has advantages to the African Union in that a contact person dealing with AU issues would be identified. Indeed, Denmark has already appointed a Representative, at Ambassador level, to the AU separate and distinct from its Representative to the host country.

2. In addition, it should be noted that the representatives of AU Member States to Belgium are concurrently accredited to the European Union. Furthermore, following the visit of the Commission to the European Commission a few months ago, the European Union has agreed to strengthen the cooperation between it and the AU and requested for accreditation of the representatives of its Members in Addis Ababa to the African Union. Additionally, a number of friendly Non-African States with strong and historical bonds with Africa have also requested for concurrent accreditation of their Representatives to the Federal Democratic Republic of Ethiopia to the AU.

3. It is therefore strongly suggested that a formal accreditation procedure be established in respect of Heads of Mission or Representatives of non-African States and to whom it is desirable to grant such accreditation.

4. Such accreditation would help to intensify already well-established cooperation with non-African partner States and to enable them to establish African Union desks within their respective Embassies or to open separate missions to the AU.

PART I

Principles to be applied in accrediting non-African States to the African Union

1. The aims and purposes of non-African States wishing to be accredited to the AU shall be in conformity with the spirit, objectives and principles of the African Union as set out in the Constitutive Act.

2. The accredited non-African State shall undertake to support the work of the African Union and to promote knowledge of its principles and activities.

3. Non-African States may be accredited to the AU in accordance with the present criteria.

PART II

Accreditation Process of non-African States

1. Non-African States duly accredited to the Federal Democratic Republic of Ethiopia wishing to be accredited to the AU shall communicate such requests to the Chairperson of the Commission.

2. The Chairperson shall consider such requests on the basis of the principles and objectives of the Constitutive Act and the relevant decisions of the AU policy organs and shall notify the Member States for their comments and observations.

3. If there is no objection within a period of Forty-five (45) days from the date of the notification, the Chairperson shall accept the letter of accreditation of the Head of Mission or Representative of the non-African State.

4. In the event that an objection has been raised, the Chairperson of the Commission shall not process the request and shall place the matter on the agenda of the Executive Council.

PART III

Rights of Accredited non-African States in proceedings of the African Union

The Heads of Mission or Representatives of non-African States accredited to the AU may:

1. Be invited to be present at the open sessions of AU Conferences of interest to them;
2. Have access to AU documents provided that they are:
 - a) Not of a confidential nature;
 - b) Dealing with matters of interest to the observers concerned.
3. Participate in the meetings of AU Organs only in accordance with the conditions laid down in this part;
4. With the authorisation of the Chairperson of the Conference, participate in the proceedings of meetings to which they are invited, without the right to vote;
5. Be authorised by the Chairperson of specialised Conferences to which they are invited to make a statement on a matter with which they are concerned, subject to the text of the statement being communicated before hand to the Chairperson of the Conference, through the Chairperson of the Commission; and
6. Be given the floor at meetings which are open and to which they are invited in order to enable them to reply to questions, which might be addressed to them by Member States.

PART IV

Relations between the African Union and the accredited Non-African States

1. The accredited non-African State(s) shall undertake to establish close relations of cooperation with the African Union and enter into regular consultations with the latter on all matters of common interest.
2. The granting, suspension and withdrawal of accreditation to a non-African State, are the prerogative of the African Union and shall not be the object of adjudication in any Court of Law or tribunal.

PART VI
Final Provisions

1. The provisions of the General Convention on Privileges and Immunities, and those relating to the Headquarters Agreement of the Union, shall not be applicable to Accredited non-African States.

2. Accredited non-African States shall themselves be responsible for expenses incurred as a result of their travel to and from, and their stay at the venue of the Conference.

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