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**EXECUTIVE COUNCIL**

**Forty First Ordinary Session**

**20 June – 15 July 2022**

**Lusaka, Zambia**

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**REGIONAL CONSULTATIONS ON THE PROPOSED AMENDMENT OF  
ARTICLE 5(1) OF THE PROTOCOL RELATING TO THE  
ESTABLISHMENT OF THE PEACE AND SECURITY COUNCIL (PSC)  
OF THE AFRICAN UNION**

**REGIONAL CONSULTATIONS ON THE PROPOSED AMENDMENT OF ARTICLE 5(1) OF THE  
PROTOCOL RELATING TO THE ESTABLISHMENT OF THE PEACE AND SECURITY COUNCIL (PSC)  
OF THE AFRICAN UNION, 23 JUNE 2022**

**SUMMARY RECORD OF CONSULTATION - CENTRAL AFRICAN REGION**

1. The regional consultations organized by the AU Commission with the Central Africa Region in furtherance of the Assembly Decision [Assembly/AU/Dec.823(XXXV)] on the proposed amendment to Article 5 (1) of the Protocol relating to the establishment of the AU Peace and Security Council was held on Thursday, 23 June 2022 in a virtual mode.

**A) Participation**

2. Participants from the region who attended the regional consultation were at the level of Ambassadors/Permanent Representatives and experts, namely:

- i. Cameroon, Central African Republic (Dean), Chad, Congo, Democratic Republic of Congo (DRC) and Gabon.
- ii. Commissioner for Political Affairs, Peace and Security, Ag. Legal Counsel and Ag. Head of the PSC Secretariat.

**B) Context**

3. The Commissioner for Political Affairs, Peace and Security provided brief background information with regard to the implementation of Assembly Decision [Assembly/AU/Dec. 823(XXXV)] on the membership of the PSC as outlined in Article 5(1) of the Protocol relating to the establishment of the PSC. The Ag. Legal Counsel provided a briefing on the legal procedures to be undertaken with regard to the implementation of the above-mentioned Assembly Decision.

**C) Discussion outcome**

4. The Permanent Representative/Ambassador of the Gabonese Republic, on behalf of the Dean of the Region, also supported and complemented by other members of the Central Region, presented the position of the region as follows:

- i. The Central African region acknowledges the need for the implementation of the Assembly decision which seeks to address the gaps/challenges facing the PSC.
- ii. However, the Central African region considers that this Decision does not exclusively concern the composition or enlargement of the PSC (which is not specifically mentioned in the Decision). In this regard, the composition or enlargement of the PSC is not a priority for the time being.
- iii. On the other hand, the Central African region is of the view that the Decision should rather serve to carry out a more comprehensive/holistic assessment of the running of the PSC in order to strengthen its institutional effectiveness and overall performance.

- iv. The Region reaffirmed that it is satisfied with the current status quo of the PSC membership (15 in number) and that there is no need to open a Pandora's Box. It emphasized that the number of 15 members is also the same as that of the UN Security Council. The Region expressed concern that an increase in the membership of the AU PSC could multiply the risks of not having quorums during meetings and creating more difficulties in reaching consensus in the decision-making process of the Council, as well as the change in the regional composition of the other sub-committees of ambassadors or ministerial committees.
- v. In addition, the Region stressed that the enlargement of the membership of the PSC is a long and rigid process that requires an amendment to the PSC Protocol, in line with Article 32 of the AU Constitutive Act. In this case, it underscored the importance of sufficient time for consultations and the essence of full adherence to the legal procedures.
- vi. The Region raised the issue of time constraints regarding the need to submit the report of the ongoing consultations to the next Executive Council meeting to be held on 14 and 15 July 2022 in Lusaka (Zambia).
- vii. The Region reiterated its readiness to engage in further interactions on this issue should an agreement be reached on a clear position at the end of the regional consultations.

**D) Conclusion**

- 5. To round up the regional consultations, the AU Commission presented the next steps towards the implementation of the Assembly Decision to the Central African Region. These steps include: endorsement of the draft summary record per region; finalization of the draft comprehensive report covering the five (5) aggregated regional positions and the consideration of the comprehensive report by the PRC as a whole before presentation to the 41<sup>st</sup> Executive Council in Lusaka, Zambia.
- 6. The regional consultations with the Central African Region ended at this stage.

**REGIONAL CONSULTATIONS ON THE PROPOSED AMENDMENT OF ARTICLE 5(1) OF THE  
PROTOCOL RELATING TO THE ESTABLISHMENT OF THE PEACE AND SECURITY COUNCIL (PSC)  
OF THE AFRICAN UNION, 24 JUNE 2022**

**SUMMARY RECORD OF CONSULTATION - EAST AFRICAN REGION**

1. The regional consultation organized by the AU Commission with the East Africa Region in furtherance of the Assembly Decision [Assembly/AU/Dec.823(XXXV)] in respect of the proposed amendment to Article 5 (1) of Protocol relating to the establishment of the AU Peace and Security Council was held on Friday, 24 June 2022 in a virtual mode.

**A) Participation**

2. Participants from the region who attended the regional consultation were at the level of Ambassadors/Permanent Representatives and experts, namely:

- i. Djibouti, Ethiopia, Kenya, Madagascar, Mauritius (Dean), Rwanda, Somalia, Tanzania and Uganda
- ii. Commissioner for Political Affairs Peace and Security, Ag. Legal Counsel and Ag. Head, PSC Secretariat

**B) Context**

3. The Commissioner for Political Affairs, Peace and Security provided a brief background information with regard to the implementation of Assembly Decision [Assembly/AU/Dec. 823(XXXV)] with regard to the membership of the PSC as outlined in Article 5(1) of the Protocol Relating to the Establishment of the PSC. The Ag. Legal Counsel briefed on the legal procedures to be undertaken with regard to the implementation of the above-mentioned Assembly Decision.

**C) Discussion outcome**

4. The Permanent Representative of the Republic of Mauritius, Dean of the Region, invited all Members of the Region for their recommendations taking into consideration that the Region did not have an adopted common position. The various positions and suggested viewpoints which were canvassed from the individual or national perspectives of the Members of the East African Region, are captured below:

- i. Support and understanding for the concern of the Member States of the Northern region over the current composition of PSC membership and the need for equitable regional representation in the membership of the PSC as provided for the PSC Protocol.

- ii. No need to amend Paragraph 5 (1) of the PSC Protocol along with the emphasis on maintaining the status quo of the current PSC composition at 15 Members.
- iii. Call for the more time to study the alignment and linkages between the Assembly Decision 823 and the ongoing implementation of the overall AU institutional reform.
- iv. Provision of an option for the Western African region to relinquish its 4<sup>th</sup> seat to the Northern African region to ensure the principles of equity, rotation and fairness in the representation of the five regions.
- v. Enlargement of the PSC membership will have additional cost implications on the budget of the Union;
- vi. Given the complexity of the matter as the PSC is a treaty-based AU Organ, a request made to the AU Commission to undertake an in-depth analysis of the challenges facing the PSC rather than a composition-centred solution. Such analytical exercise is to include comparison of PSC membership with other international and regional committees on peace and security, elaboration of the letter/spirit and implications of the equity and geopolitical rotation principles enshrined in the PSC Protocol, including historical background and context on the current composition of the PSC, as well as to provide recommendations and options to Member States on how best the issue of PSC Membership can be resolved.
- vii. An opinion was offered that the proposed enlargement of the PSC Membership from 15 to 17 (with 1 seat allocated to the Northern region and the other seat to rotate to the four regions (Central, East, North and South) is unacceptable, since such formula would not resolve the quest for equitable representation.
- viii. Thus, if a revision of Article 5 (1) of the PSC Protocol is effected through an enlargement of the Council's membership to 17, such reallocation of seats should be 1 seat to the Northern region and the other seat should be allocated to the Eastern region. This is taking into account that the Eastern region has 14 Member States and Western Region has 15 Member States.
- ix. There is no need for an increase in the number of seats at the AUPSC and that it should remain at 15 seats equally distributed over the five (5) Regions. Article 5(a) should remain as it is;
- x. Maintaining the status quo is contrary to AU principles of equitable regional representation as stipulated in the Protocol Relating to the Establishment of the AUPSC and would leave an imbalance if unattended and unaddressed;

**D) Conclusion**

5. To round up the regional consultation, the AU Commission presented the next steps towards the implementation of the Assembly Decision to the East African Region. These steps included the endorsement of the draft summary record per region; finalization of the draft comprehensive report covering the five (5) aggregated regional positions and the consideration of the comprehensive report by the PRC as a whole, before presentation to the 41st Executive Council in Lusaka, Zambia.

6. The regional consultation ended at this point.

**REGIONAL CONSULTATIONS ON THE PROPOSED AMENDMENT OF ARTICLE 5(1) OF THE  
PROTOCOL RELATING TO THE ESTABLISHMENT OF THE PEACE AND SECURITY COUNCIL (PSC)  
OF THE AFRICAN UNION, 24 JUNE 2022**

**SUMMARY RECORD OF CONSULTATION - NORTHERN AFRICAN REGION**

1. The regional consultation organized by the AU Commission with the Northern Africa Region in furtherance of the Assembly Decision [Assembly/AU/Dec.823(XXXV)] in respect of the proposed amendment to Article 5 (1) of Protocol relating to the establishment of the AU Peace and Security Council was held on Friday, 24 June 2022 in a virtual mode.

**A) Participation**

2. Participants from the region who attended the regional consultation were at the level of Ambassadors/Permanent Representatives and experts, namely:

- i. Algeria, Egypt, Libya, Mauritania, Morocco, Saharawi Republic (Dean) and Tunisia.
- ii. Commissioner for Political Affairs Peace and Security, Ag. Legal Counsel and Ag. Head, PSC Secretariat

**B) Context**

3. The Commissioner for Political Affairs, Peace and Security provided a brief background information with regard to the implementation of Assembly Decision [Assembly/AU/Dec. 823(XXXV)] with regard to the membership of the PSC as outlined in Article 5(1) of the Protocol Relating to the Establishment of the PSC. The Ag. Legal Counsel briefed on the legal procedures to be undertaken with regard to the implementation of the above-mentioned Assembly Decision.

**C) Discussion outcome**

4. The Permanent Representative of the Saharawi Arab Democratic Republic and the Dean of the Region, supported and complemented by other members of the Northern Region, presented the agreed common position of the region as follows:

- i. The imperative for fair and equitable representation in the PSC by all five regions of the AU, while noting the expressed concern of the Northern region of its under-representation in the Council, in comparison to the other 4 regions in the Union;
- ii. Full support for the proposal to amend Article 5(1) of the PSC Protocol to the effect of enlarging the PSC Membership from the current 15 AU Member States to 17 in a reconfigured Council;

- iii. Accordingly, the newly proposed composition of PSC membership will reflect one additional seat to be allocated to the Northern region to bring its representation in the Council to 3 seats like the other regions (Central, East, and Southern), while the second extra seat is to rotate to the four (4) regions namely, Central, Eastern, Northern and Southern;
- iv. Emphasis that this proposal should result in a win-win solution for the balanced equation in the PSC and to reflect fairness in terms of equitable distribution of PSC seats among the five AU regions. Further, this new arrangement stresses the promotion of the impetus for greater contribution by the Northern region to the strategic work of the PSC and its activities;
- v. Request to the AU Commission to ensure full transparency and reflect the need for consensus-building in the compilation of the comprehensive report based on the regional and PRC-wide consultations, which should be submitted to the Executive Council in July 2022, with concrete proposals and options to be considered;
- vi. Fundamental essence of a thorough analysis of the legal implications and processes with stated timelines, for the proposed amendment of Article 5(1) of the PSC Protocol with the effect of an expanded PSC composition from current 15 members to the newly proposed 17 offered by the Northern African region.

**D) Conclusion**

5. To round up the regional consultation, the AU Commission presented the next steps towards the implementation of the Assembly Decision to the Northern African Region. These steps included the endorsement of the draft summary record per region; finalization of the draft comprehensive report covering the five (5) aggregated regional positions and the consideration of the comprehensive report by the PRC as a whole before presentation to the 41st Executive Council in Lusaka, Zambia.

6. The regional consultation ended at this point.



**REGIONAL CONSULTATIONS ON THE PROPOSED AMENDMENT OF ARTICLE 5(1) OF THE  
PROTOCOL RELATING TO THE ESTABLISHMENT OF THE PEACE AND SECURITY COUNCIL (PSC)  
OF THE AFRICAN UNION, 24 JUNE 2022**

**SUMMARY RECORD OF CONSULTATION – SOUTHERN AFRICAN REGION**

1. The regional consultation organized by the AU Commission with the Southern Africa Region in furtherance of the Assembly Decision [Assembly/AU/Dec.823(XXXV)] in respect of the proposed amendment to Article 5 (1) of Protocol relating to the establishment of the AU Peace and Security Council was held on Friday, 24 June 2022 in a virtual mode.

**A) Participation**

2. Participants from the region who attended the regional consultation were at the level of Ambassadors/Permanent Representatives and experts, namely:

- i. Angola, Botswana, Lesotho, Malawi, Mozambique, Namibia (Ag. Dean), South Africa, Zambia and Zimbabwe.
- ii. Commissioner for Political Affairs Peace and Security, Ag. Legal Counsel and Ag. Head, PSC Secretariat

**E) Context**

3. The Commissioner for Political Affairs, Peace and Security provided a brief background information with regard to the implementation of Assembly Decision [Assembly/AU/Dec. 823(XXXV)] with regard to the membership of the PSC as outlined in Article 5(1) of the Protocol Relating to the Establishment of the PSC. The Ag. Legal Counsel briefed on the legal procedures to be undertaken with regard to the implementation of the above-mentioned Assembly Decision.

**F) Discussion outcome**

4. The Ambassador/Permanent Representative of the Republic of Namibia, in her capacity as Acting Dean of the Region, with the support of other Members of the Southern Region, presented the agreed common position of the region as follows:

- i. Support the concerns of the Northern region and emphasized the need to ensure fairness and equitable regional representation of the five AU regions in the PSC.
- ii. Agreed that there is no need to amend Article 5(1) of the PSC Protocol.
- iii. Proposed that the 4<sup>th</sup> seat currently allocated to Western Region be relinquished to the Northern Region to ensure equitable regional representation in the Council.

- iv. Proposed for the amendment of paragraph 4 of the Modalities for the election of Members of the Peace and Security Council to be aligned with Article 5 of the PSC Protocol with regard to the application of the principle of equitable regional representation and rotation.

**G) Conclusion**

5. To round up the regional consultation, the AU Commission presented the next steps towards the implementation of the Assembly Decision to the Southern African Region. These steps included the endorsement of the draft summary record per region; finalization of the draft comprehensive report covering the five (5) aggregated regional positions and the consideration of the comprehensive report by the PRC as a whole before presentation to the 41st Executive Council in Lusaka, Zambia.

6. The regional consultation ended at this point.

**REGIONAL CONSULTATIONS ON THE PROPOSED AMENDMENT OF ARTICLE 5(1) OF THE  
PROTOCOL RELATING TO THE ESTABLISHMENT OF THE PEACE AND SECURITY COUNCIL (PSC)  
OF THE AFRICAN UNION, 30 JUNE 2022**

**SUMMARY RECORD OF CONSULTATION – WESTERN AFRICAN REGION**

1. The regional consultation organized by the AU Commission with the Western Africa Region in furtherance of the Assembly Decision [Assembly/AU/Dec.823(XXXV)] in respect of the proposed amendment to Article 5 (1) of Protocol relating to the establishment of the AU Peace and Security Council was held on Friday, 30 June 2022 in a virtual mode.

**A) Participation**

2. Participants from the region who attended the regional consultation were at the level of Ambassadors/Permanent Representatives and experts, namely:

- i. The Gambia, Ghana, Guinea Bissau, Liberia, Niger, Nigeria, Senegal and Togo;
- ii. Commissioner for Political Affairs Peace and Security, Director, Conflict Management Directorate-PAPS, Ag. Legal Counsel and Ag. Head, PSC Secretariat.

**B) Context**

3. The Commissioner for Political Affairs, Peace and Security provided a brief background information with regard to the implementation of Assembly Decision [Assembly/AU/Dec. 823(XXXV)] with regard to the membership of the PSC as outlined in Article 5(1) of the Protocol Relating to the Establishment of the PSC. The Ag. Legal Counsel briefed on the legal procedures to be undertaken with regard to the implementation of the above-mentioned Assembly Decision.

**C) Discussion outcome**

4. The Ambassador/Permanent Representative of the Republic of Ghana, in her capacity as Dean of the Region, granted the floor to the Ambassador/Permanent Representative of the Federal Republic of Nigeria to present the agreed common position of the region. The Region submitted its position as follows:

- i. The distribution of seats to the five AU regions by the founding fathers are clear on what conceived as equitable regional representation. Furthermore, Article 5(1) of the Modalities for the Election of Members of the Peace and Security Council pointedly highlights the criteria for eligibility for appointment to the PSC “Member States which have ratified the Protocol Relating to the Establishment of the Peace and Security Council of the African Union and are therefore, State Parties to the Protocol”. In the context of eligibility, at the time of the first elections and appointments into the PSC, only two (2) Member States from the Northern Region, Algeria and Libya, had ratified the Protocol and were State parties.
- ii. The regional distribution of seats in the PSC could not have been made after the drafting of the Protocol, suggesting that it was the original conception of the founding leaders of

the AU to distribute the seats as captured in Article 4 (a) of the Modalities for the Election of Members of the Peace and Security Council. Secondly, Council membership could not have been extended to non-State Parties as the rule is clear in Article 5 (1) of the Modalities for the Election of Members of the Peace and Security Council. Thirdly, the seat of the North could not have been allocated to the West, as they had only two eligible members at the time who were elected and appointed to the Council during the Fourth Ordinary Session of the Executive Council which held from 12-16 March, 2004 (EX/CL/Dec.81 (IV)).

- iii. A consideration of the change of the structure and fabric of the legacy of our leaders may not only undermine the effectiveness of the Council, but also jeopardize and disrupt the objectives of the Council, especially, its ability to take and enforce decisions on behalf of the Union. Indeed, its current structure is one that was well thought out to ensure the effectiveness of the Council in timely decision making and carrying out its mandate as a whole.
- iv. However, should the AU consider an expansion of the membership of the Council, the Region stressed that it may open up a Pandora's box that may eventually be difficult to contain. This is because, there would no doubt be divergence of views on the modalities for the expansion of the Council and other regions would also begin to see the need for additional representation on the Council.
- v. Emphasis that the current Membership of the council is based on equitable regional representation as enshrined in Art. 5 of the Protocol relating the establishment of the PSC, and not based on Tier status or contributions. Equitable regional representation implies that every region is adequately and appropriately represented on the Council.
- vi. The Region underscored that the four seats of West Africa remains undebatable and mute in law for now, going by our legal instruments. Hence, the status quo in the PSC composition should be maintained; However, should the AU consider the proposals by the Northern countries, the Region stressed that any structural adjustment/amendments to the Council must adhere and follow due procedures as stipulated by Article 32 of the Constitutive Act of the AU, which remains the Grundnorm of the African Union.

**D) Conclusion**

5. To round up the regional consultation, the AU Commission presented the next steps towards the implementation of the Assembly Decision to the Western African Region. These steps included the endorsement of the draft summary record per region; finalization of the draft comprehensive report covering the five (5) aggregated regional positions and the consideration of the comprehensive report by the PRC as a whole before presentation to the 41st Executive Council in Lusaka, Zambia.

6. The regional consultation ended at this point.

2022-06-20

# Regional Consultations on the Proposed Amendment of Article 5(1) of the Protocol Relating to the Establishment of the Peace and Security Council (PSC) of the African Union

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