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**EXECUTIVE COUNCIL**

**Forty First Ordinary Session**

**20 June – 15 July 2022**

**Lusaka, Zambia**

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**REPORT ON THE IMPLEMENTATION OF ASSEMBLY DECISION  
ASSEMBLY/AU/DEC.823(XXXV) RELATING TO THE MEMBERSHIP OF  
THE AU PEACE SECURITY COUNCIL**

**REPORT ON THE IMPLEMENTATION OF ASSEMBLY DECISION  
ASSEMBLY/AU/DEC.823(XXXV) RELATING TO THE MEMBERSHIP OF THE AU  
PEACE SECURITY COUNCIL**

**I. INTRODUCTION**

1. The Peace and Security Council (PSC) of the African Union is a decision-making Organ derived from a treaty-making process within the AU system. The PSC was established pursuant to Article 5(2) of the AU Constitutive Act, to prevent, manage and resolve conflicts in the Continent. The Protocol Relating to the Establishment of the Peace and Security Council of the African Union (PSC Protocol) was adopted by the 1st Ordinary Session of the Assembly of the African Union on 9 July 2002 and entered into force in December 2003. The PSC was constituted and became operational in early 2004, and officially launched on 25 May 2004 in Addis Ababa, Ethiopia.

2. According to Article (2) of the PSC Protocol on the Establishment, Nature and Structure, the Council shall serve as a collective security and early warning arrangement to facilitate timely and efficient response to conflict and crisis situations in Africa. The PSC Protocol further enumerates Articles 3 and 4 on the objectives and principles of the Council. Of particular significance is the landmark principle enshrined in Article 4(j) which grants “the right of the Union to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely war crimes, genocide and crimes against humanity, in accordance with Article 4(h) of the Constitutive Act;”. The PSC Protocol also elaborates the AU strategic peace-related mechanisms such as the African Standby Force (ASF), the Panel of the Wise, the Role of the Chairperson, and the Continental Early Warning System (CEWS).

**II. ADOPTION OF PSC PROTOCOL AND MEMBERSHIP - Institutional Evolution**

3. The PSC Protocol was adopted in conjunction with two annexed instruments: a) the **Rules of Procedure of the Peace and Security Council**, providing guidance on the management of the activities of the PSC and b) the **Modalities for the Election of Members of the Peace and Security Council**, which guide Member States on the election of Members of the PSC. The Rules of Procedure and the Modalities are based on the provisions of the Constitutive Act and the PSC Protocol.

4. Specifically, paragraph 3 of the Modalities provide criteria for the election of Members of the PSC, as follows:

a) **Equitable regional representation and rotation**, which is in line with Article 5(2) of the PSC Protocol. The Modalities provide regional representation of Members in the Council as follows:

- Central – 3;
- Eastern – 3

- Northern – 2;
  - Southern – 3; and
  - Western – 4.
- b) **Member State’s Qualifications:** AU Member States eligible for appointment as Members of the PSC shall be those that have ratified the PSC Protocol and are therefore, State parties to the Protocol, and Member States that are not affected by sanctions in terms of Article 23 of the Constitutive Act.
- c) The Modalities also provide that Member States should meet the **nine (9) requirements / criteria provided under Article 5(2) a-j** of the Protocol, which include: commitment to uphold the principles of the Union; contribution to the promotion and maintenance of peace and security in Africa and contribution to Peace Fund and/or Special Fund created for a specific purpose; participation in conflict resolution, peace-making and peacebuilding at regional and continental levels; respect for constitutional governance in accordance with the Lome Declaration, as well as the rule of law and human rights; among others.

### III. CURRENT COMPOSITION OF THE PSC

5. In line with Article 5(1) of the Protocol relating to the establishment of the PSC, the Council composes of 15 Member States with equal voting powers. All PSC members are elected on regional basis by the AU Executive Council and endorsed by the AU Assembly of Heads of State and Government during ordinary sessions. For continuity, five (5) members are elected for three-year terms and 10 for two-year terms, as the regional allocation was made in terms of **Paragraph 4 of the Modalities for the Election of Members of the Peace and Security Council:**

Region	# of seat 3-year term	# of seat 2-year term
Central Africa	2	1
Eastern Africa	2	1
Northern Africa	1	1
Southern Africa	2	1
Western Africa	3	1
<b>Total</b>	<b>10</b>	<b>5</b>

6. Furthermore, Article 5 of the PSC Protocol stipulates that the Council’s membership is to be decided according to the principle of *equitable regional representation and rotation*. Accordingly, the 15 members of the PSC are elected on rotational basis from candidates of the five (5) AU regions: Central, Eastern, Northern, Southern and Western.

### IV. MEMBERSHIP OF THE 5 GEOGRAPHIC REGIONS OF THE AFRICAN UNION

7. The AU Membership below is in line with Resolution [CM/Res. 464 (XXVI)] on the Division of Africa into five (5) Regions adopted by the Council of Ministers of the Organization of African Unity (OAU) meeting in its Twenty-Sixth Ordinary Session held in Addis Ababa, Ethiopia, from 23 February to 1 March 1976:

Central Africa	Eastern Africa	Northern Africa	Southern Africa	Western Africa
1. Burundi 2. Cameroon 3. Central African Republic 4. Chad 5. Congo (Republic of) 6. Democratic Republic of Congo 7. Equatorial Guinea 8. Gabon 9. São Tomé and Príncipe	1. Comoros 2. Djibouti 3. Eritrea 4. Ethiopia 5. Kenya 6. Madagascar 7. Mauritius 8. Rwanda 9. Seychelles 10. Somalia 11. South Sudan* 12. Sudan 13. Tanzania 14. Uganda	1. Algeria 2. Egypt 3. Libya 4. Mauritania 5. Morocco 6. Sahrawi Arab Democratic Republic 7. Tunisia	1. Angola 2. Botswana 3. Eswatini 4. Lesotho 5. Malawi 6. Mozambique 7. Namibia 8. South Africa 9. Zambia 10. Zimbabwe	1. Benin 2. Burkina Faso 3. Cabo Verde* 4. Côte d'Ivoire 5. The Gambia 6. Ghana 7. Guinea Bissau 8. Guinea 9. Liberia 10. Mali 11. Niger 12. Nigeria 13. Senegal 14. Sierra Leone 15. Togo
<b>9</b>	<b>14</b>	<b>7</b>	<b>10</b>	<b>15</b>

*Note: South Sudan\* and Cabo Verde\* are not yet State Parties to the PSC Protocol, given their non-ratification status as of today (30 June 2022)*

## V. IMPLEMENTATION OF ASSEMBLY DECISION 823

8. The AU Commission, through the Department of Political Affairs, Peace and Security (D-PAPS) facilitated the process of consultations with Member States, pursuant to the Decision of the Assembly (Assembly/AU/Dec.823(XXXV)) which states: *“TAKES NOTE of the concern of the Member States of the North African Region with regard to regional representation in the membership of the Peace and Security Council, and DIRECTS the Commission in **full consultation** with AU Member States to **present a comprehensive report** to the upcoming Executive Council, **with concrete consensual proposals** to amend Article 5(1) of the Protocol relating to the establishment of the Peace and Security Council.”*

9. In addition, the purpose of the presentation of this comprehensive report to the AU Permanent Representatives' Committee in session, is towards the fulfillment of the above-stated Assembly Decision.

**a) Legal procedures of PSC Protocol amendment**

10. The amendment of the PSC Protocol is provided for in Article 22(6), which reads as follows: *“Any amendment or revision of the present Protocol shall be in accordance with the provisions of Article 32 of the Constitutive Act.”*

11. As referred to above, Article 32 of the Constitutive Act provides as follows in relation to the amendment in question:

- (1.) *Any Member State may submit proposals for the amendment or revision of this Act.*
- (2.) *Proposals for amendment or revision shall be submitted to the Chairman of the Commission who shall transmit same to Member States within thirty (30) days of receipt thereof.*
- (3.) *The Assembly, upon the advice of the Executive Council, shall examine these proposals within a period of one year following notifications of Member States, in accordance with the provisions of paragraph 2 of this Article;*
- (4.) *Amendments or revisions shall be adopted by the Assembly by consensus or, failing which, by a two-thirds majority and submitted for ratification by all Member States in accordance with their respective constitutional procedures. They shall enter into force thirty (30) days after the deposit of the instruments of ratification with the Chairman of the Commission by a two-thirds majority of the Member States.*

12. Accordingly, the Office of the Legal Counsel opines that the amendment process of the PSC Protocol should be adhered to in a scrupulous manner with the legal procedure as prescribed in Article 32 of the Constitutive Act.

13. In light of the above, the first step towards amending Article 5(1) of the PSC Protocol as outlined in the above-mentioned Article is for a proposal on amendment to be submitted by any Member state, which would then be circulated to Member States by the Chairperson of the Commission, in conformity with Article 32 (2) of the Constitutive Act. In this respect, it is understood that the decision of the Assembly (Assembly/AU/Dec.823(XXXV)) mandated the Commission to hold consultations with AU Member States following which Member State(s) shall commence the process of Amendment through the submission of proposal(s) in compliance with the Constitutive Act as highlighted above.

**b) Implications of the proposed amendment on other relevant instruments of PSC Protocol**

14. The amendment of the PSC Protocol will consequently necessitate the amendment of the Rules of Procedure of the Peace and Security Council of the African Union, as well as the Modalities for the election of Members of the Peace and Security Council, in so far as the membership of the Peace and Security Council is concerned. In a situation if there will not be expansion of number of seats in the Council, but reallocation of seat from one region to another, only the Modalities for the Election of Members of the PSC will need to be amended.

15. The amendment of the PSC Rules of Procedure and Modalities for Election shall be adopted by the Assembly on the recommendation of the Peace and Security Council, and the processes of amendment may run simultaneously.

**VI. OUTCOMES OF CONSULTATIONS WITH MEMBER STATES - REGIONAL POSITIONS**

16. The regional consultations organized by the AU Commission (Department of Political Affairs, Peace and Security) were held in virtual mode, from 23 to 30 June 2022 in furtherance of the Assembly Decision [Assembly/AU/Dec. 823(XXXV)]. Participants from the five (5) regions attended at the level of Ambassadors/Permanent Representatives and experts. In particular, the consultation for the Central Region was held on 23 June 2022, while those for the Eastern, Northern and Southern regions took place on 24 June 2022 and on 30 June 2022 for the Western region. The agenda for each regional consultation was the same, reflecting (a) Introduction by PAPS Commissioner and Regional Dean; (b) Legal procedures for Assembly Decision 823; (c) Discussion by Member States; (d) Any Other Business; and (e) Next Steps/Conclusion.

17. In all the five (5) regional consultations, 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 in case the process of amendment would be initiated. The major outcomes per the five (5) regions are captured below:

a) **Central Africa**

18. The Member States of the Central African Region, through the Permanent Representative/Ambassador of the Gabonese Republic, on behalf of the Dean of the Region, presented the position of the region as follows:

i. The region acknowledges the need for the implementation of the Assembly decision which seeks to address the gaps/challenges facing the PSC.

- ii. However, the 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 region is of the view that the Decision should rather serve to carry out a more comprehensive/holistic assessment of the operations 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.

b) **Eastern Africa**

19. The Ambassador/Permanent Representative of the Republic of Mauritius, and 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 4th 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. Some Member States of the region proposed that if there will be 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. Some Member States of the region proposed for the enlargement of the PSC membership to 20 to allow each region to have five seats and resolved the issue of equitable distribution of seats.
- ix. 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.
- x. 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;



- xi. 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.

c) **Northern Africa**

20. The Ambassador/Permanent Representative of the Saharawi Arab Democratic Republic (SADR) 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 four 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 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 timeliness, 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) **Southern Africa**

21. 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 4th 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.

e) **Western Africa**

22. 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, Paragraph 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 Paragraph 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 (4) 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;
- vii. 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.

## **VII. COMPARATIVE ANALYTICS ON REGIONAL AND GLOBAL INTERGOVERNMENTAL PEACE STRUCTURES**

23. To contextualize the request by some AU Member States to review the composition of the PSC, a comparative analysis of relevant regional, continental and international peace structures, is presented.

### **a) United Nations Security Council**

24. Under the UN system and based on the UN Charter, the Security Council is mandated with the primary responsibility for the maintenance of international peace and security. The UN Security Council consists of a total of fifteen (15) members, and each Member has one vote. Under the UN Charter, all Member States are obligated to comply with Council decisions. Of the 15 UNSC members, five (5) permanent members

are China, United States, France, United Kingdom and the Russian Federation and ten (10) non-permanent members elected for two-year terms by the General Assembly, with the following composition:

- three (3) seats for African Group (one seat for West African region and the other two seats rotates to other four African regions);
- two (2) seats for Asia-Pacific Group;
- two (2) seats for Latin American and Caribbean Group (GRULAC);
- one (1) seat for Eastern European Group (CEIT, or Countries with Economies in Transition); and
- two (2) seats for Western European and Others Group (WEOG), at least one of these must be from Western Europe.

b) European Union Political and Security Committee

25. The European Union Political and Security Committee (EU-PSC) is a permanent body within the European Union dealing with Common Foreign and Security Policy issues, including Common Security and Defence Policy and derives its powers from Article 38 of the Treaty on European Union. The EU PSC consists of ambassadorial-level representatives from all the EU Member States, which are 27 in number. The EUPSC monitors the international situation in the areas covered by the CFSP.

26. Based on Article 17 of the PSC Protocol, the AU PSC maintains special relationship and partnership with the UN Security Council and the EU Political and Security Committee, through the holding of annual joint consultations, joint field missions to African conflict zones and peace-building efforts, as feasible.

c) African Regional Bodies

27. A number of African Regional Organizations operate Organs, primarily focusing on peace and security matters. These include: ECOWAS (Mediation and Security Council), ECCAS (Peace and Security Council for Central Africa (Conseil de paix et de sécurité de l'Afrique centrale, COPAX), SADC (The Organ for Politics, Defence and Security). In these organizations, the membership of these peace structures is inclusive of all members of the region.

## VIII. DISTILLING THE COMMON POSITIONS: KEY OPTIONS

28. Following consultations of the five (5) regions, based on the summary outcomes of the consultations as provided above, the following reflect the key positions of Member States, taking into consideration this is a Member States driven process:

- i. Four (4) regions firmly expressed the position to maintain the status quo of the Membership of the PSC of 15 Member States with no enlargement. An expansion of the membership of the Council, may open up a Pandora's box that may eventually be difficult to contain.

- ii. One region proposed the expansion of the PSC Membership from 15 to 17 Member States. 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.
- iii. One region proposed that 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.
- iv. Two regions emphasized the need for the Western Region to relinquish the 4th seat to the Northern Region to ensure equitable regional representation in the Council. And in this case, only the Modalities for the Election of Members of the PSC will be amended and not the PSC Protocol.
- v. One region proposed for the enlargement of PSC membership to 20 to allow all regions to have four seats.
- vi. However, should the AU consider the proposals by the Northern countries, emphasis was placed on the imperative that any structural adjustment/amendments to the Council's composition 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.
- vii. One region proposed that if a revision of the PSC Protocol should be done in a comprehensive manner to address other challenges and not to focus only on the issue of membership.

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**EXECUTIVE COUNCIL**

**Forty First Ordinary Session**

**20 June – 15 July 2022**

**Lusaka, Zambia**

**EX.CL/1362(XLI)Annex**

Original: English

**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

# Report on the Implementation of Assembly Decision Assembly/AU/DEC.823 (XXXV) Relating to the Membership of the AU Peace Security Council

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