

AFRICAN UNION
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UNION AFRICAINE
UNIÃO AFRICANA

Addis Ababa, ETHIOPIA P. O. Box 3243 Telephone: +251-11-5517700 Fax: +251-11-5517844
website: www.africa-union.org

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EX.CL/390 (XII) - a

REPORT OF THE HIGH LEVEL PANEL ON THE
AUDIT OF THE AFRICAN UNION :

COMMENTS BY THE COMMISSION OF THE
AFRICAN UNION

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THE AFRICAN UNION**

Comments by the Commission of the African Union

INTRODUCTORY REMARKS

The African Union Commission is very grateful that the High Level Panel, assisted by some Resource Persons, was able to complete its work within such a limited period, which enabled it to present a copy of its final report to the Chairperson of the Union, H.E. John Kufour, on 27 December 2007.

2. When the assignment was given to the Panel, made up of eminent sons and daughters of Africa, not a few doubted whether it could complete the onerous task within the timeframe it had. Those doubts were based on the complexity of the task before the Panel, the resource and time available to it, the very wide-ranging nature of its Terms of Reference, and the high expectations the audit of the Union provided for the future of our Continent.

3. It is the Commission's candid view that, considering all the constraints it faced, the Panel has done an enormous amount of work which, taken in totality and in the spirit that informed the audit, provides an important contribution to the ongoing debate on the future of our organization and the Continent. The Audit Report therefore should assist in resolving some of the questions that we have debated over the last few years. For this reason, we believe that the whole Continent owes the Panel, the Resource Persons and others who collaborated with them in ensuring that this important task was accomplished within such a limited period, a debt of gratitude. While we agree with the Panel that "Africa stands at the crossroads" (paragraphs 33 page 13), it is our hope that the work of the Panel and the comments the Commission would make would help us select the proper road to take from here on.

Comments on the Audit Report

4. Before the Commission conveys its comments on the Audit Report, it would like to express its sincere appreciation to the Chairperson of the Union who, in more ways than one, facilitated the work of the Audit Panel. He constantly monitored its work and encouraged the team as it carried out its work.

5. We need also to put on record that, to the best of its ability, the Commission provided the Panel all the support that it could and was required of it. Personally, the Chairperson of the Commission spent a few hours with the Panel during its inaugural session (as indicated in paragraph 38 of the report), during which they exchanged views and he stressed the importance of the work before it. Beyond this interaction, the Panel carried out its work without further communication with the Chairperson until he was presented the final report.

6. While the Commission provided a secretariat support team, and its staff were at the disposal of the Panel throughout its work, their support was limited to provision of logistics, documents and information as requested. Consequently, the

Panel was allowed total freedom to carry out its work without any interference from the Chairperson or his staff.

7. Having said this, the Commission would like to point out that for this very important work, neither the Commission nor any of the other African Union institutions involved in the audit had the opportunity to make any comment on the recommendations made and provide clarifications on some of the information that the Panel received from various sources. Where clarification was sought, the information provided by the Commission helped the Panel to have the full facts at its disposal. As would be seen later, this was not done on some crucial issues on which the Panel reached conclusions and made crucial recommendations without the benefit of being availed information and facts by the management of the Commission. When the Panel completed its work, the Chairperson of the Commission received a copy and arranged for the Chairperson of the Panel to deliver it in person to the Chairperson of the Union.

8. The question could well be asked as to why the Panel was not requested by the Commission to do this. The Commission's response is that did not wish to be seen to influence the outcome of the audit in one way or another. It was also felt that the Panel would, as it did on one or two cases to which reference will be made later, seek clarification from the management of the Commission on some information made available to it. On the other hand the Panel might not have done that in order not to appear to have been influenced by any of the Institutions of AU.

9. This was brought to the attention of the Chairperson of the Union who concurred with the Chairperson of the Commission and requested that the Commission's views and comments, and where appropriate, clarifications, should be urgently prepared and made available to him. Hence this report. As it was not only the Commission that was audited, the Chairperson of the Commission has also forwarded a copy each of the report to the other institutions, particularly the Pan African Parliament (PAP), the Economic, Social and Cultural Council (ECOSOCC), NEPAD Secretariat and the Regional Economic Communities (RECs), for their information and comments as they deem necessary. The Chairperson of the Commission would also expect that both the Permanent Representatives Committee (PRC) and the Executive Council, through whom the report is being processed to the Heads of State and Government, will also have their points of view, which he always cherishes. He made the report available to all Commissioners, as soon as it was received so that they could also avail him of their views.

Comments on the Introductory Part of the Report

10. We have taken a close look at the Introductory Part of the Panel's Report and we cannot but agree that the Panel has correctly indicated, in its Chapter One - Looking Back to Look Forward - the Grand Debate on the Unification of Africa - the situation we are in presently, what has gone on in the last few decades in Africa, how our former continental organization, the OAU, served us, the dramatic changes in the world since the 1990s, the imperative of our collective reaction to these changes, how these reactions need to be improved upon, and the enormous challenges we still face. It noted that Africa is "at the crossroads" and "courage, vision and foresight are required for the right choices to be made" (Paragraph 34).

11. Similarly, the analysis in Chapter Three, of our constitutive instrument – the Constitutive Act - is a balanced one and needs to be looked into very closely. Nevertheless, we like the Panel members, recognize that institutions and people, often more than instruments, play more decisive roles in achieving the objectives of organizations such as ours. In this context, we agree that we already have, in existing instruments, the basis on which we could build a stronger Union than we have now. However, the existing institutions do need looking into, hence, the Commission's comments on the proposals and recommendations made by the Panel on the Assembly, the Executive Council, the PRC, the Commission and others. It will now address itself to these.

12. However, before making comments on the specific recommendations, the Commission wishes to note that the Report of the Audit Panel has been awaited with a great deal of expectation, partly because it was hoped that it would help to clarify a number of grey areas and make proposals on how to address them. Regrettably, this has not been the case particularly with regard to General Objectives 1 (iv), (v) and (vi) as well as Specific Objective 2 (xi).

13. The Commission is of the view that the important issue of inter-organ relationships, how the current constraints can be addressed and what would be the ideal situation, has not been clarified. This is particularly evident, for example with regard to the relationship between the Pan African Parliament (PAP) and the other organs of the Union. PAP has its own internal budgetary processes and its Bureau does not seem to see or, even agree, that the budgetary process prescribed in the AU Financial Rules and Regulations, and the detailed provisions therein relating to the financial management of the Organization, are applicable to it or that its budget and implementation reports have to be submitted through the Permanent Representatives Committee and the Executive Council. This is an example of an issue, which the Commission would have wished to see clarified in the Report of the Panel, since its proposals would have been seen as coming from an independent body taking an objective view of the current situation.

Recommendations on the Assembly - Paragraphs 63 - 80

14. The Panel makes five concrete recommendations on the Assembly. We have no difficulty with the third and fifth recommendations regarding the need for the Assembly to first review the implementation of previous decisions before beginning subsequent Summits, and the need for Heads of State and Government to let their people know about decisions taken at the Summits. We believe that these will help to ensure that Summit decisions are implemented and the people will be aware of, and subsequently be involved in, what the Union is engaged in. This will also be in line with Decision AHG/Dec/ 160 (XXXVIII) adopted in Lusaka, Zambia in July 2001, which underlined that the primary responsibility for popularising the African Union rests with each Member State and requested the latter to take the necessary action in this regard.

15. With regard to the other three, we have the following comments:

I. Number of Annual Sessions of the Assembly.

The Panel recommends that the Assembly revert to the original system of the Assembly meeting only once a year and that that one session should hold at its Headquarters. The Commission can fully understand the reasons advanced for this proposal and could have also agreed with it. However, it suggests that consideration be given to what informed the decision to have two instead of one annual session and to have the January session always at the Headquarters. These include ensuring that Union activities are not concentrated at its Headquarters only as citizens of Member States which host AU meetings, especially the Summits, get to know the Union better and get involved with its activities. Member State may wish to consider if this will happen if the recommendation of the Panel is accepted. If the practice of two sessions per year is maintained there would be need for each of the session to focus on specific issues.

We should indicate that should the Assembly decide that it will hold only one session per year, such a session will need to last longer than the brief one or two working days we current have. Secondly, the session must not be encumbered by the side events that we now have at our Summits. This will ensure that substantive work can be done during the sole annual session. Furthermore, it will necessary to implement the provisions of Rule 5 of the Rules of Procedure of the Assembly that the hosting of sessions shall alternate between Headquarters and Member States. This is to say that if one Assembly session takes place at the Headquarters in one year, the next year's session should hold in a Member State.

II. Adoption of Thematic Approach for Assembly Sessions

The Panel recommends that the Assembly should adopt a thematic approach to its annual meetings. The Commission should like to point out that this approach is already being used. Indeed, since the Assembly Session in Khartoum, Sudan in January 2006, the Assembly has had a theme to deal with, except in Accra, Ghana in July 2007 because of the Grand Debate on an African Union Government. We do agree that the format should improve in order to ensure that substantive issues are discussed and concrete decisions, which will accelerate the political and socio-economic integration of the continent, are taken.

III. Chairperson of the Assembly to be Elected for two Years

The Panel has recommended that, in order to ensure policy continuity, pro-active leadership and full implementation of decisions, the Chairperson of the Assembly serves for two years. In the Commission's view, a two-year term by the Chairperson of the Assembly will not ensure any of these. As recognized by the Panel itself, a serving Head of State as the Chairperson of the Assembly has enormous demands on his time and attention resulting from the

responsibilities of his constitutional duties. Rather, the creation of the post of the President of the Union, working on full time basis for a renewable three-year term as in the “Report on the AUG Implementation Modalities,” will be more likely to achieve these objectives. According to the proposal, the President of the Union is expected to serve as the embodiment of the Union, its guiding spirit, providing energy and leadership to propel the Union forward; ensure continuity at the highest political level possible in the pursuit of the overall objectives of the Union; and serve as the external representative of the Union. The Study clearly indicates how this would work and the relationship between the Chairperson of the Union and the Commission.

Recommendations on the Executive Council - Paragraphs 81 - 90

16. The Panel recommends that the Executive Council be re-designated as a Council of Ministers and its composition aligned to Articles 10 and 14 of the Constitutive Act. In this way, any Minister whose portfolio is relevant to the agenda will attend a meeting of the Council of Ministers. As innovative as this proposal may seem, there appears to be an omission as to which of the various Sectoral Ministers will coordinate the work of the Council of Ministers under this arrangement. In regional or continental arrangements such as in the African Union, most issues revolve essentially around inter-state relations, which are statutorily under the responsibility of the Ministers of Foreign Affairs. Besides, although technical matters fall within the portfolios of other Ministers, often times, they have far-reaching political and diplomatic implications, which the Foreign Ministers are best placed to deal with. What is more, they are also the ones to advise their respective Heads of State and Government on global issues which most of the matters that will be dealt with involve. Currently, the Ministers of Foreign Affairs prepare the work of the Assembly among other things, but there is no indication in the Panel’s conclusions that they are to continue to do so.

17. Furthermore, although the Panel recommends one Council of Ministers, sitting in different configurations, in reality, there will be several Councils of Ministers for as many as the Sectoral Ministers meet. The issues of when they meet on their own as Council of Ministers, how many times; who prepares their meetings; when and how they report to the Assembly; the relationship between the Commission and the Specialised Technical Committees (STCs) which the Panel recommends should be “transformed into a Council of Ministers” (paragraph 105, page 41), etc., need more clarity. These issues are extremely important considering that the Assembly, if the Panel’s proposal is approved on the subject, will only meet once a year.

18. The Commission’s view is that, as provided for in the Constitutive Act, the Executive Council, whose appellation could be transformed into a Council of Ministers, should continue to function as it does now. However, each Member State should look at the agenda of each meeting and constitute its delegation in such a way that the relevant Ministers, other than, or in addition to, the Foreign Ministers, and relevant officials, are included in the delegation. That way, such “line” Ministers, who would have participated in the Sectoral meetings, would be on hand to ensure that the contents and intents of their decisions are properly understood and go to the Assembly. However, it should be understood that the Executive Council should have

the right to point out to the Assembly the political and other implications of the decisions of sectoral ministers.

19. Let us add that in the Chairperson's report on the Strengthening of the Commission, he proposed the re-configuration of the Specialised Technical Committees (STCs) so that they could function better, where they already exist, and become operational where they do not yet exist. We would like to reiterate that the proposal contained in paragraph 54 of our document Ref. No. Ex.CL/328 (X) on the STCs, and which suggests that we have nineteen STCs, should be given consideration. The rationale for this is contained in the said document. However, we wish to emphasize that the Commission's proposal is more practical as we have re-grouped some Ministers whose mandates are related or compatible. This is in contrast to the Council of Ministers proposed by the Panel, which will lead to each Sectoral Ministry being a Specialised Technical Committee.

20. Finally, in the same document referred to above, we have proposed a coordination mechanism which will ensure that the work of the Sectoral Ministers get to the Assembly without being altered by the Foreign Ministers. This involves the Bureaux of the various Ministerial Committees meeting at least once every two years, and the participation of the Chairperson of the various STCs in the sessions of the Executive Council or the Council of Ministers.

21. We strongly recommend that these proposals be looked into. In this regard, Council will recall that at its Session in January 2007, it had decided that the proposals in the report of the Commission on the reconfiguration of the STCs should be further examined by the PRC and the Commission. We recommend that this will be the right approach and this exercise be undertaken.

Recommendations on the Permanent Representatives Committee - Paragraphs 91 - 97

22. Before commenting on the Panel's recommendations on the PRC, the Commission wishes to emphasize that, while there has been some misunderstanding between the Commission and the PRC, there is no constant state of hostility or antagonism between the two. This could be explained by the fact that the institutions of the AU are still on a learning curve. Indeed, relations between the PRC and the Commission have improved in the recent past. In our view, what the two organs require are respect for each other, recognition and acceptance of each other's roles, admission of the fact that both institutions are parts of one unit and that they need each other for the effective performance of their duties.

23. We believe that the Commission and the PRC will work even better when some of the proposals on the table become operational. One major one is the creation of a Unit in the Office of the Secretary to the Commission that will be a Secretariat for the PRC and the focal point for it within the Commission. The Unit, to be made up of three people, will be able to manage all PRC and its Sub-Committee meetings, ensure that the reports of their meetings are rendered regularly and on time and liase between the PRC, its Sub-Committees and the Commission, on a regular and permanent basis. We are anxious that this Unit be put in place and we encourage the policy organs to support the proposal in full.

24. While the report of the Panel refers to Ad-Hoc Committees, which the PRC indeed has, we believe that most of its work is done in Sub-Committees. Furthermore, the PRC Sub-Committees could improve their working methods, something they are working on. Of course, additional Sub-Committees could be created while additional Ad-Hoc Committees, which the PRC could create as required, could also be put in place. It is however necessary to ensure that all the Sub-Committees and Ad-Hoc Committee become operationalized.

25. With respect to the recommendations made by the Panel on the PRC, the Commission's comments on some of them are as follows:

- i) We do not sincerely believe that the first recommendation that the PRC's oversight-role to be carried out through the Sub-Committee on Administrative, Budgetary and Financial Matters, made up, preferably, of officials from the Ministries of Finance, is a practical one. Firstly, the Sub-Committee deals with more issues than financial matters, which Finance Officials cannot properly handle. Secondly, unless these officials are located in the Missions in Addis Ababa, and this is not obvious from the recommendation, it is impossible for over-sight functions to be exercised over the Commission from the capitals. However, we propose that the spirit of Decision EXCL/Dec 93 (V), which provided for the creation of a permanent body of finance experts from Member States on Budgetary and Financial matters be put in place.
- ii) We agree that the Missions of Member States in Addis Ababa should be strengthened, as there is a need for this. However, the Panel was probably unaware that several Permanent Representatives in Addis Ababa have been deployed there from New York where they served their Countries in the same capacity or as Deputy Heads of Missions. There are also scores of Permanent Representatives who have left Addis Ababa to assume the same position in New York. We say this to emphasize the fact that what is required in Addis Ababa is for Member States to send technical experts on the various aspects of AU's work.

Recommendations on the Specialised Technical Committees (STCs) – Paragraph 98 - 105

26. We have already, in paragraphs 17 to 19 above, made some recommendations on the STCs. We shall therefore only reiterate those recommendations.

27. We have difficulties with the sole recommendation made by the Panel consisting of transforming the STCs, provided for under Article 14 (3) of the Constitutive Act, into a Council of Ministers. This recommendation ignores the serious problem of many portfolios being lumped into one STC, which has, so far, made the operationalization of the STCs in the Constitutive Act difficult, if not impossible. This is why, as the Panel notes in paragraph 100 of its report, the Assembly and the Executive Council directed the Commission in 2002, to examine all aspects of the operationalization of the STCs.

28. We take note of the views expressed by the Panel on the Commission's proposals on the STCs, but they (the proposals) are based on clear principles, and Executive Council and Assembly decisions that some of the Sectoral Ministries be turned into STCs. We accept that the cost estimated in the Commission's proposal appears to be conservative, and that there will be additional costs to Member States. However, that is the price we have to pay if we want our institutions, and the way we do things, to work better.

29. Let us conclude here by requesting that the proposals by the Commission on STCs should be re-examined with a view to adopting them. If the co-ordination mechanism proposed is adopted, it will ensure that the confusion likely to arise from several Councils of Ministers in operation at the same time will be avoided.

Recommendations on the Commission - Paragraphs 106 - 217

30. May we recall that one of the main reasons the Audit was instituted was the need to strengthen the Commission. The second major reason is, of course, the debate on Union Government, which has necessitated a review of how our institutions have performed since they were established. It seems clear to me that there is general agreement, all around, that there is need to strengthen the Commission so as to empower it to play the important role expected of it for the integration process on the continent. This view, we are glad to note, is shared, not only by the Audit Panel, but also by the Ministerial Committee on Union Government.

31. The Panel's report on the Commission forms an important part of its work. The Panel, we believe, clearly highlighted the problems with the structure of the Commission, the contradictions in some of the instruments guiding it and the need to deal with these. It has also proffered some solutions, many of which, we can say, are extremely pertinent. That nearly 50% of the Panel's recommendations are on the Commission is, no doubt, recognition of its importance.

32. However, it is the Commission's candid view that a number of the Panel's recommendations are not specific enough to really tackle many of the serious problems it identified. It is for these reasons, and the need for the Executive Council and the Assembly to be provided, with concrete and actionable recommendations, that it have made some recommendations on which they could take or base their decisions. We therefore, herewith, make the following proposals partly to supplement the Panel's recommendations, fill the gaps where we think they exist and provide information or clarifications where we believe this is necessary. Many, if not all the recommendations we will make here emanate from proposals, which the Commission had made repeatedly, particularly as contained in the comprehensive Report on the strengthening of the Commission.

33. The Panel's recommendations on the Commission are contained in various sections. For the purpose of clarity, we will make our comments on the recommendations as they appear in the report, beginning with those in its paragraph 120 on page 46.

34. We have no difficulty in accepting the recommendations in the first five bullets of paragraph 120. However, they, especially the first one, cannot be implemented if other steps, particularly the last two recommendations, are not taken.

De-linking the Election of the Deputy Chairperson and Commissioners from Portfolios

35. The Commission agrees with the proposal to de-link the election of Commission from the portfolios they will occupy. However, it regrets to note that after clearly underlining the difficulties and contractions caused by the election of the Deputy Chairperson to be responsible for the portfolio of Administration and Finance, whilst the Chairperson is the Chief Executive and the Accounting Officer of the Commission, the Panel did not explicitly recommend what should happen to the portfolio now attached to the position. As the Commission's Chairperson clearly indicated to the Panel and also in the Chairperson's report (on the strengthening of the Commission) had he not managed the situation very carefully with the Deputy Chairperson, there would have been conflicts on a daily basis because the current arrangement in place amounts to having Co-Chairpersons, not a Chairperson and a Deputy. It is imperative therefore that the Deputy Chairperson should not be elected with the Administration and Finance portfolio. He could and should continue to be elected by the Assembly.

36. A corollary to this is that:

- i) There should be a "stand-alone" portfolio of Administration and Finance, as we had under the OAU when there was an Assistant Secretary General in charge of Administration and Finance, who was assigned by the Secretary General.
- ii) The Deputy Chairperson would assist the Chairperson in performing his duties, but could be assigned one portfolio as the Vice Presidents of the European Union, who hold a portfolio each.

Rationalising the Current Portfolios

37. In the Commission's view, one serious omission in the report is that, while the Panel agreed that there was need to rationalise the portfolios many of which are incongruous and that the Chairperson of the Commission was best placed to do so, it did not make concrete proposals on how this should be done. This is in spite of the fact that he had made concrete proposals on this in his report on the strengthening of the Commission.

38. In view of the importance attached to this issue, we would like to reproduce here the proposals the Chairperson of the Commission made on the re-configuration of the current portfolios and Departments, as well as what needs to be done to strengthen the Commission, the Offices of the Chairperson and the Deputy and the Commissioners.

39. Articles 13 and 14 of the Constitutive Act have defined areas of competence of the Executive Council and the Specialized Technical Committees, respectively. We recommend that the Commission should be structured so as to achieve maximum efficiency and effectiveness in carrying out activities in these areas, in close cooperation with other relevant organs of the Union, the Regional Economic Communities and Member States. The re-configuration of the STCs as proposed will need to be borne in mind here as well.

40. In addition to carrying out efficiently its activities in the political, economic, social and cultural fields, the structure of the Commission should also ensure an effective involvement of the African Union at international level through close follow up and monitoring of external partnerships and adequate representation in selected countries and Headquarters of international and other regional organizations. This would also facilitate the promotion of common positions among Member States on global issues. When one considers the height to which the Union's partnership with other continents, regions and single nations has been elevated, it is no longer possible to manage this important Union policy without a dedicated Department. Hence, the proposal to create a new portfolio for External Relations or Foreign Affairs. This portfolio can also manage the African Union missions in Europe and America and hopefully other places, giving them guidance and direction as the Panel Report recommends.

41. To ensure clarity and efficiency, it is important that, in addition to ongoing activities in various areas at national, regional, continental or international levels, the African Union Commission be entrusted with specific responsibilities that can be carried out most effectively at continental level. It should also be obligatory for Member states to abide by the Union's position and defend it. The Union should establish appropriate rules to ensure compliance with the policies and decisions of the Union.

42. As the Panel indicated, the configuration of the current portfolios are so wide-ranging that some of the Departments are required to perform totally unrelated duties. This creates difficulties for effective performance. Hence the proposal to re-configure the portfolios as follows:

- i) Administration and Finance**
- ii) Peace and Security / Defence and Security**
- iii) Political Affairs**
- iv) External Relations / Foreign Affairs**
- v) Infrastructure**
- vi) Trade and Industry**
- vii) Agriculture and Environment**
- viii) Social and Cultural Affairs**
- ix) Employment, Urban Development and Migration**
- x) Education, Science and Technology**
- xi) Economic Affairs**

43. With regard to the detailed structure and number of Directorates, Divisions, numbers of officers in each portfolio, etc, we recommend that this should be done by the Commission in collaboration with the PRC and that the report of this exercise should be submitted to the next Ordinary Session of Council in July 2008. In the

meantime, the financial implication of having additional portfolios would be found in annexe I attached to this report. We would only add here that due care will be taken to ensure that the best use will be made of the existing staff.

44. In addition, the Office of the Chairperson of the Commission should have the following Directorates and Services: Gender Directorate; Office of Legal Counsel; Office of the Secretary of the Commission; Directorate for Strategic Policy Planning, Monitoring and Evaluation; Communication and Information; African Citizenship and Diaspora Directorate; Protocol Services; Office of Internal Audit; Resource Mobilisation Unit; and Research and Analysis Unit. It is to be noted that this will not have any financial implication as only some restructuring of existing Directorates or services is required.

45. We equally recommend that the Office of the Secretary to the Commission should be enhanced as the main custodian of institutional memory of the Union and should have the following functions:

- i. Ensuring documentation of all AU meetings and dissemination of outcomes to Member States;
- ii. Providing secretarial services to the PRC and its Sub-Committees, the Executive Council and the Assembly;
- iii. Coordinating the meetings of all STCs in its various configurations;
- iv. Ensuring proper storage of AU Documents in a databank;
- v. Organizing meetings of the Commission;
- vi. Liaising with and coordination of the National Commission;
- vii. Assisting in programme coordination; and
- viii. Facilitating inter-organ relationships and relations with RECs and Member States.

46. In addition to re-configuring some of the current portfolios as suggested above, there is need to strengthen the ability of the Chairperson, his Deputy and the Commissioners to ensure that they have the capacity to perform their functions. In this respect, we wish to reiterate the following recommendations.

Office of the Chairperson

47. The Commission recalls that, following the 3rd Ordinary Session of the Assembly in Addis Ababa in July 2004, its appeal for appropriate staffing in the Chairperson's office was recognized. We fully appreciate this. However, given the diverse scope of operational responsibilities within the Commission and the Union, the Office of the Chairperson requires an officer with appropriate powers and authority. In this regard, we recommend that this office be headed by a Director of Cabinet with the rank of a Commissioner, assisted by at least three (3) competent policy officers. He/She should be appointed by the Chairperson and, in addition to his/her other functions, should continue to be responsible for overseeing the process

of policy implementation, programme coordination and resource mobilisation, which form part of his responsibilities now. There is need also for the Office of the Chairperson to be adequately staffed with translators/interpreters.

Offices of the Deputy Chairperson and Commissioners

48. Presently, the Deputy Chairperson is assisted in his office by a Deputy Chief of Staff and a Special Assistant, while the Commissioners have only their Special Assistants. This has been found to be grossly inadequate for their responsibilities. It is, therefore, strongly recommended that the Deputy Chairperson be assisted by additional staff of two (2) Advisers and the Commissioners by one each. This will provide more depth for the work of these officials. The Advisers, whose job description and responsibilities should be defined, could be appointed by the Commission. We shall elaborate on the co-ordination role these additional staff in the Offices of the Chairperson, the Deputy and Commissioners could play in coordinating the work of the Commission and ensuring coherence in the Commission.

Appointment of Commissioners

49. The Panel recognises the need for the Assembly to adopt modalities for the appointment of the next Commissioners. However, it does not provide any proposal on how this should be done. We therefore reiterate the Commission's earlier proposal on which it had hoped the Panel would have pronounced itself. We therefore reiterate them here, albeit in a modified form.

50. Under the current arrangement, the Chairperson does not participate in the appointment of the Commissioners and the assignment and reassignment of portfolios. This carries with it operational difficulties and attendant consequences. In the spirit of the quest for a re-invigorated Commission and the need to foster cohesion in support of unity of action, future Chairpersons should be involved in these processes.

51. We therefore propose that, unlike the current process outlined in Article 13 of the Statutes of the Commission, the Commissioners should be elected by Council from a shortlist of candidates prepared and submitted by the Chairperson of the Commission. Taking into account the number of portfolios proposed above, the Chairperson of the Commission should submit to Council a pool of thirty (30) candidates from which Council could elect, taking into cognisance their qualifications, experiences, and the need for equitable geographical distribution and gender equality. In this process, the Chairperson would need to consult very widely at both national and regional levels.

52. Alternatively, Council could itself undertake the short-listing of two (2) candidates per region per portfolio from which the Chairperson could select those to work with him. The process of undertaking the short-listing by Council will have to be far simpler than the current one which has been found to be rather cumbersome and unwieldy. Indeed, the Commission has been exploring the possibility of acquiring an appropriate electronic voting system and has reported its progress in the report of the Chairperson submitted to this session.

53. We believe that when the Pan-African Parliament (PAP) has full legislative powers, there will be need to ensure its involvement in the process of the appointment of the Commissioners.

54. Finally on this issue, we wish to point out that although in the Chairperson's proposal, there will be eleven portfolios, in addition to the Chairperson and the Deputy. Consequently, only twelve (12) people, not thirteen, will be elected. This is because one of the eleven portfolios will be assigned by the Chairperson to the Deputy Chairperson. Therefore only ten Commissioners will be elected.

55. With respect to the principle of gender equality, which must apply, and distribution of the posts among Member States, we wish to suggest the following:

- i. Gender equality should be applied overall within the Commission, and not by region as is presently the case. This is to say that the Commission should be made up of six men and six women. This will therefore need to be taken into account when elections are held.
- ii. Currently, each region has two Members of the Commission. We recommend that West and East Africa, which have 15 and 13 Member States respectively, should have one additional position each. Any additional posts should go to the other regions as and when they are created.

Overview of Management in the Commission - Paragraph 121-128

56. The Commission shares the view of the Panel regarding management within the Commission, inadequate co-ordination between Departments, and the infrequency of the meetings of the Commission (Policy Cabinet). The Panel itself recognizes some of the reasons for this. We should only add that there is a very limited power given to the Chairperson of the Commission to take actions against erring Commissioners. This needs to be addressed in the future.

57. The Panel alludes to the frequent travels by the Commissioners and staff, which is true. However, a closer look at the reasons for this will show that many of them were unavoidable. The truth is that Member States offer to host Union meetings and this is encouraged because it helps to popularise the activities of the African Union. We would like to put it on record that the Chairperson scrutinises requests for Missions and approves them when he considers that they are justified. In his absence, the Deputy Chairperson performs that role.

58. We also agree that there is not enough consultation within the house and the use of the expression by the Panel "working in silos" is justified. The result is that very often, it is Departmental, not Commission, proposals that are presented to Member States. In this respect, we do agree that the Commission must meet more frequently, and policies, programmes and activities to be taken to Member States and meetings with partners and other inter national organisations must first be discussed and agreed by the Policy Cabinet. We also agree that there should be greater coordination and wider communication within Departments.

59. However, while we agree with the Panel's recommendations regarding the need for more meetings of the Commission under the Chairperson's leadership, the

meetings of Directors, and inter-departmental co-ordination, we believe that the Panel's recommendations on how to improve co-ordination within the Commission, which will result in coherence in policy formulation, do not go far enough.

60. Firstly, the proposal that the Secretary to the Commission should be the Head of the African Union Commission's Staff and be responsible for inter-departmental and Directorate co-ordination cannot work, neither is it feasible. Moreover, the proposal that the Secretary to the Commission should also monitor the submission of missions reports is not also practical. The reasons for these are as follows. The main responsibility for coordinating the Commission's work is that of the Chairperson of the Commission. In this respect, he has assigned that responsibility to the Chief of Staff or, as under the OAU, the Director of Cabinet. That function was approved when the structure of the Commission was being put in place. Secondly, and for the same reason just given, the submissions from all Departments go through the Bureau of the Chairperson and it communicates with the Departments largely through the Chief of Staff. Thirdly, the Secretary to the Commission comes under the Chief of Staff and has the same status as other Directors. Regrettably, the Panel did not discuss with the Bureau of the Chairperson this aspect, otherwise it would have been given necessary clarification on the matter.

61. With respect to strengthening the coordination process, the Commission would like to refer to the Chairperson's proposals in paragraphs 45 and 46 regarding the strengthening of the Offices of the Chairperson, the Deputy Chairperson and the Commissioners. This involves giving the Director of Cabinet the rank of a Commissioner as obtains in our countries. This would ensure that he is able to perform his coordination and other roles, vis-à-vis the Commissioners and the Directors. Secondly, the Staff of these Offices should be strengthened so that their technical competence could be increased. One of the major reasons for these proposals is to enable the Cabinets of the Chairperson, the Deputy and the Commissioners to be in a position to coordinate policies, projects and programmes emanating from all Departments.

62. Consequently, the Commission's proposals on how to improve coordination within the Commission and ensure that we produce Commission, not Departmental policies and programmes, are as follows:

- i) Departments should initiate policies programmes and activities and circulate them to the Offices of the Chairperson, the Deputy and all Commissioners for study.
- ii) These Offices should make their comments and submit to the initiating Department. It is assumed that the comments from them have been vetted by the various bosses.
- iii) Thereafter, the initiating Department should submit a composite proposal, taking other views into account for discussion at the meeting of all Directors.
- iv) Finally, the product of the Directors' meeting should be submitted to a meeting of the Commission - that is the Chairperson, the Deputy Chairperson and the Commissioners, which would approve the proposal in question.

We know that this proposal will be time consuming. It will also require the necessary personnel, perhaps more than we have proposed in the document. However, it is the only way to go when we are talking of giving the Commission more responsibilities. This process will also ensure that there is coherence in the work of the Commission, the leadership of the Commission will all be aware of what the whole organisation is doing and Member States will have faith in the Commission's work, and hopefully, will trust it to be their spokesperson!

63. We strongly recommend this approach for approval by the Executive Council and the Assembly.

Staff Recruitment, Performance Standards and Career Development – Paragraph 129-145

64. The Commission notes that while the Panel did meet with the Deputy Chairperson and briefly talked to the Director, Administration and Human Resources Development, there are some inaccuracies in some of its assertions. For example, in paragraph 131 of the report, the Panel asserted that the efficiency of the recruitment process in the Commission was “hampered by the need to seek PRC approval for all vacant positions to be filled”. This is because the PRC is only involved when proposals for new structures are made, but once approval is obtained the PRC is interested only in the Commission following laid down procedures for recruitment.

65. The Commission has taken due note of the Panel’s recommendation to broaden the avenues through which vacancy notices are published and will do so within the context of available resources, cost permitting, attempt to do so. It however wishes to point out that, as a matter of fact, very often the Commission is overwhelmed by the number of applications received from Member States and Africans in the Diaspora when vacancies are announced.

66. The Commission recognizes that its post-recruitment procedure is not yet fully operational. However, post-recruitment induction has been introduced and will be consolidated. Similarly, the use of Consultants to assist in recruitment exercises will diminish as the Commission’s capacity develops. The Commission however wishes to point out that the assertion that there is no departmental input in the selection of professional staff, which it said had caused “management alienation”, is not entirely correct. This is because a representative of user department participates in the interview process, and now scores the candidate, which did not use to be the case. However, the Commission will continue to strengthen department involvement.

67. The Panel has recommended the urgent establishment of an African Union Service Commission (AUSC). While the Commission recognizes the rationale for this recommendation, it does not believe that the establishment of the AUSC will deal with the problems the Panel alluded to. As proposed, the AUSC will more or less replace the Department of Administration and Human Resources Development, as well as the other institutional mechanisms embodied in the Staff Rules and Regulations on appointments, promotions and discipline. Whereas these issues require to be dealt with on a daily basis, the AUSC as proposed, will only “meet at least twice a year on a fixed schedule with appropriate specialized resource - persons drawn from Departments” - page 54. It will be impossible for these issues

to be dealt with effectively on a prompt and regular basis by a Commission which meets twice a year.

68. The Commission recognizes that there are deficiencies in the way recruitment, promotion and disciplinary matters are dealt with. However, an AUSC cannot replace the instruments, which we have in place which include APROB, (the Appointment, Promotion and Recruitment Board), the Joint Administrative Committee (JAC) Disciplinary Board and the Administrative Tribunal. All of these should to work better so that staff welfare will be handled better.

69. Having said this, we agree with the observations made in the Report on the need to reactivate the work of the Ad-Hoc Administrative Tribunal. The Tribunal has not met for a number of years as indicated in the Report, but this was due to a number of factors including late nomination of judges by Member States, that no Officer could be identified within the Commission to perform the duties of Secretary, and the fact that there were only a few pending cases. In the meantime, there are various stages of the procedure provided for under the Statute and the Rules of Procedure of the Tribunal that needed to be taken before the Tribunal could be convened, namely considering the pleas to ensure conformity with rules, notifications to the plaintiffs, answers and replies, interrogatories, notifications to the judges, compilation of the final dossiers, convening of the Tribunal, etc.

70. Whilst it is true that there are a few pending cases, the Commission is not aware of staff members "awaiting a hearing in order to receive payments or benefits that have been withheld" as indicated in the Report of the Panel. Indeed, most of the remaining cases relate essentially to disputes over retirement after 30 years of service, in keeping with the provisions of Article 51 (a) (ii) of the Staff Rules and Regulations. Nevertheless, the Commission agrees that there is urgent need to take all necessary measures so that the Tribunal will be in place to deal with pending and future matters without delay.

71. In addition, the Commission has taken steps towards putting in place the put in place Special Recourse Mechanism to adjudicate on staff complaints regarding allegations of unfair treatment. In this regard, Council will recall that during its Third Ordinary Session held in Maputo, Mozambique from 6 - 8 July 2003, it requested (Decision EX/CL/Dec.34 (III)) to establish such a mechanism. In this regard, consultations on the methodology for implementing the Executive Council's decision, involving all relevant departments and services, and the Staff Association, were held and a document prepared. The text sets out the rationale, mandate, composition, legal framework, powers and functions, procedure for lodging complaints, review, costs, and other issues. We are now at a stage where what remains is approval of the document followed by implementation.

72. It is the Commission's view that when all of these are in place and are working well, it will not be necessary to establish an African Union Service Commission as proposed by the Panel.

73. Finally on this subject, the Commission wishes to point out that the recommendation that it establish a paid programme of Young Professionals and a Voluntary Internship Programme to inculcate pan-African perspectives and skills in the next cadre of professional African Leadership, is already envisaged in the

framework of the African Volunteers Corps Programme that the Commission is developing. It therefore does not need to exist as a separate programme.

Representation of Women and Gender Parity in the Staffing of the Commission - Paragraphs 146 - 149

74. The Commission notes, with appreciation, that the Panel recognizes the major strides the African Union has made in mainstreaming gender. It can only re-affirm its determination that this effort will continue in the future. Although the Panel was un-impressed by the Commission's explanation for lack of gender parity - fewer applications by qualified and competent women - but this is the reality. Similarly, the recommendation that the Assembly should consider enforcing gender parity for all Staff of the AU seems also impracticable, at least at this point in time. The Commission would however continue to strive towards this, but this is not a matter that can be decreed.

The Relationship Between the Office of the AU Chairperson and the Commission - Paragraphs 153-154

75. The Commission appreciates that the Panel recognizes the importance of coordination between the current Chairperson of the Union and the Commission. This is vital if the Union is to act in a coherent manner and be in a position to respond to critical issues promptly. What occurs presently is that each Chairpersonship, sees AU activities as an extension of his country's foreign policy engagement. In our experience, very few AU Chairs have taken the Commission into confidence before launching AU related initiatives, sometimes on very critical issues. It is therefore important to put in place a structure that will ensure regular flow of information between the current AU Chairperson and the Commission.

76. The Panel has recommended that a small Unit each be created in the Offices of the Chairpersons of the Union and the Commission. In our experience, this will not solve the problem as it has been tried and has not worked. We would therefore like to re-visit the proposal made in the Chairperson's Report on the Strengthening of the Commission. This appears in paragraph 19 of that report and it involves the creation of a 3 - person Unit in the Office of the current AU Chairperson, to be staffed by AU Commission personnel and located in the capital of the Chairperson's country. Such a Unit will provide daily updates on events and activities in the Commission and on Africa and will also convey to the Commission, information from the Chairperson on his AU - related activities. The Unit will also provide advice as necessary, which will ensure that there is synergy between the actions of the AU Chairperson and those of the Commission. We believe that this is the way to go.

Technical and Representational Offices - Paragraphs 166 - 174

77. Since the current Commission assumed duty, serious efforts have been made to strengthen all our representational and technical offices. We believe that these offices are operating much better now and are providing invaluable services where they exist. We do agree with the Panel that there is need for the Representational Offices to have "technically qualified" personnel and to have more guidance from Headquarters. However, we believe that the staff in the Offices in Brussels, Cairo, Geneva, Lilongwe, New York and Washington do have "technically qualified

personnel". What is amiss is that the staff complements are so limited that they really cannot meet their obligations in full. It is this aspect that must be addressed, so that the offices could perform their functions even better.

78. With respect to better guidance from Headquarters, we believe that this will take place if the Chairperson's proposal to have a portfolio to manage our External Relations is approved. The intention is that there will be a dedicated Department which will inter-act with the offices on a daily basis, examine what they (offices) are doing, and provide guidance as necessary. Right now, the Offices are managed by different Departments, which, because of their own limitations, cannot adequately give direction. We strongly believe that with a Department of External Relations in place, this problem will be dealt with.

79. Indeed, the Commission's hope and expectation is that the Union will have more representational offices because the influence and reach of the AU, as well as its activities have grown tremendously in the last few years. For example, the AU needs to be represented in Paris, Rome and Vienna where UNESCO, FAO and UNIDO, as well as the International Energy Agency and the UN Drug and Crime Office, are located, respectively. These organizations, all have so many activities with the AU that having AU's presence there has become an imperative. Indeed, we have received encouragement from the Government of Austria, which is willing to offer facilities to support an AU Office in Vienna. In addition, we propose, as we did before, that the AU should consider establishing an office in the capitals of each of the remaining four Permanent Security Council Members namely, Beijing, London, Moscow and Paris. The Paris Office could serve the UNESCO and other international Organizations there.

80. Similarly, we have entered very active engagement with the African Diaspora such that demands are being made on the AU to be present in Brazil for South America and in the Caribbean. In the meantime, and as had been proposed before, a system could be put in place to have the African Union to be represented by the Deans of the African Ambassadors in countries outside the Continent where the AU is not present.

81. Furthermore, the AU should consider the appointment of AU Honorary Consuls in cities where there are large numbers of Africans and people of African descent. Of course, before this is instituted, all aspects of the proposal, including the choice of centers and the Honorary Consuls, their functions, etc., will be properly worked out.

82. In the meantime, and before the additional offices could be properly established, the proposals that have been made that one AU staff member could operate from the Mission of an African country in the capital we want to establish a presence should be explored. Such a presence would make quite a difference for the extension of AU's presence and influence.

83. The Technical Offices have also been doing excellent work, which we believe, many Member States that have seen them at work will testify to. This is also supported by the fact that the activities of the technical offices receive considerable funding from external sources. We therefore have no doubt that an audit of their

performance and outreach, as recommended by the Panel, will lead to a positive outcome.

84. The Commission is not however sure what the intention is of the Panel's recommendation for a "cost-benefit analysis" to be carried out on the future of existing offices. One only needs to interrogate African Missions in New York, Geneva, Brussels and Washington, or the Southern Africa region to see how useful these offices are. The assertion that the Offices in Brussels and Geneva make "Little or no input" to the complex negotiations going on there and which affects Member States is clearly not correct as both offices play a vital role in galvanizing Common African positions. What is required is to strengthen the Offices, as well as the ones in New York and Washington with more hands.

85. It is noted also that most, if not all, the vacancies in Brussels and Geneva Offices have been filled.

Implementation of the Strategic Plan (2004-2007) - Paragraphs 175 - 184

86. It is regretted that the Panel seemed to have spent more time on the contracts allegedly awarded in preparing the Strategic Plan, and the evaluation of its performance, rather than the content of the Plan. This is one area in which the Panel checked some of the information it received with the Management of the Commission which provided it with accurate facts. For example the Panel was informed by some people that a US\$ 9 million contract had been given to PMC, one of the Consultants, which worked with the Commission to develop the Strategic Plan, to review the "performance of the Commission against the Strategic Plan that they had largely written". The Commission did prove to the Panel that no such contract of US\$ 9 million was ever signed and the nature of what PMC was engaged in was not to review, as it were, its own contract. Nevertheless, this did not seem to have altered the Panel's original conclusion and recommendations on the issue.

87. For the avoidance of doubt, the Commission wishes to state the following regarding PMC's initial involvement and what it is doing now. It was true that PMC played an important role in coming up with the 2004-2007 Strategic Plan, but its role was more as a facilitator of the process and a strategic partner. It helped to synthesize the contributions from the senior management staff of the Commission, Member States, the RECs, Civil Society Organizations, African private and public sectors, great African thinkers and others. At the time this was done, the Commission was just being established and certainly did not have the requisite hand in-house to do the work PMC and other Consultants helped the Commission to undertake. The Panel itself recognized the excellent work that was done to prepare the Strategic Plan when it remarked in paragraph 175 of the Report that "The nature of wide consultations among Member States, academics and practitioners in development, human rights and human security, on the Strategic Plan in 2004, was a positive watershed for the working methods of the African Union".

88. The Commission wishes to say that it partnered with various providers for the implementation of the Plan but as the capacity of the Commission improved, its staff has taken on more of the burden of the execution of the Plan. Indeed, the SPPME Directorate has been monitoring the implementation of the Plan and PMC's involvement now is only to complement what that Directorate is doing as we prepare

for the next phase of the Strategic Plan. As far as the management of the Commission is aware, the nature of the contracts with PMC and others have not been called to question and it is rather surprised that all the three recommendations of the Panel on the Strategic Plan are on the contract with PMC or its involvement.

Impact of the Commission on the Policies, Resource Allocation and Regulatory Frameworks of Member States – Paragraphs 185-193

89. The Commission is largely in agreement with the recommendations under this subject as contained on page 69 of the Report and hopes that Member States will accept them for implementation. The Commission would be willing to play its part in their implementation.

90. The Commission is in agreement with most of the observations is made by the Panel under this subject. We believe that what this indicates is that if provided with adequate human and financial resources, if the governance structure could be improved and if Member States fully implement the decisions they take and allow the Commission to take the lead once common positions have been agreed, the Union would only grow from strength to strength.

91. Nevertheless, the Commission considers that the Panel's conclusion has not fully exercised its mandate "to coordinate and monitor the implementation of the decisions of the Union". This is because on a regular basis, the Commission reminds Member States of decisions taken on various subjects and the need for them to implement them. The Commission, on an annual basis, designates a week when Member States are encouraged to sign outstanding Protocols, Declarations, etc. and also provides at every session of the Executive Council the state of implementation of decisions taken. It is therefore difficult to envisage what additional actions the Commission should take to encourage Member States to implement AU decisions they have taken. In the final analysis the responsibility to act rests with Member States.

92. The Commission believes that the Panel has identified one of the major reasons why the situation is as described. The Commission recognizes that most Member states do not have the structure in place to ensure the implementation of AU decisions. This is why the implementation of the recommendation to establish the NCAUA in each Member State will help immensely. The Commission therefore supports the proposal and will work with it once established.

Outreach of the Commission - Paragraphs 194 - 209

93. The Commission is also largely in agreement with the recommendations made on pages 74 and 75 on this subject. It wishes to emphasize that it will do even better if it had more facilities and resources, both human and financial.

94. However, the Commission wishes to make one observation and an additional recommendation. The observation concerns the recommendation with respect to putting in place the technology, which will allow Member States to download documents from the Commission directly and not have to rely on Missions transmitting them manually. The Commission's VSAT programme, which is being executed now, will certainly facilitate this. It is therefore hoped that the facility will

soon be in place. It is important, however, to emphasize that the input of Member States' Missions on subjects transmitted to their Member States will always be crucial being the body that works most closely with the Commission. Consequently, direct conveyance of documents to Member States should not prevent this from happening. Appropriate mechanism must therefore be put in place to ensure this.

95. In addition to the recommendations made by the Panel on this issue, the Commission also wishes to strongly recommend that the project of an African television and radio should be further pursued and actualized. There will be no better way of publicizing the activities of the Union than having the facilities that the Union or the continent owns, rather than relying on those owned by the West.

Impact of the Commission on Africa's Global Visibility and Assertiveness - Paragraphs 210 - 217

96. The Commission agrees with the Panel's views on this issue particularly the importance of the role the Commission has played in placing the Union on a very high profile. It agrees also with the recommendations made. However, it wishes to suggest that there is also need for the Commission to be allowed to play its representational role once common positions have been agreed. The process will be facilitated if the steps recommended by the Panel, the Ministerial Committee on Union Government and the Commission itself, on strengthening the decision making processes of the Union, are accepted and implemented.

Recommendations on the Pan African Parliament (PAP)- Paragraphs 218 - 228

97. In general, we agree with the recommendations made on the Pan African Parliament but we believe that PAP itself will convey its views. However, we believe that that it is necessary to make additional recommendations in order to address matters arising from the Protocol relating to PAP as well as the need to refocus its functioning as an organ within the AU family of institutions.

98. As observed in the Report of the Audit Panel, Article 25 of the Protocol provides that "five years after the entry into force of this Protocol, a Conference of the States Parties to this Protocol shall be held to review the operation of and effectiveness of this Protocol and the system of representation in the PAP..." The Protocol came into force on 14 December 2003 and we believe it is therefore necessary to start the process of review to address the two issues identified therein. Furthermore, we believe that the current difficulties encountered in the budgetary process of PAP's budget as well as its role, vis-à-vis the Permanent Representatives Committee and the Executive Council, is another additional reason for such a review.

99. We also propose that ways and means be found to assist PAP to align its internal Rules and Procedures, in conformity with the commitments it made to Council and the Assembly in January 2007, to the relevant legal instruments of the African Union, such as the Financial Rules and Regulations and Staff Rules and Regulations.

Recommendations on the African Commission on Human and Peoples' Rights and the African Court on Human and Peoples' Rights - Paragraphs 229 - 249

100. We agree with the recommendations made on the above institutions. However, we believe that the policy organs may wish to reiterate their previous decisions relating to the need to provide the African Commission on Human and Peoples' Rights with additional human and financial resources. We equally expect that these institutions will convey their comments on the Audit Report and proposals.

ECOSOCC: Commission's View - Paragraphs 250 - 260

101. The report on ECOSOCC is very balanced and extremely useful. The Commission agrees with the bulk of the recommendations. It is our conviction that the implementation of these recommendations will contribute significantly to making the AU a "people-driven organization."

102. However, there are areas that we consider as requiring further examination as follows:

- a) Review of ECOSOCC Statutes with respect to the eligibility of CSOs and the Organization of elections. We agree with the Panel that the experiences that have shaped the development of ECOSOCC in the life of the Interim Assembly should impact on a review of ECOSOCC Statutes so that appropriate recommendation can be made to the Assembly.
- b) However, we believe that such experience should focus attention on three main areas namely the requirement of gender parity and 50% youth representation, eligibility requirements.
- c) Gender Parity and Youth Representation. We support both requirements as stipulated in Article 4(2) of the ECOSOCC Statutes, which deals with Membership of ECOSOCC. However, the process of implementation requires further analysis. The requirement that each state should have one man and one woman is easy to apply but when combined with a requirement of 50% youth representation it poses a logistical difficulty. It is difficult to impose categories on CSOs without breaching their right of choice to effective representation. Our experience in ongoing elections is that gender parity could be achieved. Indeed the ongoing trend is that there will be more women than men in ECOSOCC. However, youth organizations find it hard to fulfill the eligibility requirements and CSOs that meet the requirement have not shown a positive inclination towards youth representation. We would therefore propose that consideration be given to youth groups to have about 10% of total representation outside this box to ensure their effective representation within ECOSOCC. For this purpose, the eligibility requirements for Youth Organizations could be lowered.
- d) Eligibility requirements. The argument surrounding the eligibility requirements is really about auditing requirements of Article 6(4) and particularly Article 6 (6) of the ECOSOCC Statutes which states that the "The basic resources of such an Organization shall substantially, at least fifty percent (50%), be derived from contributions of the members of the Organization. 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 Organization shall be declared and fully recorded in the financial records of the Organization.”

The PRC and Executive Council introduced this provision to ensure that CSOs are actually representative of categories of people. Experience in ongoing elections are that it has provided more diversity and high caliber in the nature of representation to cover professional groups, trade unions, NGOs, etc as intended in Article 3 which highlights the different social and professional groups to be included in ECOSOCC. This also the intention of Article 22(1) of the Constitutive Act that ECOSOCC should be comprised of social and professional groups of Member States of the Union. To remove this provision would give NGOs a preponderance in ECOSOCC and undermine the criteria of diversity, which is in the interest of the Union. Perhaps the best thing to do therefore would be to reduce the requirement of membership contribution to 1/3 or 40%. The Audit requirements should also be maintained since CSOs should also have the responsibility, to conduct their affairs with transparency just as Member States are expected to.

- e) Pre-Summit meetings. We believe that the proposal of the Panel that ECOSOCC should fully organize the Pre-Summit meetings will defeat its main purpose. It is not the intention of the Constitutive Act that AU-CSO relations be confined to ECOSOCC as a representative Assembly. Pre-Summits are convened as occasions where CSOs that are not in ECOSOCC scrutinize the evolving CSO agenda including the work of ECOSOCC. ECOSOCC has its own Assembly and Standing Committee meetings. There should be a forum that assesses their activity independently among others, to see how the CSO agenda of the Union is evolving. The bulk of representation of such meetings should be non-ECOSOCC, otherwise the Pre-Summit would simply be another ECOSOCC convention.
- f) The proposal that ECOSOCC report should be submitted to Council for onward transmission to Assembly is not cognizant of the responsibility of the Executive Council within the framework of the AU. ECOSOCC reports must be substantially discussed at Council level, which would then make recommendations to the Assembly, as with other crucial matters. There should be no short cuts.
- g) The proposal that ECOSOCC be given an opportunity to substantively address the Assembly is a good one but is already provided for in the requirement that the Presiding Officer make a statement to every Assembly. Given the nature of Assembly agenda, it would be difficult to enlarge on this provision.

Assessment of the Peace and Security Council - Paragraph 261 - 304

103. The Panel’s assessment of the Peace and Security Council (PSC) is very detailed and encouraging to the Commission. Most of the recommendations therefore seem acceptable to the Commission. It would be a great day when the

African Union is able to fully implement its peace and security architecture and not have to depend on external partners to fund its peacekeeping and peace building operations. This requires the determination of not only the Commission but the Member States in particular. It is hoped that both sides will show the necessary will to achieve these objectives. In addition the continent should exert more efforts to secure UN funding for AU - led, and UN authorised peace-support operations, as a regional mechanism.

The AU and its Relationships with the ECA and ADB – Paragraph 305-318

104. The Commission accepts the fact that the Economic Commission for Africa (ECA) and the African Development Bank (ADB) are its natural partners. Consequently, the Commission could accept the Panel's recommendations as on page 112 of the report and hopes that the two institutions will continue to be worthy partners. To make this happen appropriate and institutionalised Mechanisms must be put in place, including a Joint Secretariat.

The AU and its Relationships with the RECs - Paragraphs 319-382

105. The AU considers the RECs as its building blocks. Consequently, they constitute an extremely important part of its integration process. The Panel's work on the RECs is very detailed and does not need much commentary from the Commission. The Commission is also glad to note that the Ministerial Committee reflected very deeply on the relationship between the AU and the RECs. Consequently, the Commission recommends that the Committee's work and recommendations should be taken together with those made by the Panel. The implementation of both sets of recommendations will certainly be a tremendous lift to the continent's integration.

The New Partnership for Africa's Development (NEPAD) - Paragraphs 383 - 403

106. The Commission, together with the NEPAD Secretariat produced the joint proposal that the NEPAD Heads of State and Government Implementation Committee (HSGIC) considered during its brainstorming session in Algiers, Algeria, in March 2007. Consequently, the Commission has no difficulty in endorsing the recommendations made by the Panel on the integration of NEPAD into the African Union structures and processes. However, we recommend that the body that should replace the NEPAD Secretariat should be an Agency and not an Authority. Furthermore, the Commission wishes also to emphasize that there is urgency in ensuring that the integration of NEPAD takes place in order to contribute to advancing, not only the development of the continent, but the integration process. It hopes therefore that the Panel's recommendations will be accepted and implemented.

Financing the African Union and Managing its Resources - Paragraphs 404 - 431

107. From the onset, the Commission wishes to note that this is the section of the Panel's report that presents the greatest challenges to it, and for that matter, Member States. This is because it contains a lot of inaccuracies, and several of the information upon which the Panel based its conclusions and recommendations were

incorrect. The Commission feels quite certain that on many of the issues, the Panel's views and recommendations would have been significantly different if it had checked the facts with the Commission's management.

108. The Commission of course admits that there are many areas in the management of its resources, which should be improved. Accounting for contributions from partners has been problematic as well. However, the Commission wishes to recall the following.

109. In 2003, the Commission, at the instance of Member States, requested Ernst & Young (E&Y) to look at its financial and management structures and processes with a view to advising it on how to improve these. Secondly, in 2005/2006, the Commission agreed with Member States and its Partners for Ernst & Young to carry out an institutional assessment with a view to also looking at what areas still required improvement. The Commission confirms that the recommendations of (E&Y) on both occasions are being implemented although some of the equipment and the instruments envisaged have not fully come on stream.

110. In this respect, the Commission wishes to point out that the following actions have been taken in order to improve the management of Union's resources.

111. Following the completion of E & Y 's work, its recommendations were taken to the Khartoum Council, which endorsed them. Thereafter, the AUC intensified efforts aimed at putting in place an Integrated Management Information System (IMIS). IMIS has two components, the Integrated Financial Management Information System (IFMIS), and the Human Resources Information Management Information Systems. Once operational, IMIS will provide the AUC with a modern system with the state of the art functionality to fulfil its financial as well as human resources management functions, thus greatly enhancing the operational functionality, accountability and transparency of the Commission.

112. The first phase of IMIS implementation focussed on design activities, which included business processes re-engineering and culminated in the preparation of bidding and request for proposal documents. A bid for application software (lot 1) and hardware and system software (lot 2) was launched on May 15 2006 and the respective tenders were awarded on 23 November 2007 and 10 August 2007, following a comprehensive evaluation process.

113. In order to tighten financial management ethics and operations, the AUC reviewed the existing rules and regulations and presented a revised set that was approved by Council in Banjul in 2006. In addition, the AUC has undertaken a thorough review of its financial management processes and procedures and prepared some operational guidelines and manuals that would be transferred to the IMIS once it is operational. An Audit Charter and Manual have also been finalised through a contract with the consulting firm, Deloitte & Touche.

114. In the meantime, the AUC has designed and begun implementation of an initiative known as the Process Facility (PF). The PF is an interim mechanism that will ensure the development of quality project proposals, efficient and transparent

fund handling and procurement as well as quality and timely reporting. It will also improve overall workflow management and coordination and serve as a bridging gap until the new Integrated Management Information System (IMIS) is effectively in place.

115. The fact that the AUC is faced with the challenges of consolidating the institutional change process, while at the same time implementing priority programmes approved by Member States against the backdrop of a recruitment process that is still underway, means that a capacity gap has been created that can only be closed over time as the institutional change process progresses.

116. It is against this background that the AUC commissioned a small but effective inter-disciplinary team of staff members to design a short-term measure to close this capacity gap until the revamped systems are up and running and the recruitment process is completed. The PF is designed in such a way that it will cease to exist after a period of two years and the IMIS project will absorb the systems, procedures, templates and tools developed under its auspices.

117. The PF is now operational with the completion of the following procedures, tools and templates:

- Project Proposal templates that emphasise results and performance indicators;
- Putting in place procedures for objective review of the Draft Budget prior to its submission to the PRC;
- Standard joint financing agreement to facilitate pooled funding by Partners thus facilitating flexibility and predictability of resource flows and also reducing transaction costs on the part of the AU Commission through harmonised reporting.
- Project Work Plan template that will facilitate detailed breaking down and timing of activities thus making it easier to track and report on implementation progress. This will also introduce some accountability and transparency in the implementation and reporting on the Programme Budget.
- Project Reporting template that will facilitate six monthly reporting (both narrative and financial) thus enabling half-yearly review of budget implementation as well as comprehensive annual performance review and reporting.
- Fund Accounting Software that will enable the timely production of quality programme implementation reports.
- Fund Accounting Manual as well as Fund Management Guidelines to enable the effective and transparent management of programme funds.

118. In addition to the above and in the context of the PF, the AUC has completed the preparation of a Revised Procurement Manual. This was done through commissioning a consultant from Crown Agents with financial support from DFID to undertake a review of the current procurement procedures to align them with the

Revised Financial Rules and Regulations as well as internationally recognised best practices.

119. The Draft Manual was comprehensively reviewed by an internal inter-departmental team. Substantive comments were provided to the Consultant prior to the finalisation of the Manual. The Manual was also shared with some key Partners to test its compliance with internationally accepted best practices. The response from Partners as well as other internal sources has been on the affirmative.

120. The Consultants are now at an advanced stage of finalizing the tools and templates for the operationalization of the Revised Procurement Manual and are expected to deliver the final product by the end of January 2008. Training programmes on the application of the manual will be conducted for the AU Commission as well as other Organs and Regional Offices. Crown Agents will certify in writing that the procurement operations of the AU Commission are now in line with internationally accepted best practices.

121. The AUC is fully committed to improving its operational systems through the use of efficient tools and processes that will enhance accountability, and transparency. In this context, ways and means are being explored to fast track the implementation of the ITP, over and above the initiatives mentioned above. In this context, the process of hiring an ITP Manager with funding from the EC is at an advanced stage. The hiring of a full-time ITP Manager will give new impetus and coordination in the implementation of the Programme.

122. The Commission would have made this information available to the Panel if the matter had been raised with any of its Management staff, particularly the Bureau of the Chairperson. It hopes that it would be clear that the assertion in paragraph 415 that “no internal action has been taken to adopt the new international standards and procedures developed”, is certainly not correct. Indeed, our partners have already accepted in advance that once the work being done on procurement procedure is completed, and all the tools being developed are in place, they will be happy to apply them rather than their own. The development of a Joint Financial Arrangement by a pool of our Partners is also testimony to the fact that we have actually made good progress.

123. The Commission finds it unfortunate that the Panel describes in para. 416 the African Union Passport as a similar incident to the Dakar Conference. The Commission considers the Dakar Conference as a very serious issue over which the Commission itself felt so strongly that it invited an independent firm - Ernst & Young - to look into the matter. The Commission has admitted that very many things went wrong in the management of that Conference. Action is being taken to clear all the issues related to it and a commitment has been made by the management of the Commission not to have a repeat in the future. There is therefore no parallel between the African Union Passport and the Dakar Conference. While the Commission agrees that an aspect or another might not have been done in full conformity with the spirit of the rules, the processes required have been largely followed.

124. The main facts which would have been made available if this matter had been raised with the Management of the Commission are as follows:

- i. Following proposals on the subject, the AU recruited a consultant to elaborate a concept paper on the establishment of Free Movement in Africa as it relates to the African Diplomatic and Service Passport; Visa regimes and Residence permit; Deportations and Mass Expulsions.
- ii. Several meetings were held on the subject and decisions taken including the following:
 - a. Ministerial Conference on Immigration Matters from 17-18 June 2005 Tripoli, Libya;
 - b. This was preceded by a meeting of Governmental Experts on Immigration Matters from 15-16 June 2005 Tripoli, Libya;
 - c. The Executive Council considered the report of the Ministerial meeting and adopted Decision EX.CL/Dec.211 (VII) at Sirte, Libya in July 2005
- iii. The following steps were taken to Implement Decision EX.CL/Dec 211
 - a) A Committee of Experts from Member States, with the responsibility of providing guidance to the Commission on matters related to free movement of persons in Africa, was established in August 2005. It was composed of the Bureau of Member States Experts Committee on Free Movement, as follows (Nigeria – Chair, Libya – 1st Vice-Chair, South Africa – 2nd Vice Chair, the Sudan – 3rd Vice-Chair, Burundi – Rapporteur). It also included regional representatives namely Namibia – South Djibouti – East, Senegal and Burkina Faso – West, Cameroon – Central, Egypt and Algeria - North
 - b) The Commission convened a meeting of the Bureau from 15-16 June 2006 in order to get guidance on the implementation of Decision 211 especially as it relates to the issuance of an African Diplomatic Passport
 - c) The Bureau held several meetings on how to implement the issuance of an African Diplomatic Passport including one of which was the meeting that took place on 15 February 2007 where it was recommended that due to time constraint, the Bureau should not subject the selection of a printing company to the AU bidding process but would single source a capable company to produce the AU Diplomatic and Service Passports
 - d) The Bureau further endorsed the recommendation of the Committee of Experts on Free Movement of Persons in Africa to select an Africa-based company to produce the document. To this end, the AU Consultant was requested to draft technical specifications and security requirements that would indicate the expected standard of passport. The AU Commission was also requested to send the technical specifications to Member States as a follow-up to earlier communications recalling the previous one sent in December 2006 that requested Member States with the capacity to produce passports to express their interests to the AU Commission.

- e) The Consultant was then requested to review all applications by Member States, vis-à-vis, the set standards and short-list a few companies that met the set criteria. The Commission thereafter invited the short-listed companies to show their sample passports and their different security features to the Bureau of the Committee of Experts on Free Movement.
- f) The Commission only received 5 responses from Member States all in the form of the note verbales, indicating their capabilities and interest to produce an African Union Diplomatic Passport.
- g) Thereafter the Companies were invited to make a presentation during a meeting of the Bureau on 12 March 2007, where the South African Printing Company was selected. A report evaluating the various bids is available.
- h) Following the selection of the south African Printing Company, 40,000 African Union Diplomatic and Services Passports were ordered along with other equipment and passport verification devices.
- i) Before making any payments to the South African Company, the matter was presented to the AU Tender Board for endorsement during a meeting that took place on 8 June 2007. The Tender Board did not endorse the actions taken by the Commission and the Committee of Experts from Member States.

125. The Commission agrees that an error was made by not referring the technical work done by experts from Member States to the Tender Board after the latter completed its work. This is regrettable. The fact is that the Tender Board's work would have been facilitated since no member of the Board has the requisite technical know - how on passport production.

126. Having said this, it is also to be pointed out that when the Tender Board did not endorse the action referred to above, the Chairperson of the Commission who is the accounting officer was not informed about it so that remedial action could have been taken. Given the urgency of the matter the launching of the passport was scheduled for 25 May 2007 during the celebration of Africa Day - action was taken for the production of the passport.

127. Another flaw in the structure in the house which this issue brings out is the sweeping powers that the Tender Board seems to have. As things are, the Board's decisions seem final as they do not report to the Chairperson or the Deputy. While the Commission understands that there is need for the Board to be insulated from any influence, the Tender Board should submit its reports to the Chairperson, as the accounting officer, at least for his information and necessary action.

128. The Commission would also like to indicate that contrary to the impression given in the Panel's report, the Commission has taken action within the various decisions of its instances. In addition to the Decisions referred to above in paragraph 122, two other Decisions are also relevant. These are Dec. EX.CL./Dec.337 (X) of January 2007 taken in Addis Ababa and Dec. EX CL/Dec. 354 (XI) of Accra Ghana in June 2007. The first one requested, among other things

that the Commission “take necessary measures, in collaboration with Member States, to launch the African Union Diplomatic Passport as early as possible”. The other decided that the African Union Passport should be de-linked from the issue of free movement in Africa but called on the Commission to “continue consultations with Member States on the African Union Diplomatic Passport”. The Commission is of the view that it has operated within these conditions by involving Experts from Member States and by taking steps to use the passport for Union staff at this point, while engaging with Member States on extending its use beyond the Union staff.

129. The Commission is of the view that had the Panel been aware of the above, it would have been aware that all Member States were requested to make their expertise available for the production of the passport, to bid for the production and the final selection of the provider was made by a Committee of Member States. Accordingly, the process was transparent and all inclusive.

130. Another major issue on which the Panel received erroneous briefing by some people, and which it did not refer to the Management of the Commission for clarification, is the alleged contract the Commission was presumed to have awarded to MIDROC to build a hotel without going through the Tender Board. The Commission does not know what documents the Panel said it possessed but the facts are as follows:

- The Chairperson of the Commission requested the Ethiopian Government to give more land on the piece adjacent to its premises in order to create more office space and conference halls.
- In making that request he indicated, ab initio, that, due to the shortage of hotel accommodation in Addis Ababa, the Commission wanted to have a 5-Star Hotel which would be constructed, managed and owned by a private developer, near its premises in order to have such a facility close to the Conference Centre, for use by Member States and the public at large as well as the Commission. He accordingly requested the Ethiopian Government to allocate extra land that would be transferred through the Commission to a private company for the construction of the hotel. The Chairperson had, on 25 May 2007 and in July 2007 in Accra, Ghana, during the Assembly, conveyed this to the Heads of State and Government.
- The Ethiopian Government, generously accepted the request of the Chairperson and granted 12 hectares of land, with the understanding that a portion of it would be leased, in accordance with relevant Ethiopian Laws, but through the Commission, to a private investor for the construction of a 5 - Star hotel. The request is in line with Government policy to provide incentives to the private sector to construct as many 5-Star hotels as possible in Addis Ababa. In this respect, the city of Addis Ababa has informed the Commission that over sixty (60) sites have been earmarked for such hotels in the city.
- Thereafter, the Commission prepared a document setting out the proposal for the construction and management of a 5 star hotel at the new site of the Commission indicating the qualities and facilities such a

hotel should have. This was advertised on its Website in order to invite interested companies to submit their offers.

- Three companies submitted their proposals, namely:
 - i. Toshisouken Investment Bank from Japan
 - ii. MIDROC Ethiopia
 - iii. Ahmet Aydeniz Construction, Tourism, Food, Import and Export Inc. from Turkey.

- The Technical Team of the Commission on the Construction of the AU Conference Centre Project carried out a technical evaluation of the various proposals and recommended MIDROC Ethiopia as the eligible and qualified company for the construction of the Hotel. The technical team was made up of Staff of the Commission and two Architect Consultants.

- Upon the request of the Commission, a Tripartite Committee comprising the Commission, the Ethiopian Ministry of Foreign Affairs and Addis Ababa City Administration, met to discuss the technical and legal matters that govern allocation of land in general and particularly the portion of land agreed to be transferred through the Commission to a private hotel developer. The Ministry of Foreign Affairs and the City Administration agreed that the Commission could allocate part of the land allocated to it on the understanding that the Commission could not benefit financially from land allocated to it free of charge and that the private developer will operate under relevant Ethiopian commercial laws;

- MIDROC Ethiopia having agreed to accept the offer sent a draft MOU between the Commission and itself, for examination.

- The Commission subsequently established a Working Team and met to examine the Draft MOU from the Commission's point of interest

- In accordance with the understanding reached with the Government of Ethiopia, the Commission agreed to facilitate the leasing of 25,00 square meters of land for the hotel.

131. It was clear that for any private concern to invest several millions of dollars, it must have some assurance that it will have title to the land for a reasonable period of time. Hence, the Addis Ababa City Administration is responsible for issuing the lease agreement to Midroc since it is the only authority that could do so, not the Commission. It is however doing so on the basis of Ethiopian Government's policy of facilitating the construction of 5 - Star hotels in Addis Ababa, and the advantages of having a 5 - Star hotel beside the AUC complex for both the Commission and Member States.

132. As to the allegations that the Commission awarded Midroc a contract without going through the Tender Board, the Commission considers this a fallacy because no contract has been awarded. A contract is awarded when you have a project for

which you are paying. The Commission has only been a facilitator in order to have a first - class hotel near its site with all the advantages that provides.

133. Furthermore, the Request for Proposal, which was approved by the Deputy Chairperson, was processed by the Director, Administration and Human Resources who also chairs the Tender Board. The posting of the Request for Proposal was also authorised through the same Department. The Commission is aware that a number of staff peddled the rumour that the Commission was giving away AU land, free of charge, as the Panel's report refers to and that a contract had been awarded without the Tender Board being privy to it. As the above clearly shows, this is not the case. Every aspect of what has been done has been done openly and with the full consent and involvement of the Government of Ethiopia.

134. Finally, the Commission notes that all aspects of the process were fully documented and the Panel could have been availed of all the facts had it asked for information.

135. The fact that some members of staff had deliberately misled the Panel is an indication of a serious problem in the house where self-serving information is given by those whose seeming interests are affected. Regrettably, the Panel did not see through this. It is hoped that the above would clarify all the misconceptions created by the half truths conveyed to the Panel.

Alternative Sources of Financing - Paragraph 432-438

136. The Commission takes note of the Panel's recommendations that a tax on airline tickets within Africa be put in place without further delay. However, perhaps because of lack of time, the Panel was not able to elaborate on how this should be done and why this option was chosen among the many other proposals being considered and how much it could bring in annually. It notes that the Ministerial Committee on Union Government did look at the subject and made some proposals as well. It is suggested that the Panel's proposal be looked into together with those made by the Ministerial Committee.

137. Finally, in this regard, the Commission does not quite understand the Panel's last recommendation on this Section to the effect that an " African firm of international repute should be appointed for a period of four year" to audit the accounts of all AU organs and report to Council or what gave use to it. The Union already has in place an auditing system, which comprises an Internal Audit Office and a Board of External Auditors. While two or three years ago, the Commission' Internal Audit Office would have been said to be under-staffed, this is not the case today. That Section has been auditing, on a continuous basis and produces regular reports, the accounts of all Commission establishments- Headquarters, Representational and technical Offices- which the Chairperson has consistently approved its recommendations for implementation. The Internal Audit of the Commission could and we request that it be reinforced in terms of human capacity to enable it improve on its performance. We expect that the other AU organs and institutions also have their internal audit in place. If that is not the case for any of it, this should be immediately rectified.

138. The Commission also has a Board of External Auditors which audits the Commission on an annual basis and which reports every year, to both the PRC through its Sub-Committee on Administrative, Financial and Budgetary Matters, and the Executive Council. The Board, which is independent and made up of professionals, is appointed by Member States. The combination of the work done by the Internal Audit and the Board of External Auditors has ensured that deficiencies in the management of the Commission's resources are identified and dealt with. They also serve other AU Organs.

139. The Commission also wishes to draw attention to the proposal contained in the Report on Union Government: Implementation Modalities, that an African Union Permanent Board of Auditors be established. That proposal indicates that, among others, the Board will have the responsibility to audit the Union's revenues and expenditures, ensure effective and efficient use of resources, develop some financial management culture, ensure orderly execution of administrative and financial activities as well as transparency and accountability to AU authorities and the public.

140. The Commission requests that if any change is to be made, it should be in adopting the establishment of the AU Permanent Board of Auditors.

Conclusion

141. The Commission is very largely in agreement with the concluding chapters of the Panel's report. It considers that important proposals are contained in these, which deserve the attention of the Executive Council and the Assembly. The Commission therefore, again, commends the Panel for the vast amount of work it was able to do in so short a time

142. However, the Commission wishes to recall that in the past a lot of work had been carried out by Member States and the Commission. Regrettably, many of the outcomes of these did not retain the attention of Member States. It is therefore strongly urged that the report of the Panel, that of the Ministerial Committee on Union Government and this present document by the Commission will not suffer the same fate.

143. It is quite clear that not all the recommendations could be implemented immediately. However, there are those that could and should be immediately implemented. For example, most of the recommendations on the Commission could be implemented immediately. As the Union grows, it needs strong institutions, which will sustain the integration process. Some of these include all the proposals relating to the restructuring of the Commission, the portfolios that need to be added, the mode of electing Commissioners and the governance structure of the Commission need urgent attention and the Commission would encourage Member States to take the necessary action at the January sessions of the Executive Council and the Assembly.

African Union Commission
Headquarters
Addis Ababa, Ethiopia
16 January 2008

Table Showing Reconfigured Portfolios & Additional Staff Required to Strengthen Offices

| No. | Portfolio | Commissioners | Director | Advisor | Senior Policy Officer |
|-----|---------------------------------------------|------------------------------------------------------------|----------|---------|-----------------------|
| 1 | Office of Chairperson | Director Of Cabinet To be Upgraded to rank of Commissioner | -- | 1 | 3 |
| 2 | Office of The Deputy Chairperson | --- | -- | 2 | -- |
| 3 | Peace & Security /Defense & Security | --- | -- | 1 | -- |
| 4 | Political Affairs | --- | -- | 1 | -- |
| 5 | Infrastructure | --- | -- | 1 | -- |
| 6 | Social & Cultural Affairs | ---- | -- | 1 | -- |
| 7 | Education, Science & Technology | --- | -- | 1 | -- |
| 8 | Trade and Industry | --- | -- | 1 | -- |
| 9 | Agriculture and Environment | --- | -- | 1 | -- |
| 10 | Economic Affairs | --- | -- | 1 | -- |
| 11 | Administration and Finance | | -- | 1 | -- |
| 12 | External Relations | 1 | 1 | 1 | -- |
| 13 | Employment, Urban Development and Migration | 1 | 1 | 1 | -- |

Commissioner (3) Director (2) Advisor (14) Senior Policy Officer (3)

| Financial Implication | | | | | | |
|------------------------------|----------------------------------------------------|---------------------------------------------------|-----------------|-------------------|---------------------------------|---------------------------------------|
| No. | Portfolio | Commissioners | Director | Advisor P4 | Senior Policy Officer P3 | Financial Implication In US \$ |
| 1 | Office of Chairperson | The differences Between Two Posts US \$ 53,264 | | 69,480 | 1 X 53,635 | 176379 |
| 2 | Office of The Deputy Chairperson | | | 2 X 69,480 | 2 X 53,635 | 246,230 |
| 3 | Peace& Security /Defense &Security | | | 69,480 | | 69,480 |
| 4 | Political Affairs | | | 69,480 | | 69,480 |
| 5 | Infrastructure | | | 69,480 | | 69,480 |
| 6 | Social and Cultural Affairs | | | 69,480 | | 69,480 |
| 7 | Education, Science & Technology | | | 69,480 | | 69,480 |
| 8 | Trade and Industry | | | 69,480 | | 69,480 |
| 9 | Agriculture and Environment | | | 69,480 | | 69,480 |
| 10 | Economic Affairs | | | 69,480 | | 69,480 |
| 11 | Administration and Finance | | | 69,480 | | 69,480 |
| 12 | External Relations | 153,031 | 99,767 | 69,480 | | 322,278 |
| 13 | Employment, Urban Development and Migration | 153,031 | 99,767 | 69,480 | | 322,278 |
| <u>Total</u> | | 359,326 | 199,534 | 972,720 | 160,905 | 1,692,485 |

AFRICAN UNION

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UNION AFRICAINE
UNIÃO AFRICANA

Addis Ababa, ETHIOPIA P. O. Box 3243 Telephone: +251-11-5517700 Fax: +251-11-5517844
website: www.africa-union.org

EXECUTIVE COUNCIL
Twelfth Ordinary Session
25 – 29 JANUARY 2008

ADDIS ABABA, ETHIOPIA

EX.CL/390 (XII)-b

**REPORT OF THE MINISTERIAL COMMITTEE ON
THE UNION GOVERNMENT**

REPORT OF THE MINISTERIAL COMMITTEE ON THE UNION GOVERNMENT

I. Introduction

The 9th Ordinary Session of the Assembly of Heads of State and Government, which took place in Accra, Ghana, from 1 to 3 July 2007, adopted the Accra Declaration, following the Grand Debate on the Union Government. Among other things, the Heads of State and Government agreed to accelerate the economic and political integration of the Continent, including the formation of the Union Government for Africa. This was with a view to providing a clear vision of the future of the African Union and of African unity. They therefore resolved to collectively identify and negotiate the differences in perception and opinion on the concept of the Union Government. They accordingly decided to set up a Ministerial Committee with the following Terms of Reference:

- i) identification of the content of the concept of the Union Government and its relationship with national governments;
- ii) identification of the domains of competence and the impact of the establishment of the Union Government on the sovereignty of Member States;
- iii) definition of the relationship between the Union Government and the Regional Economic Communities (RECs);
- iv) elaboration of the Roadmap together with the Timeframes for establishing the Union Government; and
- v) identification of additional sources of financing the activities of the Union.

2. The Heads of State and Government further mandated the Ministerial Committee to submit its work to the Executive Council, to enable the latter to make appropriate recommendations to the next Ordinary Session of the Assembly, due to be held in January 2008.

II. Composition of the Committee

3. Following consultations at regional level, the Committee was constituted as follows:

- | | | |
|------|----------|------------------------|
| i) | Central: | Cameroon; Gabon |
| ii) | East: | Ethiopia; Uganda |
| iii) | North: | Egypt; Libya |
| iv) | South: | Botswana; South Africa |

v) **West: Nigeria; Senegal**

The Committee was chaired by Ghana in its capacity as the Chair of the Executive Council, with Honourable Akwasi Osei-Adjei, Minister of Foreign Affairs, personally in the Chair in all four meetings.

4. On 12 August 2007, the Chairperson of the Union and President of the Republic of Ghana, H.E. John Agyekum Kufuor, was informed about the composition of the Ministerial Committee and its tentative work programme, both of which he endorsed.

5. The work programme was subsequently amended and the Committee met as follows:

| | Venue | Date |
|------------------------------------------|-----------------------|---------------------|
| i) Consultative Meeting of the Committee | New York | 29 September 2007 |
| ii) Second Meeting | Accra, Ghana | 27-28 October 2007 |
| iii) Third Meeting | Addis Ababa, Ethiopia | 27-28 November 2007 |
| iv) Fourth Meeting | Addis Ababa, Ethiopia | 8-9 January 2008 |

6. While the first meeting of the Committee, which took place on the margins of the United Nations General Assembly, was devoted to consultations on how its work would be carried out, the second and third sessions were devoted to intense discussion of the Terms of Reference. The fourth session finalized the report and the recommendations of the Committee to the Executive Council. This report is therefore structured to reflect this.

III. Conclusions of the Second, Third and Fourth Meetings of the Committee

7. This part of the report comprises a synthesis of the conclusions and outcomes of the second, third and fourth meetings of the Committee. This is based on the discussions that took place on each term of reference.

First Term of Reference: Identification of the Content of the Concept of the Union Government and its Relationship with National Governments.

IV. General Observations

8. The Committee:

- (i) Re-affirmed the positions contained in operative paragraph (I) of the Accra Declaration, to the effect that the Heads of State had “agree(d) to accelerate the economic and political integration of the African Continent, including the formation of a Union Government for Africa with the ultimate objective being to create the United States of Africa”.
- (ii) Underscored the importance of achieving unity and socio-economic political and cultural integration of the Continent, since nation States taken individually have shown their vulnerability and limitations in the context of globalization.
- (iii) Reiterated that when formed, the Union Government would not be a mere union of Governments but also of peoples of the Continent, as well as of the African Diaspora.
- (iv) Underlined that the primary responsibility for popularizing the concept of the Union Government, in order to ensure participation of the African peoples in its activities, rested with Member States of the Union.
- (v) Agreed that the Union Government should be a mechanism for the co-ordination and harmonization of certain sectors at continental level, and between the African continent and the rest of the world, given the principle of subsidiarity.
- (vi) Proposed that, in constructing the Union Government, the African Union should not feel constrained in devising its own model of integration, while taking into account the experiences of other parts of the world, such as India, Brazil, Europe, the Commonwealth of Independent States and the United States of America.
- (vii) Agreed that, given the fact that the RECs were recognized as the foundation and building blocks of the Union, they should be rationalized, harmonized and strengthened.

V) Shared Values

9. The Committee also agreed that, in conformity with the Accra Declaration, the Union Government should be built on common values, which should be identified and agreed upon as benchmarks. In that regard, the Committee affirmed that the common values should include the following:

- the common desire to fight against poverty;
- popular participation in governance;
- practice of good governance;
- practice of democracy;
- transparency in public affairs;
- respect for human rights and fundamental freedoms;

- adherence to the rule of law;
- promotion of peace and security;
- cultural values and diversity.

10. The Committee also considered adding to the list elaborated immediately above, the values and standards set out in various AU legal instruments, including the OAU Charter; the Constitutive Act; the African Charter on Democracy, Governance and Elections; the Protocol Relating to the Rights of Women; the Declaration and MOU of the Conference on Security, Stability, Development and Co-operation (CSSDCA); the Abuja Treaty; and the African Youth Charter. A detailed indication of these is contained in the document entitled: *Ascendancy of Shared Values in the African Union*, attached hereto as Annex I.

11. In its work, the Committee also deliberated on whether these common values should be a pre-requisite for membership of the Union Government. There was a clear understanding that it would be dangerous to lay down such requirements for membership and that, accordingly, all the Member States of the AU should be accorded membership of the Union Government. This would encourage all countries to imbibe and share in the common values.

VI) Institutions of the Union Government

12. On the relationship between the Union Government and national governments, the Committee agreed that the matter would require further reflection by the Executive Council.

13. While the Committee reached some agreement on the common values that should inform the content of the Union Government, there was relatively little discussion on the organs or institutions, which should constitute the structure of the Union Government. Questions were posed by some as to whether the Union Government would assume the form of a unitary, federal or confederal state structure, but the discussion itself did not provide conclusive answers. On the issue of whether the present organs of the AU should constitute those structures, some members of the Committee expressed the view that the input of the Audit of the Union would be of crucial relevance.

Second Term of Reference: Identification of the Domains of Competence and the Impact of the Establishment of the Union Government on the Sovereignty of Member States.

VII. Domains of Competence

14. Regarding the first aspect of this Term of Reference, namely the identification of domains of competence, consensus was reached on the following initial domains of competence of the Union Government:

- i) continent-wide poverty reduction strategies;
- ii) free movement of persons, goods and services;

- iii) inter-regional and continental infrastructure (road networks, bridges, railways, ports, energy, communication, etc.);
- iv) environmental issues (global warming, desertification and coastal erosion);
- v) epidemics and pandemics such as HIV/AIDS;
- vi) research/ university centres of excellence;
- vii) international trade negotiations;
- viii) peace and security; and,
- ix) transnational crime (terrorism, drug and arms trafficking);

It was however further agreed that, as the need arises, other domains of competence could be considered in the future.

15. The Committee discussed at length the pros and cons of including Foreign Affairs and Defence among the domains of competence. It was agreed that in the meantime, there should at least be harmonization and co-ordination in these sectors, in accordance with mechanisms and instruments already in existence in the Union.

VIII. Impact of the Union Government on the Sovereignty of Member States

16. Regarding the second part of the second Term of Reference, namely the impact of the establishment of the Union Government on the sovereignty of Member States, there was common agreement that the Union Government would, inevitably, impinge on the sovereignty of Member States. In other respects, however, including the issue of the practical consequences of such impact on the sovereignty of Member States, there was a divergence of views. While one school of thought suggested that it might be necessary to amend the constitutions of Member States, another maintained that the Union Government would not have a substantial impact on national sovereignty. This was because Member States would continue to take the necessary actions at national level, and the principles of subsidiarity and devolution of power would be applicable. Similarly, there was also a lack of agreement as to whether or not the time was ripe for the issue of the effect of the Union Government on sovereignty to be discussed at all.

17. It was nevertheless agreed that this matter has legal and constitutional implications, which required further reflection by the Executive Council. Such reflection should provide a comprehensive, interpretative and structured conceptualization of the operational principles, structures and mechanisms for the co-ordination and harmonization of roles between the Union Government and Member States.

Third Term of Reference: Definition of the Relationship Between the Union Government and the Regional Economic Communities (RECs).

18. It was generally acknowledged that the Accra Declaration had mentioned the process of rationalizing and strengthening of the RECs and the harmonization of their activities, as constituting one of the steps to attaining the Union Government.

19. The Committee further agreed that the process of the rationalization, harmonization and implementation of the programmes of the RECs, should not affect the process of establishing the Union Government in the agreed domains of competence.

20. The Committee also agreed that:

- i) The RECs should be integrated into the governance framework of the Union, so as to turn them into instruments and mechanisms for the harmonization and implementation of the common policies and programmes of the Union;
- ii) To this effect, formal institutional links between the Union and the RECs should be established;
- iii) The modalities for involving the RECs in the formulation and implementation of all programmes of the Union should be properly defined;
- iv) The Union should co-ordinate policies on those aspects of the international relations of the RECs which have continental implications;
- v) The RECs should report regularly to the AU policy organs on their programmes and activities;
- vi) The Committee reiterated the need for the early implementation of the Decision adopted by the AU Assembly in Accra, authorizing the Chairperson of the Commission and the Chief Executives of RECs, to sign the new Protocol governing relations between the Union and the RECs

21. The Committee also identified a set of principles, which could inform the rationalization of the RECs. These included:

- i) The composition of the RECs should be based on the five geographical regions of the Union;
- ii) The principle of single membership should be strictly adhered to;
- iii) The flag, emblem, anthem and all symbols of the Union should be adopted by the RECs;
- iv) The responsibility for external representation of RECs and their participation in major global events should be assumed by the Union;
- v) The RECs, which have been designated as building blocs for the realization of economic and political integration, should continue with their integration and harmonization processes;

- vi) The RECs should be re-engineered as Regional Integration Communities (RICs);
- vii) The Abuja Treaty should be reviewed in order to accelerate regional economic integration, in accordance with the Sirte Declaration.

Fourth Term of Reference: Elaboration of the Roadmap Together with the Timeframes for Establishing the Union Government.

22. The Committee acknowledged that the process of establishing the African Economic Community was slow, and that, in fact, not much had been achieved since the Abuja Treaty came into force. It further noted that, even after the establishment of the African Union, which was established with the purpose of enhancing continental economic and political integration, the Timeframes and Roadmap for the Union had still not been agreed upon. It was suggested that in proposing a Roadmap, the provisions of the Abuja Treaty and the recommendations made in Chapter 3 of the Study on an African Union Government, as well as other relevant studies and documents, should be taken into account. However, some delegations pointed out that there was a difference between the Abuja Treaty Roadmap and the Roadmap for establishing the Union Government. It was also pointed out that the objective of the Abuja Treaty was the establishment of the African Economic Community, while that of the Union Government combined the economic and political integration of the Continent.

23. While the Committee agreed that the proposals for a Roadmap towards the Union Government should be practical and grounded in the realities of current trends in regional integration processes, there was lack of unanimity as to whether a Roadmap should be proposed at the moment: While some delegations were of the view that a Roadmap could and should be proposed - as required by the Accra Declaration - others maintained that a Roadmap should be informed by the outcome of the Audit of the Union. Yet another view expressed was that national consultations should be conducted for three years, after which a Roadmap could be elaborated.

24. The various proposals made on this term of reference were as follows:

- i) The proposal contained in the Study on the African Union Government, namely that of achieving the United States of Africa in three phases of three years each, should be adopted;
- ii) A counter proposal was that the first and second of the three phases should be ten years each, followed by a third phase of five years,
- iii) There should be three years of national consultations and the creation of national structures, followed by five years of harmonization and rationalization of regional structures, and then ten years of establishing the Union Government;

- iv) There should be a midway point between the proposals in the Abuja Treaty and those in the Study;
- v) The RECs should be allowed to complete their ongoing integration programmes until 2015, after which a Roadmap for the Union Government could be proposed.

Fifth Term of Reference: Identification of Additional Sources of Financing the Activities of the Union Government.

25. The Committee noted that this was a very crucial aspect of its work, as it was imperative to ensure adequate funding for the programmes and activities of the Union. Indeed, there was a compelling need to reduce or eliminate the Union's undue reliance on the external funding of its activities to ensure its complete ownership of them. The Committee thus suggested some options mentioned hereunder and underlined that the implementation of any number of them could be viable, provided the necessary political will existed.

26. Reference documents made available to the Committee included one submitted by President Abdoulaye Wade of Senegal and the AU Commission's "Study on Alternative Sources of Financing."

27. The following proposals emerged from the discussion of the various options:

- a) There should be a levy of 0.2% on some imports, and taxes of 0.2% on insurance (as proposed by President Wade);
- b) The experience of ECOWAS in imposing a levy on all imports from third countries, into the region, should be shared with the rest of continent;
- c) There should be levies on exports;
- d) There should be taxation on air tickets;
- e) There should be investments in property development such as real estate as well as in tourism;
- f) There should be taxation on car insurance;
- g) There should be taxation on home insurance and mortgages;
- h) There should be taxation of mobile phone services;

28. It was agreed that such levies, as mentioned above, should be rationalized to ensure that they do not adversely affect the poor and should not be of a disadvantage to any Member State.

29. It was also agreed that Member States should consult the relevant sectoral Ministers at the national level, on the feasibility of implementing these proposals. In connection with this, the Committee recalled that the Conference of Ministers of Finance, at its meeting in Yaounde in 2006, set up a Committee of Experts to study the various options for financing the programmes and activities of the Union. The Committee therefore stressed the need for this work to be completed urgently, so that the policy organs of the Union could be availed with its outcome.

30. The Committee also agreed that the setting-up of the proposed financial institutions of the Union should be speeded-up, as they could help in developing financing options and investment opportunities, much-needed to guarantee adequate financing of the activities of the Union.

31. The Committee agreed that it was necessary to supplement the present method of financing the activities of the Union through a system of assessed contributions, which would reduce the burden on the five Member States, which currently pay 75% of the AU budget. Accordingly, consideration should be given to increasing the budgetary contributions of Member States whose economies were improving. In the meantime, the Committee proposed that those Member States which are already bearing the major part of the burden, should be encouraged to continue to do so, to make up for those which could not afford it; but that due recognition should be given to such Member States

32. The Committee also emphasized the need to put in place, an effective mechanism that would ensure accountability, transparency and the judicious use of the available resources in the Union.

RECOMMENDATIONS

33. Arising from the above, the Committee makes the following recommendations on each Term of Reference, for consideration by the Executive Council:

First Term Of Reference – Identification of the Content of the Concept of Union Government and its Relationship with National Governments.

Recommendation I (a) – Participation of the African People in the Union Government

34. To ensure that the Union Government is not a union of Heads of State and Governments alone but also of the people of Africa, the Committee recommends that Member States should involve all their people in the processes leading to the formation of the Union Government. African governments should therefore encourage civil society organizations (CSOs), youth and women organizations, the private sector, academia, the Diaspora and the public at large, to participate in structured processes and programmes, including national consultations and other fora. Parliaments, as representatives of the people, should also engage in structured and regular debates on

the Union Government project, with a view to collating and coordinating national positions.

Recommendation I (b) - Popularizing the African Union

35. Each Member State should establish a National Commission on African Union Affairs (NCAUA) which, in addition to helping to implement Recommendation I (a) above, should ensure that the African Union and/or Union Government activities are publicized. In this regard, the national media should be encouraged to organize publicity events and campaigns to sensitize the general populace.

36. Similarly, the Commission of the African Union must intensify its media activities through, among other things, its website, films and publications. It should also put in place the structure that will work with the National Commission on African Union Affairs to be set up by Member States.

Recommendation I (c) - Involving Other Organs of the AU

37. The Committee recommends that the other organs of the AU, especially those that are supposed to be people-centred, such as the Pan-African Parliament (PAP) and ECOSOCC, should be encouraged to mobilize the people of Africa to support the Union Government. They should also help to clearly define the roles they will play in the structures of the Union Government at the national, regional and continental levels.

Recommendation I (d) - Shared Values

38. The Committee recommends that in order to have a solid basis for the Union Government, all the shared values already identified should be imbibed by all Member States. This should begin with the implementation of the values enshrined in adopted texts of the Union and the RECs. Constant efforts should also be made to ensure that Member States implement the decisions that are taken by the Union.

Recommendation I (e) - Institutions of the Union Government

39. The Committee recommends that the various institutions of the Union, especially the Commission of the African Union, should be strengthened so that they can play the roles expected of them in the integration of the Continent. In this respect, it is recommended that the Commission should perform executive functions and, therefore, be re-structured and empowered accordingly. In particular, the provision in Article 3 (2) of the Statute of the Commission which requires the Commission to represent the Union and defend its interests as mandated by the Executive Council and the Assembly, should be adhered to.

Recommendation 1 (f) - Relationship Between the Union Government and National Governments

40. Since the relationship between the Union Government and national governments is likely to give rise to legal and constitutional issues, the matter will require further reflection by the Executive Council.

Second Term of Reference - Identification of the Domains of Competence and the Impact of the Establishment of the Union Government on the Sovereignty of Member States.**Recommendation 2 (a) - Domains of Competence**

41. The Committee recommends the adoption of the domains of competence identified in paragraph 14 of this report, as the initial domains of competence of the Union Government. However, additional or other domains of competence could be taken on board in the future, as may be considered necessary.

Recommendation 2 (b) - Foreign Affairs and Defence

42. The Committee recommends that Member States should accept the need to harmonize and co-ordinate their policies and positions in these two areas. In this respect, Member States should implement the decisions already taken in these domains and put in place the necessary mechanisms for these.

Recommendation 2 (c) - Impact of the Union Government on the Sovereignty of Member States

43. Considering that the institutions of a Union Government would, inevitably, impinge on the sovereignty of Member States, the matter will require further reflection by the Executive Council. Such reflection should provide a comprehensive, interpretative and structured conceptualization of the operational principles, structures, and mechanisms for the co-ordination and harmonization of roles between the Union Government and Member States.

Third Term of Reference - Definition of the Relationship Between the Union Government and Regional Economic Communities (RECs).

44. The Committee recommends that:

3 (a) The proposals contained in paragraphs 20 and 21 of this report be considered by the Executive Council.

3 (b) Appropriate frameworks and modalities to formally link the Union and the RECs should be developed and adopted by the Executive Council

3 (c) As an imperative, Member States should mandate their respective RECs to begin the process of setting the framework of engagement with the continental body. In this respect, the Protocol between the Union and RECs should be signed immediately.

Fourth Term of Reference - Elaboration of a Roadmap Together with the Timeframes for Establishing the Union Government.

45. The Committee agreed to the three-phased approach proposed in the Study on the African Union Government: Towards the United States of Africa (The Obasanjo Report), produced hereunder as follows:

Initial Phase: Establishment of the Union Government 2006 - 2009

Continental level

- **Selection of strategic areas of focus of the Union Government**
- **Decision on the mode of finance of the Union Government**
- **Adoption of the revised functions of the Assembly, the Executive Council, the Specialised Technical Committees, the Commission and the Permanent Representative Committee**
- **Decisions on the establishment of the Courts of Justice and Human Rights**
- **Decision on the revised Constitutive Act**
- **Decision on the launch of the studies on the financial institutions**
- **Decision on the establishment of the AIB**
- **Decision on the final status of NEPAD in the African Union and its links to the Commission**
- **Decision on the mode of representation in the PAP**
- **Decision on the representations of the Union Government in other parts of the world, including in particular in the African Diaspora;**
- **Consultations and decisions on the Free Movement of Persons, Rights of Establishment and Residence**

Regional Level

- **Rationalization and harmonization of the RECs**
- **Harmonization of RECs' instruments, institutions, programmes and operations with the Union Government objectives and Road-Map**
- **Popularization of the Union Government project in the region**
- **Development of a monitoring mechanism for the implementation of the**

Union

road-map at regional level

National Level

- Harmonization of Union Members instruments, institutions, programmes and operations with the Union Government objectives and Road Map
- Building national constituencies for the Union Government
- Popularisation of the Union Government Project
- Development of national monitoring mechanisms for the implementation of the Union road-map,

Second Phase: Consolidation of the Union Government 2009 - 2012

Continental Level

- Creation of the ACB and AMF
- Restructuring of remaining continental organs, as may be required;
- Initiation of the process of consultation for and preparation of a Draft Constitution of the United States of Africa

Regional Level

- Adoption of measures towards effective free movement of Persons, Rights of Residence and Establishment
- Consultation on the draft Constitution of the United States of Africa

National Level

- National conventions on the draft Constitution of the United States of Africa

Third Phase: Establishment of the United States of Africa 2012 – 2015

- Adoption of the draft Constitution of the United States of Africa by the Member-States of the African Union.
- All continental institutions shall have been fully operational, including in particular the financial institutions.
- Finally, elections at all required levels (continental, regional and national) should take place during this period.

Timeframes

46. Regarding the timeframes for the implementation of the three-phased approach in the Obasanjo Report, the Committee submits the following options for consideration by the Executive Council:

Option 1: Implementation within a period of 9 years: 3-3-3 years;

Option 2: Implementation within a period of 15 years: 5-5-5 years with appropriate review mechanism; and

Option 3: Implementation within a period of 25 years: 10-10-5 years.

Fifth Term of Reference – identification of Additional Sources of the Financing of the Activities of Union

47. The Committee recommends that, in view of the imperative of having additional sources of funding the activities of the Union, the following actions should be taken:

5 (a) The Expert Committee set up by the Ministers of Finance in their meeting in Yaounde, Cameroon, in 2006, to examine various options to finance the Union, should urgently complete its work. The Committee's work should be informed by the various options identified in this report in paragraph 27.

5 (b) To facilitate a decision by the Executive Council, ECOWAS should be requested to share its experience on how its community tax works for the benefit of other regions.

5 (c) The establishment of the proposed financial institutions of the Union should be accelerated, as they could help in developing financing options and investment opportunities to provide adequate financing of the activities of the Union.

5 (d) Member States must exercise the necessary political will to adopt a viable financing option that is feasible in the nearest future and sustainable in the long run.

**THE ASCENDANCY OF SHARED VALUES IN THE
AFRICAN UNION GOVERNMENT**

The Ascendancy of Shared Values in the African Union Government

1. The vital essence in achieving the Union Government lies in the desirability of achieving the most fundamental privileges desirable to humankind in Africa. In spite of the marginal differences in history, ethnic or religions affiliations, race or sex, African leaders have remained consistent in acknowledging the need for common understanding among all Africans alike on the basis of shared values and principles. This is demonstrated in the collective approach with which they have addressed colonial and post-colonial challenges. **It must be the basis for which Africans must also address the present global challenges.**

2. **“Shared” or “collective” values and principles have provided the basis for regional attempts at seeking common actions and solutions in addressing economic and social challenges**, albeit with limited success. These values, as they pertain to both the individual, the society and the state are anchored in the belief that, man, his environment and his maker must work together to find harmony, as it were, in managing scarce resources for the benefit of society. These “shared” or collective understanding”, are the values that Africans must hold and attain as a vision, and set the objectives thereof.

3. African leaders have acknowledged, in a variety of **statements, declarations, treaties, conventions, Charters and acts**, that the very premise for which the state legitimizes itself and its mandates, **is to engage in a meaningful search for the well-being of their peoples and of the continent**. Indeed, global and African history is replete with the struggles of Africa and Africans seeking basic opportunities to provide for themselves, manage their environment in harmony with their beliefs in a God that is humane, caring, epitomizes peace. Well-being for Africa and Africans must therefore **be interpreted and projected to the extent that opportunity comes with freedom, basic rights and the free wills of people to express themselves in their communities.**

4. This well-being is therefore intrinsic in the values and principles that all Africans hold as sacred for their existence. These are the values that give “legitimacy” to mandates through preambles and introductions of African charters, treaties, conventions, acts, etc. They are aggregated as follows:

At the individual level

1. Basic rights to life, identity and opportunity
2. Basic Freedoms (Expression and worship)
3. Tolerance
4. Participation in governance
5. Solidarity with each other in times of joy and in times of sadness
6. Dignity and Respect
7. Justice
8. Sense of Fairness
9. Equality of persons (Gender, race, sex etc)
10. Respect for age
11. Integrity
12. Community spiritedness
13. Self determination

At the state or regional level

1. Sovereignty and the interdependence of states
2. Adherence to the rule of law
3. Democracy and Representation of the popular will
4. Care for the weakest
5. Self reliance (economic and social)
6. Justice
7. Law and order
8. Equity and equality
9. National determination
10. Solidarity of states (brothers keeper)
11. Stability of environment
12. Security

Basis for Africa's interaction and engagement

5. Accordingly, these are the values and principles that Africa desired to achieve in the last 5 decades and these are the values and principles that must drive Africa's response to internal challenges and globalization. The case is therefore to be made in reviewing the various charters, treaties and protocols that Africans through leaders and representatives have adopted as their collective and shared basis for working together for their common good and interests.

6. These agreements imply a commonality of platforms and commitments that a community of interests has been identified as stakes. Africans must therefore work together by clearly identifying those interests and stakes, which they must set and meet as development targets. **They are what Africans hold as their true value or values. They are shared and not negotiable. They are the core values for which all Africans, indeed, all men are daily in search for, and for which they are only too willing and eager to bequeath to their children the generations after.**

Shared Values in the OAU Charter of 1963

7. Enthusiasm for a pan-African agenda was treated with suspicion, as African, states, just coming out of colonialism were wary of “compromising” their hard won independence with an organization without precedence. Nonetheless, the OAU Charter of 1963 (initially signed by 32 countries to be followed 21 others) stated in the preamble to the Charter, that the Heads of African States and Governments...

Paragraph 2: *“Conscious of the fact that **freedom, equality, justice** and **dignity** are essential objectives for the achievement of the legitimate aspirations of the people,*

Paragraph 4: *inspired by a common determination to promote **understanding** among our peoples and **cooperation** among our states in response to the aspirations of our peoples for **brother-hood and solidarity**, in a **larger unity transcending ethnic and national differences**,*

Paragraph 5: *Convinced that, in order to translate this determination into a dynamic force in the cause of human progress, conditions for **peace and security must be established and maintained**,*

Paragraph 6: *Determined to safeguard and consolidate the hard-won independence as well as the **sovereignty and territorial integrity** of our states, and to fight against neo-colonialism in all its forms,*

Paragraph 7: ***Dedicated to the general progress of Africa,***

Paragraph 8: *Persuaded that the Charter of the United Nations and **the Universal Declaration of Human Rights**, to the Principles of which we reaffirm our adherence, provide a solid foundation for **peaceful and positive cooperation among States**,*

Paragraph 9: *Desirous that all African States should henceforth **unite** so that the **welfare and well-being of their peoples can be assured**,*

Paragraph 10: ***Resolved to reinforce the links between our states by establishing and strengthening common institutions,***

8. Furthermore, Articles II (Purposes) and III (Principles) of the Charter clearly specified to what purposes and principles the Charter owed its significance. Paragraph 10 outlined the thoughts of the pan-Africanists to reinforce the links between states by **establishing common institutions**.

Shared values in the Constitutive Act of the African Union 2001

9. The Constitutive Act was adopted in Lome, Togo in 2000 by the 36th Ordinary Session of the Assembly of Heads of State and Government. The Constitutive Act effectively succeeded and replaced the OAU Charter, with the formal take off of the African Union in Durban, South Africa in 2002.

10. The Constitutive Act is indicative of the new feelings of Africans and the desire to adequately confront their differences. The suspicion and reluctance of Member States to accede to a closer union in the 1963 Charter had receded in the light of African experience in 30-40 years. Africa's shared values converged. The conceptualization of the collective values expanded. Accordingly, the preamble of the Constitutive Act reflected the mood of the continent.

Paragraph 1 *INSPIRED by the noble ideals which guided the founding fathers of our Continental Organization and generations of Pan-Africanists in their determination to promote **unity, solidarity, cohesion and cooperation** among the peoples of Africa and African States;*

Paragraph 3 *RECALLING the heroic struggles waged by our peoples and our countries for **political independence, human dignity and economic emancipation**;*

Paragraph 4 *CONSIDERING that since its inception, the Organization of African Unity has played a determining and invaluable role in the liberation of the continent, **the affirmation of a common identity and the process of attainment of the unity of our Continent** and has provided a unique framework for our collective action in Africa and in our relations with the rest of the world;*

Paragraph 7 *GUIDED by our **common vision** of a **united and strong Africa** and by the need to build a partnership between governments and all segments of civil society, in particular women, youth and the private sector, in order to strengthen **solidarity and cohesion** among our peoples;*

Paragraph 8 *CONSCIOUS of the fact that the scourge of conflicts in Africa constitutes a major impediment to the socio-economic development of the continent and of the need to **promote peace, security and stability** as a prerequisite for the implementation of our development and integration agenda;*

Paragraph 9 *DETERMINED to promote and **protect human and peoples' rights, consolidate democratic institutions and culture, and to ensure good governance and the rule of law**;*

Paragraph 10 *FURTHER DETERMINED to take all necessary measures to **strengthen our common institutions** and provide them with*

the necessary powers and resources to enable them discharge their respective mandates effectively;

11. The Constitutive Act set the agenda for Africa's engagement in a more robust way than its predecessor. **Articles 3 (Objectives) and 4 (Principles) outlined an expanded vision of the continent and provided the fulcrum for "stronger" Africa.** Article 3 stressed

- a. **greater unity and solidarity** between the African countries and the peoples of Africa;
- b. the **sovereignty, territorial integrity and independence** of its Member States;
- c. **political and socio-economic integration** of the continent;
- d. Promotion and **defense of African common positions** on issues of interest to the continent and its peoples;
- e. international cooperation, taking due account of the **Charter of the United Nations and the Universal Declaration of Human Rights**;
- f. **Promotion of peace, security, and stability** on the continent;
- g. Promotion of **democratic principles and institutions, popular participation and good governance**;
- h. Promotion and **protection of human and peoples' rights** in accordance with the African Charter on Human and Peoples' Rights and other relevant human rights instruments;
- i. Establishment of the necessary conditions which enable the continent to play its rightful role in the global economy and in international negotiations;
- j. Promotion of sustainable development at the economic, social and cultural levels as well as the **integration of African economies**;
- k. Promote **cooperation in all fields of human activity to raise the living standards of African peoples**;
- l. **Coordinate and harmonize policies between existing and future Regional Economic Communities** for the gradual attainment of the objectives of the Union;
- m. **Advance the development of the continent** by promoting research in all fields, in particular in science and technology;
- n. Work with relevant international partners in **the eradication of preventable diseases and the promotion of good health** on the continent.

12. The Constitutive Act further predicated the functions of its representative union in the following principles

- a. **Sovereign equality and interdependence** among Member States of the Union;
- b. **Respect** of borders existing on achievement of independence;
- c. **Participation of the African peoples** in the activities of the Union;
- d. Establishment of a common defence policy for the African Continent;
- e. Peaceful resolution of conflicts among Member States of the Union through such appropriate means as may be decided upon by the Assembly;
- f. Prohibition of the use of force or threat to use force among Member States of the Union;
- g. **Non-interference** by any Member State in the internal affairs of another;
- h. 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;
- i. **Peaceful co-existence** of Member States and **their right to live in peace and security**;
- j. The right of Member States to request intervention from the Union in order to restore peace and security;
- k. Promotion of **self-reliance** within the framework of the Union;
- l. **Promotion of gender equality**;
- m. **Respect for democratic principles, human rights, the rule of law and good governance**;
- n. Promotion of social justice to ensure balanced economic development;
- o. **Respect for the sanctity of human life**, condemnation and rejection of impunity and political assassination, acts of terrorism and subversive activities;
- p. Condemnation and rejection of unconstitutional changes of governments.

Africa's shared values in the Abuja Treaty of 1991

13. In the Abuja Treaty of 1991, where the African Economic Community was established, the reality of globalization and its challenges was reflected in the treaty with recommendations on how Africa should reorganize herself. The Treaty outlined

far-reaching strategies for Africa with which to engage the rest of the world on a common platform. The assumption was that, Africa's integration was no longer predicated on whether Africa's subscription to stated values had matured. Indeed, shared values were taken for granted, and Africa had to move together as one.

14. This attitude was heavily reflected in the preamble, where African States outlined their intention to surge on with the development of requisite institutions for integration, rather than just statements on the need to affirm and adopt shared values. Africa had indeed taken a major step.

15. While Article 4 of the Treaty provided for the objectives of the African Economic Community, Article 3 required adherence to Shared Values as follows:

- a. ***equality and inter-dependence of Member States;***
- b. ***solidarity and collective self-reliance;***
- c. ***inter-State cooperation, harmonization of policies and integration of programmes;***
- d. ***promotion of harmonious development of economic activities among Member States;***
- e. ***observance of the legal system of the Community;***
- f. ***peaceful settlement of disputes among Member States, active cooperation between neighbouring countries and promotion of a peaceful environment as a pre-requisite for economic development;***
- g. ***recognition, promotion and protection of human and peoples' rights in accordance with the provisions of the African Charter on Human and Peoples' Rights; and***
- h. ***Accountability, economic justice and popular participation in development.***

16. The Abuja Treaty listed its primary objectives in Article 4 with far reaching proposals such as Article 4 sub-section (h) with the objective for:

“the establishment of a common market, the gradual removal, among Member States, of obstacles to the free movement of persons, goods, services and capital and the right of residence and establishment”

17. The Treaty called for the establishment of Regional Economic Communities, where there are none and the strengthening of existing ones to achieve the African Economic Community. It provided a roadmap that would terminate in 34 years from that time in 1991.

Aggregation of Shared Values in various Instruments

18. There are several other instruments of engagement that were signed by the Assembly of African Heads of States and Governments, in expanding the “conceptualization of perceived Shared Values” and setting the platform for its convergence to serve the continent’s needs and aspirations. They include the Conference on Security, Stability, Development and Cooperation in Africa (CSSDCA), which called for frameworks to deal with specific values and themes. The CSSDCA was adopted in a Solemn Declaration by African Heads of States and Governments in Lome Togo 2000.

GENERAL PRINCIPLES of the CSSDCA

- (a) Respect for the sovereignty and the territorial integrity of all Member States;
- (b) The security, stability and development of every African country is inseparably linked to that of other African countries. Instability in one country affects the stability of neighbouring countries and has serious implications for continental unity, peace and development;
- (c) The interdependence of Member States and the link between their security, stability and development make it imperative to develop a common African agenda. Such an agenda must be based on a unity of purpose and a collective political consensus derived from a firm conviction that Africa cannot make any significant progress without finding lasting solutions to the problem of peace and security;
- (d) The peaceful resolution of disputes, with emphasis on seeking African solutions to African problems;
- (e) The prevention, management and resolution of conflicts provide the enabling environment for peace, security, stability and development to flourish;
- (f) The responsibility for the security, stability and socio-economic development of the Continent lies primarily with African States;
- (g) While recognizing that the primary responsibility for the maintenance of international peace and security lies with the United Nations Security Council, the OAU, in close cooperation with the United Nations and the Regional Economic Communities, remains the premier organization for promoting security, stability, development and cooperation in Africa;
- (h) Democracy, good governance, respect for human and peoples’ rights and the rule of law are prerequisites for the security, stability and development of the Continent;
- (i) Africa’s resources should be used more effectively to meet the needs of African peoples and to improve their well-being;

(j) The fulfillment of the objectives of the CSSDCA, requires the strengthening of Africa's **solidarity and partnership** with other regions of the world, in order to meet the challenges of globalization and avoid further marginalization;

Aggregation of Shared Values in the instruments of the Regional Economic Communities

19. Sub-regional economic blocks also anchor their mandates in sustaining the shared values that are of the most concern to their regions. The table attempts an aggregation of Africa's shared values as they have been listed in the Articles stating the principles of their Charters or Acts.

| Shared Values explicitly captured in the Articles of Principles various African Documents | | Human Rights and Peoples Rights | Population participation in Governance and development | Good Governance and Democracy | Equality and Equity | Adherence to the Rule of Law | Social Justice | Respect for Diversity | Unity among people and states | Solidarity and Collective Self Reliance | Good neighborliness | Respect for Life and Dignity | Equality and Sovereignty of States | Cooperation and interdependence of states | Peace, stability and security | Non discrimination on bases of race, ethnic affiliation, gender | Freedom | Peaceful Resolution of disputes | Non-interference in states |
|-------------------------------------------------------------------------------------------|------|---------------------------------|--------------------------------------------------------|-------------------------------|---------------------|------------------------------|----------------|-----------------------|-------------------------------|-----------------------------------------|---------------------|------------------------------|------------------------------------|-------------------------------------------|-------------------------------|-----------------------------------------------------------------|---------|---------------------------------|----------------------------|
| OAU Charter | 1963 | | | | | | | | | | | | X | | | | | X | X |
| AU Constitutive Act | 2002 | X | X | | | | X | | | X | | | X | X | X | X | | X | X |
| ECOWAS amended | 1993 | X | X | X | X | X | X | | | X | X | | X | X | X | | | X | |
| ECCAS | | | | | X | X | | | | | X | | X | | | | | X | |
| SADC | 1992 | X | | X | X | X | | | | X | | | X | | X | | | X | |
| COMESA | | X | X | X | | X | | | | X | X | | X | X | | | | X | |
| EAC Amended | 1999 | X | | X | X | X | X | | | | X | | X | | | X | | X | |
| Human Rights Charter | 1981 | X | X | X | X | X | X | X | | X | | X | X | X | X | X | X | X | |
| Cultural Charter | 1976 | | | | | | X | | | X | | | | | | | | | |
| CSSDCA | 2000 | X | X | X | | X | | | | X | | | X | | X | | | X | |
| MOU on CSSDCA | 2002 | X | | X | | X | | | | X | X | | X | | X | | X | X | |
| Abuja Treaty | 1991 | X | X | | | X | | | | X | | | | X | X | | | X | |
| CEN-SAD | | | | | | | | | | | | | | | | | | | |
| Charter on Democracy and Elections | 2007 | X | X | X | X | X | X | X | X | X | | X | X | | X | X | X | X | |
| Charter on Rights and welfare of the Child | 1999 | X | | | | | X | | | | | X | | | X | X | X | | |
| African Youth Charter | 2007 | X | X | | X | | X | | | | | X | | | X | X | X | | |

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AFRICAN UNION

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**UNION AFRICAINE
UNIÃO AFRICANA**

Addis Ababa, ETHIOPIA P. O. Box 3243 Telephone: +251-11-5517700 Fax: +251-11-5517844
website: www.africa-union.org

**EXECUTIVE COUNCIL
Twelfth Ordinary Session
25 – 29 JANUARY 2008
ADDIS ABABA, ETHIOPIA**

EX.CL/390 (XII)-b

**REPORT OF THE MINISTERIAL COMMITTEE ON
THE UNION GOVERNMENT**

REPORT OF THE MINISTERIAL COMMITTEE ON THE UNION GOVERNMENT

I. Introduction

The 9th Ordinary Session of the Assembly of Heads of State and Government, which took place in Accra, Ghana, from 1 to 3 July 2007, adopted the Accra Declaration, following the Grand Debate on the Union Government. Among other things, the Heads of State and Government agreed to accelerate the economic and political integration of the Continent, including the formation of the Union Government for Africa. This was with a view to providing a clear vision of the future of the African Union and of African unity. They therefore resolved to collectively identify and negotiate the differences in perception and opinion on the concept of the Union Government. They accordingly decided to set up a Ministerial Committee with the following Terms of Reference:

- i) identification of the content of the concept of the Union Government and its relationship with national governments;
- ii) identification of the domains of competence and the impact of the establishment of the Union Government on the sovereignty of Member States;
- iii) definition of the relationship between the Union Government and the Regional Economic Communities (RECs);
- iv) elaboration of the Roadmap together with the Timeframes for establishing the Union Government; and
- v) identification of additional sources of financing the activities of the Union.

2. The Heads of State and Government further mandated the Ministerial Committee to submit its work to the Executive Council, to enable the latter to make appropriate recommendations to the next Ordinary Session of the Assembly, due to be held in January 2008.

II. Composition of the Committee

3. Following consultations at regional level, the Committee was constituted as follows:

- i) Central: Cameroon; Gabon
- ii) East: Ethiopia; Uganda
- iii) North: Egypt; Libya
- iv) South: Botswana; South Africa
- v) West: Nigeria; Senegal

The Committee was chaired by Ghana in its capacity as the Chair of the Executive Council, with Honourable Akwasi Osei-Adjei, Minister of Foreign Affairs, personally in the Chair in all four meetings.

4. On 12 August 2007, the Chairperson of the Union and President of the Republic of Ghana, H.E. John Agyekum Kufuor, was informed about the composition of the Ministerial Committee and its tentative work programme, both of which he endorsed.

5. The work programme was subsequently amended and the Committee met as follows:

| | Venue | Date |
|------------------------------------------|-----------------------|---------------------|
| i) Consultative Meeting of the Committee | New York | 29 September 2007 |
| ii) Second Meeting | Accra, Ghana | 27-28 October 2007 |
| iii) Third Meeting | Addis Ababa, Ethiopia | 27-28 November 2007 |
| iv) Fourth Meeting | Addis Ababa, Ethiopia | 8-9 January 2008 |

6. While the first meeting of the Committee, which took place on the margins of the United Nations General Assembly, was devoted to consultations on how its work would be carried out, the second and third sessions were devoted to intense discussion of the Terms of Reference. The fourth session finalized the report and the recommendations of the Committee to the Executive Council. This report is therefore structured to reflect this.

III. Conclusions of the Second, Third and Fourth Meetings of the Committee

7. This part of the report comprises a synthesis of the conclusions and outcomes of the second, third and fourth meetings of the Committee. This is based on the discussions that took place on each term of reference.

First Term of Reference: Identification of the Content of the Concept of the Union Government and its Relationship with National Governments.

IV. General Observations

8. The Committee:

- (i) Re-affirmed the positions contained in operative paragraph (I) of the Accra Declaration, to the effect that the Heads of State had “agree(d) to accelerate the economic and political integration of the African Continent,

including the formation of a Union Government for Africa with the ultimate objective being to create the United States of Africa”.

- (ii) Underscored the importance of achieving unity and socio-economic political and cultural integration of the Continent, since nation States taken individually have shown their vulnerability and limitations in the context of globalization.
- (iii) Reiterated that when formed, the Union Government would not be a mere union of Governments but also of peoples of the Continent, as well as of the African Diaspora.
- (iv) Underlined that the primary responsibility for popularizing the concept of the Union Government, in order to ensure participation of the African peoples in its activities, rested with Member States of the Union.
- (v) Agreed that the Union Government should be a mechanism for the co-ordination and harmonization of certain sectors at continental level, and between the African continent and the rest of the world, given the principle of subsidiarity.
- (vi) Proposed that, in constructing the Union Government, the African Union should not feel constrained in devising its own model of integration, while taking into account the experiences of other parts of the world, such as India, Brazil, Europe, the Commonwealth of Independent States and the United States of America.
- (vii) Agreed that, given the fact that the RECs were recognized as the foundation and building blocks of the Union, they should be rationalized, harmonized and strengthened.

V) Shared Values

9. The Committee also agreed that, in conformity with the Accra Declaration, the Union Government should be built on common values, which should be identified and agreed upon as benchmarks. In that regard, the Committee affirmed that the common values should include the following:

- the common desire to fight against poverty;
- popular participation in governance;
- practice of good governance;
- practice of democracy;
- transparency in public affairs;
- respect for human rights and fundamental freedoms;
- adherence to the rule of law;
- promotion of peace and security;
- cultural values and diversity.

10. The Committee also considered adding to the list elaborated immediately above, the values and standards set out in various AU legal instruments, including the OAU Charter; the Constitutive Act; the African Charter on Democracy, Governance and Elections; the Protocol Relating to the Rights of Women; the Declaration and MOU of the Conference on Security, Stability, Development and Co-operation (CSSDCA); the Abuja Treaty; and the African Youth Charter. A detailed indication of these is contained in the document entitled: *Ascendancy of Shared Values in the African Union*, attached hereto as Annex I.

11. In its work, the Committee also deliberated on whether these common values should be a pre-requisite for membership of the Union Government. There was a clear understanding that it would be dangerous to lay down such requirements for membership and that, accordingly, all the Member States of the AU should be accorded membership of the Union Government. This would encourage all countries to imbibe and share in the common values.

VI) Institutions of the Union Government

12. On the relationship between the Union Government and national governments, the Committee agreed that the matter would require further reflection by the Executive Council.

13. While the Committee reached some agreement on the common values that should inform the content of the Union Government, there was relatively little discussion on the organs or institutions, which should constitute the structure of the Union Government. Questions were posed by some as to whether the Union Government would assume the form of a unitary, federal or confederal state structure, but the discussion itself did not provide conclusive answers. On the issue of whether the present organs of the AU should constitute those structures, some members of the Committee expressed the view that the input of the Audit of the Union would be of crucial relevance.

Second Term of Reference: Identification of the Domains of Competence and the Impact of the Establishment of the Union Government on the Sovereignty of Member States.

VII. Domains of Competence

14. Regarding the first aspect of this Term of Reference, namely the identification of domains of competence, consensus was reached on the following initial domains of competence of the Union Government:

- i) continent-wide poverty reduction strategies;
- ii) free movement of persons, goods and services;
- iii) inter-regional and continental infrastructure (road networks, bridges, railways, ports, energy, communication, etc.);
- iv) environmental issues (global warming, desertification and coastal erosion);

- v) epidemics and pandemics such as HIV/AIDS;
- vi) research/ university centres of excellence;
- vii) international trade negotiations;
- viii) peace and security; and,
- ix) transnational crime (terrorism, drug and arms trafficking);

It was however further agreed that, as the need arises, other domains of competence could be considered in the future.

15. The Committee discussed at length the pros and cons of including Foreign Affairs and Defence among the domains of competence. It was agreed that in the meantime, there should at least be harmonization and co-ordination in these sectors, in accordance with mechanisms and instruments already in existence in the Union.

VIII. Impact of the Union Government on the Sovereignty of Member States

16. Regarding the second part of the second Term of Reference, namely the impact of the establishment of the Union Government on the sovereignty of Member States, there was common agreement that the Union Government would, inevitably, impinge on the sovereignty of Member States. In other respects, however, including the issue of the practical consequences of such impact on the sovereignty of Member States, there was a divergence of views. While one school of thought suggested that it might be necessary to amend the constitutions of Member States, another maintained that the Union Government would not have a substantial impact on national sovereignty. This was because Member States would continue to take the necessary actions at national level, and the principles of subsidiarity and devolution of power would be applicable. Similarly, there was also a lack of agreement as to whether or not the time was ripe for the issue of the effect of the Union Government on sovereignty to be discussed at all.

17. It was nevertheless agreed that this matter has legal and constitutional implications, which required further reflection by the Executive Council. Such reflection should provide a comprehensive, interpretative and structured conceptualization of the operational principles, structures and mechanisms for the co-ordination and harmonization of roles between the Union Government and Member States.

Third Term of Reference: Definition of the Relationship Between the Union Government and the Regional Economic Communities (RECs).

18. It was generally acknowledged that the Accra Declaration had mentioned the process of rationalizing and strengthening of the RECs and the harmonization of their activities, as constituting one of the steps to attaining the Union Government.

19. The Committee further agreed that the process of the rationalization, harmonization and implementation of the programmes of the RECs, should not affect

the process of establishing the Union Government in the agreed domains of competence.

20. The Committee also agreed that:

- i) The RECs should be integrated into the governance framework of the Union, so as to turn them into instruments and mechanisms for the harmonization and implementation of the common policies and programmes of the Union;
- ii) To this effect, formal institutional links between the Union and the RECs should be established;
- iii) The modalities for involving the RECs in the formulation and implementation of all programmes of the Union should be properly defined;
- iv) The Union should co-ordinate policies on those aspects of the international relations of the RECs which have continental implications;
- v) The RECs should report regularly to the AU policy organs on their programmes and activities;
- vi) The Committee reiterated the need for the early implementation of the Decision adopted by the AU Assembly in Accra, authorizing the Chairperson of the Commission and the Chief Executives of RECs, to sign the new Protocol governing relations between the Union and the RECs

21. The Committee also identified a set of principles, which could inform the rationalization of the RECs. These included:

- i) The composition of the RECs should be based on the five geographical regions of the Union;
- ii) The principle of single membership should be strictly adhered to;
- iii) The flag, emblem, anthem and all symbols of the Union should be adopted by the RECs;
- iv) The responsibility for external representation of RECs and their participation in major global events should be assumed by the Union;
- v) The RECs, which have been designated as building blocs for the realization of economic and political integration, should continue with their integration and harmonization processes;

- vi) The RECs should be re-engineered as Regional Integration Communities (RICs);
- vii) The Abuja Treaty should be reviewed in order to accelerate regional economic integration, in accordance with the Sirte Declaration.

Fourth Term of Reference: Elaboration of the Roadmap Together with the Timeframes for Establishing the Union Government.

22. The Committee acknowledged that the process of establishing the African Economic Community was slow, and that, in fact, not much had been achieved since the Abuja Treaty came into force. It further noted that, even after the establishment of the African Union, which was established with the purpose of enhancing continental economic and political integration, the Timeframes and Roadmap for the Union had still not been agreed upon. It was suggested that in proposing a Roadmap, the provisions of the Abuja Treaty and the recommendations made in Chapter 3 of the Study on an African Union Government, as well as other relevant studies and documents, should be taken into account. However, some delegations pointed out that there was a difference between the Abuja Treaty Roadmap and the Roadmap for establishing the Union Government. It was also pointed out that the objective of the Abuja Treaty was the establishment of the African Economic Community, while that of the Union Government combined the economic and political integration of the Continent.

23. While the Committee agreed that the proposals for a Roadmap towards the Union Government should be practical and grounded in the realities of current trends in regional integration processes, there was lack of unanimity as to whether a Roadmap should be proposed at the moment: While some delegations were of the view that a Roadmap could and should be proposed - as required by the Accra Declaration - others maintained that a Roadmap should be informed by the outcome of the Audit of the Union. Yet another view expressed was that national consultations should be conducted for three years, after which a Roadmap could be elaborated.

24. The various proposals made on this term of reference were as follows:

- i) The proposal contained in the Study on the African Union Government, namely that of achieving the United States of Africa in three phases of three years each, should be adopted;
- ii) A counter proposal was that the first and second of the three phases should be ten years each, followed by a third phase of five years,
- iii) There should be three years of national consultations and the creation of national structures, followed by five years of harmonization and rationalization of regional structures, and then ten years of establishing the Union Government;

- iv) There should be a midway point between the proposals in the Abuja Treaty and those in the Study;
- v) The RECs should be allowed to complete their ongoing integration programmes until 2015, after which a Roadmap for the Union Government could be proposed.

Fifth Term of Reference: Identification of Additional Sources of Financing the Activities of the Union Government.

25. The Committee noted that this was a very crucial aspect of its work, as it was imperative to ensure adequate funding for the programmes and activities of the Union. Indeed, there was a compelling need to reduce or eliminate the Union's undue reliance on the external funding of its activities to ensure its complete ownership of them. The Committee thus suggested some options mentioned hereunder and underlined that the implementation of any number of them could be viable, provided the necessary political will existed.

26. Reference documents made available to the Committee included one submitted by President Abdoulaye Wade of Senegal and the AU Commission's "Study on Alternative Sources of Financing."

27. The following proposals emerged from the discussion of the various options:

- a) There should be a levy of 0.2% on some imports, and taxes of 0.2% on insurance (as proposed by President Wade);
- b) The experience of ECOWAS in imposing a levy on all imports from third countries, into the region, should be shared with the rest of continent;
- c) There should be levies on exports;
- d) There should be taxation on air tickets;
- e) There should be investments in property development such as real estate as well as in tourism;
- f) There should be taxation on car insurance;
- g) There should be taxation on home insurance and mortgages;
- h) There should be taxation of mobile phone services;

28. It was agreed that such levies, as mentioned above, should be rationalized to ensure that they do not adversely affect the poor and should not be of a disadvantage to any Member State.

29. It was also agreed that Member States should consult the relevant sectoral Ministers at the national level, on the feasibility of implementing these proposals. In connection with this, the Committee recalled that the Conference of Ministers of Finance, at its meeting in Yaounde in 2006, set up a Committee of Experts to study the various options for financing the programmes and activities of the Union. The Committee therefore stressed the need for this work to be completed urgently, so that the policy organs of the Union could be availed with its outcome.

30. The Committee also agreed that the setting-up of the proposed financial institutions of the Union should be speeded-up, as they could help in developing financing options and investment opportunities, much-needed to guarantee adequate financing of the activities of the Union.

31. The Committee agreed that it was necessary to supplement the present method of financing the activities of the Union through a system of assessed contributions, which would reduce the burden on the five Member States, which currently pay 75% of the AU budget. Accordingly, consideration should be given to increasing the budgetary contributions of Member States whose economies were improving. In the meantime, the Committee proposed that those Member States which are already bearing the major part of the burden, should be encouraged to continue to do so, to make up for those which could not afford it; but that due recognition should be given to such Member States

32. The Committee also emphasized the need to put in place, an effective mechanism that would ensure accountability, transparency and the judicious use of the available resources in the Union.

RECOMMENDATIONS

33. Arising from the above, the Committee makes the following recommendations on each Term of Reference, for consideration by the Executive Council:

First Term Of Reference – Identification of the Content of the Concept of Union Government and its Relationship with National Governments.

Recommendation I (a) – Participation of the African People in the Union Government

34. To ensure that the Union Government is not a union of Heads of State and Governments alone but also of the people of Africa, the Committee recommends that Member States should involve all their people in the processes leading to the formation of the Union Government. African governments should therefore encourage civil society organizations (CSOs), youth and women organizations, the private sector, academia, the Diaspora and the public at large, to participate in structured processes and programmes, including national consultations and other fora. Parliaments, as representatives of the people, should also engage in structured and regular debates on

the Union Government project, with a view to collating and coordinating national positions.

Recommendation I (b) - Popularizing the African Union

35. Each Member State should establish a National Commission on African Union Affairs (NCAUA) which, in addition to helping to implement Recommendation I (a) above, should ensure that the African Union and/or Union Government activities are publicized. In this regard, the national media should be encouraged to organize publicity events and campaigns to sensitize the general populace.

36. Similarly, the Commission of the African Union must intensify its media activities through, among other things, its website, films and publications. It should also put in place the structure that will work with the National Commission on African Union Affairs to be set up by Member States.

Recommendation I (c) - Involving Other Organs of the AU

37. The Committee recommends that the other organs of the AU, especially those that are supposed to be people-centred, such as the Pan-African Parliament (PAP) and ECOSOCC, should be encouraged to mobilize the people of Africa to support the Union Government. They should also help to clearly define the roles they will play in the structures of the Union Government at the national, regional and continental levels.

Recommendation I (d) - Shared Values

38. The Committee recommends that in order to have a solid basis for the Union Government, all the shared values already identified should be imbibed by all Member States. This should begin with the implementation of the values enshrined in adopted texts of the Union and the RECs. Constant efforts should also be made to ensure that Member States implement the decisions that are taken by the Union.

Recommendation I (e) - Institutions of the Union Government

39. The Committee recommends that the various institutions of the Union, especially the Commission of the African Union, should be strengthened so that they can play the roles expected of them in the integration of the Continent. In this respect, it is recommended that the Commission should perform executive functions and, therefore, be re-structured and empowered accordingly. In particular, the provision in Article 3 (2) of the Statute of the Commission which requires the Commission to represent the Union and defend its interests as mandated by the Executive Council and the Assembly, should be adhered to.

Recommendation 1 (f) - Relationship Between the Union Government and National Governments

40. Since the relationship between the Union Government and national governments is likely to give rise to legal and constitutional issues, the matter will require further reflection by the Executive Council.

Second Term of Reference - Identification of the Domains of Competence and the Impact of the Establishment of the Union Government on the Sovereignty of Member States.**Recommendation 2 (a) - Domains of Competence**

41. The Committee recommends the adoption of the domains of competence identified in paragraph 14 of this report, as the initial domains of competence of the Union Government. However, additional or other domains of competence could be taken on board in the future, as may be considered necessary.

Recommendation 2 (b) - Foreign Affairs and Defence

42. The Committee recommends that Member States should accept the need to harmonize and co-ordinate their policies and positions in these two areas. In this respect, Member States should implement the decisions already taken in these domains and put in place the necessary mechanisms for these.

Recommendation 2 (c) - Impact of the Union Government on the Sovereignty of Member States

43. Considering that the institutions of a Union Government would, inevitably, impinge on the sovereignty of Member States, the matter will require further reflection by the Executive Council. Such reflection should provide a comprehensive, interpretative and structured conceptualization of the operational principles, structures, and mechanisms for the co-ordination and harmonization of roles between the Union Government and Member States.

Third Term of Reference - Definition of the Relationship Between the Union Government and Regional Economic Communities (RECs).

44. The Committee recommends that:

3 (a) The proposals contained in paragraphs 20 and 21 of this report be considered by the Executive Council.

3 (b) Appropriate frameworks and modalities to formally link the Union and the RECs should be developed and adopted by the Executive Council

3 (c) As an imperative, Member States should mandate their respective RECs to begin the process of setting the framework of engagement with the continental body. In this respect, the Protocol between the Union and RECs should be signed immediately.

Fourth Term of Reference - Elaboration of a Roadmap Together with the Timeframes for Establishing the Union Government.

45. The Committee agreed to the three-phased approach proposed in the Study on the African Union Government: Towards the United States of Africa (The Obasanjo Report), produced hereunder as follows:

Initial Phase: Establishment of the Union Government 2006 - 2009

Continental level

- Selection of strategic areas of focus of the Union Government
- Decision on the mode of finance of the Union Government
- Adoption of the revised functions of the Assembly, the Executive Council, the Specialised Technical Committees, the Commission and the Permanent Representative Committee
- Decisions on the establishment of the Courts of Justice and Human Rights
- Decision on the revised Constitutive Act
- Decision on the launch of the studies on the financial institutions
- Decision on the establishment of the AIB
- Decision on the final status of NEPAD in the African Union and its links to the Commission
- Decision on the mode of representation in the PAP
- Decision on the representations of the Union Government in other parts of the world, including in particular in the African Diaspora;
- Consultations and decisions on the Free Movement of Persons, Rights of Establishment and Residence

Regional Level

- Rationalization and harmonization of the RECs
- Harmonization of RECs' instruments, institutions, programmes and operations with the Union Government objectives and Road-Map
- Popularization of the Union Government project in the region
- Development of a monitoring mechanism for the implementation of the Union road-map at regional level

National Level

- Harmonization of Union Members instruments, institutions, programmes and operations with the Union Government objectives and Road Map
- Building national constituencies for the Union Government

- Popularisation of the Union Government Project
- Development of national monitoring mechanisms for the implementation of the Union road-map,

Second Phase: Consolidation of the Union Government 2009 - 2012

Continental Level

- Creation of the ACB and AMF
- Restructuring of remaining continental organs, as may be required;
- Initiation of the process of consultation for and preparation of a Draft Constitution of the United States of Africa

Regional Level

- Adoption of measures towards effective free movement of Persons, Rights of Residence and Establishment
- Consultation on the draft Constitution of the United States of Africa

National Level

- National conventions on the draft Constitution of the United States of Africa

Third Phase: Establishment of the United States of Africa 2012 – 2015

- Adoption of the draft Constitution of the United States of Africa by the Member-States of the African Union.
- All continental institutions shall have been fully operational, including in particular the financial institutions.
- Finally, elections at all required levels (continental, regional and national) should take place during this period.

Timeframes

46. Regarding the timeframes for the implementation of the three-phased approach in the Obasanjo Report, the Committee submits the following options for consideration by the Executive Council:

- Option 1: Implementation within a period of 9 years: 3-3-3 years;
- Option 2: Implementation within a period of 15 years: 5-5-5 years with appropriate review mechanism; and
- Option 3: Implementation within a period of 25 years: 10-10-5 years.

Fifth Term of Reference – identification of Additional Sources of the Financing of the Activities of Union

47. The Committee recommends that, in view of the imperative of having additional sources of funding the activities of the Union, the following actions should be taken:

5 (a) The Expert Committee set up by the Ministers of Finance in their meeting in Yaounde, Cameroon, in 2006, to examine various options to finance the Union, should urgently complete its work. The Committee's work should be informed by the various options identified in this report in paragraph 27.

5 (b) To facilitate a decision by the Executive Council, ECOWAS should be requested to share its experience on how its community tax works for the benefit of other regions.

5 (c) The establishment of the proposed financial institutions of the Union should be accelerated, as they could help in developing financing options and investment opportunities to provide adequate financing of the activities of the Union.

5 (d) Member States must exercise the necessary political will to adopt a viable financing option that is feasible in the nearest future and sustainable in the long run.

**EX.CL/390 (XII)-b
Annex**

**THE ASCENDANCY OF SHARED VALUES IN THE
AFRICAN UNION GOVERNMENT**

The Ascendancy of Shared Values in the African Union Government

1. The vital essence in achieving the Union Government lies in the desirability of achieving the most fundamental privileges desirable to humankind in Africa. In spite of the marginal differences in history, ethnic or religions affiliations, race or sex, African leaders have remained consistent in acknowledging the need for common understanding among all Africans alike on the basis of shared values and principles. This is demonstrated in the collective approach with which they have addressed colonial and post-colonial challenges. It must be the basis for which Africans must also address the present global challenges.

2. “Shared” or “collective” values and principles have provided the basis for regional attempts at seeking common actions and solutions in addressing economic and social challenges, **albeit with limited success. These values, as they pertain to both the individual, the society and the state are anchored in the belief that, man, his environment and his maker must work together to find harmony, as it were, in managing scarce resources for the benefit of society. These “shared” or collective understanding”, are the values that Africans must hold and attain as a vision, and set the objectives thereof.**

3. **African leaders have acknowledged, in a variety of statements, declarations, treaties, conventions, Charters and acts, that the very premise for which the state legitimizes itself and its mandates, is to engage in a meaningful search for the well-being of their peoples and of the continent. Indeed, global and African history is replete with the struggles of Africa and Africans seeking basic opportunities to provide for themselves, manage their environment in harmony with their beliefs in a God that is humane, caring, epitomizes peace. Well-being for Africa and Africans must therefore be interpreted and projected to the extent that opportunity comes with freedom, basic rights and the free wills of people to express themselves in their communities.**

4. This well-being is therefore intrinsic in the values and principles that all Africans hold as sacred for their existence. These are the values that give “legitimacy” to mandates through preambles and introductions of African charters, treaties, conventions, acts, etc. They are aggregated as follows:

At the individual level

1. **Basic rights to life, identity and opportunity**
2. **Basic Freedoms (Expression and worship)**
3. **Tolerance**
4. **Participation in governance**
5. **Solidarity with each other in times of joy and in times of sadness**
6. **Dignity and Respect**
7. **Justice**
8. **Sense of Fairness**
9. **Equality of persons (Gender, race, sex etc)**
10. **Respect for age**
11. **Integrity**
12. **Community spiritedness**

At the state or regional level

1. **Sovereignty and the interdependence of states**
2. **Adherence to the rule of law**
3. **Democracy and Representation of the popular will**
4. **Care for the weakest**
5. **Self reliance (economic and social)**
6. **Justice**
7. **Law and order**
8. **Equity and equality**
9. **National determination**
10. **Solidarity of states (brothers keeper)**
11. **Stability of environment**
12. **Security**

Basis for Africa's interaction and engagement

5. Accordingly, these are the values and principles that Africa desired to achieve in the last 5 decades and these are the values and principles that must drive Africa's response to internal challenges and globalization. The case is therefore to be made in reviewing the various charters, treaties and protocols that Africans through leaders and representatives have adopted as their collective and shared basis for working together for their common good and interests.

6. These agreements imply a commonality of platforms and commitments that a community of interests has been identified as stakes. Africans must therefore work together by clearly identifying those interests and stakes, which they must set and meet as development targets. They are what Africans hold as their true value or values. They are shared and not negotiable. They are the core values for which all Africans, indeed, all men are daily in search for, and for which they are only too willing and eager to bequeath to their children the generations after.

Shared Values in the OAU Charter of 1963

7. Enthusiasm for a pan-African agenda was treated with suspicion, as African states, just coming out of colonialism were wary of “compromising” their hard won independence with an organization without precedence. Nonetheless, the OAU Charter of 1963 (initially signed by 32 countries to be followed 21 others) stated in the preamble to the Charter, that the Heads of African States and Governments...

Paragraph 2: *“Conscious of the fact that freedom, equality, justice and dignity are essential objectives for the achievement of the legitimate aspirations of the people,*

Paragraph 4: *inspired by a common determination to promote understanding among our peoples and cooperation among our states in response to the aspirations of our peoples for brother-hood and solidarity, in a larger unity transcending ethnic and national differences,*

Paragraph 5: *Convinced that, in order to translate this determination into a dynamic force in the cause of human progress, conditions for peace and security must be established and maintained,*

Paragraph 6: *Determined to safeguard and consolidate the hard-won independence as well as the sovereignty and territorial integrity of our states, and to fight against neo-colonialism in all its forms,*

Paragraph 7: *Dedicated to the general progress of Africa,*

Paragraph 8: *Persuaded that the Charter of the United Nations and the Universal Declaration of Human Rights, to the Principles of which we reaffirm our adherence, provide a solid foundation for peaceful and positive cooperation among States,*

Paragraph 9: *Desirous that all African States should henceforth unite so that **the** welfare and well-being of their peoples can be assured,*

Paragraph 10: *Resolved to reinforce the links between our states by establishing and strengthening common institutions,*

8. Furthermore, Articles II (Purposes) and III (Principles) of the Charter clearly specified to what purposes and principles the Charter owed its significance. Paragraph 10 outlined the thoughts of the pan-Africanists to reinforce the links between states by establishing common institutions.

Shared values in the Constitutive Act of the African Union 2001

9. The Constitutive Act was adopted in Lome, Togo in 2000 by the 36th Ordinary Session of the Assembly of Heads of State and Government. The Constitutive Act effectively succeeded and replaced the OAU Charter, with the formal take off of the African Union in Durban, South Africa in 2002.

10. The Constitutive Act is indicative of the new feelings of Africans and the desire to adequately confront their differences. The suspicion and reluctance of Member States to accede to a closer union in the 1963 Charter had receded in the light of African experience in 30-40 years. Africa's shared values converged. The conceptualization of the collective values expanded. Accordingly, the preamble of the Constitutive Act reflected the mood of the continent.

Paragraph 1 *INSPIRED by the noble ideals which guided the founding fathers of our Continental Organization and generations of Pan-Africanists in their determination to promote **unity, solidarity, cohesion and cooperation** among the peoples of Africa and African States;*

Paragraph 3 *RECALLING the heroic struggles waged by our peoples and our countries for **political independence, human dignity and economic emancipation**;*

Paragraph 4 *CONSIDERING that since its inception, the Organization of African Unity has played a determining and invaluable role in the liberation of the continent, **the affirmation of a common identity and the process of attainment of the unity of our Continent** and has provided a unique framework for our collective action in Africa and in our relations with the rest of the world;*

Paragraph 7 *GUIDED by our **common vision** of a **united and strong Africa** and by the need to build a partnership between governments and all segments of civil society, in particular women, youth and the private sector, in order to strengthen **solidarity and cohesion** among our peoples;*

Paragraph 8 *CONSCIOUS of the fact that the scourge of conflicts in Africa constitutes a major impediment to the socio-economic development of the continent and of the need to **promote peace, security and stability** as a prerequisite for the implementation of our development and integration agenda;*

Paragraph 9 *DETERMINED to promote and **protect human and peoples' rights, consolidate democratic institutions and culture, and to ensure good governance and the rule of law;***

Paragraph 10 *FURTHER DETERMINED to take all necessary measures to **strengthen our common institutions** and provide them with the necessary powers and resources to enable them discharge their respective mandates effectively;*

11. The Constitutive Act set the agenda for Africa's engagement in a more robust way than its predecessor. **Articles 3 (Objectives) and 4 (Principles) outlined an expanded vision of the continent and provided the fulcrum for "stronger" Africa.**

Article 3 stressed

- a. **greater unity and solidarity between the African countries and the peoples of Africa;**
- b. **the sovereignty, territorial integrity and independence of its Member States;**
- c. **political and socio-economic integration of the continent;**
- d. **Promotion and defense of African common positions on issues of interest to the continent and its peoples;**
- e. **international cooperation, taking due account of the Charter of the United Nations and the Universal Declaration of Human Rights;**
- f. **Promotion of peace, security, and stability on the continent;**
- g. **Promotion of democratic principles and institutions, popular participation and good governance;**
- h. **Promotion and protection of human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights and other relevant human rights instruments;**
- i. **Establishment of the necessary conditions which enable the continent to play its rightful role in the global economy and in international negotiations;**
- j. **Promotion of sustainable development at the economic, social and cultural levels as well as the integration of African economies;**
- k. **Promote cooperation in all fields of human activity to raise the living standards of African peoples;**
- l. **Coordinate and harmonize policies between existing and future Regional Economic Communities for the gradual attainment of the objectives of the Union;**

- m. Advance the development of the continent by promoting research in all fields, in particular in science and technology;*
- n. Work with relevant international partners in the eradication of preventable diseases and the promotion of good health on the continent.*

12. The Constitutive Act further predicated the functions of its representative union in the following principles

- a. **Sovereign equality and interdependence among Member States of the Union;***
- b. **Respect of borders existing on achievement of independence;***
- c. Participation of the African peoples in the activities of the Union;*
- d. **Establishment of a common defence policy for the African Continent;***
- e. **Peaceful resolution of conflicts among Member States of the Union through such appropriate means as may be decided upon by the Assembly;***
- f. **Prohibition of the use of force or threat to use force among Member States of the Union;***
- g. **Non-interference by any Member State in the internal affairs of another;***
- h. **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;***
- i. Peaceful co-existence of Member States and their right to live in peace and security;*
- j. **The right of Member States to request intervention from the Union in order to restore peace and security;***
- k. **Promotion of self-reliance within the framework of the Union;***
- l. Promotion of gender equality;*
- m. Respect for democratic principles, human rights, the rule of law and good governance;*
- n. **Promotion of social justice to ensure balanced economic development;***
- o. Respect for the sanctity of human life, condemnation and rejection of impunity and political assassination, acts of terrorism and subversive activities;*

p. Condemnation and rejection of unconstitutional changes of governments.

Africa's shared values in the Abuja Treaty of 1991

13. In the Abuja Treaty of 1991, where the African Economic Community was established, the reality of globalization and its challenges was reflected in the treaty with recommendations on how Africa should reorganize herself. The Treaty outlined far-reaching strategies for Africa with which to engage the rest of the world on a common platform. The assumption was that, Africa's integration was no longer predicated on whether Africa's subscription to stated values had matured. Indeed, shared values were taken for granted, and Africa had to move together as one.

14. This attitude was heavily reflected in the preamble, where African States outlined their intention to surge on with the development of requisite institutions for integration, rather than just statements on the need to affirm and adopt shared values. Africa had indeed taken a major step.

15. While Article 4 of the Treaty provided for the objectives of the African Economic Community, Article 3 required adherence to Shared Values as follows:

- a. *equality and inter-dependence of Member States;*
- b. *solidarity and collective self-reliance;*
- c. *inter-State cooperation, harmonization of policies and integration of programmes;*
- d. ***promotion of harmonious development of economic activities among Member States;***
- e. *observance of the legal system of the Community;*
- f. *peaceful settlement of disputes among Member States, active cooperation between neighbouring countries and promotion of a peaceful environment as a pre-requisite for economic development;*
- g. *recognition, promotion and protection of human and peoples' rights in accordance with the provisions of the African Charter on Human and Peoples' Rights; and*
- h. *Accountability, economic justice and popular participation in development.*

16. The Abuja Treaty listed its primary objectives in Article 4 with far reaching proposals such as Article 4 sub-section (h) with the objective for:

“the establishment of a common market, the gradual removal, among Member States, of obstacles to the free movement of persons, goods, services and capital and the right of residence and establishment”

17. The Treaty called for the establishment of Regional Economic Communities, where there are none and the strengthening of existing ones to achieve the African Economic Community. It provided a roadmap that would terminate in 34 years from that time in 1991.

Aggregation of Shared Values in various Instruments

18. There are several other instruments of engagement that were signed by the Assembly of African Heads of States and Governments, in expanding the “conceptualization of perceived Shared Values” and setting the platform for its convergence to serve the continent’s needs and aspirations. They include the Conference on Security, Stability, Development and Cooperation in Africa (CSSDCA), which called for frameworks to deal with specific values and themes. The CSSDCA was adopted in a Solemn Declaration by African Heads of States and Governments in Lome Togo 2000.

GENERAL PRINCIPLES of the CSSDCA

- (a) Respect for the sovereignty and the territorial integrity of all Member States;***
- (b) The security, stability and development of every African country is inseparably linked to that of other African countries. Instability in one country affects the stability of neighbouring countries and has serious implications for continental unity, peace and development;***
- (c) The interdependence of Member States and the link between their security, stability and development make it imperative to develop a common African agenda. Such an agenda must be based on a unity of purpose and a collective political consensus derived from a firm conviction that Africa cannot make any significant progress without finding lasting solutions to the problem of peace and security;***
- (d) The peaceful resolution of disputes, with emphasis on seeking African solutions to African problems;***
- (e) The prevention, management and resolution of conflicts provide the enabling environment for peace, security, stability and development to flourish;***
- (f) The responsibility for the security, stability and socio-economic development of the Continent lies primarily with African States;***

- (g) *While recognizing that the primary responsibility for the maintenance of international peace and security lies with the United Nations Security Council, the OAU, in close cooperation with the United Nations and the Regional Economic Communities, remains the premier organization for promoting security, stability, development and cooperation in Africa;*
- (h) *Democracy, good governance, respect for human and peoples' rights and the rule of law are prerequisites for the security, stability and development of the Continent;*
- (i) *Africa's resources should be used more effectively to meet the needs of African peoples and to improve their well-being;*
- (j) *The fulfillment of the objectives of the CSSDCA, requires the strengthening of Africa's solidarity and partnership with other regions of the world, in order to meet the challenges of globalization and avoid further marginalization;*

Aggregation of Shared Values in the instruments of the Regional Economic Communities

19. Sub-regional economic blocks also anchor their mandates in sustaining the shared values that are of the most concern to their regions. The table attempts an aggregation of Africa's shared values as they have been listed in the Articles stating the principles of their Charters or Acts.

| Shared Values explicitly captured in the Articles of Principles various African Documents | | Human Rights and Peoples Rights | Population participation in Governance and development | Good Governance and Democracy | Equality and Equity | Adherence to the Rule of Law | Social Justice | Respect for Diversity | Unity among people and states | Solidarity and Collective Self Reliance | Good neighborliness | Respect for Life and Dignity | Equality and Sovereignty of States | Cooperation and interdependence of states | Peace, stability and security | Non discrimination on bases of race, ethnic affiliation, gender | Freedoms | Peaceful Resolution of disputes | Non-interference in states |
|-------------------------------------------------------------------------------------------|------|---------------------------------|--------------------------------------------------------|-------------------------------|---------------------|------------------------------|----------------|-----------------------|-------------------------------|-----------------------------------------|---------------------|------------------------------|------------------------------------|-------------------------------------------|-------------------------------|-----------------------------------------------------------------|----------|---------------------------------|----------------------------|
| OAU Charter | 1963 | | | | | | | | | | | | X | | | | | X | X |
| AU Constitutive Act | 2002 | X | X | | | | X | | | X | | | X | X | X | X | | X | X |
| ECOWAS amended | 1993 | X | X | X | X | X | X | | | X | X | | X | X | X | | | X | |
| ECCAS | | | | | X | X | | | | | X | | X | | | | | X | |
| SADC | 1992 | X | | X | X | X | | | | X | | | X | | X | | | X | |
| COMESA | | X | X | X | | X | | | | X | X | | X | X | | | | X | |

| | | | | | | | | | | | | | | | | | | | |
|--------------------------------------------|------|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| EAC Amended | 1999 | x | | x | x | x | x | | | | x | | x | | | x | | x | |
| Human Rights Charter | 1981 | x | x | x | x | x | x | x | | x | | x | | x | X | x | x | x | |
| Cultural Charter | 1976 | | | | | | x | | | x | | | | | | | | | |
| CSSDCA | 2000 | x | x | x | | x | | | | x | | | x | | X | | | | x |
| MOU on CSSDCA | 2002 | x | | x | | x | | | | x | x | | x | | X | | | x | x |
| Abuja Treaty | 1991 | x | x | | | x | | | | x | | | | x | X | | | | x |
| CEN-SAD | | | | | | | | | | | | | | | | | | | |
| Charter on Democracy and Elections | 2007 | x | x | x | x | x | x | x | x | x | | x | x | | X | x | x | x | |
| Charter on Rights and welfare of the Child | 1999 | x | | | | | | | | | | | | | | x | x | x | |
| African Youth Charter | 2007 | x | x | | | x | | | | | | | | | | x | x | x | |

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