

AFRICAN UNION
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REPORT ON THE STATUS OF OAU/AU TREATIES
(As at 27 May 2009)

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A. INTRODUCTION

1. The report of the Chairperson of the Commission on the Status of OAU/AU Treaties was first prepared at the request of the 66th Ordinary Session of the Council of Ministers held in Harare, Zimbabwe, from 26 to 28 May, 1997 and submitted to the 67th Ordinary Session of Council held in Addis Ababa, Ethiopia in February 1998. In taking note of the report, Council emphasized that Member States be reminded regularly of the status of signatures and ratification or accession of these Treaties. Accordingly, the report has become a regular item on the agenda of Council.

B. ISSUES AND CURRENT SITUATION:

2. Since its inception in 1963, the policy organs of the Organization of African Unity and the African Union have adopted **thirty-eight (38)** Treaties, the most recent being the Statute of the African Union Commission on International Law (AUCIL); the African Charter on Statistics and the Protocol on the African Investment Bank, all adopted on 4 February 2009, in Addis Ababa, Ethiopia.. **Twenty-two (22)** of these Treaties have entered into force while two (2) additional treaties namely: the Constitution of the Association of African Trade Promotion Organizations (1974) and the African Maritime Transport Charter (1994) are in force provisionally. The remainder are in various stages of signature and ratification or accession. The list of treaties in force is indicated in paragraph 7 by an asterix as well as in Annex I.

3. Furthermore, since the submission of the last report in January 2009, some Member States have made considerable efforts to sign and ratify OAU/AU treaties. .

4. During the reporting period, fifteen (15) new signatures were appended and eight (8) additional instruments of ratification were deposited. This number is less than the previous reporting period during which 62 signatures were appended and 42 instruments deposited.

5. However, even though some Member States have made giant efforts to sign and ratify or accede to OAU/AU Treaties, a lot remains outstanding. It should be emphasized that treaties adopted under the aegis of the OAU/AU, which, by definition, address issues of specific concern to Africa, should be given utmost priority as doing so would underline the commitment of Member States to be bound by the principles, values and standards of the Union and thus contribute to the realization of its objectives.

6. An assessment of the process and pace of ratification of/accession to the OAU/AU Treaties indicates that whilst the process is generally very slow, and the factors were identified in the report of the meeting of Ministers of Justice held in Kigali in November 2008, some treaties are signed by Member States much more expeditiously

than others. The treaties that enter into force more quickly tend to be those that deal with non controversial subjects, whose negotiation did not attract a substantial number of reservations, and those that are not perceived as affecting state sovereignty, etc. This would then seem to suggest that Member States are still wary of any proposals that affect or are perceived to impact on their sovereignty.

7. The Commission is a depositary to the following OAU/AU Treaties:

- I. General Convention on the Privileges and Immunities of the Organization of African Unity *
- II. Additional Protocol to the OAU General Convention on Privileges and Immunities *
- III. Phyto-Sanitary Convention for Africa
- IV. 1968 African Convention on the Conservation of Nature and Natural Resources *
- V. Revised African Convention on the Conservation of Nature and Natural Resources (this Convention will replace No. IV when it enters into force)
- VI. African Civil Aviation Commission Constitution *
- VII. OAU Convention Governing the Specific Aspects of Refugee Problems in Africa *
- VIII. Constitution of the Association of African Trade Promotion Organizations **
- IX. Inter-African Convention Establishing an African Technical Co-operation Programme
- X. OAU Convention for the Elimination of Mercenarism in Africa *
- XI. Cultural Charter for Africa *
- XII. Charter for African Cultural Renaissance (this Charter will replace No. XI upon entry into force)
- XIII. The African Charter on Human and Peoples' Rights *

* Treaties that have entered into force definitively.

** Treaties that have entered into force provisionally.

- XIV. Convention for the Establishment of the African Center for Fertilizer Development
- XV. Agreement for the Establishment of the African Rehabilitation Institute *
- XVI. Treaty Establishing the African Economic Community *
- XVII. Bamako Convention on the Ban of the Import into Africa and the Control of Trans-Boundary Movement and Management of Hazardous Waste within Africa *
- XVIII. African Charter on the Rights and Welfare of the Child *
- XIX. The African Nuclear-Weapon-Free-Zone Treaty (The Treaty of Pelindaba)
- XX. The African Maritime Transport Charter**
- XXI. Protocol to the African Charter on Human and Peoples' Rights on the establishment of the African Court on Human and Peoples' Rights *
- XXII. OAU Convention on the Prevention and Combating of Terrorism *
- XXIII. Constitutive Act of the African Union *
- XXIV. Protocol to the Treaty Establishing the African Economic Community relating to the Pan-African Parliament *
- XXV. Convention of the African Energy Commission*
- XXVI. Protocol relating to the establishment of the Peace and Security Council of the African Union *
- XXVII. African Union Convention on Preventing and Combating Corruption*
- XXVIII. Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa*
- XXIX. Protocol on Amendments to the Constitutive Act of the African Union
- XXX. Protocol of the Court of Justice of the African Union*
- XXXI. Protocol on the Statute of the African Court of Justice and Human Rights (this Protocol and the annexed Statute will replace Nos. XXI and XXX upon entry into force)
- XXXII. Protocol to the OAU Convention on the Prevention and Combating of Terrorism

- XXXIII. African Union Non-Aggression And Common Defence Pact
- XXXIV. African Youth Charter
- XXXV. African Charter on Democracy, Elections and Governance
- XXXVI. Statute of the African Union Commission on International Law (AUCIL) (This legal instrument does not require signature or ratification and thus entered into force on the date of its adoption on 4 February 2009). *
- XXXVII. African Charter on Statistics
- XXXVIII. Protocol on the African Investment Bank.

I. GENERAL CONVENTION ON THE PRIVILEGES AND IMMUNITIES OF THE ORGANIZATION OF AFRICAN UNITY (1965)

8. The General Convention adopted and signed in Accra, Ghana, on 25 October 1965 ensures the privileges and immunities of the OAU, its officials and staff members in the territories of Member States in the exercise of their functions. It entered into force on 25 October 1965. Article X(2) of the Convention stipulates that: “The accession provided for in paragraph 1 of this Article shall be effected by the signature of the Heads of State and Government; this signature implies the immediate entering into force of the General Convention on the Privileges and Immunities of the Organization of African Unity.”

9. **The following thirty-five (35) Member States have ratified or acceded to the Convention:** Algeria, Benin, Burkina Faso, Burundi, Cameroon, C.A.R.^H, Comoros, Congo, Côte d’Ivoire, D.R.C.^{HH}, Egypt, Ethiopia, Eq. Guinea, Gabon, Ghana, Guinea, Kenya, Liberia, Libya, Madagascar, Malawi, Mali, Mauritania, Mozambique, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, Somalia, Sudan, Swaziland, Tanzania, Tunisia, and Uganda.

10. **Six (6) Member States:** Chad, Djibouti, Gambia, Guinea Bissau, Togo and Zambia **have signed but not ratified the Convention.**

11. **The following twelve (12) Member States have neither signed nor ratified or acceded to the Convention:** Angola, Botswana, Cape Verde, Eritrea, Lesotho, Mauritius, Namibia, S.A.D.R.^{HHH}, Sao Tome & Principe, Seychelles, South Africa, and Zimbabwe.

^H Central African Republic
^{HH} Democratic Republic of Congo
^{HHH} Sahrawi Arab Democratic Republic

II. ADDITIONAL PROTOCOL TO THE OAU GENERAL CONVENTION ON PRIVILEGES AND IMMUNITIES (1980)

12. The Additional Protocol, which does not require signature by Member States, governs the privileges and immunities of the OAU Specialized Agencies. The 35th Ordinary Session of the Council of Ministers held in Freetown, Sierra Leone, adopted it in June 1980. Article 10(2) of the Protocol stipulates that: "Accession shall be effected by the deposit of an instrument of accession with the Secretary-General (Chairperson) of the Organization of African Unity (African Union); and the Protocol shall come into force as regards such Member on the date of the deposit of its instrument of accession."

13. **Only six (6) Member States namely:** Cameroon, Ethiopia, Gabon, Liberia, Mozambique and Rwanda **have ratified the Protocol.** Accordingly, the Additional Protocol has come into force only as regards these six (6) countries.

III. PHYTO-SANITARY CONVENTION FOR AFRICA (1967)

14. This Convention, which does not require signature by Member States, governs the protection of the health of plants and the eradication or control of diseases, insects, pests and other enemies of plants in Africa. The Assembly of Heads of State and Government meeting approved the Convention in Kinshasa, Democratic Republic of Congo, on 13 September 1967.

15. **The Convention has been ratified by the following ten (10) Member States:** Benin, Burundi, Cameroon, C.A.R, Egypt, Ethiopia, Lesotho, Niger, Rwanda, and Togo.

16. **The following forty-three (43) Member States have not ratified the Convention:** Algeria, Angola, Botswana, Burkina Faso, Cape Verde, Chad, Comoros, Congo, Cote d'Ivoire, D.R.C, Djibouti, Eq. Guinea, Eritrea, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Kenya, Liberia, Libya, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mozambique, Namibia, Nigeria, S.A.D.R, Sao Tome & Principe, Senegal, Seychelles, Sierra Leone, Somalia, South Africa, Sudan, Swaziland, Tanzania, Tunisia, Uganda, Zambia and Zimbabwe.

IV. AFRICAN CONVENTION ON THE CONSERVATION OF NATURE AND NATURAL RESOURCES (1968)

17. This Convention deals with the conservation of nature and natural resources on the continent. The Heads of State and Government of independent African States adopted and signed it in Algiers, Algeria, on 15 September 1968. It came into force on 16 June, 1969 in accordance with Article XXI which stipulates that: "This Convention shall come into force on the thirtieth day following the date of deposit of the fourth instrument of ratification or accession with the Administrative Secretary-General of the Organization of African Unity..." This Convention has been revised and the Revised Convention was adopted in Maputo, Mozambique, in July 2003.

18. **The following thirty (30) Member States have ratified or acceded to it:** Algeria, Burkina Faso, Cameroon, C.A.R., Congo, Comoros, Côte d'Ivoire, D.R.C.,

Djibouti, Egypt, Gabon, Ghana, Kenya, Liberia, Madagascar, Malawi, Mali, Mozambique, Niger, Nigeria, Rwanda, Senegal, Seychelles, Sudan, Swaziland, Tanzania, Togo, Tunisia, Uganda, and Zambia.

19. **Thirteen (13) Member States namely:** Benin, Botswana, Burundi, Chad, Ethiopia, Gambia, Guinea, Lesotho, Libya, Mauritania, Mauritius, Sierra Leone and Somalia **have signed but not ratified or acceded to the Convention.**

20. **The following ten (10) Member States have neither signed nor ratified or acceded to it:** Angola, Cape Verde, Eritrea, Eq. Guinea, Guinea Bissau, Namibia, S.A.D.R., Sao Tome & Principe, South Africa, and Zimbabwe.

V. **REVISED AFRICAN CONVENTION ON THE CONSERVATION OF NATURE AND NATURAL RESOURCES (ALGIERS CONVENTION) (2003)**

21. The Revised Convention comprises an appropriate framework to address the conservation of nature and natural resources on the continent taking into account the emerging climatic, environmental and natural resource challenges. The Heads of State and Government of Member States of the African Union adopted the revised Convention in Maputo, Mozambique in July 2003. According to Article XXXVIII (1), "This Convention shall come into force on the thirtieth day following the date of deposit of the fifteenth instrument of ratification, acceptance, approval or accession with the Depositary, who shall inform the States referred to in Articles XXXVI and XXXVII accordingly."

22. **Eight (8) Member States,** Burundi, Comoros, Ghana, Lesotho, Libya, Mali, Niger and Rwanda, **have ratified the Convention.**

23. **Twenty-eight (28) Member States namely:** Benin, Burkina Faso, Chad, Cote d'Ivoire, Congo, Djibouti, DRC, Ethiopia, Eq. Guinea, Gambia, Guinea, Guinea Bissau, Kenya, Liberia, Madagascar, Mozambique, Namibia, Nigeria, Senegal, Sierra Leone, Somalia, Sudan, Swaziland, Tanzania, Togo, Uganda, Zambia and Zimbabwe **have signed but not ratified the Convention.**

24. The following **seventeen (17) Member States:** Algeria, Angola, Botswana, Cameroon, CAR, Cape Verde, Egypt, Eritrea, Gabon, Malawi, Mauritania, Mauritius, SADR, South Africa, Seychelles, Sao Tome & Principe and Tunisia **have neither signed nor acceded to the Convention.**

VI. **AFRICAN CIVIL AVIATION COMMISSION CONSTITUTION (1969)**

25. The African Civil Aviation Commission's objectives are to provide Member States with a framework for coordination and cooperation in the activities relating to civil aviation and in the utilization of African air transport systems. The Constitution, signed in Addis Ababa, Ethiopia on 17 January 1969 entered into force on 15 March 1972 in accordance with its para 14.

26. **The following forty-four (44) Member States have ratified or acceded to it:** Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Chad, Comoros,

Congo, Côte d'Ivoire, D.R.C., Egypt, Eritrea, Ethiopia, Gabon, Gambia, Ghana, Guinea, Kenya, Lesotho, Liberia, Libya, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, Somalia, South Africa, Sudan, Swaziland, Tanzania, Togo, Tunisia, Uganda and Zambia.

27. **Four (4) Member States:** Central African Republic, Djibouti, Seychelles and Zimbabwe have signed but not ratified or acceded to the Constitution.

28. **The following five (5) Member States have not signed or acceded to it:** Cape Verde, Eq. Guinea, Guinea-Bissau, S.A.D.R., and Sao Tome & Principe.

VII. OAU CONVENTION GOVERNING THE SPECIFIC ASPECTS OF REFUGEE PROBLEMS IN AFRICA (1969)

29. This Convention deals with the problem of refugees in Africa and seeks to find ways and means of alleviating their suffering as well as providing them with the requisite legal protection and safeguarding their rights as refugees. The Heads of State and Government adopted and signed the Convention in Addis Ababa, Ethiopia on 10 September 1969. It entered into force on 20 June 1974, in application of Article XI, which stipulates that: “[This] Convention shall come into force upon deposit of instruments of ratification by one-third of the Member states of the OAU”.

30. **The following forty-five (45) Member States have ratified or acceded to the Convention:** Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, C.A.R., Chad, Comoros, Congo, Côte d'Ivoire, D.R.C., Egypt, Eq. Guinea, Ethiopia, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Kenya, Lesotho, Liberia, Libya, Mali, Malawi, Mauritania, Mozambique, Niger, Nigeria, Rwanda, Senegal, Seychelles, Sierra-Leone, South Africa, Sudan, Swaziland, Tanzania, Togo, Tunisia, Uganda, Zambia and Zimbabwe

31. **Four (4) Member States:** Djibouti, Madagascar, Mauritius and Somalia **have signed but not ratified or acceded to the Convention.**

32. **The following four (4) Member States have neither signed nor ratified or acceded to the Convention:** Eritrea, Namibia, S.A.D.R., and Sao Tome & Principe.

VIII. CONSTITUTION OF THE ASSOCIATION OF AFRICAN TRADE PROMOTION ORGANIZATIONS (1974)

33. This Constitution adopted in Addis Ababa, Ethiopia, on 18 January 1974, deals with the study, discussion and promotion of African trade matters. Article XV(3) stipulates that: “This Constitution shall provisionally come into force upon signature by twelve States and shall formally come into force upon ratification or approval by twelve States signatory to this Constitution.” The Constitution has not yet entered in force definitively, because it has not been ratified by twelve States signatory to it, but may be regarded as being provisionally in force in terms of Article XV(3).

34. **The following eleven (11) Member States signatory to the Constitution have ratified it, namely:** Algeria, Egypt, Ethiopia, Ghana, Liberia, Niger, Nigeria, Sudan, Togo, Tunisia, and Zambia.

35. **One (1) Member State:** Guinea, not an original signatory State, has ratified the Constitution.

36. **The following twenty-three (23) Member States signatories to the Convention, have not yet ratified it:** Benin, Burkina Faso, Burundi, Cameroon, C.A.R., Chad, Cote d'Ivoire, Comoros, Congo, Djibouti, D.R.C., Gambia, Gabon, Kenya, Libya, Madagascar, Mali, Rwanda, Senegal, Sierra Leone, Somalia, Swaziland, and Uganda

37. **The following eighteen (18) Member States have neither signed nor acceded to the Constitution:** Angola, Botswana, Cape Verde, Eq. Guinea, Eritrea, Guinea Bissau, Lesotho, Malawi, Mauritania, Mauritius, Mozambique, Namibia, S.A.D.R., Sao Tome & Principe, Seychelles, South Africa, Tanzania, and Zimbabwe.

IX. INTER-AFRICAN CONVENTION ESTABLISHING AN AFRICAN TECHNICAL CO-OPERATION PROGRAMME (1975)

38. This Convention caters for the need to enhance cooperation among African countries in the deployment of their human resources to overcome the shortage of specialized personnel in Africa. Accordingly, African Heads of State and Government meeting in Kampala, Uganda from 28 July to 1 August 1975 agreed to establish an Inter-African Technical Co-operation Programme. Article 28(2) of the Convention stipulates that: "The Convention shall come into force thirty (30) days after the date of the reception of the tenth instrument of ratification."

39. So far, **only five (5) Member States;** Comoros, Ethiopia, Gabon, Mali and Niger **have ratified it**, and **twenty-two (22) Member States namely:** Benin, Burkina Faso, C.A.R, Chad, Congo, Cote d'Ivoire, Djibouti, D.R.C, Egypt, Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Madagascar, Senegal, Sierra Leone, Somalia, Swaziland, Togo, Uganda and Zambia **have signed but not ratified or acceded to the Convention.**

40. **The following twenty-six (26) Member States have neither signed nor acceded to the Convention:** Algeria, Angola, Botswana, Burundi, Cameroon, Cape Verde, Eq. Guinea, Eritrea, Kenya, Lesotho, Libya, Malawi, Mauritania, Mauritius, Mozambique, Namibia, Nigeria, Rwanda, S.A.D.R, Sao Tome & Principe, Seychelles, South Africa, Sudan, Tanzania, Tunisia and Zimbabwe.

X. OAU CONVENTION FOR THE ELIMINATION OF MERCENARISM IN AFRICA (1977)

41. This Convention which was adopted and signed in Libreville, Gabon, on 3 July 1977, deals with measures to eliminate mercenaries and overcome the grave threat they pose to the independence, sovereignty, territorial integrity and harmonious development of Member States. It came into force on 22 April, 1985 in application of Article 13 (2) of

which stipulates that it shall come into force thirty (30) days after the deposit of the tenth instrument of ratification.

42. **Twenty-nine (29) Member States have ratified or acceded to it:** Algeria, Benin, Burkina Faso, Cameroon, Congo, Comoros, D.R.C., Egypt, Ethiopia, Eq. Guinea, Gabon, Ghana, Guinea, Lesotho, Liberia, Libya, Madagascar, Mali, Niger, Nigeria, Rwanda, Senegal, Seychelles, Sudan, Tanzania, Togo, Tunisia, Zambia and Zimbabwe.

43. **Eleven (11) Member States:** Angola, Chad, Côte d'Ivoire, Djibouti, Gambia, Guinea Bissau, Kenya, Sierra Leone, Somalia, Swaziland and Uganda **have signed but not ratified or acceded to the Convention.**

44. **Thirteen (13) Member States have neither signed nor acceded to the Convention:** Botswana, Burundi, C.A.R, Cape Verde, Eritrea, Malawi, Mauritania, Mauritius, Mozambique, Namibia, S.A.D.R., Sao Tome & Principe, and South Africa. .

XI. CULTURAL CHARTER FOR AFRICA (1976)

45. The Cultural Charter, adopted in Mauritius on 5 July 1976, does not require signature by Member States. It deals with the respect of the inalienable right of peoples to practice and enjoy their cultural lives in harmony with their political, economic, social, philosophical and spiritual ideas. This Charter came into force on 19 September 1990 in application of Article 34, which requires ratification by two-thirds of the total membership of the OAU.

46. **The following thirty-four (34) Member States have ratified or acceded to it:** Algeria, Angola, Benin, Burkina Faso, Burundi, Cameroon, Chad, Congo, Djibouti, Egypt, Ethiopia, Gabon, Ghana, Guinea, Guinea-Bissau, Kenya, Libya, Madagascar, Malawi, Mali, Mauritius, Niger, Nigeria, Rwanda, Senegal, Seychelles, Somalia, Sudan, Tanzania, Togo, Tunisia, Uganda, Zambia and Zimbabwe.

47. **The following nineteen (19) Member States have neither ratified nor acceded to the Convention:** Botswana, Cape Verde, C.A.R., Comoros, Côte d'Ivoire, D.R.C, Eq. Guinea, Eritrea, Gambia, Lesotho, Liberia, Mauritania, Mozambique, Namibia, S.A.D.R., Sao Tome & Principe, Sierra Leone, South Africa and Swaziland.

XII. CHARTER FOR AFRICAN CULTURAL RENAISSANCE (2006)

48. The Charter for African Cultural Renaissance was adopted by the Assembly in Khartoum, The Sudan, in January 2006. It deals with African cultural diversity, identity and renaissance, cultural development, use of African languages, use of the mass media, the role of States in cultural development and intra and inter-African cultural co-operation. According to Article 35, "This Charter shall come into force immediately upon receipt by the Commission of the African Union of the instruments of ratification and adherence from two-thirds of the total membership of the African Union." Upon its entry into force, the present Charter shall replace the Cultural Charter for Africa adopted in

1976 by the Heads of State and Government of OAU. However, the provisions of the original Cultural Charter for Africa shall govern the relationships between the Parties to the original Cultural Charter for Africa of 1976 and the Parties to this revised Charter.

49. **So far, twelve (12) Member States, namely:** Benin, Burkina Faso, Chad, Gabon, Gambia, Ghana, Liberia, Mali, Nigeria, Senegal, Sierra Leone and Togo **have so far signed the Charter.**

50. **It is yet to be signed and/or ratified by the following forty-one (41) Member States:** Algeria, Angola, Botswana, Burundi, Cameroon, Cape Verde, C.A.R., Comoros, Congo, Côte d'Ivoire, D.R.C., Djibouti, Egypt, Eq. Guinea, Eritrea, Ethiopia, Guinea, Guinea-Bissau, Kenya, Lesotho, Libya, Madagascar, Malawi, Mauritania, Mauritius, Mozambique, Namibia, Niger, Rwanda, S.A.D.R., Sao Tome & Principe, Seychelles, Somalia, South Africa, Sudan, Swaziland, Tanzania, Tunisia, Uganda, Zambia and Zimbabwe.

XIII. THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS (1981)

51. The African Charter on Human and Peoples' Rights, which deals with the promotion and protection of human and peoples' rights, was adopted by the 18th Ordinary Session of the Assembly of Heads of State and Government, in June 1981 in Nairobi, Kenya. It entered into force on 21 October 1986 in application of Article 63(3), which requires ratification/adherence of a simple majority of Member States to come into force. **All Member States have ratified the Charter.**

52. RESERVATIONS BY MEMBER STATES:

Zambia: entered reservations as follows:

- **Article 13(3)- should be amended such that every individual has the right of access to any place, services or public property intended for use by the general public;**
- **Article 37- the Secretary-General of the Organization, rather than the Chairman of the Assembly, should draw lots to determine the terms of office of members of the Commission; and non State Parties to the Charter should also submit reports to the Commission.**

Egypt: entered reservations as follows:

- **Article 8 and Article 18(3)- Application of Article 8 and Article 18 (3) of the Charter should be in the light of Islamic Shariah Law and not to its demerit;**
- **Article 9(1)- Egypt shall interpret this paragraph as being applicable only to information, the obtaining of which is authorized by Egyptian laws and regulations.**

XIV. CONVENTION FOR THE ESTABLISHMENT OF THE AFRICAN CENTRE FOR FERTILIZER DEVELOPMENT (1985)

53. This Convention deals with the stabilization and improvement of agriculture through the training of technicians, technologists and related manpower in the manufacture and marketing of fertilizers in Africa. The 42nd Ordinary session of the Council of Ministers held in Addis Ababa, Ethiopia in July 1985 adopted and signed the Charter. Article XVIII (1) stipulates that: "This Convention shall enter into force, with respect to all Member States that have ratified or acceded to it, on the date when the instruments of ratification or accession have been deposited by the Host Government and by the Governments of at least five (5) other States. Any other Member States of the Organization of African Unity shall become a party to this Convention on the date of the deposit of its instrument of ratification or accession."

54. **Only five (5) Member States, namely:** Comoros, Ethiopia, Gabon, Libya and Mali **have ratified the Convention.**

55. **Twenty-six (26) Member States, namely:** Benin, Burkina Faso, Burundi, C.A.R., Cameroon, Chad, Congo, Cote d'Ivoire, Djibouti, D.R.C, Gambia, Ghana, Guinea, Liberia, Madagascar, Niger, Nigeria, Senegal, Sierra Leone, Somalia, Sudan, Swaziland, Togo, Uganda, Zambia and Zimbabwe **have signed but not ratified the Convention.**

56. **The following twenty-two (22) Member States have neither signed nor acceded to the Convention:** Algeria, Angola, Botswana, Cape Verde, Egypt, Eq. Guinea, Eritrea, Guinea-Bissau, Kenya, Lesotho, Malawi, Mauritania, Mauritius, Mozambique, Namibia, Rwanda, S.A.D.R, Sao Tome & Principe, Seychelles, South Africa, Tanzania and Tunisia.

XV. AGREEMENT FOR THE ESTABLISHMENT OF THE AFRICAN REHABILITATION INSTITUTE (ARI) (1985)

57. The African Rehabilitation Institute deals with the harmonization of the principles and strategies for disability prevention. It also addresses the rehabilitation of the disabled by facilitating the training of required manpower. The Institute established pursuant to Resolution CM/Res.834 (XXXVI) was adopted by the Council of Ministers at its Forty-Second Ordinary Session on 17 July 1985 in Addis Ababa, Ethiopia. By virtue of Article XVIII (3) of the Agreement, the deposit of nine instruments of ratification by Member States enables the Agreement to enter into force definitively. Accordingly, it entered into force on 2 December 1991.

58. **Twenty-four (24) Member States have ratified or acceded to it:** Angola, Botswana, Burkina Faso, Cameroon, Chad, Congo, Ethiopia, Guinea, Kenya, Lesotho, Libya, Malawi, Mali, Mauritania, Mozambique, Namibia, Niger, Nigeria, Senegal, Swaziland, Togo, Uganda, Zambia and Zimbabwe.

59. **Twelve (12) Member States:** Benin, C.A.R., Comoros, Cote d'Ivoire, Djibouti, Egypt, Gambia, Gabon, Ghana, Liberia, Sierra Leone and Somalia **have signed but not ratified or acceded to the Agreement.**

60. **The following sixteen (16) Member States have neither signed nor ratified or acceded to it:** Algeria, Burundi, Cape Verde, D.R.C., Eq. Guinea, Eritrea, Guinea-Bissau, Madagascar, Rwanda, S.A.D.R., Sao Tome & Principe, Seychelles, Sudan, South Africa, Tanzania and Tunisia.

61. **One (1) Member State:** Mauritius **withdrew its instrument of ratification** in 1991.

XVI. TREATY ESTABLISHING THE AFRICAN ECONOMIC COMMUNITY (1991)

62. This Treaty deals with the economic integration of Member States and the establishment of the African Economic Community. It was adopted and signed in Abuja, Nigeria, on 3 June 1991, and entered into force on 12 May 1994. **The Treaty has been ratified by forty-nine (49) Member States.**

63. **One (1) Member State:** Eritrea **has neither signed nor acceded to the Treaty.**

64. **The following three (3) Member States have signed but have not ratified the Treaty:** Djibouti, Madagascar and Somalia.

XVII. BAMAKO CONVENTION ON THE BAN OF THE IMPORT INTO AFRICA AND THE CONTROL OF TRANSBOUNDARY MOVEMENT AND MANAGEMENT OF HAZARDOUS WASTES WITHIN AFRICA (1991)

65. This Convention adopted by the Conference of the Ministers of Environment in Bamako, Mali, in January 1991 and subsequently endorsed by the Council of Ministers by resolution CM/Res.1356 (LIV) on 1 June 1991, deals with the control of hazardous wastes and the growing threat to health and environment posed by the generation, complexity and movement of such wastes. It received the required number of 10 ratifications in January 1998 and, consequently, entered into force on 22 April 1998.

66. **Twenty-three (23) Member States have ratified or acceded to the Convention:** Benin, Burundi, Cameroon, Congo, Côte d'Ivoire, Comoros, D.R.C., Ethiopia, Egypt, Gabon, Gambia, Libya, Mali, Mauritius, Mozambique, Niger, Senegal, Sudan, Tanzania, Togo, Tunisia, Uganda and Zimbabwe.

67. **Seventeen (17) Member States namely:** Burkina Faso, C.A.R, Chad, Djibouti, Ghana, Guinea, Guinea Bissau, Kenya, Lesotho, Liberia, Madagascar, Nigeria, Rwanda, Sierra Leone, Somalia, Swaziland and Zambia **have signed but not ratified or acceded to the Convention.**

68. **The following thirteen (13) Member States have neither signed nor acceded to the Convention:** Algeria, Angola, Botswana, Cape Verde, Eq. Guinea, Eritrea,

Malawi, Mauritania, Namibia, S.A.D.R., Sao Tome & Principe, Seychelles and South Africa.

XVIII. THE AFRICAN CHARTER ON THE RIGHTS AND WELFARE OF THE CHILD (1990)

69. This Charter deals with the promotion and protection of the rights and welfare of the African child. The 26th Ordinary Session of the Assembly of Heads of State and Government held in Addis Ababa, Ethiopia, in July 1990, adopted it. It entered into force on 29 November 1999, by virtue of Article XLVII (3).

70. **Forty-five (45) Member States have ratified or acceded to the Charter:** Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, Chad, Comoros, Congo, Côte d'Ivoire, Egypt, Eq. Guinea, Gabon, Ghana, Eritrea, Ethiopia, Gambia, Guinea, Guinea Bissau, Kenya, Lesotho, Liberia, Libya, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, Senegal, Seychelles, Sierra Leone, South Africa, Sudan, Tanzania, Togo, Uganda, Zambia and Zimbabwe.

71. **The following six (6) Member States have signed but not ratified the Charter:** C.A.R., Djibouti, S.A.D.R., Somalia, Swaziland and Tunisia.

72. **The following two (2) Member States have neither signed nor acceded to the Charter:** D.R.C. and Sao Tome & Principe.

73. RESERVATIONS ENTERED BY MEMBER STATES:

Botswana: Does not consider itself bound by:

- **Article II - Definition of a Child**

Egypt: Does not consider itself bound by the following Articles:

- **Articles XXI (2)- Child marriage and betrothal of girls and boys;**
- **Article XXIV- Adoption;**
- **Article XXX (a- e)- Children of imprisoned mothers;**
- **Article XLIV- Communications; and**
- **Article XLV (1)- Investigations by Committee.**

Mauritania: Does not consider itself bound by:

- **Article IX – Freedom of conscience and religion**

Sudan: Does not consider itself bound by the following Articles:

- **Article X – Protection of privacy;**

- **Article XI (6) – Education of children who become pregnant before completing their education; and**
- **Article XXI (2) – Child marriage and betrothal of girls and boys.**

XIX. THE AFRICAN NUCLEAR-WEAPON-FREE ZONE TREATY (THE TREATY OF PELINDABA) (1996)

74. The Treaty of Pelindaba adopted and opened for signature in Cairo, Egypt, on 11 April 1996, deals with the strengthening of nuclear non-proliferation regimes, promotion and cooperation of the peaceful uses of nuclear energy and protection of African States against possible nuclear attacks on their territories. The treaty shall enter into force on the date of the deposit of the twenty-eighth instrument of ratification.

75. **The Treaty has been ratified by twenty-seven (27) Member States namely:** Algeria, Benin, Botswana, Burkina Faso, Côte d'Ivoire, Equatorial Guinea, Ethiopia, Gabon, Gambia, Guinea, Kenya, Libya, Lesotho, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mozambique, Nigeria, Rwanda, Senegal, South Africa, Swaziland, Tanzania, Togo and Zimbabwe.

76. **The following twenty-six (26) Member States have signed but not ratified the Treaty:** Angola, Burundi, Cameroon, C.A.R., Cape Verde, Chad, Comoros, Congo, Djibouti, D.R.C., Egypt, Eritrea, Ghana, Guinea-Bissau, Liberia, Namibia, Niger, Sao Tome & Principe, S.A.D.R, Seychelles, Sierra Leone, Somalia, Sudan, Tunisia, Uganda, and Zambia.

77. Protocols I, II and III of the Treaty were also signed the same day, 11 April, 1996, by France, while the United Kingdom of Great Britain and Northern Ireland, China, and the United States of America **signed only Protocols I and II**. The Russian Federation **signed Protocols I and II on 5 November 1996**.

- China and the United Kingdom have **ratified Protocols I and II**.
- France has **ratified Protocols I, II and III**.
- Spain **has neither signed nor ratified Protocol III of the Treaty**.

XX. THE AFRICAN MARITIME TRANSPORT CHARTER (1994)

78. The adoption of the African Maritime Transport Charter was informed by the importance of maritime transport in promoting foreign trade and economic development in Africa. It is also a major factor for regional and continental integration. It was adopted at the Conference of African Ministers of Maritime Transport meeting in its 3rd session in Addis Ababa, Ethiopia, from 13 to 15 December, 1993 and subsequently endorsed by the Council of Ministers by Resolution CM/Res.1520 (LX) adopted on 11 June, 1994. Thereafter, the Thirtieth Ordinary Session of the Assembly of Heads of State and Government adopted it in June 1994.

79. The Charter has not entered into force definitely because it has not been ratified by two-thirds of Member States; however, it can be regarded as having entered into force provisionally since it has received at least twenty (20) signatures.

80. **At present, only twelve (12) Member States, namely:** Comoros, Egypt, Ethiopia, Lesotho, Mali, Mauritius, Niger, Nigeria, Senegal, Tanzania, Tunisia and Uganda **have ratified the Charter.**

81. **The following twenty-six (26) Member States:** Algeria, Benin, Burkina Faso, C.A.R., Chad, Congo, Cote d'Ivoire, Djibouti, D.R.C, Gabon, Gambia, Ghana, Guinea, Guinea Bissau, Kenya, Libya, Madagascar, Malawi, Mozambique, Namibia, Rwanda, Sierra Leone, Somalia, Swaziland, Togo and Zambia **have signed but not ratified the Charter.**

82. **The following fifteen (15) Member States have neither signed nor acceded to the Charter:** Angola, Botswana, Burundi, Cameroon, Cape Verde, Eq. Guinea, Eritrea, Liberia, Mauritania, S.A.D.R, Sao Tome & Principe, Seychelles, South Africa, Sudan and Zimbabwe

XXI. PROTOCOL TO THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS ON THE ESTABLISHMENT OF AN AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS (1998)

83. This Protocol establishes an African Court on Human and Peoples' Rights in order to strengthen the African human rights regime. The 34th Session of the Assembly of Heads of State and Government of the OAU in Ouagadougou, Burkina Faso on 9 June 1998 adopted the Protocol. The Protocol entered into force on 25 January 2004, thirty (30) days after the deposit of the fifteenth instrument of ratification in accordance with Article 34(3).

84. **The following twenty-five (25) Member States have ratified the Protocol:** Algeria, Burkina Faso, Burundi, Comoros, Côte d'Ivoire, The Gambia, Gabon, Ghana, Kenya, Libya, Lesotho, Mali, Malawi, Mauritania, Mauritius, Mozambique, Niger, Nigeria, Rwanda, Senegal, South Africa, Tanzania, Togo, Tunisia and Uganda.

85. **The following twenty-four (24) Member States have signed but not ratified the Protocol:** Angola, Benin, Botswana, Cameroon, C.A.R., Chad, Congo, Djibouti, D.R.C., Egypt, Eq. Guinea, Ethiopia, Guinea, Guinea-Bissau, Liberia, Madagascar, Namibia, Seychelles, Sierra Leone, Somalia, Sudan, Swaziland, Zambia and Zimbabwe.

86. **The following four (4) Member States have neither signed nor acceded to the Protocol:** Cape Verde, Eritrea, S.A.D.R. and Sao Tome & Principe.

87. DECLARATIONS ENTERED BY MEMBER STATES PURSUANT TO ARTICLE 34 (6) OF THE PROTOCOL

Only Burkina Faso has entered a declaration on:

Article 34(6) - The Court shall be competent to receive cases from its individuals and NGOs in accordance with Article 5 (3) of the Protocol.

XXII. OAU CONVENTION ON THE PREVENTION AND COMBATING OF TERRORISM (1999)

88. The 35th Ordinary Session of the Assembly of Heads of State and Government held in Algiers, Algeria, in July 1999, taking into account the objectives and principles of the OAU Charter and the relevant international Treaties, adopted this Convention to combat and eliminate all forms of terrorism and organized crimes. The Convention is aimed at strengthening cooperation among Member States to prevent and combat terrorism, which violates and affects human rights, freedom and security by destabilizing socio-economic development of States. The Convention entered into force on 6 December 2002, thirty (30) days after the deposit of the fifteenth instrument of ratification in accordance with Article 20.

89. **The following thirty-nine (39) countries have ratified the Convention:** Algeria, Angola, Benin, Burkina Faso, Burundi, Cape Verde, Chad, Comoros, Congo, Djibouti, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Ghana, Guinea, Guinea Bissau, Kenya, Lesotho, Libya, Madagascar, Malawi, Mali, Mauritius, Mauritania, Mozambique, Niger, Nigeria, Rwanda, S.A.D.R., Senegal, Seychelles, South Africa, Sudan, Tanzania, Togo, Tunisia and Uganda.

90. **The Convention has been signed by the following twelve (12) Member States that are yet to ratify or accede to it:** Botswana, Cameroon, C.A.R., Côte d'Ivoire, D.R.C., Gambia, Liberia, Namibia, Sierra Leone, Somalia, Swaziland and Zambia.

91. **Two (2) Member States:** Sao Tome & Principe and Zimbabwe **have neither signed nor acceded to the Convention.**

92. RESERVATIONS ENTERED BY MEMBER STATES:

Mauritius: entered a reservation as follows:

- **Article 22(2) - Disputes arising between it and any State Party regarding interpretation or application of the Convention, may failing amicable settlement only be referred to the International Court of Justice.**

Mozambique: entered a reservation as follows:

- **Article 8 - In conformity with Article 103 (3) of its Constitution, it shall not extradite from its territory nationals of Mozambique.**

Tunisia: entered a reservation as follows:

- **Article 22(2) - Disputes arising between it and any State Party regarding interpretation or application of the Convention, may failing amicable settlement only be referred to the International Court of Justice with the consent of the all the parties involved.**

South Africa: entered a reservation as follows:

- **Article 8(2) - Extradition shall not be granted if the Minister of Justice is satisfied that by reason of gender, race, religion, nationality or political opinion, the person concerned will be prosecuted, punished or prejudiced at his/her own trial by a foreign State and extradition shall not be granted if the punishment of the crime for which extradition is sought is the death penalty and an undertaking has not been provided in a specific case that the death penalty will not apply.**

XXIII. CONSTITUTIVE ACT OF THE AFRICAN UNION (2000)

93. The Constitutive Act of the African Union was elaborated pursuant to the Sirte Declaration adopted by the Fourth Extra-ordinary Session of the Assembly of Heads of State and Government held in Sirte, Libya, on 9 September 1999. It aims at establishing a new institutional framework for coordination and cooperation between Member States and enhancing the political and economic integration of the continent through the establishment of the African Union.

94. The Thirty-Sixth Ordinary Session of the Assembly of Heads of State and Government in Lomé, Togo, on 11 July 2000, adopted the Act.

95. **All Member States have signed and ratified the Act** and the instruments of ratification have been deposited with the Commission.

96. In accordance with Article 28, the Constitutive Act entered into force on 26 May 2001.

XXIV. PROTOCOL TO THE TREATY ESTABLISHING THE AFRICAN ECONOMIC COMMUNITY RELATING TO THE PAN-AFRICAN PARLIAMENT (2001)

97. The Fifth Extraordinary Session of the Assembly of Heads of State and Government adopted the Protocol in Sirte, Libya, on 2 March 2001. It establishes the Pan-African Parliament, one of the institutions provided for under both the Treaty Establishing the African Economic Community and the Constitutive Act of the African Union. In accordance with Article 22, this Protocol entered into force on 14 December 2003.

98. **The following forty-six (46) Member States have ratified the Protocol:** Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, C.A.R., Chad, Congo, Comoros, Djibouti, Egypt, Ethiopia, Equatorial Guinea, Gabon, The Gambia, Ghana, Kenya, Lesotho, Liberia, Libya, Malawi, Madagascar, Mali, Mauritania,

Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, S.A.D.R., Senegal, Seychelles, Sierra Leone, South Africa, Sudan, Swaziland, Tanzania, Togo, Tunisia, Uganda, Zambia and Zimbabwe.

99. **The Protocol has been signed but not ratified or acceded to by the following four (4) Member States:** Côte d'Ivoire, D.R.C, Guinea and Somalia.

100. **The following three (3) Member States:** Eritrea, Guinea-Bissau, and Sao Tome & Principe, **have neither signed nor acceded to the Protocol.**

XXV. THE CONVENTION OF THE AFRICAN ENERGY COMMISSION (2001)

101. The need to deal with shortages of energy in many African countries, in spite of the vast energy potential, which has constrained their industrial development, formed the basis for the adoption of this Convention by the 37th Ordinary Session of the Assembly of Heads of State and Government meeting in Lusaka, Zambia on 11 July 2001. Thus, the convention will promote cooperation, research and development, integration and harmonization of programmes as well as mobilization of resources for joint projects. In accordance with Article 27 (2), **the Convention entered into force on 13 December 2006.**

102. **The following twenty-seven (27) Member States have ratified the Convention:** Algeria, Angola, Burkina Faso, Burundi, Cameroon, Comoros, Egypt, Ethiopia, Gambia, Guinea, Ghana, Kenya, Libya, Mali, Mozambique, Namibia, Niger, Nigeria, Rwanda, S.A.D.R., Senegal, Sudan, Tanzania, Togo, Tunisia, Zambia and Zimbabwe.

103. **Nineteen (29) Member States, namely:** Benin, C.A.R, Chad, Congo, Cote d'Ivoire, Djibouti, Democratic Rep. Of Congo, Eq. Guinea, Gabon, Guinea-Bissau, Lesotho, Liberia, Madagascar, Mauritius, Sierra Leone, Somalia, South Africa, Swaziland and Uganda **have signed but have not ratified the Convention.**

104. **The following seven (7) Member States have neither signed nor acceded to the Convention:** Botswana, Cape Verde, Eritrea, Malawi, Mauritania, Sao Tome & Principe and Seychelles.

XXVI. THE PROTOCOL RELATING TO THE ESTABLISHMENT OF THE PEACE AND SECURITY COUNCIL OF THE AFRICAN UNION (2002)

105. This Protocol was adopted by the 1st Ordinary Session of the Assembly of the Union which was held in Durban, South Africa, from 9 to 10 July 2002. It entered into force on 26 December 2003.

106. **Forty-four (44) Member States:** Algeria, Angola Benin, Botswana, Burkina Faso, Burundi, Cameroon, Chad, Comoros, Congo, Côte d'Ivoire, Djibouti, Egypt, Ethiopia, Equatorial Guinea, Gabon, Gambia, Ghana, Kenya, Lesotho, Libya, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda,

S.A.D.R., Sao Tome & Principe, Senegal, Sierra Leone, South Africa, Sudan, Swaziland, Tanzania, Togo, Tunisia, Uganda, Zambia, and Zimbabwe **have ratified the Protocol.**

107. **The following seven (7) Member States have so far signed but not ratified or acceded to the Protocol:** C.A.R, D.R.C., Guinea, Guinea Bissau, Liberia, Seychelles, and Somalia.

108. **The following two (2) Member States:** Cape Verde and Eritrea **have neither signed nor acceded to the Protocol.**

109. **RESERVATIONS ENTERED BY MEMBER STATES:**

Egypt: entered a reservation as follows:

- **Article 7(1)(r):** It shall respect this provision, if in its opinion, it is not in violation of its obligations under the UN Charter.

XXVII. AFRICAN UNION CONVENTION ON PREVENTING AND COMBATING CORRUPTION (2003)

110. The Second Ordinary Session of the Assembly of the Union held in Maputo, Mozambique in July 2003 adopted this Convention, which deals with preventing, detecting, punishing and eradicating corruption in the continent through cooperation among State Parties and the establishment of conducive conditions to foster transparency and accountability in the management of public affairs. Pursuant to Article XXIII (2), **the Convention entered into force on 5 August 2006.**

111. **Twenty-nine (29) Member States,** Algeria, Benin, Burkina Faso, Burundi, Comoros, Congo, Ethiopia, Gabon, Ghana, Kenya, Lesotho, Liberia, Libya, Madagascar, Malawi, Mali, Mozambique, Namibia, Niger, Nigeria, Rwanda, Senegal, Seychelles, Sierra Leone, South Africa, Tanzania, Uganda, Zambia and Zimbabwe **have ratified the Convention.**

112. **Sixteen (16) Member States namely:** Angola, Cameroon, Chad, Côte d'Ivoire, Djibouti, D.R.C, Eq. Guinea, Gambia, Guinea, Guinea-Bissau, Mauritania, Mauritius, Somalia, Sudan, Swaziland and Togo **have signed but not ratified or acceded to the Convention.**

113. **The following eight (8) Member States:** Botswana, Cape Verde, CAR, Egypt, Eritrea, SADR, Sao Tome & Principe and Tunisia **have neither signed nor acceded to the Convention.**

114. **RESERVATIONS ENTERED BY MEMBER STATES**

South Africa: entered the following designations/reservations/interpretative declarations:

Designations:

- **Article 20:** The Director-General of the Department of Justice and Constitutional Development is designated as the National Authority authorised to make or receive requests for mutual legal assistance in terms of Article 20.

Interpretative declarations:

- **Article 13(1)(d):** The Jurisdiction of States Parties provided for in this Article will be applied and recognised in accordance with the general principles of International law and the applicable South African domestic law.

Reservations:

- **Article 15(2):** This Article will be applied in accordance with South African law. Accordingly, an offence is not automatically deemed extraditable;
- **Article 21:** This Article will be applied subject to the application of 14 of the Southern African Development Community Protocol against Corruption;
- **Article 25(3):** It will not be bound by an amendment to the Convention until it has been approved by the national executive and parliamentary authorities in accordance with the Constitution of South Africa (1996).

XXVIII. PROTOCOL TO THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS ON THE RIGHTS OF WOMEN IN AFRICA (2003)

115. This Protocol adopted by the Second Ordinary Session of the Assembly of the Union, held in Maputo, Mozambique in July 2003, specifically identifies and addresses the various forms of discrimination against women and stipulates measures to ensure the promotion, protection and realisation of the rights of African women. **According to Article XXIX (1), this Protocol entered into force on 25 November, 2005, thirty (30) days after the deposit of the fifteenth (15) instrument of ratification.**

116. **Twenty-seven (27) Member States, namely:** Angola, Benin, Burkina Faso, Cape Verde, Comoros, D.R.C, Djibouti, Gambia, Ghana, Guinea Bissau, Lesotho, Liberia, Libya, Mali, Malawi, Mauritania, Mozambique, Namibia, Nigeria, Rwanda, Senegal, Seychelles, South Africa, Tanzania, Togo, Zambia and Zimbabwe **have ratified or acceded to the Protocol.**

117. **Twenty-one (21) Member States, namely:** Algeria, Burundi, Cameroon, Chad, C.A.R., Cote d'Ivoire, Congo, Ethiopia, Eq. Guinea, Gabon, Guinea, Kenya, Madagascar, Mauritius, Niger, SADR, Sierra Leone, Somalia, Sudan, Swaziland and Uganda **have signed but not ratified the Protocol.**

118. **Five (5) Member States, namely:** Botswana, Egypt, Eritrea, Sao Tome & Principe and Tunisia **have neither signed nor acceded to the Protocol.**

119. RESERVATIONS ENTERED BY MEMBER STATES

The Gambia withdrew its reservations on Articles 5, 6, 7 and 14.

South Africa entered the following reservations/interpretative declarations:

Reservations:

- **Article 4(j): does not find application in the Republic of South Africa as the death penalty has been abolished.**
- **Article 6(d): South Africa does not consider itself bound by this Article that a marriage be recorded in writing and registered in accordance with national laws in order to be legally recognised.**
- **Article 6(h): South Africa enters a reservation on this Article, which subjugated the equal rights of men and women with respect to the nationality of their children to national legislation and national security interests, on the basis that it may remove inherent rights of citizenship and nationality from children.**

Interpretative declarations:

- **Article 1(f): definition of “discrimination against women” in the Protocol has the same meaning and scope as provided for in and interpreted by the Constitution of South Africa from time to time.**
- **Article 31: The South African Bill of Rights shall not be interpreted to offer less favourable protection of human rights than the protocol, which does not expressly provide for such limitations.**

XXIX. THE PROTOCOL ON AMENDMENTS TO THE CONSTITUTIVE ACT OF THE AFRICAN UNION (2003)

120. The Second Ordinary Session of the Assembly of the Union held in Maputo Mozambique in July 2003 adopted this Protocol, which contains fundamental modifications pertaining to the Constitutive Act of the African Union. Article XIII stipulates that: “This Protocol shall enter into force thirty (30) days after the deposit of the instruments of ratification by a two-thirds majority of the Member States.”

121. **Twenty-three (23) Member States:** Benin, Burkina Faso, Burundi, C.A.R. Chad, Comoros, Egypt, Eq. Guinea, Gabon, Ghana, Kenya, Lesotho, Liberia, Libya, Mali, Mauritania, Mozambique, Niger, Rwanda, Senegal, South Africa, Tanzania and Togo **have ratified the Protocol.**

122. **Twenty-two (22) Member States:** Algeria, Cameroon, Cote d'Ivoire, Congo, Djibouti, D.R.C., Gambia, Guinea, Guinea Bissau, Madagascar, Mauritius, Namibia, Nigeria, S.A.D.R., Sierra Leone, Somalia, Sudan, Swaziland, Tunisia, Uganda, Zambia and Zimbabwe **have signed the Protocol.**

123. **Eight (8) Member States:** Angola, Botswana, Cape Verde, Eritrea, Ethiopia, Malawi, Seychelles and Sao Tome & Principe **have neither signed nor acceded to the Protocol.**

XXX. THE PROTOCOL OF THE COURT OF JUSTICE OF THE AFRICAN UNION (2003)

124. This Protocol deals with the composition, functions, competence and other matters pertaining to the Court of Justice of the African Union. The Heads of State and Government of Member States of the African Union adopted the Protocol in Maputo, Mozambique in July 2003. According to Article 60, this Protocol entered into force on 11 February 2009, thirty (30) days after the deposit of the fifteenth instrument of ratification. However, it will be recalled that the Assembly of the Union decided on the merger of the African Court on Human and Peoples' Rights with the Court of Justice of the African Union and thus a Protocol on the merger of the two Courts was adopted in Sharm El-Sheikh, Egypt in July 2008 (see paragraphs 127 to 129).

125. **Fifteen (15) Member States:** Algeria, Comoros, Egypt, Gabon, Lesotho, Libya, Mali, Mauritius, Mozambique, Niger, Rwanda, South Africa, Sudan, Tanzania and Tunisia **have ratified the Protocol.**

126. **Twenty-eight (28) Member States, namely:** Benin, Burkina Faso, Burundi, Cameroon, C.A.R., Chad, Cote d'Ivoire, Congo, Djibouti, Eq. Guinea, Ethiopia, Gambia, Ghana, Guinea, Guinea Bissau, Kenya, Liberia, Madagascar, Namibia, Nigeria, Senegal, Sierra Leone, Somalia, Swaziland, Togo, Uganda, Zambia and Zimbabwe **have signed the Protocol.**

127. **Ten (10) Member States:** Angola, Botswana, Cape Verde, DRC, Eritrea, Malawi, Mauritania, SADR, Sao Tome & Principe and Seychelles **have neither signed nor acceded to the Protocol.**

XXXI. PROTOCOL ON THE STATUTE OF THE AFRICAN COURT OF JUSTICE AND HUMAN RIGHTS (2008)

128. The Protocol on the Statute of the African Court of Justice and Human Rights was adopted by the Assembly of the Union in Sharm El-Sheikh, Egypt, in July 2008. It merges into a single Court, the African Court on Human and Peoples' Rights and the Court of Justice of the African Union. According to Article 9, "the Protocol and the Statute annexed to it shall enter into force thirty (30) days after the deposit of the instruments of ratification by fifteen (15) Member States". Upon its entry into force, the present Protocol and Statute annexed shall replace the Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples'

Rights, adopted on 10 June 1998 and entered into force on January 2004 and the Protocol of the Court of Justice of the African Union, adopted on 11 July 2003 and entered into force in February 2009.

129. **So far, fifteen (15) Member States, namely:** Algeria, Benin, Burkina Faso, Chad, Gabon, Gambia, Guinea, Libya, Mali, Niger, Nigeria, Senegal, Sierra Leone, Tanzania and Togo **have signed the Protocol.**

130. **It is yet to be signed and/or ratified by the following thirty-eight (38) Member States:** Angola, Botswana, Burundi, Cameroon, Cape Verde, C.A.R., Comoros, Congo, Côte d'Ivoire, D.R.C., Djibouti, Egypt, Eq. Guinea, Eritrea, Ethiopia, Ghana, Guinea-Bissau, Kenya, Lesotho, Liberia, Madagascar, Malawi, Mauritania, Mauritius, Mozambique, Namibia, Rwanda, S.A.D.R., Sao Tome & Principe, Seychelles, Somalia, South Africa, Sudan, Swaziland, Tunisia, Uganda, Zambia and Zimbabwe.

XXXII. PROTOCOL TO THE OAU CONVENTION ON THE PREVENTION AND COMBATING OF TERRORISM (2004)

131. This Protocol was adopted by the Third Ordinary Session of the Assembly in Addis Ababa, on 8 July 2004 to enhance the effective implementation of the Convention and to give effect to Article 3(d) of the Protocol Relating to the Establishment of the Peace and Security Council of the African Union, on the need to coordinate and harmonize continental efforts in the prevention and combating of terrorism in all its aspects, as well as the implementation of other relevant international instruments.

132. **Nine (9) Member States, namely:** Algeria, Burundi, Ethiopia, Gabon, Libya, Mali, Niger, South Africa and Tunisia **have thus far ratified the Protocol.**

133. **Twenty-nine (29) Member States, namely:** Benin, Burkina Faso, Cameroon, C.A.R., Chad, Comoros, Cote d'Ivoire, Congo, Djibouti, D.R.C., Eq. Guinea, Gambia, Ghana, Guinea, Guinea Bissau, Kenya, Liberia, Madagascar, Nigeria, Rwanda, SADR, Senegal, Sierra Leone, Somalia, Sudan, Swaziland, Tanzania, Togo and Uganda **have signed the Protocol.**

134. **Fifteen (15) Member States, namely:** Angola, Botswana, Cape Verde, Egypt, Eritrea, Lesotho, Malawi, Mozambique, Mauritania, Mauritius, Namibia, Sao Tome & Principe, Seychelles, Zambia and Zimbabwe **have neither signed nor acceded to the Protocol.**

135. RESERVATIONS ENTERED BY MEMBER STATES

South Africa entered the following interpretative declarations:

- **Article 3(1)(e):** “The Government of the Republic of South Africa is not a Party to the African Union Convention for the Elimination of Mercenarism in Africa and notes that this is a Convention that has been identified by the Assembly of the

Union as being suitable for review. In the interim the Government of the Republic of South Africa will interpret and apply Article 3(1)(e) in accordance with legislation of the Republic of South Africa applicable to mercenarism, which prohibits the recruitment, use, training of, or engagement in, any mercenary activity;”

- **Article 8: “The Government of the Republic of South Africa shall apply the provisions of Article 8 of the Protocol in accordance with the obligations imposed upon States Parties in Article 8 of the OAU Convention on the Prevention and Combating Terrorism.”**

XXXIII. AFRICAN UNION NON-AGGRESSION AND COMMON DEFENCE PACT (2005)

136. The Pact was adopted by the Heads of State and Government of the Member States of the African Union in Abuja, Nigeria in January 2005, to deal with threats to peace, security and stability in the continent and to ensure the well being of the African peoples. The Pact shall enter into force thirty (30) days after the deposit of the instruments of ratification by fifteen (15) Member States.

137. **Only twelve (12) Member States, namely:** Algeria, Chad, Congo, Gabon, Ghana, Libya, Mali, Mauritania, Mozambique, Niger, Senegal and Togo **have so far ratified the Pact.**

138. **Twenty-five (25) Member States, namely:** Benin, Burkina Faso, Burundi, Cameroon, C.A.R., Cote d’Ivoire, Djibouti, D.R.C., Eq. Guinea, Ethiopia, Gambia, Guinea Bissau, Guinea, Kenya, Liberia, Madagascar, Nigeria, Rwanda, S.A.D.R., Sierra Leone, Somalia, South Africa, Sudan, Tunisia and Zimbabwe **have signed the Pact.**

139. **Sixteen (16) Member States, namely:** Angola, Botswana, Cape Verde, Comoros, Egypt, Eritrea, Lesotho, Malawi, Mauritius, Namibia, Sao Tome & Principe, Seychelles, Swaziland, Tanzania, Uganda and Zambia **have neither signed nor acceded to the Pact.**

XXXIV. AFRICAN YOUTH CHARTER (2006)

140. The Charter was adopted by the Heads of State and Government of Member States of the African Union in Banjul, The Gambia, on 2 July 2006 to set out a political and legal framework for youth empowerment at the national and continental levels. In line with Article 30 (2), the Charter shall enter into force thirty (30) days after the deposit of the fifteenth instrument of ratification.

141. **Thirteen (13) Member States, namely;** Burkina Faso, Djibouti, Gabon, Guinea Bissau, Libya, Mali, Mauritius, Mozambique, Namibia, Niger, Rwanda, Togo and Uganda **have so far ratified the Charter.**

142. **Twenty-three (23) Member States, namely:** Benin, Burundi, C.A.R., Chad, Congo, Cote d'Ivoire, D.R.C., Egypt, Ethiopia, Eq. Guinea, Gambia, Ghana, Guinea, Kenya, Liberia, Nigeria, Senegal, Sierra Leone, South Africa, Sudan, Tanzania, Tunisia and Zambia **have signed the Charter.**

143. **Seventeen (17) Member States, namely:** Algeria, Angola, Botswana, Cameroon, Cape Verde, Comoros, Eritrea, Lesotho, Madagascar, Malawi, Mauritania, S.A.D.R., Sao Tome & Principe, Seychelles, Somalia, Swaziland and Zimbabwe **have neither signed nor acceded to the Charter.**

XXXV. AFRICAN CHARTER ON DEMOCRACY, ELECTIONS AND GOVERNANCE (2007)

144. The Charter was adopted by the Heads of State and Government of Member States of the African Union in Addis Ababa, Ethiopia, on 30 January 2007 to entrench a culture of democracy, elections and good governance at the national and continental levels in order to put together the declarations and decisions previously adopted on this matter. In line with its Article 48, the Charter shall enter into force thirty (30) days after the deposit of fifteen instruments of ratification.

145. **Only two (2) Member States, namely;** Ethiopia and Mauritania **have so far ratified the Charter. The Commission has received copy of an instrument of ratification for this treaty from Sierra Leone but the originals have not yet been deposited.**

146. **Twenty-six (26) Member States:** Benin, Burkina Faso, Burundi, C.A.R., Chad, Congo, Djibouti, D.R.C., Gambia, Ghana, Guinea, Guinea Bissau, Kenya, Liberia, Mali, Mauritius, Namibia, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, Sudan, Swaziland, Togo and Uganda **have signed the Charter.**

147. **Twenty-five (25) Member States, namely:** Algeria, Angola, Botswana, Cameroon, Cape Verde, Comoros, Côte d'Ivoire, Egypt, Eq. Guinea, Eritrea, Gabon, Lesotho, Libya, Madagascar, Malawi, Mozambique, S.A.D.R., Sao Tome & Principe, Seychelles, Somalia, South Africa, Tanzania, Tunisia, Zambia and Zimbabwe **have neither signed nor ratified the Charter.**

XXXVI. STATUTE OF THE AFRICAN UNION COMMISSION ON INTERNATIONAL LAW – AUCIL (2009)

148. The Statute was adopted by the Heads of State and Government of Member States of the African Union in Addis Ababa, Ethiopia, on 4 February 2009, to act as an independent advisory organ to the Union mainly in the areas of codification of the laws of

the Union and the progressive development of international law in Africa. In terms of its Article 2, the Statute is established pursuant to the provisions of Article 5(2) of the Constitutive Act. **In line with its Article 27, the Statute does not require signature or ratification and came into force upon its adoption by the Assembly on 4 February 2009.**

XXXVII. AFRICAN CHARTER ON STATISTICS (2009)

149. The Charter was adopted by the Heads of State and Government of Member States of the African Union in Addis Ababa, Ethiopia, on 4 February 2009, to provide a common legal framework for statistics development in the African continent. In line with its Article 15, the Charter shall enter into force thirty (30) days after the deposit of the instruments of ratification by fifteen (15) Member States.

150. Only three (3) Member States, namely: Niger, Rwanda and Togo have so far signed the Charter.

151. It is yet to be signed and/or ratified by the following fifty (50) Member States: Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, Chad, C.A.R., Comoros, Congo, Côte d'Ivoire, D.R.C., Djibouti, Egypt, Eq. Guinea, Eritrea, Ethiopia, Gabon, Gambia, Ghana, Guinea, Guinea-Bissau, Kenya, Lesotho, Libya, Liberia, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mozambique, Namibia, Nigeria, S.A.D.R., Sao Tome & Principe, Senegal, Seychelles, Sierra Leone, Somalia, South Africa, Sudan, Swaziland, Tanzania, Tunisia, Uganda, Zambia and Zimbabwe.

XXXVIII. PROTOCOL ON THE AFRICAN INVESTMENT BANK (2009)

152. The Protocol was adopted by the Heads of State and Government of Member States of the African Union in Addis Ababa, Ethiopia. The African Investment Bank, which is one of the financial institutions provided for by the Constitutive Act, is an important organ of the Union. It will, among other things, foster economic integration and development through investment in development projects in line with the objectives of the Union. In line with Article 10, the Protocol and the Statute annexed to it shall enter into force thirty (30) days after the deposit of the fifteenth instrument of ratification.

153. The Protocol is now open for signature. It has not yet been signed and/or ratified by any Member State.

E. CONCLUSION AND RECOMMENDATIONS:

154. In light of the foregoing, the Commission submits the following recommendations for consideration by the Executive Council:

- Takes note of the report;

- Commends the Commission for the initiatives and efforts aimed at encouraging Member States to become State Parties to the OAU/AU Treaties;
- Expresses its satisfaction at the number of signatures appended during and a little after the signing week, which is organised in December every year.
- Appeals to Member States to prioritise and accelerate the signing and ratification of/accession to OAU/AU Treaties;
- Reiterates its appeal to members of the Pan-African Parliament to assist with advocacy and sensitization of Member States to expedite the process of ratification of/accession to OAU/AU Treaties;

ANNEX: LIST OF OAU/AU TREATIES AND THEIR STATUS

<u>Treaties that have entered into force definitely (22 treaties)</u>	<u>Entry into force</u>	<u>No. of States Parties</u>
1. General Convention on the Privileges and Immunities of the Organisation of African Unity	October 1965	35
2. Additional Protocol to the OAU General Convention on Privileges and Immunities*	Respective date of deposit	6
3. African Convention on the Conservation of Nature and Natural Resources (1968)	June 1969	30
4. African Civil Aviation Commission – Constitution	March 1972	44
5. OAU Convention Governing the Specific Aspects of Refugee Problems in Africa	June 1974	45
6. OAU Convention for the Elimination of Mercenarism in Africa	April 1985	29
7. Cultural Charter for Africa*	Sept. 1990	34
8. African Charter on Human and Peoples' Rights	Oct. 1986	53 (All)
9. Agreement for the Establishment of the African Rehabilitation Institute (ARI)	Dec. 1991	24
10. Treaty Establishing the African Economic Community	May 1994	49
11. Bamako Convention on the Ban of the Import into Africa and the Control of Transboundary Movement and Management of Hazardous Wastes within Africa	April 1998	23
12. African Charter on the Rights and Welfare of the Child	Nov. 1999	45
13. Protocol to the African Charter on Human and Peoples' Rights on the Establishment of an African Court on Human and Peoples' Rights	Jan. 2004	25
14. OAU Convention on the Prevention and Combating of Terrorism	Dec. 2002	39
15. Constitutive Act of the African Union	May 2001	53 (All)

16. Protocol to the Treaty establishing the African Economic Community relating to the Pan-African Parliament	Dec. 2003	46
17. Convention of the African Energy Commission	Dec. 2006	26
18. Protocol relating to the establishment of the Peace and Security Council of the African Union	Dec. 2003	44
19. African Union Convention on Preventing and Combating Corruption	Aug. 2006	29
20. Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa	Nov. 2005	27
21. Protocol of the Court of Justice of the African Union	Feb. 2009	15
22. Statute of the African Union Commission on International Law (AUCIL)**	Feb. 2009	---
<u>Treaties that have entered into force provisionally (2 treaties)</u>		
1. Constitution of the Association of African Trade Promotion Organizations		11
2. African Maritime Transport Charter		12
<u>Treaties that are yet to enter into force (14 Treaties)</u>		
1. Phyto-sanitary Convention for Africa*		10
2. African Convention on the Conservation of Nature and Natural Resources (revised version)		8
3. Inter-African Convention Establishing an African Technical Co-operation Programme		5
4. Charter for African Cultural Renaissance		0
5. Convention for the Establishment of the African Centre for Fertilizer Development		5
6. The African Nuclear-Weapon-Free Zone Treaty (the Treaty of PELINDABA)		27
7. Protocol on Amendments to the Constitutive Act of the African Union		23

8. Protocol on the Statute of the African Court of Justice and Human Rights	0
9. Protocol to the OAU Convention on the Prevention and Combating of Terrorism	9
10. African Union Non-Aggression and Common Defence Pact	12
11. African Youth Charter	13
12. African Charter on Democracy, Elections and Governance	2
13. African Charter on Statistics	0
14. Protocol on the African Investment Bank	0

* These three (3) legal instruments do not require signatures

** This Statute does not require signature or ratification. In line with its Article 27, the Statute has come into effect upon its adoption by the Assembly on 4 February 2009.

2009

Report on the status of OAU/AU treaties (As At 27 May 2009)

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