

AFRICAN UNION

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UNION AFRICAINE

UNIÃO AFRICANA

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**REPORT ON THE DRAFT CRITERIA FOR HOSTING THE
ORGANS OF THE UNION**

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FOR HOSTING THE ORGANS OF THE UNION**

I. INTRODUCTION

1. During the debate accompanying the elaboration of the Constitutive Act, the Assembly of Heads of State and Government of the Organization of African Unity expressed the view that whilst the Headquarters of the Union would be in Addis Ababa, Ethiopia, the other organs should be hosted in other regions of the continent. The rationale for this was that this would popularize and make the Union known in different parts of the continent and for the people to own and feel part of it.

II. ISSUES AND CURRENT SITUATION

2. The Organization of African Unity/African Union has never developed clear and known guidelines as to the minimum facilities that a member State offering to host an organ or regional office has to meet. This approach has resulted in a situation where the facilities offered are not standardized and are based purely on the level of generosity of the host country. Furthermore, the Assembly has never been given the benefit of knowing the facilities different Countries were offering before taking a decision as to where an organ should be located.

3. It is in this regard that a draft Criteria was elaborated by the Commission and submitted to the Fifth Ordinary Session of Council held in July 2004. The Executive Council in its decision **EX.CL/Dec.132 (V)**, requested the Chairperson of the Commission to re-formulate the Draft Criteria for hosting AU Organs taking into account the views expressed at the meeting of the PRC. Council further requested the Chairperson of the Commission to submit a report thereon to the 6th Ordinary Session of the Executive Council.

4. The Assembly meeting in its Third Ordinary Session held in Addis Ababa, Ethiopia in July 2004 adopted decision Assembly/AU/Dec.45 (III) by which it decided “that the organs of the Union should be located in different regions of Africa on the basis of the principle of geographical distribution”. These new organs include the following:

- i) The Pan African Parliament;
- ii) The merged Court of Justice of the African Union and The African Court on Human and Peoples' Rights (by virtue of decision, Assembly/AU/Dec.45 (III));
- iii) The African Central Bank;

- iv) The African Investment Bank
- v) The African Monetary Fund
- vi) The Economic, Social and Cultural Council.

5. It will be recalled that Article 16 of the Protocol to the Treaty Establishing the African Economic Community relating to the Pan-African Parliament entered into force on 14 December 2003, provided *inter alia*, “*the Seat of the Pan-African Parliament shall be determined by the Assembly and shall be located in the territory of a State Party to this Protocol...*” Furthermore, by virtue of decision Assembly/AU/Dec.39 (III), the Assembly during its Third Ordinary Session held in Addis Ababa, Ethiopia in July 2004 decided that the seat of the Pan-African Parliament shall be located in South Africa. It is also to be recalled that in considering the budget of the Pan-African Parliament, the Executive Council by its decision, EX.CL/Dec.98 (V) decided that the Member State hosting the headquarters of the Parliament should be requested to provide furnished and equipped premises for the Parliament.

6. With regard to the other organs, it should be noted that their legal instruments provide that the Assembly shall determine the seats of the respective organs. In keeping with the practice in international law, this determination is made after the entry into force of the relevant treaties.

7. The purpose of these draft criteria is therefore to ensure a standardized hosting arrangement for all the future organs of the Union.

III. DECISION THAT SHOULD BE ADOPTED BY THE EXECUTIVE COUNCIL

8. The Executive Council:

- TAKES NOTE of the report;
- ADOPTS the draft criteria for hosting the Organs of the Union;
- REQUESTS the Chairperson of the Commission to implement the above Criteria.

ANNEX 1: PROPOSED DRAFT CRITERIA FOR HOSTING AU ORGAN

THE DRAFT CRITERIA FOR HOSTING THE ORGANS OF THE UNION

I. INTRODUCTION

1. The hosting of an organ of the Union in a Member State entails rights and obligations for the African Union as well as for the host country. Normally, the State Party offering to host an organ indicates what facilities it wishes to place at the disposal of the organ. It is, therefore, customary for the host country to extend certain facilities such as premises for the offices of the Union and to provide the requisite privileges and immunities to the staff and Member State representatives.

2. The relevant decisions EX.CL/Dec. 98 (V); EX.CL/Dec.132 (V); and Assembly/AU/Dec. 39 (III) of the Policy Organs of the Union taken in July 2004 with regard to the hosting of the Organs of the Union point to the establishment of a harmonized criteria aimed at ensuring that wherever the organs are located they shall carry out their functions effectively in an enabling atmosphere, not only for the Member States who will be utilizing their services but also for the members of staff as well as their families.

II. SET OF CRITERIA

3. Member States proposing to host these organs should be in a position to meet the following minimum basic requirements:

- a) The host country shall provide, at its expense furnished and equipped office premises for the seat of the organ on the basis of the requirement of office space communicated to the Member State concerned by the Commission;
- b) The host country shall also provide, at its expense, where the Head of the Organ is required to be resident at the seat, an appropriate furnished and equipped official residence;
- c) The office premises should be an independent building not occupied by any other organization or company or government agency for reasons of security and confidentiality;
- d) The building offered by the host country should be such that the organ shall be easily accessible;

- e) The host country should meet the requirements of a conducive political atmosphere and adequate logistical facilities;
- f) There should be appropriate and efficient modern infrastructure especially telecommunication facilities to enable the office to function efficiently;
- g) There should be suitable and available housing and medical facilities within a reasonable distance from the office.
- h) There should be adequate accommodation facilities for persons attending sessions of the organ.

4. A country wishing to host any of the organs of the Union should have ratified the General Convention on Privileges and Immunities of the OAU. In the event the host country has not done so, it must be prepared to include in the host country agreement, all the privileges and immunities included therein as well as, where appropriate, those provided for in the Vienna Convention on Diplomatic Relations of 1961.

5. The Commission shall communicate this criteria and the model Headquarters Agreement it shall elaborate to all the Member States and request for offers to host the organs of the Union.

6. An independent team shall be set up by the Commission and shall make a fact-finding mission to Member States offering to host organs of the Union to inspect the proposed site and submit a report thereon to the Executive Council.

7. All the offers for hosting the seat of an organ of the Union shall be submitted to the Executive Council for consideration. Selection of the host country shall be made by consensus, failing which, by a two-thirds majority. The Executive Council shall select a Host country, and submit a recommendation thereon to the Assembly for decision.

8. The Assembly shall decide on the seat of the organ in accordance with its Rules, by consensus, failing which, by a two-thirds majority.

9. Thereafter, the Commission shall ensure that the Host Agreement is signed between it and the Member State concerned.

10. The Assembly may decide on the transfer of an organ of the Union, if in its view, the Member State concerned does no longer fulfill this criteria. The decision shall be taken by the by consensus, failing which, by a two-thirds majority.

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