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**EXECUTIVE COUNCIL  
Sixth Ordinary Session  
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Abuja, Nigeria**

**EX.CL/160(VI)  
Original: English**

**REPORT ON THE PROPOSED AMENDMENTS TO THE  
RULES OF PROCEDURE OF THE ASSEMBLY, THE  
EXECUTIVE COUNCIL, THE PRC AND THE  
STATUTES OF THE COMMISSION**

**REPORT ON THE PROPOSED AMENDMENTS TO THE RULES OF  
PROCEDURE OF THE ASSEMBLY, THE EXECUTIVE COUNCIL, THE PRC  
AND THE STATUTES OF THE COMMISSION**

**I. INTRODUCTION**

1. It will be recalled that the Executive Council during its 2<sup>nd</sup> Ordinary Session held in N'djamena, Chad in March 2003, adopted the recommendations of the Dean of the African Diplomatic Corps in paragraph 26 (d) of the plenary report in which amongst other things, the latter recommended that; "the Legal Counsel should examine the issue of the apparent contradiction between the provisions which stipulate that the chair of the Executive Council shall be for one (1) year and those provisions that allow the Foreign Minister of a country hosting any Council session to preside over the session, and formulate appropriate recommendations thereon."

2. The Executive Council during its 3<sup>rd</sup> Ordinary Session in Maputo, Mozambique in July 2003, in the light of constraints faced during the elections of Commissioners, requested the Permanent Representatives Committee (PRC) to examine, in collaboration with the Commission, the provisions relating to elections and any other proposals from Member States and to submit appropriate proposals for consideration by the Executive Council.

3. The Office of the Legal Counsel undertook the review of the various Rules and Statutes and made recommendations through the PRC to the Fifth Ordinary Session of the Executive Council held in Addis Ababa, Ethiopia, from 25 June to 3 July 2004. The Executive Council, by decision. EX/CL/Dec.134 (V), requested the PRC to undertake a thorough examination of the proposed amendments and to submit a report thereon to the 6<sup>th</sup> Ordinary Session of Council.

4. The Office of the Legal undertook another general review of the Rules and Statutes of the organs of the Union, and through this Report addresses the two issues referred to above in addition to proposals received from a number of Member States. The Commission is of the view that the process of review will benefit from the experience of implementing the Rules for a period of over two years since their adoption in Durban, South Africa in July 2002.

## **II. PROPOSED AMENDMENTS TO THE RULES OF PROCEDURE OF THE ASSEMBLY**

### **a. Rule 5 Paragraph 5: Venue**

5. This Rule stipulates, “Where a Member State that had offered to host a session of the Assembly is unable to do so, the session shall be held at the Headquarters of the Union.”

### **b. Proposed Amendment**

6. The proposal relates to the fact that there is need to cater for the case where another Member State offers to host that same session. Thus, it is proposed that Rule 5 be amended to read as follows: “Where a Member State that had offered to host a session of the Assembly is unable to do so, the session shall be held at the Headquarters of the Union, **unless a new offer is received and accepted by the Assembly.**”

### **c. Rule 7 Paragraph 1: Ordinary Sessions**

7. This Rule provides that the “the Assembly shall meet in ordinary session at least once a year”.

### **d. Proposed Amendment**

8. In conformity with decision Assembly/AU/Dec.53 (III) on periodicity of its ordinary sessions, adopted by the Third Ordinary Session of the Assembly held in Addis Ababa, Ethiopia in July 2004, the Assembly is to meet twice a year. Therefore, this Rule should be amended to read as follows: “The Assembly shall meet in ordinary session **twice** a year. Furthermore, the amendment to this Rule necessitates an amendment to **Rule 8 paragraph 1 of the Rules of Procedure of the Executive Council.**”

### **e. Rule 8 Paragraphs 2 (a) and (d) and Paragraph 3: Agenda of Ordinary Sessions**

9. According to this Rule, “The provisional Agenda of an Ordinary Session shall be drawn up by the Executive Council and shall comprise the following: “Items which the Assembly decides to place on its agenda” and “Items proposed by a Member State provided that the proposal is submitted sixty (60) days before the opening of the session and the supporting document(s) and draft decision(s) has been communicated to the Chairperson of the Commission at least thirty (30) days before the opening of the meeting.” Further, Rule 8 (3) stipulates, “The provisional Agenda shall be divided into two parts.”

**f. Proposed Amendment**

10. Rule 8 (2) (a): in view of the fact that it is the Executive Council which draws up the provisional agenda of the Assembly, it is suggested that the Rule be more specific and that Rule 8 (2) (a) should read as follows: “Items which the Assembly decided, **at a previous session**, to place on its agenda.”

11. Rule 8 paragraph 2 (d): It has been suggested that although these items should remain on the agenda of the Assembly as proposed by the Member States, the Executive Council should have the opportunity of considering such items and making recommendations to the Assembly. The rationale for this is that such a process would lighten the work of the Assembly and ensure that the latter has more time to discuss the critical issues on its agenda. It would also ensure that items submitted to the Assembly by Member States for its consideration would have taken into account technical advice and have been subjected to a process of critical appraisal and where possible, consensus reached. This would avoid situations where agenda items proposed by Member States have to be referred back to the Executive Council for further examination.

12. Thus, Rule 8 paragraph 2 (d) should be amended to read as follows: “Items proposed by a Member State provided that the proposal is submitted sixty (60) days before the opening of the session and the supporting document(s) and draft decision(s) have been communicated to the Chairperson of the Commission at least thirty (30) days before the opening of the meeting. **Provided that the Assembly shall examine such items upon the recommendation of the Executive Council.**”

13. Rule 8 paragraph 3: since the adoption of the Rules of Procedure of the Assembly in

**g. Rule 11: Extraordinary Sessions**

14. This Rule does not have a provision on who presides over its proceedings.

**h. Proposed Amendment**

15. It is being proposed for purposes of clarity that Rule 11 be amended to include an additional paragraph, as follows: **“The Chairperson of the Assembly shall preside over the proceedings of the Extraordinary Sessions.”**

**i. Rule 15 Paragraph 1: Election of Chairperson**

16. Further, this Rule provides that “The Assembly shall, on the basis of rotation and agreed criteria, elect a Chairperson for a period of one (1) year. He/she shall be assisted by other members of the Bureau, namely, fourteen

(14) Vice-Chairpersons elected on the basis of agreed geographical distribution and after due consultations.” However, the composition of the Bureau at fifteen (15) members addressed, *inter alia*, the specific need of membership of the Central Organ, which was composed of the Bureau of the Assembly plus the incoming and outgoing chairpersons. This need is no longer there since the membership of the Peace and Security Council is not tied to the Bureau of the Assembly.

**j. Proposed Amendment**

17. It is being proposed that the Bureau of the Assembly be set at four (4) so that it will be possible to have, if it is so agreed, the same Bureau for all meetings of the policy organs such as the Executive Council, the Specialised Technical Committees, the Permanent Representatives Committee, etc.

18. Thus, Rule 15 (1) should be amended to read as follows: “The Assembly shall, on the basis of rotation and agreed criteria, elect a Chairperson for a period of one (1) year. He/she shall be assisted by other members of the Bureau, namely, four (4) Vice-Chairpersons elected on the basis of agreed geographical distribution and after due consultations.”

19. If the proposed amendment to Rule 15 is accepted, there would be consequential amendments to Rule 16 and Rule 11 of the Rules of Procedure of the Executive Council and the PRC respectively.

**k. Rule 42: Voting Procedure for the Election of Members of the Commission**

20. Rule 42 needs to be amended to make it conform to the existing practice based on interpretation of the rule that where, initially there are only two (2) candidates, the candidate with fewer votes would withdraw after the third round.

**1. Proposed Amendment**

21. Thus, a new paragraph should be added to Rule 42 to read as follows: **“Where there are only two candidates initially and neither candidate obtains the majority required after the third ballot, the candidate with fewer votes shall withdraw and the remaining candidate shall proceed to the next round”**

22. If the proposed amendment to Rule 42 above is accepted, there would be consequential amendments to Rule 38 of the Rules of Procedure of the Executive Council and Article 16 of the Statute of the Commission.

23. Further, in view of the amendment proposed above, Rule 42 (5) would read as follows: **“If the remaining candidate, or where there is only one**

**candidate initially and he/she, fails to obtain the two-thirds majority required in that round, the Chairperson shall suspend the election”.**

23. Rule 42 seems to suggest that the provisions contained therein relate to elections of Members of the Commission only, when in actual fact it should clearly indicate that the same procedure would apply to all elections conducted by the Assembly for other Organs.

24. Therefore, it is being proposed that Rule 42 be amended to include an additional paragraph, which would read as follows: **“This voting procedure provided for in paragraphs 2, 3, 4 and 5 above shall be applicable to all elections conducted by the Assembly in respect of other Organs of the African Union.”**

### **III. PROPOSED AMENDMENTS TO THE RULES OF PROCEDURE OF THE EXECUTIVE COUNCIL**

#### **a. Rule 6: Venue**

25. In view of the decision that Assembly shall meet twice a year in ordinary session, it has been proposed that **Rule 6 Paragraph 1** be replaced with the following: **“The Ordinary Sessions of the Executive Council shall be held at the same venue as those of the Assembly”.**

#### **b. Rule 9 Paragraph 2(g): Agenda of Ordinary Sessions**

26. According to this Rule, the agenda of the PRC may comprise of “Items proposed by a Member State provided that the proposal is submitted sixty (60) days before the opening of the session and the supporting document(s) and draft decision(s) have been communicated to the Chairperson of the Commission at least thirty (30) days before the opening of the session.”

#### **c. Proposed Amendment**

27. It has been suggested that although these items should remain on the agenda of the Executive Council as proposed by the Member States, the PRC should have the opportunity of considering such items and making recommendations to the Executive Council. The rationale for this is that such a process would lighten the work of the Executive Council and ensure that the latter has more time to discuss the critical issues on its agenda. It would also ensure that items submitted to the Executive Council by Member States for its consideration would have taken into account technical advice and have been subjected to a process of critical appraisal and where possible, consensus reached. This would avoid situations where agenda items proposed by Member States have to be referred back to meetings of the PRC and or experts for further examination.

28. Thus, Rule 9 paragraph 2 (g) should be amended to read as follows: “Items proposed by a Member State provided that the proposal is submitted sixty (60) days before the opening of the session and the supporting document(s) and draft decision(s) have been communicated to the Chairperson of the Commission at least thirty (30) days before the opening of the session. **Provided that the Executive Council shall examine such items upon the recommendation of the Permanent Representatives Committee.**”

**d. Rule 16 Paragraph 1: Chairperson**

29. Rule 16 (1) should be amended to provide that the bureau of the Executive Council shall have the same membership as that of the Assembly.

**e. Proposed Amendment**

30. If the proposal to amend Rule 15 of the Rules of Procedure of the Assembly is accepted (see paragraph 11 above), it is being proposed that Rule 16 (1) be amended to read as follows: “The sessions of the Executive Council shall be chaired by the Minister of Foreign Affairs or any competent authority whose country holds the Chairmanship of the Assembly. He/she shall be assisted by other members of the Bureau, namely, three (3) Vice-Chairpersons and a Rapporteur, **whose countries are Members of the bureau of the Assembly.**”

**f. Rule 16 Paragraph 2: Chairperson**

31. This Rule states inter alia; “Where the Executive Council accepts an invitation from a Member State in conformity with the criteria adopted by the Assembly, the Minister of Foreign Affairs of the host country shall have the right to preside over the Executive Council.” In the implementation of this rule, it became evident that there was an inherent contradiction between the provisions of Rule 16 (1), which stipulates that “The sessions of the Executive Council shall be chaired by the Minister of Foreign Affairs or any competent authority whose country holds the Chairmanship of the Assembly...”, which is for one (1) year, and those provisions of Rule 16 (2) that allow the Foreign Minister of a country hosting any Council session to preside over the session.

**g. Proposed Amendment**

32. It is being proposed that Rule 16 (2) be amended to read as follows: “Where the Executive Council accepts an invitation from a Member State in conformity with the criteria adopted by the Assembly, **the Chairperson shall preside over the Session. However, the Minister of Foreign Affairs or any competent authority of the Host Country shall preside over the opening and closing Sessions.**”

#### **h. Rule 38: Voting Procedure**

33. Rule 38 needs to be amended to align it with Rule 42 of the Rules of Procedure of the Assembly.

34. Further, Rule 38 seems to suggest that it relates to elections of Commissioners only, when in actual fact it should clearly indicate that the same procedure would apply to all elections conducted by the Executive Council for other Organs.

#### **i. Proposed Amendments**

35. Thus, a new paragraph should be added to Rule 38 to read as follows: **“Where there are only two candidates initially and neither candidate obtains the majority required after the third ballot, the candidate with fewer votes shall withdraw and the remaining candidate shall proceed to the next round”**.

36. Rule 38 seems to suggest that it relates to elections of Commissioners only, when in actual fact it should clearly indicate that the same procedure would apply to all elections conducted by the Executive Council for other Organs.

37. It is also being proposed that Rule 38 be amended to include an additional paragraph, which would read as follows: **“This voting procedure shall be applicable to all elections conducted by the Executive Council in respect of other Organs of the African Union.”**

### **IV. STATUTES OF THE COMMISSION**

#### **a. Article 16: Voting Procedure for Election of Commissioners**

38. If the proposed amendment to Rule 42 of the Assembly and Rule 38 of the Executive Council are accepted, Article 16 needs to be amended to make it conform to the existing practice based on interpretation of the rule that where there are only two (2) candidates, the candidate with fewer votes would withdraw after the third round.

#### **b. Proposed Amendment**

39. Thus, a new paragraph should be added to Article 16 to read as follows: **“Where there are only two candidates initially and neither candidate obtains the majority required at the third ballot, the candidate with fewer votes shall withdraw”**.

40. Further, it is being proposed that Article 16 be amended to include an additional paragraph, which would read as follows: **“This voting procedure**



**shall be applicable to all elections in respect of other Organs of the African Union.”**

**V. RULES OF PROCEDURE OF THE PERMANENT REPRESENTATIVES COMMITTEE**

**a. Rule 6: Quorum**

41. In view of the fact that the Quorum for sessions of the Assembly and the Executive Council are two-thirds of the total membership of the Union, it is necessary to align Rule 6 of the Rules of Procedure of the PRC to the other texts.

**b. Rule 11: Election of Chairperson**

42. Rule 11 should be amended to provide that the bureau of the Permanent Representatives Committee shall have the same membership as that of the Assembly.

**c. Proposed Amendment**

43. If the proposed amendments to Rule 15 and Rule 16 of the Rules of Procedure of the Assembly and Executive Council respectively, are accepted, Rule 11 should be amended to read as follows: “The session of the PRC shall be chaired by the Permanent Representative whose country holds the Chairmanship of the Assembly. He/she shall be assisted by other members of the Bureau, namely, three (3) Vice-Chairpersons and a Rapporteur from among Permanent Representatives **whose countries are Members of the bureau of the Assembly.**”

**VI. CONCLUSIONS AND RECOMMENDATIONS**

44. The Commission is of the view that the amendments proposed to these Rules of Procedures would rectify the inherent contradictions in these Rules as well as facilitate their implementation.

45. The Executive Council is therefore invited to consider the proposed amendments to the Rules of Procedure of the Assembly, its own Rules and those of the PRC as well as the Statutes of the Commission.

46. The Commission also proposes that the Rules of Procedure of the Executive Council should be used for all sectoral meetings and Specialised Technical Committees pending the elaboration and adoption of their own Rules.

47. In this regard, the Commission proposes that the Executive Council adopt a decision to that effect.

Annexes: Rules of procedure of the Assembly  
Rules of procedure of the Executive Council  
Rules of procedure of the PRC  
Statutes of the Commission

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EX.CL/160 (VI)  
Annex I

**RULES OF PROCEDURE OF THE ASSEMBLY**  
**OF THE UNION**

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**ASSEMBLY OF THE AFRICAN UNION**  
**First Ordinary Session**  
**9 - 10 July 2002**  
**Durban, SOUTH AFRICA**

Assembly/AU/2(I) – a Rev.1

**RULES OF PROCEDURE OF THE ASSEMBLY**  
**OF THE UNION**



## **GENERAL PROVISION**

The Assembly of the Union,

Having regard to the Constitutive Act of the African Union, and in particular Article 8,

**HAS ADOPTED THESE RULES OF PROCEDURE:**

### **RULE 1 Definitions**

In these Rules:

**“Assembly”** means the Assembly of Heads of State and Government of the Union;

**“Chairperson”** unless specified otherwise means the Chairperson of the Assembly;

**“Commission”** means the Secretariat of the Union;

**“Committee”** means a Specialized Technical Committee of the Union;

**“Constitutive Act”** means the Constitutive Act of the African Union;

**“Council”** means the Economic, Social and Cultural Council of the Union;

**“Court”** means the Court of Justice of the Union;

**“Executive Council”** means the Executive Council of Ministers of the Union;

**“Member State”** means a Member State of the Union;

**“Members of the Commission”**, means the Chairperson, the Deputy Chairperson and the Commissioners;

**“OAU”** means the Organization of African Unity;

**“Parliament”** means the Pan-African Parliament of the Union;

**“PRC”** means the Permanent Representatives’ Committee;

**“PSC”** means the Peace and Security Council of the African Union;

**“RECs”** means the Regional Economic Communities;

**“Union”** means the African Union established by the Constitutive Act;

**“Vice-Chairpersons”** unless specified otherwise means the Vice-Chairpersons of the Assembly;

## **CHAPTER I THE ASSEMBLY**

### **SECTION I COMPOSITION, POWERS AND FUNCTIONS**

#### **RULE 2 Status**

The Assembly shall be the supreme organ of the Union.



### **RULE 3**

#### **Composition**

The Assembly shall be composed of Heads of State and Government or their duly accredited representatives.

### **RULE 4**

#### **Powers and Functions**

1. The Assembly shall:

- a) determine the common policies of the Union, establish its priorities and adopt its annual programme;
- b) monitor the implementation of policies and decisions of the Union as well as ensure compliance by all Member States through appropriate mechanisms;
- c) accelerate the political and socio-economic integration of the continent;
- d) give directives to the Executive Council, the PSC or the Commission on the management of conflicts, wars, acts of terrorism, emergency situations and the restoration of peace;
- e) decide on intervention in a Member State in respect of grave circumstances namely, war crimes, genocide and crimes against humanity;
- f) decide on intervention in a Member State at the request of that Member State in order to restore peace and security;
- g) determine the sanctions to be imposed on any Member State for non payment of assessed contributions, violation of the principles enshrined in the Constitutive Act and these rules, non-compliance with the decisions of the Union and unconstitutional changes of government;
- h) consider and decide on requests for membership of the Union;
- i) adopt the budget of the Union, oversee and direct the financial matters of the Union in accordance with the Financial Rules and Regulations of the Union;
- j) establish any other organ of the Union;
- k) establish new Committees as it may deem necessary;



- l) establish such Specialized Agencies, *Ad hoc* Committees and Commissions, and temporary working groups, as it may deem necessary;
  - m) appoint and terminate the appointment of the Chairperson of the Commission, his/her Deputy and the Commissioners;
  - n) appoint and terminate the appointment of the judges of the Court;
  - o) receive, consider and take decisions on reports and recommendations from the other organs of the Union;
  - p) elect the Chairperson and other Office bearers;
  - q) decide on the venue of its meetings;
  - r) amend the Constitutive Act in conformity with the laid down procedures;
  - s) interpret the Constitutive Act pending the establishment of the Court;
  - t) determine the structure, functions and regulations of the Commission;
  - u) determine the structure, functions, powers, composition and organization of the Council.
2. The Assembly may delegate any of its powers and functions to any other organ of the Union.

## **SECTION II SESSIONS**

### **RULE 5 Venue**

1. The Sessions of the Assembly shall be held at the Headquarters of the Union unless a Member State invites the Assembly to hold a session in its country, provided that the Assembly holds a session at the Headquarters at least every other year subject to the calendar already established by the OAU.
2. In the event a Member State invites the Assembly to hold a session in its country, that Member State shall be responsible for all extra expenses incurred by the Commission as a result of the session being held outside the Headquarters.



3. Member States offering to host sessions of the Assembly shall not be under sanctions and shall be required to meet pre-determined criteria to be adopted by the Assembly, including adequate logistical facilities and a conducive political atmosphere.
4. Where two (2) or more Member States offer to host a session, the Assembly shall decide on the venue by simple majority.
5. Where a Member State that had offered to host a session of the Assembly is unable to do so, the session shall be held at the Headquarters of the Union, unless a new offer is received and accepted by the Assembly.

### **RULE 6**

#### **Quorum**

The quorum for a session of the Assembly shall be two-thirds of the total membership of the Union.

### **RULE 7**

#### **Ordinary Sessions**

The Assembly shall meet in ordinary session ~~at least twice~~ a year.

### **RULE 8**

#### **Agenda of Ordinary Sessions**

1. The Assembly shall adopt its Agenda at the opening of each session.
2. The provisional Agenda of an Ordinary Session shall be drawn up by the Executive Council and shall comprise the following:
  - a) Items which the Assembly decided, ~~at a previous session~~, to place on its agenda;
  - b) Items proposed by the Executive Council;
  - c) Items proposed by the other Organs of the Union that do not report directly to the Executive Council;
  - d) Items proposed by a Member State provided that the proposal is submitted sixty (60) days before the opening of the session and the supporting document(s) and draft decision(s) has been communicated to the Chairperson of the Commission at least thirty (30) days before the opening of the meeting. **Provided that the Assembly shall examine such items upon the recommendation of the Executive Council.**





3. The provisional Agenda shall be divided into two parts as follows:
- Part A: Items for adoption without discussion are those on which the Executive Council has reached agreement and for which approval by the Assembly is possible without discussion.
- Part B: Items for discussion are those on which agreement has not been reached by the Executive Council, requiring debate before approval by the Assembly.

#### **RULE 9 Other Agenda Items**

**Any additional agenda items, which a Member State wishes to raise at a session of the Assembly, shall only be considered under the agenda item “Any other Business”. Such agenda items shall be for information only and not subject to debate or decision.**

#### **RULE 10 Opening and Closing Ceremonies**

1. During the opening ceremony of sessions, the following personalities shall be entitled to address the Assembly:
  - a) **Chairperson** or Head of State or Government of the Host Country;
  - b) Outgoing Chairperson;
  - c) Incoming Chairperson;
  - d) The Secretary General of the UN, in person;
  - e) Chairperson of the Commission.
2. During the closing ceremony of sessions, the following personalities shall be entitled to address the Assembly:
  - a) Chairperson or Head of State or Government ~~if not the Chairperson of the Assembly~~ **of the Host Country**;
  - b) The personality pronouncing the Vote of thanks.
3. The Assembly may invite any other personality to address the Assembly at the Opening and Closing ceremonies.

#### **RULE 11 Extraordinary Sessions**

1. The Assembly shall meet in extraordinary session at the request of the Chairperson or any Member State. The extraordinary session shall be held upon approval by a two-thirds majority of the Member States.



2. The Chairperson of the Commission shall notify all Member States of the request within seven (7) days of the receipt of such request and advise them to communicate, in writing, their response within a specified period.
3. If the specified period has elapsed and the two-thirds majority required has not been attained, the Chairperson of the Commission shall notify all Member States that the extraordinary session shall not take place.
4. The extraordinary sessions shall be held at the Headquarters of the Union unless a Member State invites the Assembly to hold the session in its country.

### **RULE 12**

#### **Agenda of Extraordinary Sessions**

1. The Chairperson of the Commission shall communicate the provisional agenda of an extraordinary session to Member States at least fifteen (15) days before the opening of the session.
2. The agenda of an extraordinary session shall comprise only the item(s) submitted for consideration in the request for convening the session.

### **RULE 13**

#### **Open and Closed Sessions**

All the sessions of the Assembly shall be closed. The Assembly may, however, decide by simple majority whether any of its sessions shall be open.

### **RULE 14**

#### **Working Languages**

1. The working languages of the Assembly shall be, if possible, African languages, Arabic, English, French, Portuguese, and Spanish.
2. Any Head of State or Government may make a statement in any African language provided that he/she makes available simultaneous interpretation into at least one of the working languages, other than an African language, without financial implications to the Union.

### **RULE 15**

#### **Election of Chairperson**

1. The Assembly shall, on the basis of rotation and agreed criteria, elect a Chairperson for a period of one (1) year. He/she shall be assisted by other members of the Bureau, namely, ~~fourteen (14)~~ four (4) Vice-Chairpersons elected on the basis of agreed geographical distribution and after due consultations.



2. Where the Assembly accepts an invitation from a Member State in conformity with the criteria laid down in Rule 5 of these Rules, **the Chairperson shall preside over the Session. However, the Head of State or government or any competent authority of the Host Country shall preside over the opening and closing sessions.**
- 3. The Chairperson of the Assembly shall preside over the proceedings of the Extraordinary Sessions.**

### **RULE 16**

#### **Duties of the Chairperson**

1. The Chairperson shall:
  - a) convene the sessions of the Assembly;
  - b) open and close the sessions;
  - c) submit for approval the records of the sessions;
  - d) guide the proceedings;
  - e) submit to a vote, **where required**, matters under discussion and announce the results of the vote taken;
  - f) rule on points of order.
2. The Chairperson shall ensure order and decorum of the proceedings of the Assembly.
3. In between sessions, the Chairperson ~~of the Assembly~~, in consultation with the Chairperson of the Commission, shall represent the Union in conformity with the fundamental objectives and principles enshrined in the Constitutive Act.
4. In the absence of the Chairperson or in case of a vacancy, the first Vice-Chairperson shall act as the Chairperson.

### **RULE 17**

#### **Attendance and Participation**

1. The Heads of State or Government shall endeavour to participate personally in the sessions of the Assembly. In the event that they are not in a position to attend personally, they shall be represented by duly accredited representatives.
2. The following personalities shall attend the sessions of the Assembly in their official capacity:



- a) The Chairperson of the Commission, his/her Deputy and the Commissioners;
  - a) The President of the Parliament and the Heads of the other organs of the Union;
  - a) The Chief Executives of the RECs.
3. The Assembly may invite any other personality to attend its sessions.

### **SECTION III DECISION-MAKING PROCEDURES**

#### **RULE 18 Majority Required**

1. The Assembly shall take all its decisions by consensus or, failing which, by a two-thirds majority of the Member States eligible to vote.
2. **Decisions on** questions of procedure shall **require** **be taken by** a simple majority of Member States eligible to vote.
3. **Decisions on** whether or not a question is one of procedure shall also be determined by a simple majority of the Member States eligible to vote.
4. Abstentions by Member States eligible to vote shall not prevent the adoption by the Assembly of decisions by consensus.

#### **RULE 19 Decisions**

1. The text of all proposed decisions shall, upon recommendation by the Executive Council, be submitted in writing to the Assembly for consideration.
2. The original mover of a proposed decision or amendment may **at any time**, withdraw the decision or amendment. Any Member State may reintroduce the proposed decision or amendment that has been withdrawn.
3. A draft decision shall only be adopted after the Commission has provided its financial implications.



**RULE 20**  
**List of Speakers and Use of Floor**

1. The Chairperson shall, subject to Rule 35 of these Rules, during the debate, grant the use of the floor in the order in which the speakers indicate their intention.
2. A delegation shall not have the floor without the consent of the Chairperson.
3. The Chairperson may, during the debate: -
  - a) Read out the list of speakers and declare the list closed;
  - b) Call to order any speaker whose statement deviates from the issue under discussion;
  - c) Accord the right of reply to any delegation where in his/her opinion a statement made after the list is closed justifies the right of reply; and
  - d) Limit the time allowed to each delegation irrespective of the issue under discussion, subject to sub Rule 4 herein.
4. The Chairperson shall, on procedural questions, limit each intervention to a maximum of five (5) minutes.

**RULE 21**  
**Point of Order**

1. During deliberations on any item, a Member State may raise a point of order. The Chairperson, in accordance with these Rules, shall immediately decide on the point of order.
2. The Member State concerned may appeal against the ruling of the Chairperson. The ruling shall immediately be put to vote and decided upon by simple majority.
3. In raising a point of order, the Member State concerned may not speak on the on the substance of the issue under discussion.

**RULE 22**  
**Closure of Debate**

When a matter has been sufficiently discussed, a Member State may move for the closure of the debate on the item under discussion. In addition to the proposer of the motion, two (2) other Member States may briefly speak in favour of and two (2) others against such motion. The Chairperson shall immediately thereafter put the motion to a vote.



**RULE 23**  
**Adjournment of Debate**

During the discussion of any item, a Member State may move for the adjournment of the debate on the item under discussion. In addition to the proposer of the motion, one (1) Member State may speak in favour of and ~~one~~ ~~(1)~~ another against the motion. The Chairperson shall immediately thereafter put the motion to a vote.

**RULE 24**  
**Suspension or Adjournment of the Meeting**

During the discussion of any matter, a Member State may move for the suspension or adjournment of the meeting. No discussion on such motions shall be permitted. The Chairperson shall immediately put such motion to a vote.

**RULE 25**  
**Order of Procedural Motions**

Subject to Rule 20, the following motions shall have precedence in the order listed below, over all other proposals or motions before the meeting:

- a) ~~To~~ Suspend the meeting;
- b) ~~To~~ Adjourn the meeting;
- c) ~~To~~ Adjourn the debate on the item under discussion;
- d) ~~To~~ Close the debate on the item under discussion.

**RULE 26**  
**Voting Rights**

1. Each Member State shall have one (1) vote, subject to sub Rule 2.
2. Member States subject to sanctions under Article 23 of the Constitutive Act, shall not have the right to vote.

**RULE 27**  
**Vote on Decisions**

After the debate has been closed on an item under discussion, the Chairperson shall immediately put the proposed decision with all the amendments to a vote. The vote shall not be interrupted except on a point of order related to the manner in which the vote is taking place.



**RULE 28**  
**Vote on Amendments**

1. A proposal shall be considered as an amendment to a text if it adds or removes parts therefrom or modifies it.
2. When an amendment is moved to a proposal, the amendment shall be voted on first. When two or more amendments are moved to a proposal, the Assembly shall first vote on the amendment furthest removed in substance from the original proposal. The meeting shall then vote on the amendment next furthest removed therefrom, and so on, until all amendments have been put to a vote.
3. If one or several amendments are adopted, the amended proposal is then put to a vote. If no amendment is adopted, the proposal shall be put to the vote in its original form.

**RULE 29**  
**Vote on Separate Parts of an Amendment**

Parts of an amendment shall be voted on separately when so requested by a Member State. If this is done, the text resulting from the series of votes shall be put to a vote as a whole. If all operative parts of an amendment have been rejected, the amendment shall be considered to have been rejected as a whole.

**RULE 30**  
**Methods of Voting**

1. Voting on substantive issues shall be by secret ballot of Member States eligible to vote.
2. Voting on procedural matters shall be taken by any other method as may be determined by the Assembly.

**RULE 31**  
**Voting at Elections**

Elections shall be by secret ballot, except in respect of the Chairperson and the Vice-Chairpersons ~~of the Assembly~~.

**SECTION IV**  
**ASSEMBLY DECISIONS**

**RULE 32**  
**Authentication of Decisions**

Decisions adopted by the Assembly shall be authenticated by the signature of its Chairperson and the Chairperson of the Commission. They shall



be published in all the working languages of the Union in the ‘*Official Journal of the African Union*’ within fifteen (15) days after signature and shall be transmitted to **all** Member States, other organs of the Union and the RECs.

**RULE 33**  
**Categorisation of Decisions**

1. The Decisions of the Assembly shall be issued in the following forms:
  - a) Regulations: these are applicable in all Member States which shall take all necessary measures to implement them;
  - b) Directives: these are addressed to any or all Member States, to undertakings or to individuals. They bind Member States to the objectives to be achieved while leaving national authorities with power to determine the form and the means to be used for their implementation;
  - c) Recommendations, Declarations, Resolutions, Opinions etc: These are not binding and are intended to guide and harmonise the viewpoints of Member States.
2. The non-implementation of Regulations and Directives shall attract appropriate sanctions in accordance with Article 23 of the Constitutive Act.

**RULE 34**  
**Implementation of Regulations and Directives**

1. Regulations and Directives shall be automatically enforceable thirty(30) days after the date of the publication in the Official Journal of the African Union or as specified in the decision.
2. Regulations and Directives shall be binding on Member States, Organs of the Union and RECs.

**SECTION V**  
**SANCTIONS**

**RULE 35**  
**Sanctions for Arrears**

1. The Assembly shall determine, on the basis of recommendations of the Executive Council and the PRC, as well as information provided by the Commission, sanctions to be imposed under Article 23 (1) of the Constitutive Act.
2. Subject to paragraph 1 of this Rule, sanctions against a Member State that defaults in the payment of its contributions to the budget of the Union shall be implemented by the Assembly in the following manner:





- a) When in arrears of payment amounting to two (2) years but not exceeding five (5) years of its assessed contributions, suspension of the Member State's right to:
    - i) Speak, vote and receive documentation at meetings of the Union;
    - ii) Offer to host sessions of the Assembly or of the Executive Council or any other meetings of the Union; and
    - iii) Present a candidate for any position or post within the Union;
  - b) When in arrears of payment of contributions amounting to five (5) years or more, in addition to the sanctions in paragraph 2 (a) of this Rule, suspension of the Member State's right to:
    - i) Have the contracts of employment of its nationals renewed; and
    - ii) Provision, by the Union, of funds for new projects in the Member State.
3. When a Member State is under sanctions for non-payment of its contributions as described in the preceding paragraphs, the sanctions may be lifted temporarily if the Member State pays at least 50% of its outstanding arrears, provided that such payment is made **at least** thirty (30) days before the commencement of the session of the Executive Council preceding that of the Assembly.

**RULE 36**  
**Sanctions for Non-compliance with**  
**Decisions and Policies**

1. The Assembly shall approve, upon the recommendation of the Executive Council, the imposition of sanctions under Article 23 (2) of the Constitutive Act on a Member State that fails, without good and reasonable cause, to comply with the decisions and policies of the Union.
2. Such sanctions may include denial of transport and communication links with other Member States and other measures of a political and economic nature to be determined by the Assembly.
3. When taking any decision in this regard, the Assembly shall stipulate the time frame for compliance and indicate when the failure to comply with that decision will trigger the sanctions regime provided for under Article 23 (2) of the Constitutive Act and this Rule.
4. Member States under sanctions may present their case to the Assembly.



**RULE 37**  
**Sanctions for Unconstitutional Changes of Government**

1. Pursuant to Article 30 of the Constitutive Act, ~~the~~ Member States in which Governments accede to power by unconstitutional means shall be suspended and shall not participate in the activities of the Union.
2. In conformity with the Declaration on the Framework for an OAU Response to Unconstitutional Changes of Government, the situations to be considered as unconstitutional change shall be, among others:
  - a) Military and other coup d'état against a democratically elected Government;
  - b) Intervention by mercenaries to replace a democratically elected government;
  - c) Replacement of democratically elected governments by armed dissident groups and rebel movements; and
  - d) Refusal by an incumbent government to relinquish power to the winning party after a free and fair election.
3. The overthrow and replacement of a democratically elected government by elements assisted by mercenaries shall also be considered as an unconstitutional change of government.
4. Whenever an unconstitutional change of Government takes place, the Chairperson and the Chairperson of the Commission shall:
  - a) Immediately, on behalf of the Union, condemn such a change and urge the speedy return to constitutional order;
  - b) Convey a clear and unequivocal warning that such an illegal change shall not be tolerated or recognized by the Union;
  - c) Ensure consistency of action at the bilateral, interstate, sub-regional and international levels;
  - d) Request the PSC to convene in order to discuss the matter;
  - e) Immediately suspend the Member State from the Union and from participating in the organs of the Union, provided that exclusion from participating in the organs of the Union shall not affect that State's membership of the Union and its obligations towards the Union.
5. The Assembly shall immediately apply sanctions against the regime that refuses to restore constitutional order, including but not limited to:



- a) Visa denials for the perpetrators of the unconstitutional change;
  - b) Restriction of Government to Government contacts;
  - c) Trade restrictions;
  - d) The sanctions provided for in Article 23 (2) of the Constitutive Act and in these Rules;
  - e) Any additional sanction as may be recommended by the PSC.
6. The Chairperson of the Commission in consultation with the Chairperson shall:
- a) Gather the facts relevant to the unconstitutional change of Government;
  - b) Establish appropriate contacts with the perpetrators with a view to ascertaining their intentions regarding the restoration of constitutional order in the country, without recognizing or legitimizing the perpetrators;
  - c) Seek the contribution of African leaders and personalities in order to get the perpetrators of the unconstitutional change to cooperate with the Union;
  - d) Enlist the cooperation of the RECs to which the country concerned belongs.

## **CHAPTER II THE COMMISSION**

### **SECTION I MEMBERS OF THE COMMISSION**

#### **RULE 38 Election of the Chairperson and Deputy Chairperson**

1. The Assembly shall elect the Chairperson of the Commission and his/her Deputy by secret ballot and two-thirds majority of Member States eligible to vote.
2. The Chairperson of the Commission and his/her Deputy shall be competent women or men with proven experience in the relevant field, commensurate leadership qualities and a good track record in government, parliament, international organizations or other relevant sectors of society.



3. Candidatures for the Office of the Chairperson of the Commission and his/her Deputy shall be circulated to Member States at least three (3) months before the election.
4. The Chairperson of the Commission and his/her Deputy shall not be from the same region.

### **RULE 39** **Commissioners**

1. The Assembly shall appoint eight (8) Commissioners on the basis of equal geographical distribution. In this regard, the respective regions from which the Chairperson of the Commission and his/her Deputy shall be appointed, shall be entitled to only one (1) Commissioner each.
2. The Commissioners shall be competent women or men with proven experience in the relevant field, commensurate leadership qualities and a good track record in government, parliament, international organizations or other relevant sectors of society.
3. Candidatures for the Office of Commissioner shall be circulated to Member States at least three (3) months before the election.

### **RULE 40** **Term of Office**

The term of office of the members of the Commission shall be for four (4) years. It shall be renewable only once.

### **RULE 41** **Termination of Appointment**

The Assembly may, by two-thirds majority and following due process conducted by the Executive Council, terminate the appointment of the Chairperson of the Commission, his/her Deputy and the Commissioners on grounds of incompetence, gross misbehaviour or inability to perform the functions of his/her office for reason of permanent incapacity certified by a medical board.

### **RULE 42** **Voting Procedure for the Election of the Members of the Commission**

1. The voting shall commence with the election of the Chairperson of the Commission, followed by the Deputy Chairperson, thereafter the Assembly shall **endorse** **appoint** the Commissioners elected by the Executive Council.



2. In any election for the Chairperson of the Commission, or his/her Deputy, the balloting shall continue until one of the candidates obtains the two-thirds majority required. Provided that, if the third ballot remains inconclusive, the next ballot shall be restricted to the two candidates who obtained the highest number of votes in the third ballot.
3. If after three further ballots neither of the two (2) candidates obtains the majority required, the candidate with fewer votes shall withdraw.
4. **Where there are only two candidates initially and neither candidate obtains the majority required after the third ballot, the candidate with fewer votes shall withdraw and the remaining candidate shall proceed to the next round.**
5. ~~If the remaining candidate, or where there is only one candidate initially shall proceed to the next round, and he/she~~, fails to obtain the two-thirds majority required in that round, the Chairperson shall suspend the election.
6. The Deputy Chairperson of the Commission shall take over the Chairmanship of the Commission on an interim basis until new elections are held. If the impasse is in respect of the Deputy Chairperson, the most senior Commissioner by length of tenure, or by age where length of tenure is the same, shall be designated to act as the Deputy Chairperson until new elections are held.
7. **This voting procedure provided for in paragraphs 2, 3, 4 and 5 above shall be applicable to all elections conducted by the Assembly in respect of other Organs of the African Union**

### CHAPTER III

#### FINAL PROVISIONS

##### **RULE 43 Implementation**

The Assembly may lay down guidelines and supplementary measures to give effect to these Rules.

##### **RULE 44 Saving Clause**

These Rules shall not adversely affect the decisions of the Assembly of Heads of State and Government of the OAU whose implementation has not started or



has started but has not been completed provided that such decisions are not inconsistent with the provisions of the Constitutive Act.

**RULE 45**  
**Amendments**

The Assembly may amend these Rules by a two-thirds majority.

**RULE 46**  
**Entry into force**

These Rules shall enter into force upon their adoption by the Assembly.

- 1. Where there are only two candidates initially and neither candidate obtains the majority required after the third ballot, the candidate with fewer votes shall withdraw and the remaining candidate shall proceed to the next round.**
2. If the remaining candidate, or where there is only one candidate initially and he/she, shall proceed to the next round. If he/she fails to obtain the two-thirds majority required in that round, the Chairperson ~~of~~ shall suspend the election.



AFRICAN UNION  
الاتحاد الأفريقي



UNION AFRICAINE  
UNIÃO AFRICANA

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Addis Ababa, ETHIOPIA P. O. Box 3243 Telephone 517 700 Fax : 517844

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EX.CL/160 (VI)  
Annex II

## **RULES OF PROCEDURE OF THE EXECUTIVE COUNCIL**



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**ASSEMBLY OF THE AFRICAN UNION**  
**First Ordinary Session**  
**9 - 10 July 2002**  
**Durban, SOUTH AFRICA**

**Assembly/AU/2(I) – b Rev.1**

**RULES OF PROCEDURE OF THE**  
**EXECUTIVE COUNCIL**



## **GENERAL PROVISION**

The Executive Council,

Having regard to the Constitutive Act of the African Union, and in particular Article 12,

### **HAS ADOPTED THESE RULES OF PROCEDURE:**

#### **RULE 1 Definitions**

In these Rules:

- (a) **“Assembly”** means the Assembly of Heads of State and Government of the Union;
- (b) **“Chairperson”** unless specified otherwise, means the Chairperson of the Executive Council;
- (c) **“Commission”** means the Secretariat of the Union;
- (d) **“Committee”** means a Specialized Technical Committee of the Union;
- (e) **“Constitutive Act”** means the Constitutive Act of the African Union;
- (f) **“Executive Council”** means the Executive Council of Ministers of the Union;
- (g) **“Member State”** means a Member State of the Union;
- (h) **“Members of the Commission”** means the Chairperson, the Deputy Chairperson and the Commissioners;
- (i) **“OAU”** means the Organization of African Unity;
- (j) **“Parliament”** means the Pan-African Parliament of the Union;
- (k) **“PRC”** means Permanent Representatives’ Committee;
- (l) **“RECs”** means Regional Economic Communities;
- (m) **“Union”** means the African Union established by the Constitutive Act;
- (n) **“Vice-Chairpersons”** unless specified otherwise, means the Vice-Chairpersons of the Executive Council;



**CHAPTER I**  
**EXECUTIVE COUNCIL**

**SECTION I**  
**COMPOSITION, ACCREDITATION, POWERS AND FUNCTIONS**

**RULE 2**  
**Status**

The Executive Council shall be responsible to the Assembly.

**RULE 3**  
**Composition**

The Executive Council shall be composed of Ministers of Foreign Affairs or such other Ministers or authorities duly accredited by the Governments of Member States.

**RULE 4**  
**Accreditation**

1. Delegations of Member States to sessions of the Executive Council shall be duly accredited.
2. The Executive Council shall establish a Credentials Committee.
3. The Rules of Procedure of the Credentials Committee shall be adopted by the Executive Council.

**RULE 5**  
**Powers and Functions**

1. The Executive Council shall:
  - a) prepare the sessions of the Assembly;
  - b) determine the issues to be submitted to the Assembly for decision;
  - c) coordinate and harmonize the policies, activities and initiatives of the Union in areas of common interest to Member States;
  - d) monitor the implementation of the policies, decisions and Agreements adopted by the Assembly;
  - e) elect the Commissioners to be appointed by the Assembly;
  - f) elect members of the African Commission on Human and Peoples' Rights, and the African Committee of Experts on the Rights and Welfare of the Child and submit to the Assembly for appointment;



- g) take appropriate action on issues referred to it by the Assembly;
- h) examine the Programme and Budget of the Union and submit them to the Assembly for consideration;
- i) promote cooperation and coordination with the Regional Economic Communities, the African Development Bank (ADB), other African Institutions and the United Nations Economic Commission for Africa (UNECA);
- j) determine policies for cooperation between the Union and Africa's partners and ensure that all activities and initiatives regarding Africa are in line with the objectives of the Union;
- k) decide on the dates and venues of its sessions on the basis of criteria adopted by the Assembly;
- l) appoint its Chairperson and the other office bearers in conformity with the Bureau of the Assembly;**
- m) receive, consider and make recommendations on reports and recommendations from other Organs of the Union that do not report directly to the Assembly;
- n) set up such ad-hoc committees and working groups as it may deem necessary;
- o) consider the reports, decisions, projects and programmes of the Committees;
- p) approve the Rules of the Committees, oversee, monitor and direct their activities;
- q) consider the Staff Rules and Regulations and the Financial Rules and Regulations of the Commission and submit them to the Assembly for adoption;
- r) approve the agreements for hosting the Headquarters, other Organs and Offices of the Union;
- s) consider the structures, functions and Statutes of the Commission and make recommendations thereon to the Assembly;
- t) determine the conditions of service including salaries, allowances and pensions of the Staff of the Union;
- u) ensure the promotion of gender equality in all programmes of the Union.



2. The Executive Council may delegate any of its powers and functions to the Committees.
3. The Executive Council may give instructions to the PRC.
4. The Executive Council may assign tasks to the Commission.

## **SECTION II SESSIONS**

### **RULE 6**

1. **The Ordinary Sessions of the Executive Council shall be held at the same venue as those of the Assembly.**
2. **In the event the session is held outside the Headquarters of the Union, the host Member State** shall be responsible for all extra expenses incurred by the Commission as a result of the session being held outside the Headquarters.
3. **In conformity with Rule 5 (3) of the Rules of Procedure of the Assembly,** Member States offering to host sessions of the Executive Council shall not be under sanctions and shall be required to meet pre-determined criteria to be adopted by the Assembly, including adequate logistical facilities and a conducive political atmosphere.
4. Where two (2) or more Member States offer to host a session, the Executive Council shall decide on the venue by simple majority.
5. Where a Member State that had offered to host a session of the Executive Council is unable to do so, the session shall be held at the Headquarters of the Union.

### **RULE 7 Quorum**

The quorum for a session of the Executive Council shall be two-thirds of the total membership of the Union.

### **RULE 8 Ordinary Sessions**

1. **The Executive Council shall meet twice a year in ordinary session. ~~in February and July, or in exceptional cases, on such other dates as shall be agreed, at the initiative of the Commission, in consultation~~**



~~with the Chairperson and Member States.~~ The sessions shall precede those of the Assembly.

~~2. The Executive Council shall examine the Programme and Budget for the next Biennium during its session immediately preceding the session of the Assembly.~~

## **RULE 9**

### **Agenda of Ordinary Sessions**

1. The Executive Council shall adopt its Agenda at the opening of each session.
2. The Provisional Agenda of an ordinary session shall be drawn up by the PRC. The Chairperson of the Commission shall communicate it to Member States at least thirty (30) days before the opening of the session. The Agenda may comprise the following:
  - (a) the Report of the Commission;
  - (b) the Report of the PRC;
  - (c) items which the Assembly has referred to the Executive Council;
  - (d) items which the Executive Council decided at a preceding session to place on its agenda;
  - (e) the Draft Programme and Budget of the Union;
  - (f) items proposed by the other organs of the Union;
  - (g) items proposed by a Member State provided that the proposal is submitted sixty (60) days before the opening of the session and the supporting document(s) and draft decision(s) have been communicated to the Chairperson of the Commission at least thirty (30) days before the opening of the session. **Provided that the Executive Council shall examine such items upon the recommendation of the Permanent Representatives Committee.**
  - (h) Any Other Business which shall be for information purposes only and shall not be subject to debate or decision.
3. The Provisional Agenda shall be divided into two parts as follows:
  - Part A: Items for adoption without discussions are those on which the PRC has reached agreement and for which approval by the Executive Council is possible without discussion,



Part B: Items for discussion are those on which agreement has not been reached by the PRC, requiring debate before approval by the Executive Council.

### **RULE 10 Other Agenda Items**

Any additional agenda item, which a Member State wishes to raise at a session of the Executive Council, shall only be considered under the agenda item “Any Other Business”. Such agenda items shall be for information only and not subject to debate or decision.

### **RULE 11 Opening and Closing Ceremonies**

1. During the opening ceremony of sessions, the following personalities shall be entitled to address the Executive Council:
  - a) **Chairperson** or Minister of Foreign Affairs or any other competent authority of the Host Country;
  - b) Outgoing Chairperson;
  - c) Incoming Chairperson;
  - d) The Executive Secretary of the United Nations Economic Commission for Africa in person;
  - e) Chairperson of the Commission.
  
2. During the closing ceremony of sessions, the following personalities shall be entitled to address the Executive Council:
  - a) **Chairperson or Minister of Foreign Affairs of the host country or any other competent authority of the Host Country;**
  - b) The personality pronouncing the Vote of Thanks.

The Executive Council may invite any other personality to address the session at the opening or closing ceremonies.

### **RULE 12 Extraordinary Sessions**

1. The Executive Council shall meet in an extraordinary session at the request of **the Assembly**, the Chairperson, any Member State or the Chairperson of the Commission in consultation with the Chairperson of the Assembly. The extraordinary session shall be held upon approval by a two-thirds majority of the Member States.



2. The Chairperson of the Commission shall notify all Member States of the request within seven (7) days of the receipt of such a request and invite them to communicate, in writing, their response within a specified period.
3. If the specified period has elapsed and the two-thirds majority required has not been attained, the Chairperson of the Commission shall notify all Member States that the extraordinary session shall not take place.
4. The extraordinary sessions shall be held at the Headquarters of the Union unless a member state invites the Executive Council to meet in its Country.
5. Where two (2) or more Member States offer to host an Extraordinary Session, the Executive Council shall decide on the venue by simple majority.

### **RULE 13**

#### **Agenda of Extraordinary Sessions**

1. The Chairperson of the Commission shall communicate the Provisional Agenda of an extraordinary session to Member States at least fifteen (15) days before the opening of the session.
2. The Agenda of an extraordinary session shall comprise only the item(s) submitted for consideration in the request for convening the session.

### **RULE 14**

#### **Open and Closed Sessions**

All the sessions of the Executive Council shall be closed. The Executive Council may, however, decide by simple majority whether any of its sessions shall be open.

### **RULE 15**

#### **Working Languages**

1. The working languages of the Executive Council shall be, if possible, African languages, Arabic, English, French, Portuguese, and Spanish.
2. Any Head of Delegation may make a statement in any African language provided that he/she makes available simultaneous interpretation into at least one of the other working languages, other than an African Language, without financial implications to the Union.

### **RULE 16**

#### **Chairperson**

1. The sessions of the Executive Council shall be chaired by the Minister of Foreign Affairs or any competent authority whose country holds the Chairmanship of the Assembly. He/she shall be assisted by other



members of the Bureau, namely, three (3) Vice-Chairpersons and a Rapporteur, **whose countries are Members of the Bureau of the Assembly.**

2. Where the Executive Council accepts an invitation from a Member State in conformity with the criteria adopted by the Assembly, ~~the Minister of Foreign Affairs of the host country shall have the right to preside over the Executive Council.~~ **the Chairperson of the Executive Council shall preside over the Session. However, the Minister of Foreign Affairs or any competent authority of the Host Country shall preside over the opening and closing sessions.**
3. **The Chairperson shall preside over the proceedings of the Extraordinary Sessions of the Executive Council.**

#### RULE 17

#### Duties of the Chairperson

1. The Chairperson shall:
  - a) convene the sessions of the Executive Council;
  - b) open and close the sessions;
  - c) submit for approval the records of the sessions;
  - d) guide the proceedings;
  - e) submit to a vote matters under discussion and announce the results of the vote taken;
  - f) rule on points of order.
2. The Chairperson shall ensure order and decorum of the proceedings of the Executive Council.
3. ~~In between sessions, the Chairperson in consultation with the Chairperson of the Commission shall represent the Union, in conformity with the fundamental objectives and principles enshrined in the Constitutive Act.~~
4. In the absence of the Chairperson or in case of a vacancy, the first vice-Chairperson shall act as the Chairperson.

#### RULE 18

#### Attendance and Participation

1. The Ministers of Foreign Affairs shall participate personally in the sessions of the Executive Council. In the event that they are not in a position to attend personally, they shall be represented by duly accredited representatives.





2. The following personalities shall attend the sessions of the Executive Council in their official capacity:
  - a) the Chairperson of the Commission, and his/her Deputy and the Commissioners;
  - b) the President of the Parliament and the Heads of the other organs of the Union;
  - c) the Chief Executives of the RECs.
3. The Executive Council may invite any other personality to attend its sessions.

### **SECTION III DECISION MAKING PROCEDURES**

#### **RULE 19 Majority Required**

1. The Executive Council shall take all its decisions by consensus or, failing which, by a two-thirds majority of the Member States eligible to vote.
2. **Decisions on** questions of procedure shall **require** **be taken by** a simple majority of Member States eligible to vote.
3. **Decisions on** whether or not a question is one of procedure shall also be determined by a simple majority of Member States eligible to vote.
4. Abstentions by Member States eligible to vote shall not prevent the adoption by the Executive Council of decisions by consensus.

#### **RULE 20 Decisions**

1. The text of all proposed decisions shall, upon recommendation by the PRC, be submitted in writing to the Executive Council for consideration.
2. The original mover of a proposed decision or amendment may **at any time**, prior to it being submitted to a vote, withdraw the decision or amendment. Any **other** Member State may reintroduce the proposed decision or amendment that has been withdrawn.
3. A draft decision shall only be adopted after the Commission has provided its financial implications.



**RULE 21**  
**Point of Order**

1. During deliberations on any matter, a Member State may raise a point of order. The Chairperson, in accordance with these Rules, shall immediately decide on the point of order.
2. The Member State concerned may appeal against the ruling of the Chairperson. The ruling shall immediately be put to a vote and decided upon by simple majority.
3. In raising a point of order, the Member State concerned shall not speak on the substance of the issue under discussion.

**RULE 22**  
**List of Speakers and Use of Floor**

1. The Chairperson shall, subject to Article 23 **of the Constitutive Act**, during the debate, grant the use of the floor in the order in which the speakers indicate their intention.
2. A delegation shall not have the floor without the consent of the Chairperson.
3. The Chairperson may, during the debate: -
  - a) read out the list of speakers and declare the list closed;
  - b) call to order any speaker whose statement deviates from the issue under discussion;
  - c) accord the right of reply to any delegation where in his/her opinion a statement made after the list is closed justifies the right of reply; and
  - d) limit the time allowed to each delegation irrespective of the issue under discussion, subject to sub rule 4 herein.
4. The Chairperson shall, on procedural questions, limit each intervention to a maximum of five (5) minutes.

**RULE 23**  
**Closure of Debate**

When a matter has been sufficiently discussed, a Member State may move for the closure of the debate on the item under discussion. In addition to the proposer of the motion, two other Member States may briefly speak in



favour of and two against such motion. The Chairperson shall immediately thereafter put the motion to a vote.

**RULE 24**  
**Adjournment of Debate**

During the discussion of any item, a Member State may move for the adjournment of the debate on the item under discussion. In addition to the proposer of the motion, one (1) Member State may speak in favour of and ~~one~~ **another** against the motion. The Chairperson shall immediately thereafter put the motion to a vote.

**RULE 25**  
**Suspension or Adjournment of the Meeting**

During the discussion of any matter, a Member State may move for the suspension or adjournment of the meeting. No discussion on such motions shall be permitted. The Chairperson shall immediately put such motion to a vote.

**RULE 26**  
**Order of Procedural Motions**

Subject to Rule 21, the following motions shall have precedence in the order listed below, over all other proposals or motions before the meeting:

- a) ~~to~~ suspend the meeting;
- b) ~~to~~ adjourn the meeting;
- c) ~~to~~ Adjourn the debate on the item under discussion;
- d) ~~to~~ close the debate on the item under discussion.

**RULE 27**  
**Voting Rights**

1. Each Member State shall have one vote, subject to sub rule 2 herein.
2. Member States, subject to sanctions under Article 23 of the Constitutive Act, shall not have the right to a vote.



**RULE 28**  
**Vote on Decisions**

After the debate has been closed, the Chairperson shall immediately put to a vote the proposal with all the amendments. The vote shall not be interrupted except on a point of order related to the manner in which the vote is being taken.

**RULE 29**  
**Vote on Amendments**

1. A proposal shall be considered as an amendment to a text if it adds or removes parts therefrom or modifies it.
2. When an amendment is moved to a proposal, the amendment shall be voted on first. When two or more amendments are moved to a proposal, the Executive Council shall first vote on the amendment furthest removed in substance from the original proposal. The meeting shall then vote on the amendment next furthest removed therefrom, and so on, until all amendments have been put to a vote.
3. If one or several amendments are adopted, the amended proposal shall be put to a vote. If no amendment is adopted, the proposal shall be put to a vote in its original form.

**RULE 30**  
**Vote on Separate Parts of an Amendment**

Parts of an amendment shall be voted on separately when so requested. If this is done, the text resulting from the series of votes shall be put to the vote as a whole. If all operative parts of an amendment have been rejected, the amendment shall be considered to have been rejected as a whole.

**RULE 31**  
**Methods of Voting**

1. Voting on substantive issues shall be by secret ballot of Members States eligible to vote.
2. Voting on procedural matters shall be taken by any other method as may be determined by the Executive Council.

**RULE 32**  
**Voting at Elections**

Elections shall be by secret ballot, except in respect of the Chairperson ~~of the Executive Council~~, the Vice-Chairpersons and the Rapporteur.



## **SECTION IV EXECUTIVE COUNCIL DECISIONS**

### **RULE 33 Authentication of Decisions**

Decisions adopted by the Executive Council shall be authenticated by the signature of the Chairperson and the Chairperson of the Commission. They shall be published in all the working languages of the Union in the “ *Official Journal of the African Union*” within fifteen (15) days after signature and shall be transmitted to **all** Member States, other organs of the Union and the RECs.

### **RULE 34 Categorisation of Decisions**

1. The Decisions of the Executive Council shall be issued in the following forms:
  - a) Regulations: these are binding and applicable in all Member States; and national laws shall, where appropriate, be aligned accordingly;
  - b) Directives: these are addressed to any or all Member States, to undertakings or to individuals. They bind Member States to the objectives to be achieved while leaving national authorities with power to determine the form and the means to be used for their implementation;
  - c) Recommendations, declarations, resolutions, opinions etc: These are not binding and are intended to guide and harmonise the view points of Member States;
2. The non-implementation of regulations and directives shall, after approval by the Assembly, attract appropriate sanctions in accordance with Article 23 of the Constitutive Act..

### **RULE 35 Implementation of Regulations and Directives**

1. Regulations and directives shall be automatically enforceable thirty (30) days after the date of the publication in the Official Journal of the African Union or as specified in the decision.
2. Regulations and directives shall be binding on Member States, and Organs of the Union.



**RULE 36**  
**Sanctions**

The Executive Council shall apply the sanctions imposed by the Assembly in respect of:

- a) arrears of contributions;
- b) non-compliance with decisions and policies; and
- c) unconstitutional changes of government; as specified in Rules 35, 36, and 37 of the Rules of Procedure of the Assembly.

**CHAPTER II**  
**APPOINTMENT OF THE COMMISSIONERS**

**RULE 37**  
**Commissioners**

1. The Executive Council shall, in accordance with the Rules of Procedure of the Assembly and the Statutes of the Commission, elect eight (8) Commissioners on the basis of equal geographical distribution and submit the names to the Assembly for appointment. In this regard, the respective regions from which the Chairperson of the Commission and the Deputy Chairperson shall be appointed by the Assembly, shall be entitled to only one (1) Commissioner each.
2. The Commissioners shall be competent women or men with proven experience in the relevant field, commensurate leadership qualities and a good track record in government, parliament, international organizations or other relevant sectors of society.

**RULE 38**  
**Voting Procedure**

1. In any election of the Commissioners, the balloting for each portfolio shall continue until one of the candidates obtains the two-thirds majority required. Provided that, if the third ballot remains inconclusive, the next ballot shall be restricted to the two (2) candidates who obtained the highest number of votes in the third ballot.
2. If after three (3) further ballots neither of the two (2) candidates obtains the majority required, the candidate with fewer votes shall withdraw.
3. **Where there are only two candidates initially and neither candidate obtains the majority required after the third ballot, the candidate with fewer votes shall withdraw and the remaining candidate shall proceed to the next round.**



4. If the remaining candidate, **or where there is only one candidate initially and he/she,** ~~shall proceed to the next round.~~ If he/she fails to obtain the two-thirds majority required in that round, the Chairperson ~~of~~ shall suspend the election.
- 5. This voting procedure shall be applicable to all elections conducted by the Executive Council in respect of other Organs of the African Union.**

### CHAPTER III

#### FINAL PROVISIONS

##### **RULE 39** **Financial Year**

The Financial Year of the Union shall begin on 1 January and close on 31 December.

##### **RULE 40** **Implementation**

The Executive Council may lay down guidelines and supplementary measures to give effect to these Rules.

##### **RULE 41** **Saving Clause**

These Rules shall not affect decisions of the Council of Ministers of the OAU whose implementation has not started or has started but has not been completed provided that such decisions are not inconsistent with the provisions of the Constitutive Act.

##### **RULE 42** **Amendments**

The Executive Council may amend these Rules by a two-thirds majority.

##### **RULE 43** **Entry into Force**

These Rules shall enter into force upon their adoption by the Executive Council.



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**EX/CL/160 (VI)**  
**Annex III**

**RULES OF PROCEDURE OF THE PERMANENT**  
**REPRESENTATIVES' COMMITTEE**



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**ASSEMBLY OF THE AFRICAN UNION**  
**First Ordinary Session**  
**9 - 10 July 2002**  
**Durban, SOUTH AFRICA**

**Assembly/AU/2(I) - c Rev. 2**

**RULES OF PROCEDURE OF THE PERMANENT  
REPRESENTATIVES' COMMITTEE**



## **GENERAL PROVISION**

The Executive Council,

Having regard to the Constitutive Act of the African Union, and in particular Article 5 and 21 of the Constitutive Act,

**HAS ADOPTED THESE RULES OF PROCEDURE:**

### **Rule 1 Definitions**

In these Rules:

**“Assembly”** means the Assembly of Heads of State and Government of the Union;

**“Chairperson”** unless otherwise specified means the chairperson of the PRC;

**“Commission”** means the Secretariat of the Union;

**“Committee”** means a Specialized Technical Committee of the Union;

**“Constitutive Act”** means the Constitutive Act of the African union;

**“Executive Council”** means the Executive Council of Ministers of the Union;

**“Member State”** means a Member State of the Union;

**“NEPAD”** means the New Partnership for Africa’s Development;

**“OAU”** means the Organization of African Unity;

**“Parliament”** means the Pan-African Parliament of the Union;

**“PRC”** means the Permanent Representatives’ Committee;

**“RECs”** means the Regional Economic Communities;

**“Union”** means the African Union established by the Constitutive Act.

## **CHAPTER I**

### **The PRC**

#### **SECTION I**

### **COMPOSITION, POWERS AND FUNCTIONS**

#### **Rule 2**

#### **Status of the PRC**

The PRC shall be responsible to the Executive Council.

#### **Rule 3**

#### **Composition**

1. The PRC shall be composed of Permanent Representatives accredited to the Union and other duly accredited plenipotentiaries of Member States;



2. Member States shall ensure that they are represented in the PRC by a Permanent Representative, resident at the Headquarters of the Union or other duly accredited Plenipotentiaries. Pending full implementation of this recommendation, a Member State, not represented at the Headquarters, may designate another country from its region to represent it.

#### **Rule 4**

##### **Powers and Functions**

1. The PRC shall, inter-alia:
  - (a) act as an advisory body to the Executive Council;
  - (b) prepare its Rules of Procedure and submit them to the Executive Council;
  - (c) prepare the meetings of the Executive Council, including the agenda and draft decisions;
  - (d) make recommendations on areas of common interest to Member States particularly on issues on the agenda of the Executive Council;
  - (e) facilitate communication between the Commission and the capitals of Member States;
  - (f) consider the Programme and Budget of the Union as well as administrative, budgetary and financial matters of the Commission and make recommendations to the Executive Council;
  - (g) consider the Financial Report of the Commission and make recommendations to the Executive Council;
  - (h) consider the Report of the Board of External Auditors and submit written comments to the Executive Council;
  - (i) consider reports on the implementation of the budget of the Union;
  - (j) propose the composition of the Bureaus of the organs of the Union ad-hoc committees and sub-committees;
  - (k) consider matters relating to the programmes and projects of the Union particularly issues relating to the socio-economic development and integration of the Continent and make recommendations thereon to the Executive Council;



- (l) consider reports on the implementation of the policies, decisions and agreements adopted by the Executive Council;
  - (m) participate in the preparation of the Programme of Activities of the Union.
  - (n) participate in the preparation of the calendar of meetings of the Union;
  - (o) consider any matter assigned to it by the Executive Council;
  - (p) carry out any other functions that may be assigned to it by the Executive Council.
2. The PRC may set up such ad-hoc committees and temporary working groups, as it deems necessary, including a sub-committee on Headquarters and Host Agreements, NEPAD and the Cairo Plan of Action of the Africa/Europe Summit.
3. The mandate, composition and term of office of such ad-hoc committees and temporary working groups shall be determined by the PRC.

## **SECTION II SESSIONS**

### **Rule 5 Venue**

1. The sessions of the PRC shall be held at the Headquarters of the Union at least once a month;
2. The sessions of the PRC preceding the sessions of the Executive Council may be held at the same venue as those of the Executive Council.

### **Rule 6 Quorum**

The quorum for a session of the PRC shall be two-thirds of the total membership of the Union ~~Member States eligible to vote.~~

### **Rule 7 Agenda of Ordinary Sessions**

1. The PRC shall adopt its agenda at the opening of each Session.
2. The Provisional Agenda for each session shall be drawn up by the Chairperson, in consultation with the Bureau and the Chairperson of the Commission.



3. Any Member State, organ of the Union, or REC, may propose items for inclusion in the Provisional Agenda, and shall submit to the Chairperson of the Commission all relevant documentation at least five (5) working days prior to the session.
4. The Provisional Agenda shall consist of those items in respect of which a request for inclusion and relevant documentation have reached the Chairperson of the Commission at least five (5) working days before the date of the session. Thereafter the Chairperson of the Commission shall circulate the Provisional Agenda as soon as possible.
5. The only items, which shall form the Provisional Agenda shall be those in respect of which the relevant documentation has been transmitted to the Commission in time to be circulated to the members of the PRC in accordance with paragraph (3) of this Rule.

### **Rule 8 Extraordinary Sessions**

The PRC shall meet in extraordinary session to prepare for the extraordinary sessions of the Executive Council. The Agenda shall comprise only item(s) submitted for consideration in the request for convening the meeting of the Executive Council.

### **Rule 9 Open and Closed Sessions**

All the sessions of the PRC shall be closed. The PRC may, however, decide, by simple majority, whether any of its sessions shall be open.

### **Rule 10 Working Languages**

The working languages of the PRC shall be, if possible, African languages, Arabic, English, French, Portuguese, and Spanish.

### **Rule 11 ~~Election of~~ Chairperson**

The session of the PRC shall be chaired by the Permanent Representative whose country holds the Chairmanship of the Assembly. He/she shall be assisted by other members of the Bureau, namely, three (3) Vice-Chairpersons and a Rapporteur whose countries are members of the Bureau of the Assembly.



**Rule 12**  
**Duties of the Chairperson**

1. The Chairperson shall:
  - a) convene the sessions of the PRC;
  - b) open and close the sessions;
  - c) submit for approval the records of the sessions;
  - d) guide the proceedings;
  - e) submit to a vote matters under discussion and announce the results of the vote taken;
  - f) rule on points of order.
2. The Chairperson shall ensure order and decorum of the proceedings of the PRC.
3. In the absence of the Chairperson or in case of a vacancy, the first vice-Chairperson shall act as the Chairperson.

**SECTION III**  
**DECISION MAKING PROCEDURES**

**Rule 13**  
**Majority Required**

1. The PRC shall take all its decisions by consensus or, failing which, by a two-thirds majority of Member States eligible to vote.
2. Decisions on questions of procedure shall be taken by a simple majority of the Member States ~~of the Union~~ eligible to vote.
3. Decisions on whether or not a question is one of procedure shall also be determined by a simple majority of Member States eligible to vote.

**Rule 14**  
**Decisions**

1. The text of all proposed decisions shall be submitted in writing to the Executive Council for consideration..
2. The original mover of a proposed decision or amendment may, prior to it being submitted to a vote, withdraw the decision or amendment. Any other Member State may reintroduce the proposed decision or amendment that has been withdrawn.



**Rule 15**  
**Point of Order**

1. During deliberations on any matter, a Member State may raise a point of order. The Chairperson, in accordance with these Rules, shall immediately decide on the point of order.
2. The Member State concerned may appeal against the ruling of the Chairperson. The ruling shall immediately be put to a vote and decided upon by simple majority.
3. In raising a point of order, the Member State shall not speak on the substance of the issue under discussion.

**Rule 16**  
**List of Speakers and Use of Floor**

1. The Chairperson shall, subject to Rule 15, during the debate, grant the use of the floor in the order in which the speakers indicate their intention.
2. A delegation shall not have the floor without the consent of the Chairperson.
3. The Chairperson may, during the debate: -
  - a) read out the list of speakers and declare the list closed;
  - b) call to order any speaker whose statement deviates from the issue under discussion;
  - c) accord the right of reply to any delegation where in the Chairperson's opinion a statement made after the list is closed justifies the right of reply; and
  - d) limit the time allowed to each delegation irrespective of the issue under discussion, subject to sub Rule 4.
4. The Chairperson shall, on procedural questions, limit each intervention to a maximum of five (5) minutes.

**Rule 17**  
**Closure of Debate**

When a matter has been sufficiently discussed, a Member State may move for the closure of the debate on the item under discussion. In addition to the proposer of the motion, two (2) Member States may briefly speak in favour of



and two others against such motion. The Chairperson shall immediately thereafter put the motion to a vote.

### **Rule 18 Adjournment of Debate**

During the discussion of any item, a Member State may move for the adjournment of the debate on the item under discussion. In addition to the proposer of the motion, one (1) Member State may speak in favour of and ~~one~~ **another** against the motion. The Chairperson shall immediately thereafter put the motion to a vote.

### **Rule 19 Suspension or Adjournment of the Meeting**

During the discussion of any matter, a Member State may move for the suspension or adjournment of the meeting. No discussion on such motion shall be permitted. The Chairperson shall immediately put such motion to a vote.

### **Rule 20 Order of Procedural Motions**

Subject to Rule 15, the following motions shall have precedence in the order listed below, over all other proposals or motions before the meeting:

- a) ~~to~~ Suspend the meeting;
- b) ~~to~~ Adjourn the meeting;
- c) ~~to~~ adjourn the debate on the item under discussion;
- d) ~~to~~ Close the debate on the item under discussion.

### **Rule 21 Voting Rights**

1. Subject to sub rule 2, each Member State shall have one vote.
2. Member States, subject to sanctions in terms of Article 23 of the Constitutive Act, shall not have the right to vote.

### **Rule 22 Vote on Decisions**





After the debate has been closed, the Chairperson shall immediately put to the vote the draft decision with all the amendments. The vote shall not be interrupted except on a point of order related to the manner in which the vote is being taken.

### **Rule 23**

#### **Vote on Amendments**

1. A proposal shall be considered as an amendment to a text if it adds or removes parts therefrom or modifies it.
2. When an amendment is moved to a proposal, the amendment shall be voted on first. When two or more amendments are moved to a proposal, the PRC shall first vote on the amendment furthest removed in substance from the original proposal. The meeting shall then vote on the amendment next furthest removed therefrom, and so on, until all amendments have been put to the vote.
3. If one or several amendments are adopted, the amended proposal is then put to the vote. If no amendments are adopted, the proposal shall be put to the vote in its original form.

### **Rule 24**

#### **Vote on Separate Parts of an Amendment**

Parts of an amendment shall be voted on separately when so requested. If this is done, the text resulting from the series of votes shall be put to a vote as a whole. If all operative parts of an amendment have been rejected, the amendment shall be considered to have been rejected as a whole.

### **Rule 25**

#### **Methods of Voting**

1. On substantive issues, the PRC shall take decisions by consensus or, failing which, by votes taken by secret ballot and by two-thirds majority of Member States eligible to vote.
2. Decisions on procedural matters shall be taken by any other method as may be determined by the PRC by simple majority.



**CHAPTER II  
FINAL PROVISIONS**

**Rule 26  
Decisions**

**Decisions of the PRC shall be recommendations until adopted by the Executive Council.**

**Rule 27  
Implementation**

The PRC shall lay down guidelines and supplementary measures for the implementation of these Rules.

**Rule 28  
Amendments**

The PRC may propose to the Executive Council amendments to these Rules.

**Rule 29  
Entry into force**

These Rules shall enter into force upon their approval by the Executive Council.



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**EX.CL/160 (VI)**  
**Annex IV**

## **STATUTES OF THE COMMISSION OF THE AFRICAN UNION**



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Addis Ababa, ETHIOPIA P. O. Box 3243 Telephone 517 700 Cables: OAU, ADDIS ABABA

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**ASSEMBLY OF THE AFRICAN UNION**  
**First Ordinary Session**  
**9 - 10 July 2002**  
**Durban, SOUTH AFRICA**

**Assembly/AU/2(I) - d Rev. 2**

**STATUTES OF THE COMMISSION**  
**OF THE AFRICAN UNION**



## GENERAL PROVISION

The Commission shall be the Secretariat of the Union and shall act as such in conformity with articles 5 and 20 of the Constitutive Act of the African Union.

### **Article 1 Definitions**

In these Statutes:

**“Assembly”** means the Assembly of Heads of State and Government of the Union;

**“Chairperson”** means the Chairperson of the Commission unless otherwise specified;

**“Commission”** means the Secretariat of the Union;

**“Committee”** means a Specialized Technical Committee of the Union;

**“Constitutive Act”** means the Constitutive Act of the African Union;

**“Council”** means the Economic, Social and Cultural Council of the Union;

**“Court”** means the Court of Justice of the Union;

**“CSSDCA”** means the Conference on Security, Stability, Development and Co-operation in Africa;

**“Deputy Chairperson”** means the Deputy Chairperson of the Commission unless otherwise specified.

**“Executive Council”** means the Executive Council of Ministers of the Union;

**“Member State”** means a Member State of the Union;

**“Members of the Commission”** means the Chairperson, the Deputy Chairperson and the Commissioners;

**“NEPAD”** means the New Partnership for Africa’s Development.

**“OAU”** means the Organization of African Unity;

**“Parliament”** means the Pan-African Parliament of the Union;

**“PRC”** means Permanent Representatives’ Committee;

**“RECs”** means the Regional Economic Communities;

**“Union”** means the African Union established by the Constitutive Act;

### **Article 2 Composition**

1. The Commission shall be composed of the following members:
  - a) a Chairperson;
  - b) one Deputy Chairperson; and
  - c) eight (8) Commissioners.
  
2. The Assembly may, when it deems necessary, review the number of Commissioners.



3. The Members of the Commission shall be assisted by the necessary staff for the smooth functioning of the Commission.

### **Article 3**

#### **Functions**

1. The Commission shall carry out the functions assigned to it under the Constitutive Act, those specified in Protocols thereto, decisions of the Union as well as those established in these Statutes.
2. The Commission shall:
  - a) represent the Union and defend its interests under the guidance of and as mandated by the Assembly and the Executive Council;
  - b) initiate proposals for consideration by other organs;
  - c) implement the decisions taken by other organs;
  - d) organise and manage the meetings of the Union;
  - e) act as the custodian of the Constitutive Act, its protocols, the treaties, legal instruments, decisions adopted by the Union and those inherited from the OAU;
  - f) establish, on the basis of approved programmes, such operational units as it may deem necessary;
  - g) coordinate and monitor the implementation of the decisions of the other organs of the Union in close collaboration with the PRC and report regularly to the Executive Council;
  - h) assist Member States in implementing the Union programmes and policies, including, CSSDCA and NEPAD;
  - i) work out draft common positions of the Union and coordinate the actions of Member States in international negotiations;
  - j) prepare the Union's Programme and Budget for approval by the policy organs;
  - k) manage the budgetary and financial resources including collecting the approved revenue from various sources, establishing fiduciary, reserve and special Funds with the appropriate approvals, and accepting donations and grants that are compatible with the objectives and principles of the Union;



- l) manage the assets and liabilities of the Union according to laid down regulations and procedures;
- m) prepare strategic plans and studies for the consideration of the Executive Council;
- n) take action in the domains of responsibility as may be delegated by the Assembly and the Executive Council. The domains shall include the following:
  - i) control of pandemics;
  - ii) disaster management;
  - iii) international crime and terrorism;
  - iv) environmental management;
  - v) negotiations relating to external trade;
  - vi) negotiations relating to external debt;
  - vii) population, migration, refugees and displaced persons;
  - viii) food security;
  - ix) socio-economic integration; and
  - x) all other areas in which a common position has been established.
- o) mobilize resources and devise appropriate strategies for self-financing, income generating activities and investment for the Union;
- p) promote integration and socio-economic development;
- q) strengthen cooperation and co-ordination of activities between Member States in fields of common interest;
- r) ensure the promotion of peace, democracy, security and stability;
- s) provide operational support to the Peace and Security Council;
- t) elaborate, promote, coordinate and harmonise the programmes and policies of the Union with those of the RECs;
- u) prepare and submit an annual report on the activities of the Union to the Assembly, the Executive Council and the Parliament;
- v) prepare the Staff Rules and Regulations for approval by the Assembly;
- w) implement the decisions of the Assembly regarding the opening and closing down of sections, administrative or technical offices;



- x) follow up and ensure the application of the Rules of Procedure and Statutes of the organs of the Union;
- y) negotiate, in consultation with the PRC, with the host countries, the Host Agreements of the Union and those of its administrative or technical offices;
- z) build capacity for scientific research and development for enhancing socio-economic development in the Member States;
- aa) strive for the promotion and popularization of the objectives of the Union;
- bb) collect and disseminate information on the Union and set up and maintain a reliable database;
- cc) ensure the mainstreaming of gender in all programmes and activities of the Union;
- dd) undertake research on building the Union and on the integration process;
- ee) develop capacity, infrastructure and maintenance of intra-continental information and communication technology; and
- ff) prepare and submit to the Executive Council for approval, administrative regulations, standing orders and Rules and Regulations for the management of the affairs of the Union and keeping proper books of accounts.

#### **Article 4 Obligations**

1. In the performance of their duties, the Members of the Commission and the other staff shall not seek or receive instructions from any government or from any other authority external to the Union. They shall refrain from any action which may reflect adversely on their position as international officials responsible only to the Union.
2. Each Member State undertakes to respect the exclusive character of the responsibilities of the Members of the Commission and the other staff and shall not influence or seek to influence them in the discharge of their responsibilities.
3. The Members of the Commission and the other staff shall not, in the discharge of their duties, engage in any other occupation, whether gainful or not. When taking up their duties they shall give a solemn undertaking





that, both during and after their term of office, they shall respect the obligations arising therefrom and in particular their duty to behave with integrity and discretion and to regulate their conduct with only the interests of the Union in view, and not to seek or accept instructions from the Government of any Member State or authority external to the Union.

4. In the event of any breach of these obligations, the Assembly may, on application by the Executive Council or the Commission, decide disciplinary measures to be applied to the Members of the Commission.
5. In the event of breach of these obligations, by other staff, the internal procedures set out in the Staff Rules and Regulations shall be applied provided that the staff member concerned shall have a right of appeal, after exhausting all the internal administrative measures, to the Court.

#### **Article 5** **Headquarters of the Commission**

1. The Commission shall be based at the Headquarters of the Union in the city of Addis Ababa, Ethiopia.
2. The Headquarters is for the official use of the Union.
3. The Chairperson may authorise the holding of meetings or social functions at the Headquarters or other offices of the Union when such meetings or functions are closely linked or are compatible with the objectives and principles of the Union.

#### **Article 6**

##### **Election of Members of the Commission**

1. The election of Members of the Commission shall be governed by the Rules of Procedure of the Assembly, of the Executive Council and these Statutes.
2. The region from which the Chairperson and the Deputy Chairperson are appointed, shall be entitled to one (1) Commissioner each. All other regions shall be entitled to two (2) Commissioners.
3. At least one (1) Member of the Commission from each region shall be a woman.

#### **Article 7** **The Chairperson**

1. The functions and responsibilities of the Chairperson shall be:



- a) ~~the~~ Chief Executive Officer;
  - b) ~~the~~ legal representative of the Union;
  - c) ~~the~~ Accounting Officer of the Commission;
2. The Chairperson shall be directly responsible to the Executive Council for the effective discharge of his/her duties.

### **Article 8** **Functions of the Chairperson**

1. The functions of the Chairperson shall be to, inter-alia:
  - a) chair all meetings and deliberations of the Commission;
  - b) undertake measures aimed at promoting and popularising the objectives of the Union and enhancing its performance;
  - c) promote cooperation with other organizations for the furtherance of the objectives of the Union;
  - d) participate in and keep records of the deliberations of the Assembly, the Executive Council, the PRC, the Committees and any other organs of the Union as may be required;
  - e) submit reports requested by the Assembly, the Executive Council, the PRC, the Committees and any other organs of the Union as may be required;
  - f) prepare, in conjunction with the PRC, and submit the Staff Rules and Regulations to the Executive Council, for approval;
  - g) prepare, together with the PRC, and transmit to Member States the Budget, Audited Accounts and Programme of Work at least one (1) month before the commencement of the sessions of the Assembly and the Executive Council;
  - h) act as depository of all Union and OAU Treaties and other legal instruments of the Union and perform depository functions thereof;
  - i) act as a depository for instruments of ratification, accession or adherence of all international agreements concluded under the auspices of the Union and communicate information in this respect to Member States;
  - j) receive copies of international agreements entered into between or amongst Member States;



- k) receive the notification of Member States which may desire to renounce their membership in the Union as provided for in Article 31 of the Constitutive Act;
- l) communicate to Member States, and include in the Agenda of the Assembly, as provided in Article 32 of the Constitutive Act, written requests of Member States for amendments or revisions to the Constitutive Act;
- m) circulate the provisional agenda of sessions of the Assembly, the Executive Council and the PRC to Member States;
- n) receive proposals, together with explanatory notes, for the inclusion of items on the agenda of the Assembly and the Executive Council at least sixty (60) days prior to the session;
- o) receive and circulate requests which conform to the correct Rules of Procedure of the Assembly or the Executive Council, from any Member State, for the convening of an extraordinary session of the Assembly or the Executive Council;
- p) in conjunction with the PRC, assess the need for branches, administrative and technical offices as may be considered necessary for the adequate functioning of the Commission, and create or abolish them as necessary, with the approval of the Assembly;
- q) consult and coordinate with the Governments and other institutions of Member States and the RECs, on the activities of the Union;
- r) appoint the staff of the Commission in accordance with the provisions of Article 18 of these Statutes;
- s) assume overall responsibility for the administration and finances of the Commission;
- t) prepare an Annual Report on the activities of the Union and its organs;
- u) carry out diplomatic representations of the Union;
- v) liaise closely with the organs of the Union to guide, support and monitor the performance of the Union in the various areas to ensure conformity and harmony with agreed policies, strategies, programmes and projects;
- w) carry out such other functions as may be determined by the Assembly or the Executive Council;



- x) supervise the functioning of the Headquarters and other offices of the Union;
  - y) coordinate all activities and programmes of the Commission related to gender issues.
2. The Chairperson may delegate any of his/her functions to the Deputy Chairperson ~~of the Commission~~ and in the absence of the latter, to the Commissioners.

### **Article 9** **The Deputy Chairperson**

1. The Deputy Chairperson shall, in the discharge of his/her responsibilities, be accountable to the Chairperson. He/she shall have, inter alia, the following functions:
- (a) assist the Chairperson in the exercise of his/her functions;
  - (b) exercise the functions delegated to him/her by the Chairperson;
  - (c) shall be in charge of the administration and finance of the Commission;
  - (d) act as Chairperson in case of death or permanent incapacity of the latter, pending the appointment of a new Chairperson;
  - (e) act as Chairperson in the absence or in case of temporary incapacity of the latter.
2. In case of absence, death, temporary or permanent incapacity of the Deputy Chairperson, the Chairperson shall, in consultation with the Chairperson of the Assembly, appoint one (1) of the Commissioners to act as the Deputy Chairperson, pending the return of the incumbent or the appointment of a new Deputy Chairperson, as the case may be.

### **Article 10** **Term of Office and Termination of Office**

1. The term of office of the members of the Commission shall be four (4) years. The Members may be eligible to compete for re-election for another term of four (4) years.
2. When so required for the good functioning of the Union, the Assembly may terminate the appointment of a Member of the Commission, based on the provisions of these Statutes.



3. Where, due to any reason, a Commissioner is unable to take up office or complete his/her term of office, the region from which that Commissioner was appointed, shall be given the opportunity to present a candidate to complete the remaining term.

### **Article 11 The Commissioners**

Each Commissioner shall be responsible for the implementation of all decisions, policies and programmes in respect of the portfolio for which he/she has been elected, and be accountable to the Chairperson.

### **Article 12 Portfolios of the Commission**

1. The portfolios of the Commission shall be as follows:
  - a) PEACE AND SECURITY (Conflict Prevention, Management and Resolution, and Combating Terrorism...);
  - b) POLITICAL AFFAIRS (Human Rights, Democracy, Good Governance, Electoral Institutions, Civil Society Organizations, Humanitarian Affairs, Refugees, Returnees and Internally Displaced Persons);
  - c) INFRASTRUCTURE AND ENERGY (Energy, Transport, Communications, Infrastructure and Tourism...);
  - d) SOCIAL AFFAIRS (Health, Children, Drug Control, Population, Migration, Labour and Employment, Sports and Culture...);
  - e) HUMAN RESOURCES, SCIENCE AND TECHNOLOGY (Education, Information Technology Communication, Youth, Human Resources, Science and Technology...);
  - f) TRADE AND INDUSTRY (Trade, Industry, Customs and Immigration Matters...);
  - g) RURAL ECONOMY AND AGRICULTURE (Rural Economy, Agriculture and Food Security, Livestock, Environment, Water and Natural Resources and Desertification...);
  - h) ECONOMIC AFFAIRS (Economic Integration, Monetary Affairs, Private Sector Development, Investment and Resource Mobilization...).
2. Considering that gender issues are cross-cutting through all the portfolios of the Commission, a special unit shall be established in the Office of the Chairperson to coordinate all activities and programmes of the Commission related to gender issues.



### **Article 13 Nomination of the Commissioners**

There shall be a pre-selection process at the regional level. Each region shall nominate two (2) candidates, including a woman, for each portfolio. The nomination process shall be based on modalities to be determined by the region. The candidates selected at the regional level shall form part of the continental pool without prejudice to the scrupulous respect of the provisions of Article 6 (2) of these Statutes.

### **Article 14 Central Pre-selection Process**

1. A panel consisting of two (2) representatives from each region shall be established for the central selection exercise.
2. The panel shall be made up of Ministers assisted by a team of independent consultants.
3. The panel shall submit, for election by the Executive Council, a list of at least two (2) candidates for each portfolio. The shortlist of candidates shall take into account the agreed regional geographic distribution formula.

### **Article 15 Qualifications and Experience of the Commissioners**

1. The Commissioners shall possess minimal educational qualification not below the first degree, or equivalent from a recognized university.
2. They shall also possess a significant and wide-ranging working experience with a good track record in government, parliament, international organizations, a recognized university, multinational or private sector organizations.
3. Only nationals of Member States shall be appointed as Commissioners, provided that no two (2) Commissioners shall be nationals of the same Member State. A minimum age criteria of thirty-five (35) years shall apply.

### **Article 16 Voting Procedure for Election of Commissioners**

1. Nominations for the office of Commissioners shall be circulated to Member States at least three (3) months before election.



2. Where no candidate obtains, in the first ballot, the two-thirds majority required for his/her election, the balloting shall continue until one of the candidates obtains the two-thirds majority required. If the third ballot remains inconclusive, the next ballot shall be restricted to the two (2) candidates who obtain the greatest number of votes in the third ballot.
3. **Where there are only two candidates initially and neither candidate obtains the majority required after at the third ballot, the candidate with fewer votes shall withdraw.**
4. If after three further ballots neither of the two (2) candidates obtains the majority required, the candidate with the fewer votes shall be obliged to withdraw. ~~The ballot shall then proceed to elect the remaining candidate.~~
5. If the remaining candidate, ~~or where there's one candidate initially and she/he~~, fails to secure the required two-thirds majority, the election shall be suspended until the next session of the Executive Council. The Chairperson shall, in consultation with the Chairperson of the Executive Council, appoint one of the Commissioners to act until a new Commissioner has been appointed in accordance with these Statutes.
6. **This voting procedure prescribed in paragraphs 2, 3, 4 and 5 shall be applicable to all elections in respect of other Organs of the African Union.**

### **Article 17 Rules of Procedure**

The Commission shall adopt its own Rules of Procedure.

### **Article 18 Appointment of other Staff of the Commission**

1. The Members of the Commission shall be assisted, in the discharge of their functions, by a corps of suitably qualified, experienced and well-motivated senior administrative, professional and technical staff.
2. Appointment of senior administrative, professional and technical staff of the Commission shall be made by a Recruitment Board, comprising the Members of the Commission, the Head of Human Resources, the Legal Counsel and a Representative of the Staff Association.
3. The recruitment of senior administrative, professional and technical staff of the Commission shall be undertaken after consultation with the



~~Advisory Sub-Committee on Administrative, Budgetary and Financial Matters of the~~ PRC.

4. The remaining general/ancillary staff of the Commission shall be recruited and appointed in terms of a mechanism and procedures contained in reviewed Staff Rules and Regulations.
5. The recruitment process shall be conducted in accordance with elaborate recruitment procedures calculated to ensure the utmost transparency and objectivity.
6. In recruiting senior administrative, professional and technical staff, the Recruitment Board shall:
  - a) uphold the principles of equitable geographical representation and gender equality; and
  - b) apply a quota system recommended by the Executive Council and approved by the Assembly on the basis of a minimum number of posts allocated to a Member State, and additional posts allocated on the basis of agreed criteria including assessed contributions.
7. Paramount in the employment of the staff referred to in the preceding paragraph shall be the need to guarantee the highest standards of competence, efficiency and integrity.
8. Nationals of Member States which are under sanctions for defaulting in the payment of assessed contributions to the budget of the Union amounting to two (2) years or more or for failure to comply with the decisions and policies of the Union shall not be eligible for appointment.
9. The preceding provision shall also be applicable to recruitment for projects financed by extra-budgetary resources/funds.
10. The promotion and advancement of the senior administrative, professional and technical staff of the Commission shall be carried out by a Promotions Board, based on the following criteria, among others:
  - a) annual performance evaluation reports;
  - b) result of competitive examination and interviews to be conducted by a Board made up of representatives of the Commission, and the Staff Association.
11. A Disciplinary Board, which shall be composed of representatives of the Commission shall be set up under the Staff Rules and Regulations. The type of misconduct to attract disciplinary measures shall be spelt out in





the Staff Rules and Regulations to be drawn up by the Commission and approved by the Executive Council.

12. The Commission shall maintain a package of remuneration and conditions of service comparable to those obtainable in other international organizations, multilateral institutions and the private sector organizations of equivalent status, in order to attract and retain the appropriate caliber of employees.

### **Article 19 Privileges and Immunities**

1. The Headquarters of the Union, other organs and administrative and technical offices of the Union shall be governed by Host Agreements negotiated by the Commission with the Host countries and approved by the Executive Council and reviewed periodically to ensure strict compliance and facilitate the smooth functioning of the Commission.
2. The Headquarters and other organs and administrative and technical offices of the Union shall enjoy the privileges and immunities stipulated in the General Convention on Privileges and Immunities of the OAU/AU, the Vienna Convention on Diplomatic Relations and the Vienna Convention on the Law of Treaties between States and International Organisations or between International Organisations.

### **FINANCES OF THE UNION**

#### **Article 20 Programme and Budget**

1. The Commission shall prepare the Programme and Budget of the Union every two (2) years and shall submit it, through the PRC and the Executive Council, to the Assembly for consideration.
2. The proposed Programme and Budget shall include:
  - a) the programme of activities of the Commission;
  - b) the expenses of the Assembly, the Executive Council, the Committees and other organs of the Union;
  - c) a list of contributions made by Member States in accordance with the scale of assessment established by the Executive Council;
  - d) an estimate of the various incomes of the Union;
  - e) a description of the financial status of the Working Fund as created under these Statutes;



- f) staff nominal rolls of the Commission.
3. In preparing the Programme and Budget of the Union, the Commission shall consult the different organs of the Union.

**Article 21**  
**Financial Resources**

1. The Chairperson shall, as soon as the Assembly approves the Budget, communicate it to the Member States, with all pertinent documents, at least three (3) months before the first day of the Financial Year.
2. The budget shall be accompanied by a list indicating the assessed annual contributions in respect of each Member State.
3. The assessed annual contribution of each Member State becomes due on the first day of the Financial Year, namely 1 January.
4. The Chairperson shall submit to Member States a quarterly statement on payments of contributions and outstanding contributions.

**Article 22**  
**General Fund**

1. There shall be a General Fund, in which the following categories of accounts shall be maintained:
  - a) annual Contributions of Member States;
  - b) miscellaneous income including donations and grants ; and
  - c) advances from the Working Fund.
2. All expenditures established in the budget shall be met from the General Fund.

**Article 23**  
**Special Funds**

The Chairperson may establish Special Funds including fiduciary funds, reserve funds, with the approval of the Executive Council. The objectives and limitations of these funds shall be defined by the Executive Council. These funds shall be administered in separate accounts, as provided for in the Financial Rules and Regulations of the Union.



**Article 24**  
**Gifts and Other Donations**

1. The Chairperson, may accept, on behalf of the Union, gifts, bequests and other donations made to the Union, provided that such donations are consistent with the objectives and principles of the Union and shall remain the property of the Union.
2. In the case of monetary donations for specific purposes, these funds shall be treated as fiduciary or special funds as provided for in Article 23 of these Statutes. Monetary donations for no specific purposes shall be considered as miscellaneous income.

**Article 25**  
**Deposit of Funds**

The Commission shall determine the financial Institutions in which the funds of the Union shall be deposited. The interests accrued by such funds, including the Working Fund, shall be entered as miscellaneous income.

**Article 26**  
**Accounts and Auditing**

1. The accounts of the Union shall be maintained in the currencies specified by the Executive Council on the proposal of the Commission.
2. The Chairperson shall ensure that the accounts of the Union are audited by external auditors at the end of each Financial Year, including the accounts of projects funded through extra-budgetary resources.
3. The Chairperson shall submit to the Executive Council for its approval, at the earliest possible moment, the complete regulations governing the accounting method of the Union, in accordance with established international accounting standards.

**Article 27**  
**Amendments**

These Statutes of the Commission may be amended by the Assembly.

**Article 28**  
**Entry into Force**

These Statutes shall enter into force upon their adoption by the Assembly.



2005

# Report on the proposed amendments to the rules of procedure of the assembly, The executive council, The PRC and the statutes of the commission

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