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EX.CL/327 (X) Add.4

**TRANSFORMATION OF THE ALL AFRICA MINISTERIAL
CONFERENCE ON DECENTRALIZATION AND
LOCAL DEVELOPMENT TO AN AFRICAN
UNION STRUCTURE**

(Item Proposed by Cameroon)

**ALL AFRICA MINISTERIAL CONFERENCE ON DECENTRALIZATION AND
LOCAL DEVELOPMENT (AMCOD)**

SECOND SESSION

I

EXPLANATORY STATEMENT

**YAOUNDE – CAMEROON
28 AND 29 OCTOBER 2005**

**EXPLANATORY STATEMENT RELATING TO THE SETTING UP, BY THE
CONFERENCE OF HEADS OF STATE AND GOVERNMENT OF THE AFRICAN
UNION, OF A SPECIALIZED TECHNICAL COMMITTEE IN CHARGE OF
DECENTRALIZATION AND LOCAL DEVELOPMENT KNOWN AS THE ALL
AFRICA MINISTERIAL CONFERENCE ON DECENTRALIZATION AND
LOCAL DEVELOPMENT (AMCOD)**

For more than two decades now, constraints relating to globalization and the global economy on the post-cold war centralized State in Africa have caused most of these States to consider decentralization and devolution as instruments of good governance and the realization of public policies.

More than ever before, there is an urgent need for Africa as a whole to embark on the democratic process. But above all, the continent feels the need to develop in this era of globalization.

In this regard, decentralization and its corollary, grassroots democracy, is one of the surest strategies to attain development at national level.

Conscious of the danger of carrying out decentralization policies that concentrate solely on issues of national policy, while neglecting issues of regional integration, African States have, in this regard, opted for development which faces the challenge of regional integration.

That is why the Conference, proposed here as the Specialized Technical Committee of the African Union in charge of Decentralization and Local Development meets the need to provide further impetus to decentralization policies in Africa.

Indeed, African Ministers in charge of Decentralization and Ministers in charge of Finance met in Windhoek (Namibia) within the framework of the Africities 2 Summit in May 2000 and took the resolution to foster the decentralization process in Africa by putting in place a political structure at the continental level known as the All Africa Ministerial Conference on Decentralization and Local Development (AMCOD). The Windhoek Summit decided that this new body shall be answerable to the African Union and its objectives are to:

- cause governments to include decentralization among their priorities and make the leaders as well as the governed to understand that decentralization plays a vital role in economic development;
- ensure that decentralization and local development are permanent factors in the policy schedules of African Union Member States;
- ensure that States maintain their commitment towards decentralization on the continent;
- serve as interface between the body of African local council associations and their governments with regard to decentralization issues;

- mobilize resources from development partners for the implementation of decentralization and local development programmes.

In this regard, AMCOD is soliciting the status of Specialized Technical Committee of the African Union to which special duties could be conferred with regard to Decentralization and Local Development.

This request ties in with the constituent instruments of the African Union which, with regard to the setting up and composition of Specialized Technical Committees, provide for several advantages for the African Union, namely:

- more involvement of the African Union in the integration process under way, since the possibility is thus provided to mobilize African Civil Societies and local governments;
- the possibility to oversee the learning of the democratic process and good governance in member countries of the African Union, by monitoring and evaluating mechanisms for the devolution of powers at the legislative and fiscal levels;
- the involvement of the African Union in finding solutions to the problems of financing council development. Its role as interface before bilateral donors would make credible;
- the search for efficiency, the Technical Specialized Committee of the African Union enables Member States to avoid creating new institutions;
- the importance of political caution which entails the rapid involvement of States in activities of the Committee and in the implementation of policies of Organs of the Union.

The organic instruments submitted for your appraisal were prepared within the framework of the logic governing the setting up of Specialized Technical Committee within the African Union.

AMCOD brings together African Ministers in charge of Decentralization and Local Development. It hinges on a Committee of Directors, on the basis of one Director per State, that prepares its sessions and sees to the monitoring/evaluation of the state of decentralization and local development in Africa.

AMCOD's major resources are drawn from the African Union. However, it may seek further resources from development partners in order to finance decentralization-related projects.

AMCOD is chaired by the Minister in charge of Decentralization and Local Development of the host country, for a one-year mandate.

Decisions at AMCOD meetings shall be taken by consensus or, failing that, by a majority of the members present.

Invitations to AMCOD sessions meet the need for a simple majority quorum of its members.

This, in a nutshell, is the Draft Constitution for the setting up of AMCOD.

EX.CL/327 (X) Add.4

**ALL AFRICA MINISTERIAL CONFERENCE ON
DECENTRALIZATION AND LOCAL DEVELOPMENT
(AMCOD)**

SECOND SESSION

II

CONSTITUTION

**YAOUNDE – CAMEROON
28 AND 29 OCTOBER 2005**

**CONSTITUTION OF THE ALL AFRICA MINISTERIAL CONFERENCE
ON DECENTRALIZATION AND LOCAL DEVELOPMENT (AMCOD)**

PREAMBLE

The African Union Heads of State and Government,

Mindful of the Resolution adopted by African Ministers in charge of Decentralization and Local Development during the Windhoek Africities Summit of May 2000;

Mindful of the Declaration of Ministers in charge of Decentralization and Local Development during the Yaoundé third Africities Summit on 6 December 2003;

Considering the will for integration at continental level that underscores the setting up of the African Union;

Considering the general trend towards instituting consultation frameworks for implementing decentralization and local development policies;

Considering the common will to promote decentralization, especially within the perspective of strengthening democracy and improving on the living conditions of the people;

Considering the necessity to share our various experiences in the implementation of decentralization and local development policies;

Anxious to make resolutions of the Millennium + 5 Summit that held from 14 to 16 September 2005 on the sidelines of the 60th Session of the United Nations General Assembly operational;

On the proposal of Ministers in charge of Decentralization and Local Development meeting in Yaoundé on 28 and 29 October 2005,

Agreed on the following:

PART I
GENERAL PROVISIONS

Article 1

- (1) An All Africa Ministerial Conference on Decentralization and Local Development (AMCOD) is hereby set up.
- (2) AMCOD is a specialized technical committee of the African Union.
- (3) It shall comprise African Ministers in charge of Decentralization and Local Development.

Article 2

The objectives of AMCOD shall include:

- the promotion by each Government of decentralization in the definition of development policies;
- the inclusion of decentralization and local development in the priorities of government action;
- the sensitization of all the stakeholders of the civil society on the key role of decentralization in the economic, social and cultural development of every nation;
- the mediation between the African local government associations and their Governments for all decentralization related issues;
- the promotion of research and various studies in the area of decentralization and local development;
- the mobilization of local resources or resources from external partners with a view to implementing decentralization and local development programmes;
- the formulation of all proposals for Governments with a view to maximizing the implementation of decentralization and the pursuit of local development in African Union Member States; and
- the encouragement and support of sub-regional groups for the promotion of decentralization and local development.

Article 3

The Headquarters of AMCOD shall be Addis Ababa. However, it may be transferred to another member country on the decision of the African Union Commission.

Article 4

The working languages of AMCOD shall be those of the African Union.

PART II **MEMBERSHIP**

Article 5

AMCOD membership shall comprise all African Union Member States that have signed or ratified the Yaoundé Declaration of 29 October 2005.

PART III
ORGANS

Article 6

In order to achieve its objectives, AMCOD shall be endowed with the following organs:

- the Conference of Ministers;
- the Committee of Directors; and
- sub-regional groupings (it is necessary for a consensus to be reached on this point).

Article 7

The Conference of Ministers shall comprise Ministers in charge of Decentralization and Local Development.

Article 8

The Conference of Ministers shall be placed under the supervision of the Chairperson of the African Union Commission. In this respect, it shall be the structure to mobilize Ministers on decentralization and local development issues at the level of member countries.

Article 9

The Conference of Ministers shall have the following prerogatives:

- choose the country to host the AMCOD annual session;
- examine and advise on the reports drawn up by the Committee of Directors provided for in Article 7;
- prepare reports, recommendations, plans and programmes on the stakes of decentralization in Africa and the ways and means of coping with them;
- follow up and assess the implementation of decisions taken by the organs of the African Union in the area of decentralization and local development;
- make all proposals for the implementation of decentralization and local development policies;
- seek from Governments and development partners, financial and logistical means for the realization of its missions;
- adopt the AMCOD budget and Internal Rules and Regulations;

- carry out any duties that may be assigned it by the African Union Commission;
- revise the Constitution.

Article 10

1. The Conference of Ministers shall hold in ordinary session every year. Its agenda shall be prepared by the Committee of Directors. A simple majority quorum of member countries shall be necessary for the Conference to hold.
2. Extraordinary session may be convened on the request of the Chairperson of the African Union Commission, the current AMCOD Chairperson following an agreement of a simple majority of member countries or on the request of a simple majority of African Ministers in charge of Decentralization and Local Development.
3. Ordinary Sessions shall hold in each member country on a rotative basis and according to the provisions of the internal regulations.

Article 11

The host Minister of the ordinary session shall AMCOD until the next session.

Article 12

1. The Committee of Directors shall be the executive organ of the Conference of Ministers. It shall comprise all the Directors or officials in charge of decentralization and local development issues in member countries, with one official per state.
2. The Director in charge of decentralization and local development of the host country shall be the Chairperson of the Committee of Directors which shall be responsible for preparing the Conferences and serve, in this capacity as a technical structure for the current AMCOD Chairperson.
3. He shall prepare the draft budget to be forwarded to the Conference of Ministers.

Article 13

The Committee of Directors shall have the following duties:

- periodically evaluate the state of decentralization in Africa;
- identify the concerns and stakes of actors and decision-makers for the effective implementation of decentralization and local development;

- carry out a strategic monitoring mission in decentralization and local development in Africa;
- make proposals to the Conference of Ministers so as to facilitate the performance of its duties;
- prepare meetings of the Conference of Ministers;
- prepare all the reports requested by the Conference of Ministers;
- prepare draft AMCOD internal regulations and submit them for adoption at the annual session of the Conference of Ministers.

Article 14

1. The Committee of Directors shall meet at the approach of the annual session of the Conference of Ministers.
2. It may also meet when the need arises and at the request of:
 - the majority, at least, of its members;
 - the current AMCOD Chairperson.

Article 15

The Committee of Directors shall adopt its resolutions by a simple majority of members present.

PART IV **FINANCIAL PROVISIONS**

Article 16

1. The running costs of AMCOD shall be borne by the budget of the African Union Commission or any other resource, gift, legacies or freed funds.
2. All the expenses relating to the organization of AMCOD annual session and meetings of the Committee of Directors shall be settled as specified by the African Union regulations.
3. The management of resources shall be in accordance with proceedings in force within the African Union.

PART V **MISCELLANEOUS, TRANSITORY AND FINAL PROVISIONS**

Article 17

1. Sub-regional groupings may be set up at the initiative of Ministers in charge of Decentralization and Local Development in each of Africa's sub-regions.

2. Special cooperation conventions shall be implemented to manage organic relations between the Conference of Ministers and existing sub-regional groupings.
3. In any event, these sub-regional groups shall be part and parcel of AMCOD and shall report to it on their functioning.

Article 18

1. The Minister in charge of Decentralization and Local Development acting as AMCOD's temporary Chairperson on the date of the adoption of this Constitution and shall remain on duty until the first AMCOD ordinary meeting is held.
2. He shall take all the necessary measures, in conjunction with his peers of the Conference of Ministers, for the effective take-off of AMCOD activities.
3. Until the appointment by the African Union of a Commissioner in charge of decentralization and local development, the Director of Decentralization and Local Development of the host country shall head the AMCOD Technical Secretariat.

Article 19

1. This Constitution may only be modified in an annual or extraordinary session of the Conference of Ministers by a two-third majority of members present.
2. The proposals for amendment shall be forwarded to Member States at least 3 (three) months before the holding of the Conference of Ministers.

Article 20

This Constitution, which is adopted by Ministers in charge of Decentralization and Local Development, shall enter into force as soon as it is approved by the African Union Conference.

This Constitution is drawn in 5 (five) original copies in each of the African Union working languages, each original being authentic.

Done in Yaoundé, 29 October 2005

**ALL AFRICA MINISTERIAL CONFERENCE ON
DECENTRALIZATION AND LOCAL DEVELOPMENT
(AMCOD)**

SECOND SESSION

III

**SYNOPSIS OF GENERAL AND THEMATIC REPORTS ON
THE STATE OF DECENTRALIZATION IN AFRICA**

YAOUNDE, CAMEROON
28 AND 29 OCTOBER 2005

**SYNOPSIS OF THE GENERAL AND THEMATIC REPORTS ON
THE STATE OF DECENTRALIZATION IN AFRICA**

The general report on the state of decentralization in Africa is based on all the thematic reports written by experts. It was prepared by experts and validated by African Directors in charge of decentralization and local development during their meeting of 23 and 24 April in Cotonou, Benin and that of 17 and 18 September in Yaoundé, Cameroon. These meetings were within the preview of second preparatory meeting of the All Africa Ministerial Conference on Decentralization and Local Development (AMCOD) held on 28 and 29 October 2005.

These reports demonstrate that the decentralization and devolution of the State are unanimously considered today to be fundamental instruments of good governance and transparency in public policies. They are equally decisive factors in introducing and consolidating the democratic management of States. That is why African States decided during the third Africities Summit to organize a special conference on decentralization and local development issues.

Indeed, from an African perspective, the opening up of world markets is occurring under difficult conditions. Export products are still clearly devalued and export taxes are being reduced as customs barriers are being lifted. Fiscal revenue and budgetary expenditure are affected, especially local council coffers. This weakening of resources results in the observation, largely shared by numerous economic, political and social actors, that decentralization has trouble taking root in numerous African countries, despite the adoption of numerous laws that are generally favourable to the process.

At the global level, both African and international, vast development-related fields are taking on unavoidable supra-national dimensions and constitute new priorities, including the fight against poverty. They include especially issues concerning the prevention and management of localized wars, the environment, the pollution of natural resources, the spread of endemic diseases, and migration. These issues call for the mobilization of new resources and new modalities for partnership and cooperation. They involve regionalized and innovative regional development approaches, supported by strategic partners; and the redefining of division of labour between all concerned actors. To appropriately grasp the relationships between poverty and the environment, emergency actions, endemic diseases and pollution would greatly involve local, divisional and regional governments.

The general report mainly deals with development issues, democracy, governance and regional integration.

With regard to development, it is demonstrated that the national economy is, in reality, made up of a set of local economies and that the competitiveness of local economies depends largely on the firmness of national economies. It is, further noted that decentralization laws in most countries prescribe that local governments draw up local development plans.

With regard to democracy, decentralization is presented as an opportunity to learn democracy with the issue of representation as one of the most difficult of the major problems encountered. Indeed, three sources of legitimacy are involved, exercised by the traditional and customary authority, religious authority and the authority of the modern State.

The general report defines devolution as an administrative process whose legitimacy derives from that of the central State, and decentralization as a political process that confers on local governments a legal personality and financial autonomy for the management of their local interests. The report recalls that devolution can, in no way, constitute an alternative to decentralization, even if both of them help in consolidating the rule of law. Lastly, the functioning of local council institutional organs, as regards democratic expression, is equally one of the sources of concern mentioned.

With regard to governance, decentralization is viewed as an opportunity for carrying out the far-reaching reform of State structures, but equally as a risk for the fragmentation of the State.

The report observes that the existence of a range of actors involved at various levels in local governance creates the risk of numerous groups being formed from internal practices operating on the fringes of the State.

The hypothesis raised is that decentralization may become a factor for renegotiating membership to all State institutions and for a citizenship based on the negotiation of a new social contract.

Faced with this situation, citizens aspire to other methods of governance and to a certain well-being which the public institution has the duty to guarantee in accordance with the general interest.

Lastly, the notion of citizenship is raised and qualified doubly as responsible citizenship and *new* citizenship.

With regard to integration, faced with the population movements and the governance crises encountered by some African States, decentralization offers an opportunity for cooperation between local governments as a sign of coherence and efficiency.

The thematic reports deal with specific issues of power-sharing between the State and local governments, of decentralization and sector policies, inter-council cooperation, funding of municipal development and the fight against poverty.

With regard to power-sharing, although it is a strong point through which decentralization policies are manifested, such distribution is interpreted differently by countries depending on whether their administrative tradition is English or French-inspired.

The issues of defining fields of respective competence, legal implications of power-sharing, the risks of conflicts of authority and modalities for the control of its exercise were laid.

The reports propose that ordinary law should be generalized to councils as a result of the suspicions raised by special status local governments.

The rate of the devolution of power, once at the beginning of the decentralization process or progressively, was equally raised.

Besides the issue of the concurrent devolution of resources and powers, the reports underscore the stakes for putting in place parity organs responsible for overseeing the implementation and evaluation of devolution

To avoid a lasting confidence crisis between central authorities and local councils, posterior rather than a priori control, as well as jurisdictional control in place of administrative control, as recommended.

With regard to sectoral policies, since decentralization is closely related to the improvement in the supply of basic services to the people, the reports underscore the stakes for the search of coherence between local policies of access to basic services and national sectoral policies.

The reports recall that the State should ensure the financial viability of the public policies it initiates, even if it is not responsible for the implementation of such policies. That is why, local governments should be given the capacity to manage the revenue needed for the exercise of their responsibilities so that the powers whose use can constitute a source of revenue for the council can be devolved. The financing of services requires the putting in place of a pricing system adapted to the economic capacity of the people with financial equalization between categories of people.

The methods of managing-State controlled or devolved public services are mentioned as well as the implementation of privatization which should be carried out taking into consideration the transfer of power between the State and local governments.

With regard to inter-council cooperation, the reports underscore the necessity to strengthen it in view of the exercise of powers of common interest that single local governments cannot on their own use, and the putting in place of motivating financial mechanisms and adapted follow-up and control measures. The issue of the most adapted forms of inter-council cooperation in the rural environment, in big towns and in border areas, was also raised.

With regard to the funding of council development, the reports underscore the need to strengthen the financial autonomy of local governments by a proper tax system and loans, by the organization of financial devolution from the State.

Concerning the fight against poverty, the reports underscore the place of local governments in the preparation and implementation of Strategic Frameworks to Fight Against Poverty.

Finally, the key-role that local governments play towards the attainment of the Millennium Development Goals (MDGs) was recalled.

EX.CL/327 (X) Add.4

**ALL AFRICA MINISTERIAL CONFERENCE ON
DECENTRALIZATION AND LOCAL DEVELOPMENT
(AMCOD)**

SECOND SESSION

VIII

FINAL REPORT

**YAOUNDE, CAMEROON
28 AND 29 OCTOBER 2005**

FINAL REPORT

The second preparatory meeting of the All Africa Ministerial Conference on Decentralization and Local Development (AMCOD) was held in Yaoundé on 28 and 29 October 2005.

The opening ceremony of this meeting took place at the Yaoundé Conference Centre under the Chairmanship of the Prime Minister, Head of Government of the Republic of Cameroon, H.E. INONI EPHRAIM.

The plenary and closed sessions, were held at Mont-Febe Hotel under the effective chairmanship of H.E. Marafa Hamidou Yaya, Minister of State, Minister of Territorial Administration and Decentralization, Current AMCOD Chairman.

1. THE OPENING CEREMONY:

It was characterized by three important events:

- the welcome speech of the Government Delegate to the Yaoundé City Council;
- the introductory speech of the Minister of State, Minister of Territorial Administration and Decentralization of Cameroon; and
- the solemn opening speech of the Prime Minister, Head of Government.

In his speech, the Government Delegate to the Yaoundé City Council welcomed the participants and recalled the place of the Yaoundé City in the birth of AMCOD whose creation was one of the achievements of the third Africities Summit held in the Cameroonian capital from 2 to 6 December 2003.

He wished that the local governments and council movements should benefit from the positive results of the Ministerial meeting.

In his general introduction to the deliberations, the Minister of State, Minister of Territorial Administration and Decentralization recalled the duties and objectives assigned to AMCOD by the African Ministers during the session of December 2003 as well as the composition of the Bureau presided over by Cameroon, and assisted respectively by Senegal and Rwanda as First and Second Vice President.

This Bureau was commissioned to:

- prepare a draft AMCOD procedure code;
- prepare and present a draft report on the general state of decentralization in Africa and related recommendations;
- initiate the integration procedure of AMCOD to the African Union as a Specialized Technical Committee of the African Union Commission.

The Minister of State, Minister of Territorial Administration and Decentralization, seized the opportunity to express his gratitude to the President of the Republic of Cameroon for accepting the principle of holding the conference in Cameroon and supporting its organization.

He also thanked the Prime Minister, Head of Government, for accepting to personally chair the opening ceremony.

Lastly, he thanked the members of the Diplomatic Corps, the representatives of International Organizations and development partners for their support which made for the smooth conduct of the discussions of the second AMCOD preparatory meeting.

In his opening speech, the Prime Minister, Head of Government, defined the role of decentralization in the administration and management of modern States.

Because it enables the free management of local affairs by the councilors, decentralization is defined essentially as a fundamental axis for the promotion of development, democracy and local governance.

Through this method of administration, which is undoubtedly beneficial, Africa will be better prepared to combat poverty, illiteracy and endemic diseases such as malaria and AIDS. In a nutshell, decentralization should enable Africa achieve the Millennium Development Goals (MDGs).

For the Cameroon's Head of Government, African Governments expect that the Yaoundé meeting will lead to greater consideration of the people's aspirations for more liberty, democracy, good governance and well-being thus presupposing a redefinition of the role of the State.

II. THE PLENARY

The plenary session took place at Mont-Febe 19 (nineteen) countries were in attendance. A delegation of the Partnership for Council Development (PCD) was equally present.

In his keynote address, the Conference Chair submitted, for the prior approval of the representatives present, a draft agenda for the day that centred around 3 (three) points, namely:

- the examination and adoption of the AMCOD draft Constitution;
- the presentation of the summary of the draft general report on the state of decentralization in Africa, followed by the examination and adoption of the recommendations;
- the reading and examination of the draft Yaoundé Declaration.

A. EXAMINATION AND ADOPTION OF THE DRAFT AMCOD CONSTITUTION

A scrutiny of the draft AMCOD Constitution was preceded by a general presentation of the document.

The draft submitted for scrutiny and drawn in conformity with the constituent act of the African Union, was characterized by:

- the possibility of setting up Specialized Technical Committees, and
- the reduction of the initial document from 24 to 21 articles in the version forwarded to the participants for examination.

Analytically, the text submitted for scrutiny comprises, in addition to the preamble, 5 (five) parts dealing respectively with general provisions, membership, organs, financial provisions, sundry, transitional and final provisions. It has 21 articles.

The preamble recalls the context in which AMCOD was set up, its objectives and its functioning modalities which, for reasons of efficiency, shall be resolutely anchored in the African Union.

After the presentation, the draft Constitution was scrutinized part by part and article by article. The study led to heated debates on the following issues:

- the competent authority in the domain of the setting up African institutions;
- the legal nature of AMCOD;
- the life span of AMCOD;
- AMCOD organs;
- Membership conditions for Member States;
- Modalities for convening sessions and the quorum;
- Budgetary resources and modalities for their mobilization;
- Transitional and final modalities.

After fruitful and courteous exchanges that testifies to the interest participants attached to the importance of the subject discussed, the Draft Constitution was adopted following several amendments.

B. PRESENTATION OF THE SYNOPSIS OF THE FINAL REPORT AND RECOMMENDATIONS

The synopsis of the general report on the state of decentralization in Africa was unanimously adopted.

As concerns the recommendations, amendments were made both on the form and content;

On form, it was basically a matter of harmonizing and improving on the presentation.

On content, debates centred on the powers devolved upon the State and the councils respectively, notably as concerns:

- financial devolution;
- the lever given local councils in the domain of decentralized, cooperation and the mechanisms of contractual relationship with the State;
- financial autonomy and budgetary transparency.

2007

Transformation of the all Africa Ministerial conference on Decentralization and local development to an African Union structure (Item proposed by Cameroon)

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