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**PERMANENT REPRESENTATIVES' COMMITTEE**  
**Eighth Ordinary Session**  
**EXECUTIVE COUNCIL**  
**Fifth Ordinary Session**  
**23 – 26 June 2004**  
**Addis Ababa, ETHIOPIA**

**EX.CL/91 (V)**  
**Original: English**

**REPORT ON THE MEETING OF GOVERNMENT**  
**EXPERTS ON THE DOCUMENTS FROM THE**  
**PRETORIA CONFERENCE ON ELECTIONS,**  
**DEMOCRACY AND GOVERNANCE**

**REPORT ON THE MEETING OF GOVERNMENT EXPERTS ON  
THE DOCUMENTS FROM THE PRETORIA CONFERENCE  
ON ELECTIONS, DEMOCRACY AND GOVERNANCE**

**I. INTRODUCTION**

1. The Executive Council in its Decision EX/CL/Dec.31 (III) adopted in Maputo, Mozambique in July 2003 requested the Commission of the African Union to convene a meeting of Government Experts to examine the documents emanating from the Pretoria Conference on Elections, Democracy and Governance, particularly the document on the draft guidelines for AU election observation and monitoring missions and a document on the prospects for the establishment of an Electoral Assistance Fund.

2. The said meeting took place at the Headquarters of the Commission in Addis Ababa, Ethiopia from 15 to 17 May 2004. In addition to the documents referred to above, it examined the <<Pretoria Conference Statement on Elections, Democracy and Governance>> which was submitted for consideration by the Heads of State and Government in Maputo and subsequently transmitted to Member States for study and comments.

3. The Commission also prepared a Document on Elections, Democracy and Governance which was submitted to the Experts' meeting.

4. The report of the meeting of Experts is attached to this report as Annex A.

**II. CONSIDERATION OF THE VARIOUS DOCUMENTS**

**a) Pretoria Conference Statement on Elections, Democracy and Governance**

5. The meeting felt that it did not have the mandate to amend the above document which was adopted by the April 2003 Pretoria Conference. It however made a series of comments and observations as to its content which are attached to this report for the attention of the Executive Council (see Annex 1).

**b) Guidelines for AU Election Observation and Monitoring Missions**

6. The meeting examined the above document, made several comments and tabled amendments.

7. The meeting was of the view that special emphasis should be placed on the distinction between monitoring and observation and on the elections that the African Union should observe. It also felt that the establishment and strengthening of the Election Unit within the Commission is of paramount importance.

8. With regard to the issue of invitations, while some experts maintained that the African Union observe all elections in Africa without waiting for an express invitation, others argued that the Organization cannot impose its will upon Member States. The consensus that emerged was that the provisions of the July 2002 Durban Declaration on the principles Governing Democratic Elections in Africa, with respect to invitation and deadline, should be observed.

9. The Experts felt that the African Union should also observe elections outside the Continent.

10. Lastly, the meeting recommended that the Executive Council should consider and approve the Guidelines as reflected in Annex II.

**c) Prospects for the Establishment of an Electoral Assistance Fund**

11. The Experts welcomed the idea of establishing the Fund which, they said, could be of great use, especially for those countries facing difficulties in the conduct of their electoral processes. While expressing concern over the sources of the Fund, they emphasized that Member States should be the primary contributors to this Fund and that an extra-budgetary resource mobilization strategy should be mapped out.

12. The Experts welcomed the decision to create an Electoral Assistance Unit within the Political Department to be responsible for the

direct management of the Fund and electoral processes in Member States in a more professional manner.

13. The document on the prospects for the establishment of an Electoral Assistance Fund as approved by the Experts is attached to this report as Annex III and is being submitted to Council for consideration.

**d) Draft Document on Democracy, Elections and Governance**

14. This document contains a whole series of commitments already made by Member States in the areas of democracy and governance, which the Commission would like to convert into a legally binding text, such as a Charter.

15. The document deals with issues of relationship between democracy and the African Union system; democracy and human rights; democracy, sustainable development and poverty alleviation, illiteracy and conflicts; strengthening and protection of democratic institutions; democracy and free and fair elections, and promotion of democratic culture.

16. In view of the legal nature of such a document and the required procedures of a Charter, the Experts recommended that should the Executive Council accept the principle, it should mandate the Commission to convene a meeting of legal and other experts to examine the draft and put it in appropriate legal language before submitting it to the Policy Organs of the Union for adoption.

17. The recommendation of the meeting and the document under reference are attached to this report as Annex IV and are being submitted for consideration by the Executive Council.

**III. CONCLUSION AND RECOMMENDATIONS**

18. The importance of democratic and electoral processes in our Member States and the related activities such as election monitoring and observation cannot be over-emphasized. Very often, the national, and indeed the international public opinion wait for the verdict of international observers to give credence to election results. It also happens that statements by some international observers do not reflect certain realities, thus creating doubts in the minds of people and can lead to armed and devastating conflicts. Indeed, most of the conflicts besetting our Continent today stem from electoral disputes.

19. It is important therefore that the Commission should be endowed with a credible and reliable instrument that is acceptable to all Member States, to effectively and efficiently guide the work of election observers and monitors on the ground.

20. It is equally important that the Commission should be provided with adequate financial resources to enable it to face up to new challenges including electoral assistance.

21. Lastly, it is important that the African Union should have a charter on Elections, Democracy and Governance, in other words a legal instrument of great importance that would guarantee a healthy democratic culture for Member States.

22. In view of the aforesaid, Council is invited to pronounce itself on the various documents tabled before it, particularly those attached to this report. In this connection, it may wish to:

- a) take note of the comments on the Communiqué of the Pretoria Conference on Elections, Democracy and Governance;
- b) adopt the Guidelines for AU Election Observation and Monitoring Missions;
- c) give directives concerning the prospects for the establishment of an Electoral Assistance Fund;
- d) authorize the Commission to convene a meeting of legal and other experts to prepare the draft Charter on Elections, Democracy and Governance.

**FROM THE APRIL 2003 PRETORIA CONFERENCE**  
**ON ELECTIONS, DEMOCRACY AND GOVERNANCE,**  
**AU COMMISSION CONFERENCE CENTRE**  
**15 - 17 MAY 2004, ADDIS ABABA, ETHIOPIA**

## **I. INTRODUCTION**

The Experts' Meeting is a follow-up meeting to the Pretoria Conference that was held from 7 to 10 April 2003 in the light of the implementation of the July 2002 Durban Declaration on the Principles Governing Democratic Elections in Africa. Pursuant to Decisions of Maputo Summit, this meeting was to consider the documents that emanated from the Pretoria Conference, which were to be examined and resubmitted to the forthcoming Session of Executive Council and Summit of Heads of State in July 2004 in Addis Ababa, Ethiopia, for their adoption.

## **II. ATTENDANCE**

**2.** The following Member States participated in the Meeting: Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Congo, Cote d'Ivoire, Democratic Republic of Congo, Egypt, Gabon, Equatorial Guinea, Ethiopia, Ghana, Kenya, Lesotho, Libya, Madagascar, Malawi, Mali, Mozambique, Mauritius, Namibia, Nigeria, Rwanda, Saharawi Arab Democratic Republic, Senegal, Sierra Leone, South Africa, The Sudan, Tanzania, Tunisia, Uganda, Zambia, Zimbabwe.

**3.** Additionally, the following Observer Delegations attended the Meeting: Economic Commission for Africa (ECA), European Commission (EC), United Nations Development Programme (UNDP), African Network for the Prevention and Protection against Child Abuse and Neglect (ANPPCAN), International Institute for Democracy and Electoral Assistance (IDEA), Organisation Internationale de la Francophonie (OIF), Droits et Démocratie (Canada).

## **III. OPENING CEREMONY**

**4.** The Commissioner for Political Affairs, Mrs. Julia Dolly Joiner, welcomed the Experts and expressed deep appreciation for their attending the meeting. She recalled the communiqué, which was the outcome of the Conference in Pretoria, which took stock of what the Continent had achieved.

5. The present meeting was being convened within the context of important decisions and solemn Declarations of the OAU/AU, among which were the Lomé Declaration, CSSDCA, NEPAD, African Charter on Human and Peoples' Rights, and the Durban Declaration. She advised the Meeting to consider producing a draft Charter as a legal framework for governance and democracy to complement the existing instruments and decisions of the AU leadership.

6. She reminded the Meeting that the launching of the African Union reflected the search of the Continent's leadership for a new style Pan-African level of governance which will address Africa's developmental challenges in a changing world. The AU was established primarily to enable Africa meet the challenges of the 21<sup>st</sup> Century. She emphasised that the institutional and ideological transformation taking place today at the level of the African Union offer an opportunity to build on and enjoined participants to harness all efforts in their deliberations over the coming three days towards ensuring that democratisation and good governance were not mere slogans but a reality. She then declared the Meeting open.

#### **IV. BUREAU OF THE MEETING**

7. Following consultations, the Bureau was constituted of the following Member States:

<b>Chairperson:</b>	<b>Kenya</b>
<b>1<sup>st</sup> Vice-Chairperson:</b>	<b>Tunisia</b>
<b>2<sup>nd</sup> Vice-Chairperson:</b>	<b>Gabon</b>
<b>3<sup>rd</sup> Vice-Chairperson:</b>	<b>Mozambique</b>
<b>Rapporteur:</b>	<b>Nigeria</b>

#### **V. ADOPTION OF THE AGENDA**

8. The Agenda was adopted as follows:

1. Opening Remarks
2. Election of the Bureau



**5.1. Pretoria Conference Statement on Elections, Democracy and Governance**

**11.** In the general comments that followed the Commission's presentation, the meeting began its considerations of the document by noting that several member states had submitted written observations and comments on the document, prior to this meeting, which needed to be taken into account.

**12.** The meeting called for political pluralism and transparency in the election process. It called for greater transparency and accountability in the use of election funds.

**13.** It was generally observed that the document under discussion emphasized more on elections and their management but was short on governance and democracy. The meeting also commented on the attitudes of losing parties to election results and recommended that parties should be encouraged to readily accept election results, when the process was deemed to have met international standards.

**14.** On the funding of political parties, the meeting debated on the appropriateness of the use of public funds to finance recognised political parties. Some delegations were of the view that the States should provide funds to parties for elections. Others felt that the independence of parties would be undermined and compromised if they were funded by the States. Consequently, it was suggested that public funding should be a partial substitute, which should tie subsidies to parties' own fund raising efforts at national and credible and acceptable external sources. Public funding should also be based on equitable representation. The meeting noted that the guiding principles in party funding should be those of integrity, accountability and transparency. In view of the importance of funding to successful running of new elections, it was stressed that such funding should be provided on a timely basis.

**15.** The meeting noted the importance of the Code of Conduct, and suggested that Member States should adopt similar codes as part of their national election processes through the introduction of convergence policy that would ensure the imposition of deterrent measures for those who would not respect the Code of Conduct. On the role of the media in electoral process, the meeting observed that, apart from the state run media, other privately owned as well as international media organisations

were important. The media was therefore, encouraged to give equitable access to all political parties and candidates.

**16.** On the Election Observers and Monitors, some delegations questioned the intervention role of international monitors, when invited to carry out such functions. The meeting was reminded of the fact that the difference between the roles of observers and monitors has been internationally defined and accepted. Member States inviting international presence at elections, should therefore, be conversant with the different roles of the two categories and opt for what best suited them. The meeting then suggested that every effort should be deployed to empower observers and monitors at national level, comprising of the CSOs to play a more active role in the process.

**17.** With regard to the issue of intra and inter party politics, the participants were of the view that inter and intra-party cooperation should be encouraged. It was further suggested that, to strengthen this cooperation, a third structure should be established to facilitate such interaction.

**18.** In this regard, a permanent structure should be created that would continuously monitor election lists, rather than setting up election commissions just before elections.

**19.** On the proposed programme of action, the meeting recommended that there was no need to establish a continental forum of Election Management Bodies, as this function could well be performed by the Association of African Electoral Authorities, the capacity of which needs to be strengthened.

## **5.2. Guidelines for All Election Observation and Monitoring Missions**

**20.** The AU Commission gave background information on its elections observation. The Commission mentioned the progress so far made and gave a genesis of the AU election observation and monitoring activities and what the Assembly now expects.

**21.** The Commission pointed out areas where improvements were required, and they included: Criteria for Determining the Nature and Scope of AU Electoral Observation and Monitoring; Mandates, Rights and Responsibilities of AU Observation and Monitoring Missions; Codes of

Conduct for AU Election Observers and Monitors; and Principles Governing Democratic Elections in Africa.

**22.** In examining this document, the meeting made several comments and proffered amendments. It was observed that the document needed to be reorganized in a logical manner to start with the Definitions, then Pre-election, Elections and Post-elections matters. It was further proposed that what constitutes the AU Election Unit should be clearly specified at the beginning of the document. It was observed that monitoring did not receive enough attention, and that the document concentrated more on election observation. On the other hand, some delegates needed clarification on what kind of elections AU was supposed to observe and monitor, as there were many levels at which elections do take place, such as local, municipal, parliamentary and presidential. It was agreed that the AU would only observe and monitor parliamentary and presidential elections.

**23.** The issue of invitations as a prerequisite for participation by the Commission at Elections on the continent generated a lively debate. Some participants at the meeting were of the view that the Commission should be able to participate in all elections in Member States without invitation, but as a mandatory responsibility. Others were of the view that issues of sovereignty and non-interference in internal matters might conflict with such a proposal and needed to be fully addressed. It was however, agreed that AU should, observe and monitor all elections in Member States upon invitation. To adequately perform this role, the meeting underscored the importance of enhancing the capacity of AU Election Monitoring Unit.

**24.** On the issue of inviting AU two to three months before the election, the meeting felt that the invitation should be made on time and be flexible in case of emergency or snap elections in parliamentary democracies. It was also pointed out that in order to come out with a meaningful election observation and monitoring programme, the AU Commission should have a provisional timetable of elections on the continent. This would allow for adequate preparation on the part of the Commission.

**25.** It was further proposed that the AU should explore the possibility of observing elections outside the Continent.

**26.** The meeting suggested that the sub-regional organizations (ECOWAS, EAC, ECCAS, SADC, etc.) should be involved, by complementing the AU in its monitoring and observation roles, especially in situations where the AU might be lacking in funds and human resources. The modalities of such collaboration should be elaborated upon in collaboration with the RECs.

**27.** With regard to the respective roles of the members of the observer team, the meeting suggested that the leader of the team be mandated as the spokesperson of the team.

**28.** On the code of conduct, the meeting reiterated the need for observers and monitors to comply with all national laws and regulations. It was further stressed that observers and monitors should respect the culture of the host country and behave with courtesy to all the people with whom they come into contact.

**29.** The meeting agreed that the chapter on the Principles Governing Democratic Elections in Africa, which derived from the Durban Declarations should be kept intact, and brought forward as a general reference point to the rest of the text.

### **5.3 Prospect for the Establishment of an Electoral Assistance Fund**

**30.** In introducing this document, the Commission highlighted the financial constraints it had hitherto experienced and which had prevented it from covering the parliamentary and presidential elections in Member States. It was intimated, however, that the new mandate given to it by the AU Assembly required it to strengthen its efforts in advancing the democratisation process, especially with regard to mobilizing funds to cover its role in monitoring and observing elections.

**31.** Following that introduction, participants were of the view that the document should be reorganized in a more rational and clear manner. Consequently, the Commission was mandated to take on board all the observations, comments and suggestions in order to submit a revised document to the Rapporteur.

**32.** In reformulating the document, the meeting enjoined the Commission to ensure the following:

- That it be operated as a Trust Fund;
- That care is taken to avoid excessive dependence on external funding;
- That it does not lead to imposition of undue conditionalities by external donors;
- That the principle of replenishment is taken into account for the purpose of sustainability and continuity;
- That Multinational Corporations operating in Members States be encouraged to contribute to the Fund; and
- That individual Members States contribute to the fund as a mark of their commitment.
- That the AU would provide assistance to Parliamentary and Presidential elections only.

33. In concluding the discussion, participants expressed concern about the sources for this Trust Fund, considering the plethora of newly created institutions and funds within the Union. It was nonetheless agreed, that the creation of the Trust Fund was an important component in the Union's quest to establish a firm foundation for democracy, good governance and the promotion of human rights as a prerequisite for peace, security and stability. The Commission was further called upon to speed up the finalisation of the study on The Alternative Sources of Funding for the Union and explore the possibility of accessing such sources for the Electoral Assistance Fund.

#### **5.4 Consideration of the draft charter on democracy, elections and governance.**

**34.** The Director a.i, Political Affairs, in introducing this item, pointed out that, though the document was labelled a Declaration, it was believed that owing to the numerous instruments of non-binding nature that had been adopted in the past, in the area of Democracy and Governance, the Commission was of the view that the document under review be converted into a legally binding text, such as a Charter.

**35.** He then cited key elements in the chapters of the document. Specifically, he referred to the compendium of instruments that were used in developing the draft under review, emphasizing that the document reflected a faithful collection of earlier commitments by Member States in the area of democracy and governance. In this

connection, the Director suggested that the meeting considers ways and means of transforming the draft into a legally binding document.

**36.** After the presentation, the meeting agreed with the commission on the proposal to opt for a Charter rather than yet another Declaration. It however, discussed at length the modalities of achieving this purpose. Taking into account the legal nature of such a document and the required procedures of a Charter, the meeting recommended that should the Executive Council accept the principle, it should mandate the Commission to convene a meeting of Legal and other Experts to examine the draft and put it in appropriate legal language for the adoption by the competent AU policy organs.

**EX.CL/91 (V)**  
**Annex A**

**REPORT OF THE MEETING OF EXPERTS ON THE DOCUMENTS**  
**FROM THE APRIL 2003**  
**PRETORIA CONFERENCE ON ELECTIONS,**  
**DEMOCRACY AND GOVERNANCE,**

**AU CONFERENCE CENTRE,**  
**ADDIS ABABA, ETHIOPIA**  
**15 -17 MAY 2004**

**EX.CL/92(V)**  
**Annex I**

**COMMENTS ON THE PRETORIA CONFERENCE STATEMENT ON**  
**ELECTIONS DEMOCRACY AND GOVERNANCE**

**COMMENTS ON THE PRETORIA CONFERENCE STATEMENT ON  
ELECTIONS DEMOCRACY AND GOVERNANCE**

1. The meeting of Experts on Elections, Democracy and Governance noted the fact that the conference statement, which emanated from the Pretoria Conference, was beyond its mandate to amend. It therefore decided in line with the Commission's earlier call to forward any comment, observation and possible suggestion, to record such comments that might emanate from this meeting as an annexure.

**Comments and Observations:**

**Principles:**

**Para 1**

2. The meeting observed that it was necessary for the Commission to embark upon the process of fashioning a convergence constitutional position among Member States that will reflect the elements of the constitutional and legal framework enunciated therein.

3. A delegation requested for the deletion of para 1.2, which was in respect of tenure and number of times that a Head of State or Government could stand for elections. The meeting however was of the view that it was an important provision that ought to be retained as a way of discouraging dictatorial tendencies in Member States.

**Para 3** - A delegation called for the deletion of the entire paragraph.

**Para 3.2** - The term "*Commissioners*" should be fully titled as '*Electoral Commissioners*'.

**Para 3.4** - The last word "*Secretariat*" should be replaced with "*staff*".

**Para 4.1** - The term "*Election Management Bodies*" should be replaced with '*Constitutionally Established Bodies*' to manage elections

**Para 4.5** - Should read as follows:

*Political parties are encouraged to ensure that one third of candidates contesting an election on behalf of a political party are women"*

**Para 5.2** - Adequate funding should be provided, timeously for the running of elections. The amount of expenditure for election campaign and the manner in which it can be spent should be done in judicious manner.

**Para 6.5** – The provision should read:

*“Objection to results should be made in accordance with prescribed rules and within a specified period of time so as not to hinder the declaration of results”.*

**Para 7.1** – Political parties should be partially financed through legally obtained public funds, on an equitable basis to ensure adequate participation in elections. In this regard, parties are expected to display integrity, accountability and transparency in the utilization of such funds.

**Para 11.1** –should read:

*“There should be a continental code of conduct, for all stakeholders and role players in an election”.*

**Para 12** – A delegation called for the merger of para 12.2 with para 12.3 to form a single provision. A new provision was added, which would read as follows:

*“Election Management Bodies are encouraged to include monitors and observers at national levels the Civil Society Organizations”.*

**Programme of Action:**

4. The meeting rejected the recommendation in para 2 of this section, that a committee of experts be appointed by the conference to facilitate the establishment of a continental forum of election management bodies. It was the consensus of the meeting that the Association of Africa Electoral Authorities was well placed to perform that role.

**GUIDELINES FOR AFRICAN UNION ELECTORAL  
OBSERVATION AND MONITORING MISSIONS**

**1. PRINCIPLES GOVERNING DEMOCRATIC ELECTIONS IN AFRICA**

- 1.1 Principles are important in guiding observers and monitors in coming to final assessments of the election processes and environments. The “*principles*” are divided between the responsibilities of member states and the rights and obligations under which democratic elections must be held.
- 1.2 The Declaration of OAU Principles Governing Democratic Elections in Africa was adopted by the Heads of State and Governments at the 38<sup>th</sup> Ordinary Session of the Organization of African Unity on 8<sup>th</sup> July 2002 in Durban, South Africa, state the principles that should guide observers and monitors. The principles state that:
- i. Democratic elections are the basis of the authority of any representative government;
  - ii. Regular elections constitute a key element of the democratization process and therefore, are essential ingredients for good governance, the rule of law, the maintenance and promotion of peace, security, stability and development;
  - iii. The holding of democratic elections is an important dimension in conflict prevention, management and resolution;
  - iv. Democratic elections should be conducted:
    - a. freely and fairly;
    - b. under democratic constitutions and in compliance with supportive legal instruments;
    - c. under a system of separation of powers that ensures in particular, the independence of the judiciary;
    - d. at regular intervals, as provided for in National Constitutions;
    - e. by impartial, all-inclusive competent accountable electoral institutions staffed by well-trained personnel and equipped with adequate logistics;

The principles also spell out Responsibilities of Member States. Under the responsibilities, member states commit their Governments to:

- i. take necessary measures to ensure the scrupulous implementation of the above principles, in accordance with the constitutional processes of our respective countries;
- ii. establish where none exist, appropriate institutions where issues such as codes of conduct, citizenship, residency, age requirements for eligible voters, compilation of voters' registers, etc would be addressed;
- iii. establish impartial, all-inclusive, competent and accountable national electoral bodies staffed by qualified personnel, as well as competent legal entities including effective constitutional courts to arbitrate in the event of disputes arising from the conduct of elections;
- iv. safeguard the human and civil liberties of all citizens including the freedom of movement, assembly, association, expression, and campaigning as well as access to the media on the part of all stakeholders, during electoral processes;
- v. promote civic and voters' education on the democratic principles and values in close cooperation with the civil society groups and other relevant stakeholders;
- vi. take all necessary measures and precautions to prevent the perpetration of fraud, rigging or any other illegal practices throughout the whole electoral process, in order to maintain peace and security;
- vii. ensure the availability of adequate logistics and resources for carrying out democratic elections, as well as ensure that adequate provision of funding for all registered political parties to enable them organise their work, including participation in electoral process;
- viii. ensure that adequate security is provided to all parties participating in elections;
- ix. ensure the transparency and integrity of the entire electoral process by facilitating the deployment of representatives of political parties and individual candidates at polling and counting

stations and by accrediting national and/or other observers/monitors;

- x. encourage the participation of African women in all aspects of the electoral process in accordance with the national laws.

Member states also committed themselves to certain rights and obligations under which democratic elections are conducted:

- i. Every citizen shall have the right to participate freely in the government of his or her country, either directly or through freely elected representatives in accordance with the provisions of the law.
- ii. Every citizen has the right to fully participate in the electoral processes of the country, including the right to vote or be voted for, according to the laws of the country and as guaranteed by the Constitution, without any kind of discrimination.
- iii. Every citizen shall have the right to free association and assembly in accordance with the law.
- iv. Every citizen shall have the freedom to establish or to be a member of a political party or Organization in accordance with the law.
- v. Individuals or political parties shall have the right to freedom of movement, to campaign and to express political opinions with full access to the media and information within the limits of the laws of the land.
- vi. Individual or political parties shall have the right to appeal and to obtain timely hearing against all proven electoral malpractices to the competent judicial authorities in accordance with the electoral laws of the country.
- vii. Candidates or political parties shall have the right to be represented at polling and counting stations by duly designated agents or representatives.
- viii. No individual or political party shall engage in any act that may lead to violence or deprive others of their constitutional rights and freedoms. Hence all stakeholders should refrain from, among others, using abusive language and/or incitement to hate or defamatory allegations and provocative language. These acts should be sanctioned by designated electoral authorities.
- ix. All stakeholders in electoral contests shall publicly renounce the practice of granting favours, to the voting public for the purpose of influencing the outcome of elections.
- x. In covering the electoral process, the media should maintain impartiality and refrain from broadcasting and publishing

- abusive language, incitement to hate, and other forms of provocative language that may lead to violence.
- xi. Every candidate and political party shall respect the impartiality of the public media by undertaking to refrain from any act which might constrain or limit their electoral adversaries from using the facilities and resources of the public media to air their campaign messages.
  - xii. Every individual and political party participating in elections shall recognize the authority of the Electoral Commission or any statutory body empowered to oversee the electoral process and accordingly render full cooperation to such a Commission/Body in order to facilitate their duties.
  - xiii. Every citizen and political party shall accept the results of elections proclaimed to have been free and fair by the competent national bodies as provided for in the Constitution and the electoral laws and accordingly respect the final decision of the competent Electoral Authorities or, challenge the result appropriately according to the law.

## **2. INTRODUCTION**

### **2.1 Definitions**

- 2.1.1. *Observation*: involves gathering information and making an informed judgement;
- 2.1.2 *Monitoring*: involves the authority to observe an election process and to intervene in that process if relevant laws or standard procedures are being violated or ignored;
- 2.1.3 *Election Assessment*: involves on-spot, preliminary evaluation of the conditions within which elections will take place.

2.2 Electoral observation and monitoring have become an integral part of the democratic and electoral processes in Africa. International, regional and national observers have come to play important roles in enhancing the transparency and credibility of elections and democratic governance in Africa and the acceptance of election results throughout the continent. Electoral observation and monitoring missions can also play key roles in diminishing conflicts before, during and after elections.

2.3 The African continent has made significant progress in institutionalising electoral democracy over the course of the past decade. This is reflected in a number of successful multiparty elections in most member states. Notwithstanding these achievements, however, major challenges remain. These include the prevalence of conflict in some countries of the continent, and violence and instability resulting from disputed elections. The major challenge is the need to improve the integrity of electoral processes. One way of improving the integrity of electoral processes is by involving local and international observers and monitors.

2.4 The following guidelines are proposed in the spirit of strengthening the democratisation and governance processes underway in Africa with a view to guiding the involvement of the AU in the observation and monitoring of elections in Member States.

2.5 The following guidelines are proposed to cover all the three stages of the electoral process, namely: the pre-election, the election and the post-election phases.

### **3. BACKGROUND**

3.1 In the OAU Declaration on the Principles Governing Democratic Elections in Africa (2002), Heads of State and Government requested the AU to be fully engaged in the strengthening of the democratisation process, particularly by observing and monitoring elections in Member States, according to strict guidelines.

3.2 Conscious of the democratic strides taken by the African Union (AU) in endorsing the Declaration on the Principles Governing Democratic Elections in Africa and The New Partnership for Africa's Development (NEPAD 2001), member states recognised that transparent and credible elections play a crucial role in ensuring the fundamental and universal right to democratic and participatory government.

3.3 At the 38th Ordinary Session of the Assembly of the OAU in July 2002, African Heads of State and Government considered the Report of the Secretary General on strengthening the role of the OAU in election observation and monitoring and the advancement of the democratization process.

- 3.4 Leaders considered the principles and objectives of the African Union enshrined in the Constitutive Act of the African Union, particularly in its Articles 3 and 4. They further reaffirmed their commitment to the Algiers Decision of July 1999 and the Lomé Declaration of July 2000 on the Framework for an OAU response to unconstitutional changes of government, which laid down a set of common values and principles for democratic governance.
- 3.5 Consideration was further given to the CSSDCA Solemn Declaration adopted by the Assembly of Heads of State and Government of the OAU in Lomé, Togo, in July 2000, which underpins the OAU's agenda of promoting democracy and democratic institutions in Africa.
- 3.6 Through NEPAD's Democracy and Political Governance Initiative, African Leaders undertook to promote and protect democracy and human rights in their respective countries and regions, by developing clear standards of accountability and participatory governance at the national and sub-regional levels.
- 3.7 Reference should also be made to the importance of the Universal Declaration of Human Rights adopted in December 1948, as well as the International Covenant on Civil and Political Rights adopted in December 1966, which recognized the will of the people expressed through free and fair elections as the basis of the authority of government.
- 3.8 Another landmark African document, the African Charter on Human and Peoples' Rights adopted in Nairobi, Kenya, in June 1981, recognizes the right of every citizen to participate freely in the government of his or her country whether directly or through democratically elected representatives.
- 3.9 In the Declaration of the Assembly of Heads of State and Government of the OAU on the Political and socio-economic Situation in Africa and the fundamental changes taking place in the World, adopted in Addis Ababa, in July 1990, OAU Member States undertook to continue with the democratization of African societies and the consolidation of the democratic institutions.
- 3.10 The African Charter for Popular Participation in Development adopted in Addis Ababa, Ethiopia, in July 1990, emphasized the need to involve the people of Africa in the spheres of economic and political governance.

- 3.11 Also, the Cairo Agenda for Action adopted in Cairo, Egypt, in 1995, stress the imperative of ensuring democratic governance through popular participation based on the respect for human rights and dignity, free and fair elections, as well as on the respect of the principles of freedom of the press, speech, association and conscience.
- 3.12 Member States have the sovereign right to choose their political system in accordance with the will of the people and in conformity with the Constitutive Act of the African Union and the universally accepted principles of democracy.
- 3.13 And Member States and national electoral commissions should support the ever-growing role already played by the AU in the observation/monitoring of elections and the need to strengthen the Organisation's efforts in advancing democracy in Africa.
- 3.14 In paragraph VI (d) of the OAU Declaration on the Principles Governing Democratic Elections in Africa (2002), Member States directed the Commission to undertake a feasibility study on the establishment, within the Commission, of the Electoral Assistance Unit to help the Commission implement this Declaration.

**4. CRITERIA FOR DETERMINING THE NATURE AND SCOPE OF AU ELECTORAL OBSERVATION AND MONITORING**

- 4.1 In performing their obligations, the election observers or monitors shall be guided by detailed guidelines prepared by the Commission drawing inspiration from the essential thrust of the OAU Declaration of Principles Governing Democratic Elections ("*the Principles*"). The specific mandates and terms of reference shall be determined by the particular case in question as well as the wider legal framework of the country staging elections.
- 4.2 In preparing for its election observation and monitoring roles, the Commission must maintain an up-to-date calendar of all future elections on the continent.
- 4.3 Formal invitation to the AU, in terms of paragraphs V (1) and V (3) of the OAU Declaration on the Principles Governing Democratic Elections in Africa (2002), is to be made by the country organising the elections, either through the National Electoral Commission (NEC), or electoral authority, or the said government, in accordance with the democratic legal framework of the country, as necessary elements for mounting observations.

- 4.4 The AU, after receiving the invitation to observe an election, must ensure:
- Adequate lead-time for preparations;
  - Availability of essential planning information;
  - Availability of professional expertise; and
  - Financial and other resources
- 4.5 The AU should expeditiously dispatch an Election Assessment Team to the country planning for an election.
- 4.6 The existence of a “level playing field”, which determines the conditions for electoral competition, is an important aspect that needs evaluation when determining the likely character of the electoral process. In advance of the election date, the Head of the AU Election Mission should advise the AU Commission whether the necessary conditions and environment for a free and fair election as agreed in the AU principles governing democratic elections, have been satisfied. Whatever the advice received by the Commission should be confirmed in a public statement by the Chairperson of the Commission. The assessment team will establish whether or not conditions for organizing credible, legitimate, free and fair elections in accordance with the Durban Declaration are in place in the country. The African Union should explore the possibility of observing elections outside the Continent. Issues to consider in the assessment will include the following:
- 4.6.1 Does the constitution and legal framework guarantee fundamental freedoms and human rights?
- 4.6.2 Is the electoral system premised on the right to freedom of association, and enables people to advance this right through the formation of political parties for the purposes of electoral competition?
- 4.6.3 Is the Electoral Commission independent and impartial, and exercise its powers and perform its functions without fear, favour or prejudice?
- 4.6.4 Are the rights of observers guaranteed?
- 4.6.5 Is it likely that the security forces will maintain a neutral role in the provision of election security?
- 4.6.6 Is the situation in the country generally peaceful or is there political violence? If so will the government’s security measures provide an environment for a free election campaign or are there

- substantial restrictions on the freedom of expression, association and assembly?
- 4.6.7 Are there clearly articulated rules for political party funding to be respected by all parties and candidates?
- 4.6.8 Is the Voter education that should be provided non-partisan, independent and co-ordinated throughout the country?
- 4.6.9 Will there be equitable use or access to public resources for election campaigning?
- 4.6.10 Is the registration of voters undertaken without prejudice or discrimination on the basis of gender, race, religion, region or ethnicity?
- 4.6.11 Does an Independent Media Authority responsible for monitoring and regulating the media to allow equitable access to the public media of all contesting parties and candidates function?
- 4.7 The decision about dispatching an observer and monitoring mission in a member country holding elections must be informed by a preliminary assessment of the country's social, economic, political and constitutional arrangements.
- 4.8 African states differ in terms of their organizational capacity, financial and human resources, infrastructural development – notably road, telecommunication and technological infrastructure – which have an impact on the way elections are organised across the continent. However, these factors should not compromise the conduct of free, fair and transparent elections.
- 4.9 The Electoral Assessment Team should advise the AU Electoral Assistance Unit on whether or not to undertake an AU mission. In both cases there are a number of options, which the AU could consider.
- 4.10 If the decision is to send an observation or monitoring mission, the Assessment Team must advise the AU on the nature of the mission—observation, technical assistance, monitoring or supervision—that should be undertaken. A combination of some of these options could also be envisaged. However the recommended mix of mandate should ensure there is no conflict of interest.
- 4.11 If the decision is not to send an observation or monitoring mission because of the prevailing unsatisfactory conditions in the country, two intermediate responses could be envisaged. First, if the host country is prepared to accept assistance from the AU to remedy the situation, a

technical team or supervisory team could be considered to work with the Election Commission. Second, if the unsatisfactory conditions deteriorate, and the host country is not prepared to accept outside assistance, the AU could consider not sending a mission at all, and this could include referring the matter further within the organs of the Union.

- 4.12 The AU assessment team will not only assess the conditions prevailing in a particular country at a particular time, but also the direction in which events are developing: different responses may be appropriate to different situations.
- 4.13 There should be prior understanding between the AU and the country organising elections that the AU reserves the right not to send or to withdraw observers in certain circumstances when conditions in the country do not meet the AU guiding principles for organising free and fair elections.
- 4.14 Regional Economic Communities (RECs) should be involved actively in elections observation and monitoring. In this way, the RECs should thus compliment continental electoral assistance efforts of the African Union and ensure mutual sharing of experience and resources.

## **5. MANDATES, RIGHTS AND RESPONSIBILITIES OF AU OBSERVATION AND MONITORING MISSIONS**

- 5.1 After deciding that the necessary conditions exist for genuine elections to take place and that all stakeholders welcome the AU, the Electoral Assessment Team must recommend the size, duration and mandate of the mission to be deployed.
- 5.2 Although the mandate of the electoral missions recommended may vary, the rights accorded observers and monitors should remain the same. Regional Economic Communities should compliment the AU in its monitoring and observation roles. The rights enjoyed by observers and monitors alike are listed below.
  - 5.2.1 Freedom of movement within the host country;
  - 5.2.2 Accreditation as election observers or monitors on a non-discriminatory basis;
  - 5.2.3 Communicate freely with all competing political parties, candidates, other political associations and organizations, and civil society organizations;

- 5.2.4 Communicate freely with voters except when the electoral law reasonably proscribes such communication in order to protect the secrecy of the vote;
  - 5.2.5 Unhindered access to and communicate freely with the media;
  - 5.2.6 Communicate with and have unimpeded access to the National Election Commission or appropriate electoral authority and all other election administrators;
  - 5.2.7 Communicate and seek the collaboration of the Judiciary, the National Assembly or Parliament, security personnel, and all other appropriate Government departments and agencies involved in the election process;
  - 5.2.8 Free access to all legislation and regulations governing the electoral process and environment;
  - 5.2.9 Free access to all electoral registers or voters' list;
  - 5.2.10 Unimpeded access to all polling stations and counting centres including those used by the military or other specific groups;
- 5.3 The assessment team will need to decide the scope or mandate of the electoral mission in conformity with the Durban Declaration and cognisance of national law and regulation. These can include:
- 5.3.1 Observation, which involves gathering information and making an informed judgement;
  - 5.3.2 Monitoring, which involves the authority to observe an election process and to intervene in that process if relevant laws or standard procedures are being violated or ignored;
  - 5.3.3 Mediation, that is third-party intervention in electoral disputes, directed at assisting disputants to find a mutually acceptable outcomes and solutions to electoral disputes;
  - 5.3.4 Technical Assistance, which generally takes the form of technical support and advice to the Electoral Commission;
  - 5.3.5 Supervision and Audit, which involves the process of certifying the validity of all or some of the steps in election processes either prior to or after the election has taken place; and
- 5.4 The next issue to be considered by the team will be the duration of the mission and/or the frequency of visits envisaged. In general, this will be determined by the timing and duration of:
- 5.4.1 voter registration/updating of voter registers and periods set aside for the public to check their entry on the register;
  - 5.4.2 party and candidate registration;
  - 5.4.3 candidate and party nominations;

- 5.4.4 the electoral campaign; and
  - 5.4.5 the installation in office of the successful candidates.
- 5.5 The mission could be deployed throughout or it could be deployed at specific times to cover specific events which, based on the assessment of the team, are critical to holding credible elections. Furthermore the Electoral Assessment Team will need to take account of available financial and human resources as well as the situation on the ground. However the AU is committed to the deployment of long term intercessions rather than relying on the assessment of a small group of observers or monitors who are only deployed a few days prior to election day.
- 5.6 The AU elections and observation mission shall issue out its statement on the electoral environment, process and outcome within the shortest time following the announcement of the election result.
- 5.7 Finally the Electoral Assessment Team should make recommendations on the number of personnel required to fulfil the mandate of the mission. It is likely that election observation, monitoring and high profile supervisory or audit missions will be led by high profile and respected Africans, backed by skilled and competent managers with relevant technical skills. The terms of reference, scope of work, and mandate of the Mission will be clearly defined, and this will include the designation of the Head of the Mission who will represent the AU and support the activities of all other personnel. The Head of the Mission will also be responsible for any statement made on the conduct of the election on behalf of the AU. In some circumstances he/she will conduct on-going assessments and management roles throughout the mission, in others a suitably qualified technical Deputy Head will be appointed to supervise the work of the rest of the mission.
- 5.8 If the assessment team recommends that a long-term observation or monitoring mission should be deployed then they should indicate the number of personnel required. In addition to the Head of the AU Mission consideration should be given to what particular aspects of the election require scrutiny. In addition to observing the electoral administration and campaign the assessment team may recommend, for example that specialist personnel be deployed to assess the legal framework and any disputes that might arise, monitoring the media, or evaluation of the electoral registers. These specialists will need to be appointed from an AU pool or roster of suitably qualified personnel from across the continent.

- 5.9 The number of core staff or experts and long term observers or monitors deployed throughout the host country will influence the number of financial, administrative and logistic staff required.
- 5.10 For medium to long-term missions, the AU observation or monitoring team shall be deployed throughout the country. Such a team would be engaged in the process from the pre-election, actual election, and post-election phases. In determining the number of long term observers, monitors or supervisors the Electoral Assessment Team will need to take account of a number of factors. These will include:
- 5.10.1 The number of electoral or administrative units across the country;
  - 5.10.2 The infrastructure and geography of the host country;
  - 5.10.3 Problematic or “hot spot” areas which are likely to be highly contested, have in the past experienced tension, disputes or violence;
  - 5.10.4 The human and financial resources available;
  - 5.10.5 The deployment of other national or international observers.
- 5.11 There is need for post-election review to be undertaken, either through an evaluation by the observation team or an independent consultant agreed upon by the AU. The post-election review, with a clearly defined time-frame, must concentrate on performance of the mission (function) and administration of the entire observation mission. The evaluation is conducted in the interest of improving the deployment of future observation missions.
- 5.12 The AU should explore possibilities for election observation and monitoring outside the continent with a view to share experiences with other parts of the world with respect to election and democracy.

## **6. CODE OF CONDUCT FOR AU ELECTION OBSERVERS AND MONITORS**

- 6.1 The code of conduct for AU Election Observers and Monitors is binding. Breach of the Code will result in the AU taking appropriate disciplinary proceedings including the repatriation of the person.

**6.2 Observers:**

- 6.2.1 Shall abide by in comply with all national laws and regulations as well as respect the culture of the host country.
- 6.2.2 Shall comply with all national laws and regulations;
- 6.2.3 Shall maintain strict impartiality in the conduct of their duties, and shall at no time express any bias or preference in relation to national authorities, parties and candidates in contention in the election process. Furthermore they will not display or wear any partisan symbols, colours or banners;
- 6.2.4 Shall neither accept nor attempt to procure any gifts, favours or inducements from a candidate, their agent, the parties or any other organization or person involved in the electoral process;
- 6.2.5 Shall immediately disclose to the AU any relationship that could lead to a conflict of interest with their duties or with the process of the observation and assessment of the elections;
- 6.2.6 Shall base all reports and conclusions on well documented, factual, and verifiable evidence from multiple number of credible sources as well as their own eye witness accounts;
- 6.2.7 Shall seek a response from the person or organization concerned before treating any unsubstantiated allegation as valid;
- 6.2.8 Shall identify in their reports the exact information and the sources of the information they have gathered and used as a basis for their assessment of the electoral process or environment;
- 6.2.9 Shall report all information gathered or witnessed by them honestly and accurately;
- 6.2.10 Shall, when meeting election officials, relevant state authorities and public officials, parties, candidates and their agents inform them of the aims and objectives of the AU Electoral Mission;
- 6.2.11 Shall bring irregularities to the attention of the local election officials, but they must never give instructions or countermand decisions of the election officials;
- 6.2.12 Shall carry any prescribed identification issued at all times, and will identify themselves to any interested authority upon request;
- 6.2.13 Shall undertake their duties in an unobtrusive manner, and will not interfere with the election process, polling day procedures, or the vote count;
- 6.2.14 Shall refrain from making personal or premature comments or judgments about their observations to the media or any other interested persons, and will limit any remarks to

general information about the nature of their activity as observers;

- 6.2.15 Shall participate in the briefings/training provided by the AU Electoral Mission;
- 6.2.16 Shall provide their reports on time to their supervisors and attend any debriefings as required.
- 6.2.17 Shall work harmoniously with each other and with observers from other organizations in their area of deployment.

### **6.3 Monitors**

- 6.3.1 Shall also comply with the code of conduct as defined in 5.2 above, save that, unlike with the case of observers in 5.2. (x), they shall bring irregularities to the attention of the election authorities and may, in specific circumstances, countermand the instructions of election officials if they are in breach of the electoral law or regulations.

**EX.CL/91 (V)**  
**Annex II**

**GUIDELINES FOR AFRICAN UNION ELECTORAL  
OBSERVATION AND MONITORING MISSIONS**

**PROSPECTS FOR THE ESTABLISHMENT OF AN**  
**ELECTORAL ASSISTANCE FUND**

**1. Preamble**

The Assembly of Heads of State and Government of the Organization of African Unity (OAU), at its 38<sup>th</sup> Ordinary Session held in Durban, South Africa, on the eve of the launching of the African Union (AU), on 8<sup>th</sup> July 2002, approved the Declaration on the Principles Governing Democratic Elections in Africa. The Declaration underlined the need to strengthen the Organization's efforts in advancing the democratization process in Africa in view of its ever-growing role in the monitoring and observation of elections.

Among other things, the Declaration also focused on the need for adequate resourcing of elections. Thus African leaders mandated the Interim Commission of the African Union to mobilize extra-budgetary funds to augment its resource base and to undertake a feasibility study on the establishment of an Electoral Assistance Fund to facilitate the successful implementation of the Declaration.

This mandate relates the need for adequate technical and financial support to the demand for credible, free and fair elections on the continent. It directs attention to how resource scarcity often constrains the process of capacity building in this field, including training activities and procedures and mechanism for monitoring elections. More significantly, it stresses the need for caution in comparison with what obtains elsewhere in the developed world and asserts the imperative of efficient use of scarce resources among countries in the region.

The feasibility study on the prospects for the establishment an Electoral Assistance Fund is informed by these key requirements. It aligns the need for mobilization of extra-budgetary funds to implement the activities set out in the Durban Declaration with the requirements for its effective sourcing and utilization.

The Electoral Assistance Fund should be established as a Trust Fund for national and regional needs on the model of the UN/EAD Electoral Assistance Trust Fund. The Trust Fund shall be managed by a new Electoral Assistance Unit of the Department of Political Affairs of the AU Commission.

The Trust Fund has the advantage of facilitating the provision of technical and financial support for the electoral needs of countries which face severe limitations in most situations.

Given the common limitations in the provision of technical and financial support to electoral processes, the Trust Fund has the advantage of quick and timely delivery.

## **2. National and Regional Needs for Electoral Assistance**

The analysis of the potential scope of the Electoral Assistance Fund might begin with a brief review of the national and regional needs for electoral assistance. Some of the more frequent instances are related to the following issues:

### **2.1 National Needs**

- a) Some countries find it difficult to completely fund their electoral processes and require external financial support.
- b) Some countries with limited electoral experience might find it difficult to prepare accurate budgets and to prepare funding requests to be submitted to external sources. In some cases it is useful to conduct an in-depth needs-assessment for a better design of the support to be provided.
- c) Some countries want to introduce changes in their systems and would like to have the benefit of the experience of other countries.

### **2.2 Regional Needs**

- a) Capacity-building – a common need of the region (sharing experiences, training, study tours, etc.) – is a priority issue in terms of long-term sustainability of electoral organization in the region.
- b) It is important to strengthen the role of regional organizations in the practice of electoral observation, by taking due cognizance of the mechanisms put in place by the regional organizations for monitoring and observing elections, and by putting in place procedures and mechanisms for observing and monitoring elections. This practice will result in the development of guidelines and best practices, and in the gradual building up of consensus concerning the characteristics of free and fair elections.

Professionally conducted observation will add to the legitimacy of election processes, thus contributing to stability. Furthermore, it will contribute to regional capacity building, as competent observer teams can make useful suggestions for the improvement of electoral systems and procedures.

- c) Efficient use of resources: development and coordination of mechanisms for sharing resources (human or physical) between countries of the region.
- d) Development and/or adaptation of electoral knowledge, better understanding of new technologies (like the use of voting machines), etc.
- e) The African Union should encourage the establishment and maintenance of a permanent electoral register in each member country of the AU. This is of vital importance to the electoral process. Countries may need to be assisted in this important aspect, first by establishing the register and second by maintenance of the register through regular updating.

### **3. Sources of Funds and Advantages of the Trust Fund**

#### **3.1 Sources of funds**

The sources of funding for the Trust Fund include contributions from Member States of the AU and donations from bilateral and multilateral donors, as well as from multinational corporations operating in Africa. The Trust Fund is essentially a cash mechanism.

There are many countries that rarely use the Trust Fund mechanism and prefer to make specific grants to the electoral organizations of selected countries. In some cases the resources are provided in kind, in others their administration is entrusted to specialized donor countries' organization. Thus, for instance, the US channels most of its support to electoral processes through the International Foundation for Electoral Systems, the National Democratic Institute or the International Republican Institute. On the other hand, many Nordic countries tend to opt for the use of the Trust Fund facilities.

It is essential to keep a clear distinction between the resources available to the AU Electoral Unit for the conduct of its activities, and the sources of income of the Trust Fund. Unlike the Trust Fund, the

AU Electoral Unit is funded by the African Union from its regular budget.

Relations between sub-regional organizations and the Trust Fund should be covered by the same rules as those involving the Trust Fund and the AU.

### **3.2 Advantages of the Trust Fund**

In comparison to other means of funding elections, the Trust Fund mechanism has the following advantages:

- a) It provides the possibility of a fast initial answer to requests for electoral assistance while the mobilization of funds is proceeding;
- b) It might bring together untied funding from different sources, and allocate and coordinate it according to the priorities of the electoral processes;
- c) It provides the possibility of coordination between the African Union and Sub-regional Organizations, leading to the great use of regional resources, increasing the overall capacity-building and improving the quality of delivery.

## **4. Areas of Technical and Financial Assistance**

The provision of technical and financial assistance may take any or all of the following forms:

- Needs-assessment missions to contribute to the final formulation of an electoral budget, the identification of resources to be requested from external sources, and the preparation of formal requests to the donor community or other interested parties.
- Organization of observation missions, at the request of a member country, using expertise provided by the electoral organizations of the regions.
- The Fund shall provide the resources necessary to coordinate the activities of observation missions sponsored by other countries and/or organizations in the region or it might provide support to the training of local monitoring organizations.
- The Fund shall fund one or more advisors to provide support to a new electoral commission in the process of organizing elections. It is normally difficult to obtain funding for small-

scale projects, which are better funded through a global facility.

- The Fund shall provide seed money for regional projects, ranging from the organization of study tours, the organization of training programmes for electoral officers of the region; sponsoring conferences on relevant electoral subjects, and providing support for civic education projects aimed at promoting the culture of democracy including the respect for the verdict of the ballot box.
- Development of manuals and guidelines on relevant electoral subjects and/or adaptation to the characteristics of the region of existing materials.
- Compilation and publication of comparative electoral statistics for the region.

The above examples do not pretend to exhaust the activities that the AU electoral Assistance Unit might be undertaking. They only describe examples where the existence of a Trust Fund will be essential to the development of the activity.

#### **5. Access to the Fund, administration of resources and allocation of funds**

The resources in the Fund should be reserved to the specific needs of electoral organizations. The Fund should not be providing funding to NGOs whether they are involved in the provision of technical assistance or in the observation of elections. Two minor exceptions might be introduced. First, it might be considered useful to use Fund resources to support the training of local observers, provided it is conducted on a non-discriminatory basis. Second, NGOs might be contracted as suppliers of technical assistance in specific cases, provided the allocation is conducted following the overall procurement rules of the AU.

The AU must discuss and decide on whether the Electoral Assistance Unit should be able to receive and decide upon requests formulated by the electoral organizations themselves, or that it would only receive requests which are endorsed by the governments, as is the case of the UN/EAD. It is a complex subject, as governments either do not like or, in some cases, have strict rules forbidding direct requests by agencies. On the other hand, the need for formal government support of a request might introduce unnecessary delays. One potential compromise is to accept direct requests from electoral authorities when the overall amount of the request does not exceed a

certain amount, and requiring the formal authorization of governments in the remaining cases. In all cases, the Fund resources should be disbursed directly to the recipient electoral organization. In some cases this might introduce problems as a number of governments do not like – or accept – the direct disbursement of funds to a government agency and insist on the centralized handling of external support. This should be avoided as it might create problems in the administration of the Fund.

The experience of the UN/EAD and the characteristics of the work to be performed by the proposed AU Electoral Assistance Unit suggest the need for a rather special structure. The need for seniority and expertise – essential for the successful conduct of missions – requires a larger than usual number of officers at P5 and P4 level, complemented by a much smaller number of officers in the lower categories and support personnel. The overall size of the Unit should be rather small – probably around 10 officers – as there will be a significant reliance on a selected network of experts. This slim structure allows for fast and effective answers, and avoids the creation of unnecessary bureaucracies. While the financial administration of the Trust Fund should be in the hands of the administrative structure of the African Union, the responsibility for initiating activities should be fully in the hands of the Unit. Given the usually urgent nature of the request, the overall decision-making chain should be kept as short as possible.

## **6. The replenishment principle**

It will not be easy to obtain funding for the Trust Fund – as many of the main donors have a clear preference for direct allocation of funds to specific countries and projects. The constant use of the Trust facilities for funding missions will require a permanent fund raising effort to keep it functional. In this context, it is important to conceive the Fund as a rotating mechanism, advancing funds for certain purposes to be reimbursed at a later date.

One important way in which the resources of the Fund can be maintained is by always trying to find specific funding for the activities of the Electoral Assistance Unit, so that the fund can be replenished. If resources are available in the Fund there is always the temptation to do without specific mobilization of funds for the proposed activity. If that is the case, the resources in the Fund will be spent very quickly.

**EX.CL/91 (V)**

**Annex III**

**PROSPECTS FOR THE ESTABLISHMENT OF AN**  
**ELECTORAL ASSISTANCE FUND**

**EX.CL/92(V)**  
**Annex IV**

**RECOMMENDATION OF THE MEETING OF GOVERNMENTAL**  
**EXPERTS ON THE DOCUMENT PRESENTED BY THE COMMISSION**  
**OF THE AFRICAN UNION ON ELECTIONS,**  
**DEMOCRACY AND GOVERNANCE**  
**ADDIS ABABA, ETHIOPIA, 15-17 MAY 2004**

**RECOMMENDATION OF THE MEETING OF GOVERNMENTAL  
EXPERTS ON THE DOCUMENT PRESENTED BY THE COMMISSION  
OF THE AFRICAN UNION ON ELECTIONS,  
DEMOCRACY AND GOVERNANCE  
ADDIS ABABA, ETHIOPIA, 15-17 MAY 2004**

In compliance with Decision EX/CL/Dec. 31 (III) adopted by the Executive Council of the African Union in Maputo, Mozambique, in July 2003, a document entitled «Draft Declaration on Elections, Democracy and Governance», was submitted to the experts meeting.

During its presentation, the Commission emphasized that the Organization had already adopted many Declarations and Decisions on the same issue and recommended that the meeting consider the possibility of proposing a more binding text in the form of a Charter rather than yet another declaration.

Following an exchange of views, the meeting took due note of the document presented by the Commission and recommended as follows:

1. Due to the importance of elections, democracy and governance in the economic and social development process of Africa, the meeting agreed with the Commission that the African Union does not need a new Declaration on these issues, but rather a Charter which would encompass all the collective commitments made to date by Member States, in the most appropriate legal form.
2. Taking into account the legal nature of such a Charter and the required procedure, the meeting was of the opinion that it was not in a position, due to lack of a specific mandate in this regard, to transform the Draft Declaration into a Draft Charter.
3. The meeting therefore recommended to the Executive Council, requesting the Commission to convene a Meeting of Legal and other Experts to formulate a Draft Charter on Elections, Democracy and Governance inspired by the principles enshrined in the Draft Declaration, the relevant existing legal instruments and other commitments already made by Member States, documents emanating for the Pretoria Conference of April 2003 on these same issues, as well as the comments of the meeting on the Communiqué of this last Conference.

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# Report on the meeting of government experts on the documents from the pretoria conference on elections, democracy and governance

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