

AFRICAN UNION  
الاتحاد الأفريقي



UNION AFRICAINE  
UNIÃO AFRICANA

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**EXECUTIVE COUNCIL**  
**Seventh Ordinary Session**  
**28 June – 2 July 2005**  
**Sirte, Libya**

**EX.CL/172 (VII)**  
**Original: English**

**REPORT OF THE CHAIRPERSON OF THE COMMISSION**  
**ON THE STATUS OF OAU/AU TREATIES**  
**(As at 27 May 2005)**

**REPORT OF THE CHAIRPERSON OF THE COMMISSION ON THE  
STATUS OF OAU/AU TREATIES (As at 27 May 2005)**

**A. INTRODUCTION:**

1. It will be recalled that the Report of the Chairperson of the Commission on the Status of AU Treaties was first prepared at the request of the 66<sup>th</sup> Ordinary Session of the Council of Ministers held from 26 to 28 May, 1997 and submitted to the 67<sup>th</sup> Ordinary Session. In taking note of the report, Council emphasized that Member States be reminded regularly of the status of signatures and ratification or accession of these Treaties. Accordingly, the report has become a regular item on the agenda of the Council

**B. ISSUES AND CURRENT SITUATION:**

2. Since its inception in 1963, the policy organs of the Organization of African Unity and the African Union have adopted **thirty – one (31)** Treaties, the most recent being the African Union Non-Aggression and Common Defence Pact adopted in Abuja, Nigeria in January 2005. **Seventeen (17)** of these Treaties have entered into force. Additionally, two (2) treaties namely; the Constitution of the Association of African Trade Promotion Organizations and the African Maritime Transport Charter are in force provisionally. The remainder are in various stages of signature and ratification or accession

3. Furthermore, since the submission of the last report in January 2005, some Member States have made considerable efforts to sign and ratify OAU/AU treaties especially the five (5) Maputo treaties, the new Protocol to the Convention on Terrorism adopted in July 2004, and the African Union Non-Aggression and Common Defence Pact adopted in January 2005, which has received **twelve (12)** signatures.

4. However, even though some Member States have made giant efforts to sign and ratify or accede to OAU/AU Treaties, a lot remains outstanding. It should be emphasized that treaties adopted under the aegis of the OAU/AU, which, by definition, address issues of specific concern to Africa, should be given utmost priority.

5. The Commission is a depositary to the following AU Treaties:

- I. General Convention on the Privileges and Immunities of the Organization of African Unity.\*
- II. Additional Protocol to the OAU General Convention on Privileges and Immunities. \*
- III. Phyto-Sanitary Convention for Africa.

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\* Treaties that have entered into force definitively.

- IV.** 1968 African Convention on the Conservation of Nature and Natural Resources. \*
- V.** Revised African Convention on the Conservation of Nature and Natural Resources (This Convention will replace No. IV when it enters into force)
- VI.** African Civil Aviation Commission Constitution. \*
- VII.** OAU Convention Governing the Specific Aspects of Refugee Problems in Africa. \*
- VIII.** Constitution of the Association of African Trade Promotion Organizations.\*\*
- IX.** Inter-African Convention Establishing an African Technical Co-operation Programme.
- X.** OAU Convention for the Elimination of Mercenarism in Africa. \*
- XI.** Cultural Charter for Africa. \*
- XII.** The African Charter on Human and Peoples' Rights. \*
- XIII.** Convention for the Establishment of the African Center for Fertilizer Development.
- XIV.** Agreement for the Establishment of the African Rehabilitation Institute. \*
- XV.** Treaty Establishing the African Economic Community. \*
- XVI.** Bamako Convention on the Ban of the Import into Africa and the Control of Trans-Boundary Movement and Management of Hazardous Waste within Africa. \*
- XVII.** African Charter on the Rights and Welfare of the Child. \*
- XVIII.** The African Nuclear-Weapon-Free-Zone Treaty (The Treaty of Pelindaba).
- XIX.** The African Maritime Transport Charter.\*\*
- XX.** Protocol to the African Charter on Human and Peoples' Rights on the establishment of the African Court on Human and Peoples' Rights \*

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\*\* Treaties that have entered into force provisionally.

- XXI.** OAU Convention on the Prevention and Combating of Terrorism. \*
- XXII.** Constitutive Act of the African Union. \*
- XXIII.** Protocol to the Treaty Establishing the African Economic Community relating to the Pan-African Parliament \*
- XXIV.** Convention of the African Energy Commission.
- XXV.** Protocol relating to the establishment of the Peace and Security Council of the African Union \*
- XXVI.** African Union Convention on Preventing & Combating Corruption
- XXVII.** Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa
- XXVIII.** Protocol on the Amendments to the Constitutive Action of the African Union
- XXIX.** Protocol of the Court of Justice of the African Union
- XXX.** Protocol to the OAU Convention on the Prevention and Combating of Terrorism
- XXXI. African Union Non-Aggression And Common Defence Pact**

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

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

7. **The following thirty-six (36) Member States have ratified or acceded to the Convention:** Algeria, Benin, Burkina Faso, Burundi, Cameroon, C.A.R.<sup>H</sup>, Comoros, Congo, Côte d'Ivoire,<sup>HH</sup> Egypt, Ethiopia, Eq. Guinea, Gabon, Ghana, Guinea, Guinea Bissau, Kenya, Liberia, Libya, Madagascar, Malawi, Mali, Mauritania, Mozambique, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, Somalia, Sudan, Swaziland, Tanzania, Tunisia, Uganda.

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<sup>H</sup> Central African Republic

<sup>HH</sup> Democratic Republic of Congo

8. **Four (4) Member States:** Chad, Gambia, Togo and Zambia **have signed but not ratified the Convention.**

9. **The following thirteen (13) Member States have neither signed nor ratified or acceded to the Convention:** Angola, Botswana, Cape Verde, Djibouti, Eritrea, Lesotho, Mauritius, Namibia, S.A.D.R.<sup>HHH</sup>, Sao Tome & Principe, Seychelles, South Africa, and Zimbabwe.

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

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

11. **Only four (4) Member States namely:** Cameroon, Liberia, Mozambique and Rwanda have ratified the Protocol. Accordingly, the Additional Protocol has come into force only as regards these four (4) countries.

## III. **PHYTO-SANITARY CONVENTION FOR AFRICA (1967)**

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

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

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

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<sup>HHH</sup> Sahrawi Arab Democratic Republic

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

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

16. **The following thirty (30) Member States have ratified or acceded to it:** Algeria, Burkina Faso, Cameroon, C.A.R., Congo, Comoros, Côte d'Ivoire, D.R.C., Djibouti, Egypt, Gabon, Ghana, Kenya, Liberia, Madagascar, Malawi, Mali, Mozambique, Niger, Nigeria, Rwanda, Senegal, Seychelles, Sudan, Swaziland, Tanzania, Togo, Tunisia, Uganda, and Zambia.

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

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

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

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

20. **Four (4) Member States, Comoros, Lesotho, Mali, and Rwanda, have ratified the Convention.**

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

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

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

23. **The following forty-four (44) Member States have ratified or acceded to it:** Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Chad, Comoros, Congo, Côte d'Ivoire, D.R.C., Egypt, Eritrea, Ethiopia, Gabon, Gambia, Ghana, Guinea, Kenya, Lesotho, Liberia, Libya, Madagascar, Malawi, Mali, Mauritania, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, Senegal, Sierra Leone, Somalia, South Africa, Sudan, Swaziland, Tanzania, Togo, Tunisia, Uganda, and Zambia

24. **Three (3) Member States:** Central African Republic, Seychelles, and Zimbabwe have signed but not ratified or acceded to the Constitution.

25. **The following six (6) Member States have not signed or acceded to it:** Cape Verde, Djibouti, Eq. Guinea, Guinea-Bissau, S.A.D.R., and Sao Tome & Principe.

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

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

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

28. **Three (3) Member States:** Madagascar, Mauritius and Somalia **have signed but not ratified or acceded to the Convention.**

29. **The following five (5) Member States have neither signed nor ratified or acceded to the Convention:** Djibouti, Eritrea, Namibia, S.A.D.R., and Sao Tome & Principe.

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

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

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

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

33. **The following twenty-two (22) Member States signatories to the Convention have not yet ratified it;** Benin, Burkina Faso, Burundi, Cameroon, C.A.R., Chad, Cote D'Ivoire, Comoros, Congo, D.R.C., Gambia, Gabon, Kenya, Libya, Madagascar, Mali, Rwanda, Senegal, Sierra Leone, Somalia, Swaziland, and Uganda

34. **The following nineteen (19) Member States have neither signed nor acceded to the Constitution:** Angola, Botswana, Cape Verde, Djibouti, Eq. Guinea, Eritrea, Guinea Bissau, Lesotho, Malawi, Mauritania, Mauritius, Mozambique, Namibia, S.A.D.R., Sao Tome & Principe, Seychelles, South Africa, Tanzania, and Zimbabwe.

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

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

36. So far, **only two (2) Member States;** Comoros and Mali **have ratified it, and twenty-one (21) Member States namely:** Benin, C.A.R, Chad, Congo, Cote D'Ivoire, D.R.C, Egypt, Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Madagascar, Niger, Rwanda, Senegal, Sierra Leone, Somalia, Swaziland, Tanzania, and Togo **have signed but not ratified or acceded to the Convention.**



37. **The following thirty (30) Member States have neither signed nor ratified the Convention:** Algeria, Angola, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, Djibouti, Eq. Guinea, Eritrea, Ethiopia, Gabon, Kenya, Lesotho, Libya, Malawi, Mauritania, Mauritius, Mozambique, Namibia, Nigeria, S.A.D.R, Sao Tome & Principe, Seychelles, South Africa, Sudan, Tunisia, Uganda, Zambia, and Zimbabwe.

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

38. This Convention adopted and signed in Libreville, Gabon, on 3 July 1977, deals with measures to eliminate mercenaries and to overcome the grave threat of mercenaries against the independence, sovereignty, territorial integrity and harmonious development of Member States. It came into force on 22 April, 1985 in application of Article 13 (2) of which stipulates that it shall come into force thirty (30) days after the deposit of the tenth instrument of ratification.

39. **Twenty-six (26) Member States have ratified or acceded to it:** Benin, Burkina Faso, Cameroon, Congo, Comoros, D.R.C., Egypt, Ethiopia, Eq. Guinea, Ghana, Guinea, Lesotho, Liberia, Libya, Mali, Niger, Nigeria, Rwanda, Senegal, Seychelles, Sudan, Tanzania, Togo, Tunisia, Zambia, and Zimbabwe.

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

41. **Sixteen (16) Member States have neither signed nor ratified or acceded to the Convention:** Botswana, Burundi, Cape Verde, Djibouti, Eritrea, Gabon, Madagascar, Malawi, Mauritania, Mauritius, Namibia, Mozambique, S.A.D.R., Sao Tome & Principe, Somalia, and South Africa. .

**XI. CULTURAL CHARTER FOR AFRICA (1976)**

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

43. **The following thirty-three (33) Member States have ratified or acceded to it:** Algeria, Angola, Benin, Burkina Faso, Burundi, Cameroon, Chad, Congo, Djibouti, Egypt, Ethiopia, Ghana, Guinea, Guinea-Bissau, Kenya, Libya, Madagascar, Malawi, Mali, Mauritius, Niger, Nigeria, Rwanda, Senegal, Seychelles, Somalia, Sudan, Tanzania, Togo, Tunisia, Uganda, Zambia, and Zimbabwe.

44. **The following twenty (20) Member States have not ratified or acceded to the Convention:** Botswana, Cape Verde, C.A.R., Comoros, Côte d'Ivoire, D.R.C,

Eq. Guinea, Eritrea, Gabon, Gambia, Lesotho, Liberia, Mauritania, Mozambique, Namibia, S.A.D.R., Sao Tome & Principe, Sierra Leone, South Africa, and Swaziland

## **XII. THE AFRICAN CHARTER ON HUMAN AND PEOPLES' RIGHTS (1981)**

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

## **XIII. CONVENTION FOR THE ESTABLISHMENT OF THE AFRICAN CENTRE FOR FERTILIZER DEVELOPMENT (1985)**

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

47. **Twenty-two (22) Member States namely:** Benin, C.A.R, Chad, Congo, Cote D'Ivoire, D.R.C, Gambia, Ghana, Guinea, Liberia, Madagascar, Niger, Nigeria, Senegal, Sierra Leone, Sudan, Swaziland, Tanzania, Togo, Uganda, Zambia and Zimbabwe **have signed but not ratified the Convention. Only three (3) Member States:** Comoros, Libya and Mali **have ratified it.**

48. **The following twenty-eight (28) Member States have neither signed nor ratified the Convention:** Algeria, Angola, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, Djibouti, Egypt, Eq. Guinea, Eritrea, Ethiopia, Gabon, Guinea-Bissau, Kenya, Lesotho, Malawi, Mauritania, Mauritius, Mozambique, Namibia, Rwanda, S.A.D.R, Sao Tome & Principe, Seychelles, Somalia, South Africa, and Tunisia.

## **XIV. AGREEMENT FOR THE ESTABLISHMENT OF THE AFRICAN REHABILITATION INSTITUTE (ARI) (1985)**

49. The African Rehabilitation Institute deals with the harmonization of the principles and strategies for disability prevention and the rehabilitation of the disabled in facilitating the training of required manpower. The Institute established pursuant to Resolution CM/Res.834 (XXXVI) was adopted by the Council of Ministers at its Thirty-Seventh Ordinary Session on 17 July 1985 in Addis Ababa, Ethiopia. By virtue of Article XVIII (3) of the Agreement, a deposit of nine instruments of ratification by Member States enables

the Agreement to enter into force definitively. Accordingly, it entered into force on 2 December 1991.

50. **Twenty-one (21) Member States have ratified or acceded to it:** Botswana, Burkina Faso, Cameroon, Chad, Congo, Guinea, Lesotho, Libya, Malawi, Mali, Mauritania, Mozambique, Namibia, Niger, Nigeria, Senegal, Swaziland, Togo, Uganda, Zambia, and Zimbabwe.

51. **Ten (10) Member States:** Benin, The Central African Republic, Comoros, Cote D'Ivoire, Egypt, Gambia, Gabon, Ghana, Kenya, and Liberia **have signed but not ratified or acceded to the Agreement.**

52. **The following Twenty-one (21) Member States have neither signed nor ratified or acceded to it:** Algeria, Angola, Burundi, Cape Verde, D.R.C., Djibouti, Eq. Guinea, Eritrea, Ethiopia, Guinea-Bissau, Madagascar, Rwanda, S.A.D.R., Sao Tome & Principe, Seychelles, Somalia, Sierra Leone, Sudan, South Africa, Tanzania, and Tunisia.

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

#### **XV. TREATY ESTABLISHING THE AFRICAN ECONOMIC COMMUNITY (1991)**

54. This Treaty deals with the economic integration of Member States and the establishment of the African Economic Community. It was adopted and signed in Abuja, Nigeria, on 3 June 1991, and entered into force on 12 May 1994. **The Treaty has been ratified by forty-seven (48) Member States. One (1) Member State; Eritrea has neither signed nor acceded to the Treaty.**

55. **The following four (4) Member States have signed but have not acceded to the Treaty:** Djibouti, Gabon, Madagascar, and Somalia.

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

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

57. **Twenty-one (21) Member States have ratified or acceded to the Convention:** Benin, Cameroon, Congo, Côte d'Ivoire, Comoros, D.R.C., Ethiopia, Egypt, Gambia, Libya, Mali, Mauritius, Mozambique, Niger, Senegal, Sudan, Tanzania, Togo, Tunisia, Uganda, and Zimbabwe.

58. **Sixteen (16) Member States namely:** Burkina Faso, Burundi, C.A.R, Chad, Djibouti, Ghana, Guinea, Guinea Bissau, Kenya, Lesotho, Liberia, Madagascar, Rwanda, Sierra Leone, Somalia and Swaziland **have signed but not ratified or acceded to the Convention.**

59. **The following sixteen (16) Member States have neither signed and or ratified or acceded to the Convention:** Algeria, Angola, Botswana, Cape Verde, Eq. Guinea, Eritrea, Gabon, Malawi, Mauritania, Namibia, Nigeria, S.A.D.R., Sao Tome & Principe, Seychelles, South Africa, and Zambia.

#### **XVII. THE AFRICAN CHARTER ON THE RIGHTS AND WELFARE OF THE CHILD (1990)**

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

61. **Thirty-five (35) Member States have ratified or acceded to the Charter:** Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, Chad, Comoros, Egypt, Eq. Guinea, Eritrea, Ethiopia, Gambia, Guinea, Kenya, Lesotho, Libya, Malawi, Mali, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, Senegal, Seychelles, Sierra Leone, South Africa, Tanzania, Togo, Uganda, and Zimbabwe.

62. **The following fourteen (14) Member States have signed but not acceded to the Charter:** C.A.R, Congo, Côte d'Ivoire, Djibouti, Gabon, Ghana, Guinea Bissau, Liberia, Madagascar, S.A.D.R., Somalia, Swaziland, Tunisia, and Zambia

63. **The following four (4) Member States have neither signed nor acceded to the Charter:** D.R.C, Mauritania, Sao Tome & Principe, and Sudan

#### **XVIII. THE AFRICAN NUCLEAR-WEAPON-FREE ZONE TREATY (THE TREATY OF PELINDABA) (1996)**

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

65. **The Treaty has been ratified by twenty (20) Member States namely:** Algeria, Botswana, Burkina Faso, Côte d'Ivoire, Equatorial Guinea, The Gambia, Guinea, Kenya, Libya, Lesotho, Madagascar, Mali, Mauritania, Mauritius, Nigeria, South Africa, Swaziland, Tanzania, Togo and Zimbabwe.

66. **The following thirty-one (31) Member States have signed but not ratified the Treaty:** Angola, Benin, Burundi, Cameroon, C.A.R., Cape Verde, Chad, Comoros, Congo, Djibouti, D.R.C., Egypt, Eritrea, Ethiopia, Gabon, Ghana, Guinea-Bissau, Liberia, Malawi, Mozambique, Namibia, Niger, Rwanda, Senegal, Seychelles, Sierra Leone, Sao Tome & Principe, Sudan, Tunisia, Uganda, and Zambia.

67. **Two (2) Member States:** S.A.D.R. and Somalia have neither signed nor **ratified the Treaty.**

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

- China and the United Kingdom have **ratified Protocols I and II.**
- France has **ratified Protocols I, II and III.**
- Spain, a **party to Protocol III of the treaty has neither signed nor ratified it.**

#### **XIX. THE AFRICAN MARITIME TRANSPORT CHARTER (1994)**

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

72. The Charter is not in force definitely because it has not been ratified by two-thirds of Member States but it can be regarded as being in force provisionally since it has received at least twenty (20) signatures.

73. **At present, only eight (8) Member States, namely,** Comoros, Egypt, Ethiopia, Lesotho, Mali, Mauritius, Nigeria and Tunisia **have ratified the Charter.**

74. **The following twenty-four (24) Member States:** Algeria, Benin, C.A.R., Chad, Congo, Cote D'Ivoire, D.R.C, Gambia, Ghana, Guinea, Guinea Bissau, Kenya, Libya, Madagascar, Malawi, Mozambique, Namibia, Niger, Senegal, Sierra Leone, Swaziland, Tanzania, Togo and Uganda **have signed but not ratified the Charter.**

75. **The following twenty-one (21) Member States have neither signed nor ratified the Charter:** Angola, Botswana, Burkina Faso, Burundi Cameroon, Cape Verde, Djibouti, Eq.Guinea, Eritrea, Gabon, Guinea, Mauritania, Rwanda, S.A.D.R, Sao Tome & Principe, Seychelles, Somalia, South Africa, Sudan, Zambia, and Zimbabwe

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

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

77. **The following twenty (20) Member States have ratified the Protocol:** Algeria, Burkina Faso, Burundi, Comoros, Côte d'Ivoire, The Gambia, Gabon, Kenya, Libya, Lesotho, Mali, Mauritius, Mozambique, Niger, Nigeria, Rwanda, Senegal, South Africa, Togo and Uganda.

78. **The following twenty-five (25) Member States have signed but not ratified the Protocol:** Benin, Botswana, C.A.R., Chad, Congo, D.R.C., Egypt, Eq. Guinea, Ethiopia, Ghana, Guinea, Guinea-Bissau, Liberia, Madagascar, Malawi, Mauritania, Namibia, Seychelles, Sierra Leone, Sudan, Swaziland, Tanzania, Tunisia, Zambia, and Zimbabwe.

79. **The following eight (8) Member States have not signed or ratified or acceded to the Protocol:** Angola, Cameroon, Cape Verde, Djibouti, Eritrea, S.A.D.R., Sao Tome & Principe, and Somalia..

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

**Burkina Faso**: entered a declaration as follows:

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

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

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

82. **The following thirty-six (36) countries have ratified the Convention:** Algeria, Angola, Benin, Burkina Faso, Burundi, Cape Verde, Comoros, Djibouti, Egypt, Equatorial Guinea, Eritrea, Ethiopia, Gabon, Ghana, Guinea, Kenya, Lesotho, Libya, Madagascar, Malawi, Mali, Mauritius, Mauritania, Mozambique, Niger, Nigeria, Rwanda, S.A.D.R., Senegal, Seychelles, South Africa, Sudan, Tanzania, Togo, Tunisia and Uganda.

83. **Four (4) Member States;** Sao Tome and Principe, Somalia, Zambia, and Zimbabwe **have neither signed nor ratified or acceded to the Convention.**

84. **The Convention has been signed by the following thirteen (13) Member States who are yet to ratify or accede to it:** Botswana, Chad, Cameroon, C.A.R., Congo, Côte d'Ivoire, D.R.C., Gambia, Guinea-Bissau, Liberia, Namibia, Sierra Leone and Swaziland.

## **XXII. CONSTITUTIVE ACT OF THE AFRICAN UNION**

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

87. The Thirty-sixth Ordinary Session of the Assembly of Heads of State and Government in Lome, Togo, on 11 July 2000, adopted the Act.

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

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

## **XXIII. PROTOCOL TO THE TREATY ESTABLISHING THE AFRICAN ECONOMIC COMMUNITY RELATING TO THE PAN-AFRICAN PARLIAMENT**

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

91. **The following forty-six (46) Member States have ratified the Protocol:** Algeria, Angola, Benin, Botswana, Burkina Faso, Burundi, Cameroon, Cape Verde, C.A.R., Chad, Congo, Comoros, Djibouti, Egypt, Ethiopia, Equatorial Guinea, Gabon,

The Gambia, Ghana, Guinea, Kenya, Lesotho, Libya, Malawi, Madagascar, Mali, Mauritania, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, S.A.D.R., Senegal, Seychelles, Sierra-Leone, South Africa, Sudan, Swaziland, Tanzania, Togo, Tunisia, Uganda, Zambia and Zimbabwe.

92. **The Protocol has been signed but not ratified or acceded to by the following three (3) Member States:** Côte d'Ivoire, D.R.C, and Liberia.

93. **The following four (4) Member States:** Eritrea, Guinea-Bissau, Sao Tome & Principe, Somalia, **have neither signed nor ratified the Protocol.**

#### **XXIV. THE CONVENTION OF THE AFRICAN ENERGY COMMISSION**

94. The need to deal with shortages of energy in many African countries, in spite of the vast energy potential, which has constrained their industrial development, formed the basis for the adoption of this Convention by the 37<sup>th</sup> Ordinary Session of the Assembly of Heads of State and Government, on 11 July 2001 in Lusaka, Zambia. Thus, the convention will promote cooperation, research and development, integration and harmonization of programmes as well as mobilization of resources for joint projects.

95. Article 27 (2) of the convention states, "This convention shall come into force thirty (30) days after fifteen instruments of ratification have been deposited."

96. **The following Seven (7) Member States have ratified the Convention:** Algeria, Comoros, Egypt, Libya, Mozambique, Rwanda and Senegal. Therefore, it has not entered into force.

97. **Twenty-five (25) Member States namely:** Benin, Burkina Faso, Burundi, C.A.R, Chad, Congo, Cote D'Ivoire, Democratic Rep. Of Congo, Eq. Guinea, Gambia, Ghana, Guinea, Kenya, Lesotho, Liberia, Mali, Mauritius, Niger, Sierra Leone, Sudan, Swaziland, Tanzania, Togo, Tunisia and Uganda **have signed but have not ratified or acceded to the Convention.**

98. **The following twenty-one (21) Member States have neither signed nor ratified the Convention:** Angola, Botswana, Cameroon, Cape Verde, Djibouti, Eritrea, Ethiopia, Gabon, Guinea-Bissau, Madagascar, Malawi, Mauritania, Namibia, Nigeria, S.A.D.R, Sao Tome & Principe, Seychelles, Somalia, South Africa, Zambia, and Zimbabwe.

#### **XXV. THE PROTOCOL RELATING TO THE ESTABLISHMENT OF THE PEACE AND SECURITY COUNCIL OF THE AFRICAN UNION**

99. This Protocol was adopted by the 1<sup>st</sup> Ordinary Session of the Assembly of the Union which was held in Durban, South Africa, from 9 to 10 July 2002.

100. **So far, only the following thirty-eight (38) Member States:** Algeria, Angola, Benin, Burkina Faso, Burundi, Cameroon, Chad, Comoros, Congo, Egypt, Ethiopia,



Equatorial Guinea, Gabon, Gambia, Ghana, Kenya, Lesotho, Libya, Madagascar, Malawi, Mali, Mauritius, Mozambique, Namibia, Niger, Nigeria, Rwanda, S.A.D.R., Sao Tome & Principe, Senegal, Sierra Leone, South Africa, Sudan, Tanzania, Togo, Uganda, Zambia, and Zimbabwe **have ratified the Protocol.**

101. **The following eleven (11) Member States have so far signed but not ratified or acceded to the Protocol:** C.A.R., Cote D'Ivoire, Djibouti, D.R.C, Guinea, Guinea Bissau, Liberia, Mauritania, Seychelles, Somalia, and Swaziland,

102. **The following four (4) Member States:** Botswana, Cape Verde, Eritrea, and Tunisia **have neither signed nor ratified or acceded to the Protocol.**

#### **XXVI. AFRICAN UNION CONVENTION ON PREVENTING AND COMBATING CORRUPTION (2003)**

104. The second Ordinary Session of the Assembly of the Union, held in Maputo, Mozambique in July 2003 adopted this Convention, which deals with preventing, detecting, punishing, and eradicating corruption on the continent through cooperation among State Parties and the establishment of essential conditions to foster transparency and accountability in the management of public affairs. Article XXIII (2) stipulates: "The Convention shall enter into force thirty (30) days after the date of the deposit of the fifteenth (15) instrument of ratification or accession."

105. **Ten (10) Member States,** Burundi, Comoros, Lesotho, Libya, **Madagascar, Mali,** Namibia, Rwanda, Tanzania, and Uganda **have ratified the Convention**

106. **Twenty-five (25) Member States namely:** Algeria, Benin, Burkina Faso, Chad, Cote D'Ivoire, Congo, D.R.C, Ethiopia, Eq. Guinea, Gabon, Gambia, Ghana, Guinea, Kenya, Liberia, Mauritius, Mozambique, Niger, Nigeria, South Africa, Senegal, Sierra Leone, Swaziland, Togo, and Zimbabwe **have signed the Convention.**

#### **XXVII. PROTOCOL TO THE AFRICAN CHARTER ON HUMAN AND PEOPLE'S RIGHTS ON THE RIGHTS OF WOMEN IN AFRICA (2003)**

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

108. **Ten (10) Member States,** Comoros, Djibouti, Lesotho, Libya, Mali, Namibia, Nigeria, Rwanda, Senegal and South Africa **has ratified the Protocol**

109. **Twenty-seven (27) Member States namely:** Algeria, Benin, Burkina Faso, Burundi, Chad, Cote D'Ivoire, Congo, D.R.C, Ethiopia, Eq. Guinea, The Gambia, Gabon, Ghana, Guinea, Guinea Bissau, Kenya, Liberia, Madagascar, Mauritius, Mozambique, Niger, Sierra Leone, Swaziland, Tanzania, Togo, Uganda and Zimbabwe **have signed the Protocol but have not ratified the Protocol.**

## **XXVIII. THE PROTOCOL ON THE AMENDMENTS TO THE CONSTITUTIVE ACT OF THE AFRICAN UNION**

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

112. **Nine (9) Member States:** Burkina Faso, Comoros, Lesotho, Libya, Mali, Mozambique, Rwanda, South Africa and Tanzania **have ratified the Protocol.**

113. **Twenty-six (26) Member States:** Algeria, Benin, Burundi, Chad, Cote D'Ivoire, Congo, Djibouti, D.R.C, Eq. Guinea, Gabon, Gambia, Ghana, Guinea, Guinea Bissau, Kenya, Liberia, Madagascar, Mauritius, Namibia, Niger, Senegal, Sierra Leone, Swaziland, Togo, Uganda and Zimbabwe **have signed the Protocol.**

## **XXIX. THE PROTOCOL OF THE COURT OF JUSTICE OF THE AFRICAN UNION**

114. This Protocol deals with the composition, functions, competence and other matters pertaining to the Court of Justice of the African Union. The Heads of State and Government of the Member States of the African Union adopted the Protocol in Maputo, Mozambique in July 2003. Article 60 stipulates that: "This Protocol shall enter into force thirty (30) days after the deposit of the instruments of ratification by fifteen (15) Member States.

115. **Eight (8) Member States,** Comoros Lesotho, Libya, Mali, Mauritius, Mozambique, Rwanda and South Africa **have ratified the Protocol**

116. **Twenty-eight (28) Member States namely:** Algeria, Benin, Burkina Faso, Burundi, Chad, Cote D'Ivoire, Congo, Djibouti, Egypt, Eq. Guinea, Ethiopia, Gambia, Ghana, Guinea, Guinea Bissau, Kenya, Liberia, Madagascar, Namibia, Niger, Nigeria, Senegal, Sierra Leone, Swaziland, Tanzania, Togo, Uganda and Zimbabwe **have signed the Protocol**

## **XXX. PROTOCOL TO THE OAU CONVENTION ON THE PREVENTION AND COMBATING OF TERRORISM**

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

118. So far, Twenty (20) Member States namely: Algeria, Benin, Burkina Faso, Chad, Comoros, Cote D' Ivoire, Congo, Eq.Guinea, Gabon, Ghana, Guinea, Guinea Bissau, Mali, Niger, Rwanda, South Africa, Swaziland, Tanzania, Tunisia and Uganda have signed the Protocol.

### **XXXI. AFRICAN UNION NON-AGGRESSION AND COMMON DEFENCE PACT**

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

120. **Twelve (12) Member State namely;** Benin, Burkina Faso, Burundi, Chad, Congo, Ethiopia, Ghana, Guinea Bissau, Guinea, Libya, Senegal, and Sierra Leone **have signed the Pact.**

### **C. THE WAY THE COMMISSION HAS ADDRESSED THESE ISSUES:**

121. It is to be recalled that the 71<sup>st</sup> Ordinary Session of the Council of Ministers held in Addis Ababa, Ethiopia from 6 to 10 March 2000, adopted decision CM/Dec.511 (LXXI) wherein it requested the Secretary-General to undertake a systematic review of all OAU Treaties with a view to establishing their relevance and to identify those that require to be updated or cancelled and identifying areas requiring the conclusion of new treaties. The Executive Council in July 2004 considered the recommendations of a meeting of legal experts based on the study undertaken by the Commission. Council authorized the Commission to convene meetings of experts to examine the recommendations and to elaborate the necessary legal instruments. The Commission has developed a paper on the way forward to guide the next steps to be taken in this regard.

### **D. ACHIEVEMENTS, PROGRESS AND CONSTRAINTS:**

122. As has been reported in the last three sessions of Council, the new and advanced database system that enables easy compilation and generation of status lists has been very helpful in popularising the OAU/AU treaties. It has also enabled the Member States to obtain their individual country status list as well as status list for each treaty from the Office of the Legal Counsel. Moreover, the updated status lists for each treaty is readily available online at the AU website; [www.africa-union.org](http://www.africa-union.org) .

123. The Commission further wishes to bring to Council's attention the "signing week" initiated by the Chairperson of the Commission, to remind Member States of the need to sign the treaties adopted under the aegis of the AU. Taking into account the remarkable response from Member States in this regard, the Commission has decided to retain the signing week as an annual activity. For the year 2004, the event was held from 6 – 13 December 2004 under the theme "**African Union's Treaties and Conventions**" and it

coincided with the 6<sup>th</sup> Extraordinary Session of the Executive Council. During this period, the Commission received **forty-six (46) signatures and four (4) ratifications**.

124. It is worth noting that the following **three (3) countries have signed all the OAU/AU treaties**: Benin, Chad, and Ghana.

**E. CONCLUSION AND RECOMMENDATIONS:**

125. In light of the foregoing, the Commission submits the following recommendations for consideration of the Executive Council;

- Takes note of the report;
- Commends the Chairperson of the Commission for the initiatives and efforts aimed at encouraging Member States to become State Parties to the OAU/AU Treaties; and
- Appeals to Member States to prioritise and accelerate the signing and ratification/accession to OAU/AU Treaties.

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