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CONCEPT NOTE ON THE ACCESSION OF THE AFRICAN UNION COMMISSION TO THE UNITED NATIONS CONVENTION TO COMBAT DESERTIFICATION: *FOR A RAPID ACCESSION TO BETTER SERVE AFRICAN INTERESTS*

(Item proposed by the Republic of Chad)

**CONCEPT NOTE ON THE ACCESSION OF THE AFRICAN UNION COMMISSION TO
THE UNITED NATIONS CONVENTION TO COMBAT DESERTIFICATION: FOR A
RAPID ACCESSION TO BETTER SERVE AFRICAN INTERESTS**

(Item proposed by the Republic of Chad)

A. Background

1. The initiative of having an international legally binding treaty to address core issues under the United Nations Convention to Combat Desertification (UNCCD) such as land degradation, desertification and drought stemmed from a sustained political and diplomatic campaign initiated by African countries attending the 1992 Rio Earth Summit. The former Organization of African Union facilitated this effort throughout the preparatory process.

2. The Rio Summit, through Agenda 21, supported a new, integrated approach to the problem of desertification in emphasizing action to promote sustainable development at the community level and called on the General Assembly to establish an Inter-governmental negotiating committee to negotiate a Convention to Combat Desertification in those countries experiencing serious drought and/or desertification, particularly in Africa. African negotiators worked relentlessly to preserve the focus of the Convention on Africa, already noticeable in the actual title of the Convention.

3. Concluded in Paris on 17 June 1994 and, opened for signature on 14-15 October 1994, the Convention entered into force on 26 December 1996 and enjoys today a universal membership with 193 Parties, including all African countries, all developed countries as well as the European Commission. This specific membership prompted several African delegates to advocate for the African Commission to become Party to the Convention. This overdue move has both political and legal rationales and all efforts should be consented to make it effective.

B. Political Rationale

4. The membership of the European Community as a full Party to the Convention has been an important strategic move operated by European countries. Their political and voting powers in the Convention processes were enhanced by this additional Party in assisting and backstopping delegates from individual countries members of the European Union. In this respect, many African delegates started to seriously discuss the possibility that the African Commission could not follow suite and became Party to a Convention which had Africa at its core.

5. During the seventh session of the committee for the Review of the Implementation of the Convention (CRIC.7) held in Istanbul from 3 to 14 November 2008, the African Group of the United Nations Convention to Combat Desertification (UNCCD), meeting in its sidelines, came to the realization that, unless the African Union

Commission became a full party to the Convention, the continent's interests would remain underserved in the processes of this important Instrument.

6. The African delegates therefore decided to officially seize the African Union Commission Chairperson, H.E. Mr. Jean Ping, to make arrangements for the Commission to join its counterpart, the European Community as well as Member States of the African Union, to become Party to it. Eager to deliver this request, the delegates suggested that the process be initiated and concluded in time for the next Conference of the Parties due to meet in autumn 2009 so as the African Union Commission could participate to its proceedings as a full Party.

7. As explained in the above background, the Convention was in fact an African child at its inception. Nevertheless, given the global nature of issues at its core, the Convention embraced a universal status to become today, with 193 Parties, the most important binding treaty of the whole spectrum of the Rio Generation sustainable development instruments such as the Climate Change Convention (181 Parties), and the Convention of Biological Diversity (191 Parties). In this regard, it is indicative that the first country to ratify the Convention was Mexico.

8. As the UNCCD evolved from its debuts, it has been increasingly seen as a part of the international response to address global sustainable development issues and challenges such as environmental degradation, climate change, food and energy crises, forced migrations or poverty, among others. Since COP.8 in Madrid, the Convention has made an impressive leap forward drawing more international support as to its effective implementation.

9. At the eighth session of the Conference of the Parties held in Madrid last year, the international community adopted the Ten-Year Strategy to strengthen the implementation of the Convention. The new momentum generated by the Strategy is such promising that it requires enhanced coordination and strengthened political support from the African continent leadership, particularly the African Union Commission which, with its remarkable expertise on the issue at hand, could help individual countries to make maximum use and benefit from this invaluable instrument.

10. Like the European Community in its capacity, a full-fledged Party to the UNCCD is providing European negotiators with needed leverage and backstopping to any decision-making process, the African Union Commission, by becoming a Party to the Convention would assist its members to harness needed coordination to advance the African cause, for the UNCCD was build on a premise of the continent's focus as is so rightly reflected in its title. It is also noteworthy to mention that the Convention provides for a priority for Africa: "In implementing this Convention, the Parties shall give priority to affected African Countries, in the light of the particular situation prevailing in that region...." stipulates Article 7.

11. The forefathers of the Convention have provided a legal provision for the African Union Commission to become Party to it the same way its partner, the European Commission, has joined its membership over a decade ago.

C. Legal Rationale

12. Since the adoption of the Convention in 1994, the United Nations General Assembly through its resolutions since the 49th session, as well as various sessions of the Conference of the Parties in its decisions, have been calling for the universal membership of this international legal instrument. More specifically, the possibility of accession by the African Union Commission has been provided for in the text of the Convention.

13. Article 34 of the Convention on the ratification, acceptance, approval and accession provides in its paragraph 1 that “the Convention shall be subject to ratification, acceptance, approval or accession by States and by regional economic integration organizations”. Should the African Union Commission join the UNCCD membership, it would be bound by a number of obligations.

D. Obligations of the African Union Commission as a Party to the UNCCD

14. Paragraph 2 of article 4 of the Convention stipulates that “any regional economic integration organization which becomes a Party to the Convention without any of its Member States being a Party to the Convention shall be bound by all the obligations under the Convention. It further states that “where one or more Member States of such an organization are also Party to the Convention, the organization and its Member States shall decide on their respective responsibilities for the performance of their obligation under the Convention and that “in such cases, the organization and the Member States shall not be entitled to exercise rights under the Convention concurrently”.

15. The Commission would also act under the provisions of Annex I of the Convention, the Regional Implementation Annex for Africa and be bound by the obligations contained in Article 4 of that Annex. With respect to the financial obligations, they would be determined according to the scale of assessment applicable to other Parties. These political and legal rationales plead for a quick action on the matter by the African leadership. Modalities for this move are feasible without many hurdles.

E. Modalities and time frame

16. The accession to the UNCCD by the African Union Commission requires a political decision by the relevant organs of the African Union, from the Permanent Representatives' Committee (PRC), the Executive Council (EC) and ultimately the Assembly of Heads of State and Government. Further to the decision taken by the African Group of the UNCCD in Istanbul last November, a correspondence from the Ministry of Foreign Affairs of Chad, the country which holds the presidency of the latter, is being sent to the Chairperson of the African Union Commission to make arrangements towards the accession. In this respect, it is urgent to have the item on the accession inscribed on the Agenda of the PRC. After due consideration, the latter would report to the Executive Committee recommending the accession.

17. It is therefore hoped that the African Union Commission could become the next Party to the Convention by the time the ninth session of the Conference of the Parties commences in Autumn this year. Since Article 36 of the Convention provides that the entry into force shall intervene on the ninetieth day after the date of deposit of the instrument of accession, the process should conclude sometime in July 2009, possibly after the next African Union Summit.

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