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**DRAFT STATUTE OF THE AFRICAN AUDIO VISUAL AND
CINEMA COMMISSION**

DRAFT STATUTE OF THE AFRICAN AUDIOVISUAL AND CINEMA COMMISSION (AACC)

PREAMBLE

We Member States of the African Union:

RECALLING the objectives and principles enshrined in the Constitutive Act of the African Union;

FURTHER RECALLING Decision EX/CL/Dec.69(III) of the Executive Council of the African Union adopted at its Third Ordinary Session, held on 10-12 July 2003, in Maputo, Mozambique requesting the establishment of an African Commission on the Audiovisual and Cinema as well as a Fund to promote the cinema industry and television programmes in Africa;

FURTHER RECALLING the Dakar Plan of Action on Cultural industries for Development in Africa of 1992;

REAFFIRMING the Charter for African Cultural Renaissance (2006), the Algiers Plan of Action on the Cultural and Creative Industries in Africa (CAMC/MIN/2(II) (2008) and the Tshwane Declaration on Audiovisual and Cinema (2006);

RECOGNIZING that culture contributes to bringing Africa and Africans together, underpins the resurgent African economy and cannot be separated from the socio-economic reality;

NOTING the need to adopt legal, institutional and practical measures in favour of the free circulation of African cultural products;

ACKNOWLEDGING that the African Charter on Broadcasting adopted in Windhoek in 2001 underscored the promotion and development of African content, including the introduction of minimum local content quotas;

ACKNOWLEDGING that creative and cultural industries in Africa hold great promise in the development of the Continent;

AWARE that audiovisual and cinematic expressions contribute to the economic, social and cultural development of peoples;

RECOGNIZING the efforts already deployed by various relevant institutions and organizations in the promotion of African audiovisual works and cinema, and the need for their coordination;

AWARE of the role that audiovisual and cinematic expressions play in the African integration process as a factor of peace, understanding and conflict prevention as well as socio-economic growth;

HEREBY AGREE AS FOLLOWS:**Article 1
Definitions**

For the purpose of the present Statute:

“AACC” means the African Audiovisual and Cinema Commission, a Pan-African institution for the promotion of audiovisual works and cinema;

“African Audiovisual and Cinema Forum” means the Forum of practitioners in the audio visual and cinema sector;

“African Content” means artistic, cinematic and television programmes, including advertisements produced by Africans about Africa for the African and global audience;

“African Language” means a mother tongue, including vehicular cross-border languages of an African State;

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

“Audiovisual works” means any record of a sequence of related images with or without accompanied sound, irrespective of length, which is intended to be made visible as a moving image through the use of devices, regardless of the medium of initial or subsequent fixation and for which there is an expectation for public exhibition and includes films and video recordings, animation, and documentary productions, for exploitation on any form of distribution currently existing or future invented;

“Board” means the Governing Board of the AACC;

“Bureau” means the Bureau of the Council of Ministers;

“Committee” means the Technical Advisory Committee;

“Council” means Council of Ministers in charge of culture, audiovisual and creative industries of State Parties;

“Creative Economy” means the interface between creativity, culture, economics and technology as expressed in the ability to create and circulate intellectual capital, with the potential to generate income, jobs and export earnings while at the same time promoting social inclusion, cultural diversity and human development;

“Executive Secretary” means the Executive Secretary of the Secretariat of the AACC;

“Filmmaker” means professionals involved in creating scripts and generating story lines through audiovisual, cinematography and other platforms;

“Independent film and audiovisual practitioner” means an individual who works in the film and audiovisual value chain;

“Local Content” means cultural, artistic audiovisual, cinematic and television programmes, including advertisements, inspired, created and produced by Africans;

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

“Pan African Federation of Filmmakers” or **“FEPACI”** is the body corporate that represents audiovisual and cinema practitioners in Africa;

“Pan Africanism” is an ideology asserting that the fate of all African peoples, both on the continent and in the diaspora, and African countries are intertwined, sharing a common history and destiny to be forged through united action;

“RECs” means regional economic communities;

“State Party” means a Member State that has ratified or acceded to this Statute;

“STC” means a Specialized Technical Committee established under Article 14 of the Constitutive Act of the African Union.

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

Article 2 Establishment

The African Audiovisual and Cinema Commission is hereby established as a Specialized Agency of the African Union.

Article 3 Mandate

The AACC shall:

1. Develop and strengthen the African audiovisual and cinema industry;
2. Encourage the establishment of appropriate structures at the national, regional and continental levels to strengthen cooperation between African States in the area of audiovisual and cinema; and
3. Through the use of audiovisual and cinematic expressions promote creativity/innovation, integration, solidarity, respect of values, mutual understanding, foster peace and promote a positive image of Africa.

Article 4 Functions of AACC

The AACC shall:

1. Promote research on African Audiovisual and Cinema industry in close collaboration with various research institutions;
2. Collate, disseminate and archive the results of audiovisual cinematic research;
3. Promote and encourage State Parties to take all necessary measures for protecting and archiving programs for national film and audiovisual materials, and retrieving those held in foreign lands;

4. Facilitate the establishment and where appropriate the exchange of information relating to African audiovisual and cinematographic works held in data banks, archives, directories of national and international audiovisual products, films and filmmakers, film training institutions and financiers subject to national legislation on copyright;
5. Promote collection, archiving and dissemination of documentation of oral African literature and knowledge using audiovisual and cinematic expressions, television and moving images;
6. Fast track the establishment of the African Audiovisual and Cinema Fund for sustainable financing of the audiovisual and cinema value chain;
7. Recommend such agreements as necessary to enhance the capacity of AU Member States to collaborate in developing, streamlining and promoting audio visual and cinema industry policies;
8. Encourage the signing of cooperation treaties that would enhance the movement of filmmakers across African borders and exchange of programmes;
9. Strengthen regional African structures to appreciate the role of film in economic and social development;
10. Enhance African centeredness in film, promote the positive image of the continent, re-define relations between African audiovisual and cinema and other expression from the rest of the world;
11. Elaborate a cinematic atlas of Africa; exposing, reawakening and repositioning the different milieu of African film;
12. Contribute to the popularization of the cinema culture particularly among African youth;
13. Facilitate harmonization of training curricula to reflect high quality film production and seek its adaptation by training institutions across Africa; and encourage establishment of regional film schools;
14. Promote the use of African audio visual and cinema as a medium of instruction and as a subject of study in educational institutions;
15. Foster capacity and talent development, training and certification in African Film industry in order to ensure higher quality of film productions.
16. Assist and offer advisory services to Member States on auditing national film support structures, including ensuring that national licensed broadcasters carry African content;

17. Provide technical support and advisory services to Member States for the formulation and implementation of audiovisual and cinema policy, particularly in the establishment and/or development of national structures for the promotion of African audiovisual and cinematic expressions;
18. Encourage Member States to capture and store social and economic data on film and audiovisual industry showing jobs created, capital formation, and contribution to sustainable and inclusive economic growth;
19. Encourage the creation of Pan African television, digital, and other networks to promote African perspectives;
20. Promote distribution of African films throughout the continent and internationally;
21. Support national institutions responsible for broadcasting and content distribution to ensure that African Broadcasters (Public and Private) and other content distributors invest resources into researching African stories and commissioning film makers to produce films and ensure effective and profitable distribution of the films;
22. Encourage all Member States' broadcasters, cinema and movie theatres, and all other content delivery channels including mobile phones, video on demand and online streaming services to carry a minimum of seventy percent (70%) African content in all their programming with special emphasis on prime time;
23. Promote the protection of indigenous knowledge and of existing African oral and written folklore both at the national and continental levels; promote the protection of the rights of authors;
24. Support the protection of intellectual property rights with due regard to existing frameworks on the harmonization of standards and legislation;
25. Perform such other functions consistent with the promotion of African cinematic expressions and products;
26. Create partnerships with public and private sector organizations in furtherance of its objectives and functions;
27. Monitor and audit African content carried by all content carriers in State Parties and table a Monitoring and Audit report to the regular meeting of the Council of Ministers;
28. Facilitate the development, monitoring and evaluation of training curricula for film schools across Africa;
29. Create an accreditation and certification system for film training institutions in Africa; and

30. Establish, strengthen and or promote African Film Archives that hold key audiovisual and film material from various parts of Africa for posterity.

Article 5 Membership

1. Membership shall be open to African Union Member States.
2. Each State Party shall enjoy equal rights in terms of participation and representation at AACC meetings.

Article 6 Legal Capacity

1. The AACC shall have legal personality that is necessary for the fulfilment of its objectives and the exercise of its functions in accordance with this Statute.
2. For the smooth fulfilment of its objectives, the AACC shall, in particular, have the legal capacity to:
 - a) enter into agreements;
 - b) acquire and dispose of movable and immovable property; and
 - c) institute and defend legal proceedings.

Article 7 Privileges and Immunities

The States Parties undertake to accord to the AACC, and all its personnel, premises, property and assets, and experts on mission providing advice or assistance to the AACC, the privileges and immunities as stipulated in the General Convention on the Privileges and Immunities of the OAU and the Additional Protocol to the OAU General Convention on Privileges and Immunities.

Article 8 Headquarters of the AACC

1. The Headquarters of AACC shall be determined by the Assembly of the Union.
2. The African Union Commission shall enter into a host agreement with the government of the host country in which the AACC Headquarters will be situated

with regard to the provision of the premises, facilities, services, privileges and immunities for the purposes of the efficient operation of the AACC.

3. The following evaluative criteria specific to the audiovisual and cinema industry shall be taken into consideration by the Assembly of the Union in determining the headquarters of the AACC:
 - a) History of success;
 - b) Infrastructure;
 - c) Policy environment; and
 - d) Financial support to the headquarters.

Article 9 Organs of the AACC

The AACC shall be composed of the following organs:

1. Council of Ministers
2. Governing Board;
3. Technical Advisory Committee;
4. African Audiovisual and Cinema Forum;
5. Secretariat.

Article 10 Composition of the Council of Ministers

1. The Council of Ministers shall be the supreme organ of the AACC.
2. The Council of Ministers shall consist of Ministers in charge of culture, audiovisual and cinema, creative industry or any other Ministers duly designated by the State Parties.
3. The Council shall adopt its rules of procedure as well as the rules of procedure of other organs, Committees, working groups or subsidiary bodies of the AACC.
4. There shall be a Bureau composed of five (5) members elected by the State Parties on the basis of rotation and equitable geographical distribution from the five (5) AU geographical regions, which shall operate in accordance with their rules of procedure.
5. The Council may establish Committees, working groups and or subsidiary bodies as it deems fit.
6. The Council shall meet annually to discuss and approve the AACC's strategic plan, policies and programs, reports and audited accounts.

Article 11
The Functions of the Council of Ministers

The Council shall:

1. Determine the scale and criteria for assessment of annual and special contributions to be paid by State Parties to the budget of the AACC in accordance with the criteria adopted by the Assembly;
2. Appoint and dismiss for cause members of the Governing Board, who shall be persons with sufficient audio visual and cinema industry experience;
3. Report and make recommendations to the Executive Council of the Union.
4. Adopt financial and staff rules and regulations of the AACC.
5. Amend this statute in accordance with Article 39.

Article 12
Composition and Term of Office of the Governing Board

1. The Board shall be composed as follows:
 - a) Representatives of five (5) state parties from each of the AU regions;
 - b) Five (5) Independent film and audiovisual practitioners one drawn from each of the African Union regions;
 - c) Secretary General of the Pan African Federation of Filmmakers;
 - d) One (1) Representative from the RECs drawn from national cinema structures on a rotational basis;
 - e) One (1) representative from the African Union Commission Department of Social Affairs.
2. The Board shall elect its Chairperson from among the Member States representatives;
3. The Executive Secretary of the AACC shall serve as the Secretary of the Board.
4. The members of the Governing Board shall serve for a period of four (4) years renewable once.

Article 13

Functions of the Governing Board

The Board shall be responsible for oversight of the operational activities of the AACC in accordance with the overall policy guidance of the Council of Ministers. The functions of the Board shall be to:

1. Appoint the Executive Secretary, who shall serve for four (4) years, renewable once;
2. Elaborate programs, policies and plans of action to implement the strategic policies defined by the Council of Ministers;
3. Develop its Rules of Procedure for consideration and adoption by the Council of Ministers;
4. Appoint and dismiss for cause external auditors
5. Support the AACC secretariat to mobilize resources;
6. Consider and submit for adoption by the Council of Ministers, financial and progress reports from the AACC;
7. Receive technical reports and advice from the Technical Advisory Committee on matters referred to them for appropriate action;
8. Direct the Policies of the AACC;
9. Prepare regulations setting out the powers, duties and conditions of service of the Executive Secretary and the Secretariat.

Article 14

Meetings, Quorums and Decisions of the Board

1. The Board shall meet:
 - (a) in regular session at least once a year;
 - (b) in extraordinary session at the request of the Chairperson of the Board or two thirds of its members, on a specific agenda communicated to all members at least one (1) month in advance.
2. A simple majority of members of the Board shall be required to constitute a quorum for any ordinary or extraordinary session;
3. Decisions of the Board shall be taken by a simple majority of members present.

4. Each member shall have one vote; in the event of a tied vote, the Chairperson of the Board shall have the casting vote;
5. In the event the Members are not in a position to attend personally, duly accredited representatives shall represent them in accordance with the rules of the governing board.
6. The Board shall consider and recommend its Rules of Procedure and those of the other organs of the AACC to the Council of Ministers for adoption.
7. All members of the Board shall be subject to the rules of confidentiality, declaration of interest and conflict of interest.
8. The Board may invite such experts as may be required, to its meetings.

Article 15

Composition of the Technical Advisory Committee

1. The Board shall upon recommendations of the AACC Forum, appoint a Technical Advisory Committee composed of nine (9) members, one from each of the following disciplines on the basis of equitable geographical representation:

Training, Skills Development and Academia

Production

Archiving

Editing

Cinematography

Distribution

Law

Sound and audio

Finance

2. The members of the Committee shall serve for two (2) years renewable once.
3. The Executive Secretary shall be an ex-officio member of the Committee and shall attend in person or through his/her designated representative and shall have no right to vote.
4. The members of the Committee will elect from among themselves the Chairperson, whose functions shall be defined in the Rules of Procedure of the Committee.

Article 16

Functions of the Committee

The functions of the Technical Advisory Committee shall be to:

1. Advise on the technical implementation of the activities of the AACC;

2. Provide such technical advice as may be requested by the Board or by the Executive Secretary from time to time;
3. Develop its own Rules of Procedure for consideration and adoption by the Council of Ministers.

Article 17

Meetings, Quorum and Decisions of the Committee

1. The meetings of the Committee shall be convened by the Chairperson of the Committee at least once a year or as often as the Board may deem necessary;
2. For any session, a simple majority of the members shall be required to constitute a quorum;
3. Decisions of the Technical Advisory Committee shall be made by consensus and failing which, by a simple majority vote of the Members present.
4. The members of the Committee shall serve in their personal capacities on a part time basis;
5. The members of the Committee shall not be remunerated but costs incurred in attending the Committee meetings shall be reimbursed.

Article 18

Composition and Membership of the Forum

1. There shall be a forum comprised of accredited audiovisual and cinema practitioners, production equipment and technology providers convened by the AACC Secretariat.
2. The membership of the Forum shall be three (3) accredited representatives from each State Party who shall serve for two (2) years renewable once.

Article 19

Functions of the Forum

The functions of the African Audiovisual and Cinema Forum shall be to:

1. Consider the state of the audiovisual and cinema sector and prepare a report to the Council of Ministers through the Governing Board;
2. Make recommendations on individuals to serve on the Board and Technical Advisory Committee;

3. Submit to the Board a bi-annual independent report on the state of audiovisual and cinema sector in all member states;
4. Recommend appropriate measures to improve the audiovisual and cinema sector;
5. Develop its own Rules of Procedure for consideration and approval of the Council of Ministers.

Article 20 **Conditions for Eligibility**

The following criteria shall apply for participation to the Forum:

1. A Member of the Forum as contemplated in Article 18 shall be invited either as an association or an individual.
2. Forum members must be a registered association, society, company or foundation in Africa or an individual nominated by a State Party.
3. The Forum members must have demonstrated experience and/or working knowledge of the African audiovisual and cinema industry or a demonstrated commitment to supporting the industry.

Article 21 **Composition of the AACC Secretariat**

1. The Secretariat shall consist of an Executive Secretary who shall be assisted by the necessary administrative, professional and technical officials.
2. The structure of the Secretariat, terms and conditions of service, shall be approved by the Board in accordance with the staff rules and regulations adopted by the Council of Ministers.

Article 22 **Appointment of the Executive Secretary**

1. The Executive Secretary shall be appointed by the Board in accordance with regional rotations.
2. The Executive Secretary shall be the Head of the AACC.
3. If the position falls vacant or the Executive Secretary is prevented from discharging the above duties, he/she shall be temporarily replaced by the most senior Official within the Secretariat until the appointment of the new Executive Secretary.

Article 23

Functions of the Executive Secretary

1. Subject to the directives of the Board, the Executive Secretary shall:
 - a) Recruit, supervise and manage staff of the AACC Secretariat;
 - b) Implement the approved programs and policies of the AACC Secretariat;
 - c) Coordinate the activities of AACC secretariat as the chief administrative and accounting officer;
 - d) Prepare for Board consideration and approval mid and long-term plans of the AACC;
 - e) Prepare the annual budget of the AACC for consideration by the Governing Board;
 - f) Prepare the Plans of Action of the AACC for consideration and approval;
 - g) Attend all meetings of the Board and act as its Secretary; and
 - h) Perform any other functions in line with the objectives of the AACC.
2. In the discharge of his or her duties, the Executive Secretary shall not seek or accept instructions from any State, authority or individual external to the AACC.

Article 24

Observers

The Council of Ministers may invite any State, REC, international, regional or sub-regional organization or institution, which is not a member to attend its meetings as an observer.

Article 25

Relationship with other Institutions, Cooperating States and Organizations

1. The AACC may:
 - a) Establish and maintain working relationships with any inter-governmental, international, regional or national institutions that may assist AACC to achieve its objectives and mandate.
 - b) Design, resource or facilitate implementation or strengthening by stakeholders of an integrated Pan-African centre on the following:
 - i. The African Audiovisual and Cinema Fund
 - ii. The African Film Library

- iii. The African Convention on Audiovisual and Cinematographic Collaboration
 - iv. The Inter-African Centre for Production
 - v. The Inter-African Distribution Consortium
 - vi. The Inter-African Film Production Consortium
 - vii. The Pan African Film School initiative
2. State Parties shall designate focal point institutions to coordinate their respective working relationships with the AACC.

Article 26

Finances

1. The AACC shall be funded by:
 - a) Annual statutory and special contributions to be paid by State Parties as shall be determined by the Council of Ministers;
 - b) Income from services rendered by the AACC;
 - c) Income from property owned by or other investments made by the AACC;
2. The AACC may receive donations and voluntary contributions from:
 - a) State Parties;
 - b) Other States and Institutions that are not members of the AACC;
 - c) Any other sources approved by the Governing Board;
3. The AACC budget shall be drawn up by the Secretariat and approved by the Council of Ministers through the Board.
4. The Council of Ministers and the Board shall be regularly apprised of the funding status of the AACC.

Article 27

Expenses

1. The expenses of the AACC shall be in accordance with the approved budget, program of work and financial rules and regulations of the AACC.
2. The finances and accounts of the AACC shall be audited by an independent auditor appointed by the Governing Board.

Article 28

Working Languages

The working languages of the AACC shall be those of the AU.

Article 29 Settlement of Disputes

1. Any dispute that may arise between State Parties with regard to the interpretation, application and implementation of this Statute shall be settled by mutual consent between the States concerned, including through negotiations, mediation, conciliation or other peaceful means;
2. In the event of failure to settle the dispute, the Parties may, by mutual consent, refer the dispute to:
 - a) To an Arbitration Panel of three (3) Arbitrators whose appointment shall be as follows:
 - i. Each Party to the dispute shall appoint one (1) Arbitrator;
 - ii. The third arbitrator, who shall be the Chairperson of the Arbitration Tribunal, shall be chosen by common agreement between the arbitrators appointed by the parties to the dispute; and
 - iii. The decision of the Panel of Arbitrators shall be binding.
 - Or
 - b) The African Court of Justice Human and Peoples' Rights.

Article 30 Dissolution of the AACC

1. The AACC may be dissolved by a resolution of the Council of Ministers taken by two thirds majority.
2. At least six (6) months' notice shall be given of any meeting of the Council of Ministers at which the dissolution of the AACC is to be discussed.
3. Where a decision has been made on the dissolution of the AACC, the Council of Ministers shall establish the modalities for the liquidation of the assets of the AACC.

Article 31 Popularization of the Statute

State Parties shall take all appropriate measures to ensure the widest possible dissemination of this Statute in accordance with the relevant provisions and procedures of their respective constitutions.

Article 32 Safeguard Clause

1. A provision in this present Statute shall not be interpreted as derogating from the principles and values contained in other relevant instruments for the promotion of

audiovisual and cinema development in Africa.

2. Nothing in this Statute shall be construed as preventing a Party from taking such action, compatible with the provisions of the Constitutive Act of the African Union or the United Nations Charter and limited to the exigencies of the situation, as it considers necessary to its external or internal security.

Article 33

Signature, Ratification and Accession

1. This Statute shall be open to Member States of the African Union for signature and ratification or accession.
2. The instrument of ratification or accession to the present Statute shall be deposited with the Chairperson of the African Union Commission.

Article 34

Entry into force

1. This Statute shall enter into force thirty (30) days after the deposit of the 15th instrument of ratification.
2. The Chairperson of the African Union Commission shall inform all Member States of the African Union of the entry into force of the present Statute.
3. For any Member State of the African Union acceding to the present Statute, the Statute shall come into force in respect of that State on the date of the deposit of its instrument of accession.

Article 35

Reservations

1. A State Party, when signing, ratifying or acceding to this Statute, may enter a reservation with respect to any of the provisions of this Statute, unless such a reservation is incompatible with the object and purpose of this Statute.
2. The withdrawal of a reservation must be formulated in writing to the Chairperson of the African Union Commission who shall notify other State Parties of the withdrawal accordingly.

Article 36

Depository

This Statute shall be deposited with the Chairperson of the African Union Commission, who shall transmit a certified true copy of the Statute to the Government of each State

Party and notify them of the dates of the deposit of the instruments of ratification or accession.

Article 37 Registration

The Chairperson of the African Union Commission upon the entry into force of this Statute shall register this Statute with the United Nations Secretary General in conformity with Article 102 of the Charter of the United Nations.

Article 38 Withdrawal

1. At any time after three years from the date on which this Statute has entered into force, a State Party may withdraw from this Statute by giving written notification to the Depository.
2. Withdrawal shall be effective one (1) year after receipt of notification by the Depository, or on such later date as may be specified in the notification.
3. Withdrawal shall not exempt the withdrawing State Party from fulfilling any obligations it might have incurred under this Statute during its membership.

Article 39 Amendment and Revision

1. Any State Party may submit proposals for the amendment or revision of this Statute.
2. Proposals for amendment or revision shall be submitted to the Chairperson of the African Union Commission who shall transmit such proposal(s) to State Parties within thirty (30) days of receipt thereof.
3. The Council of Ministers, upon the advice of the Bureau shall examine these proposals within a period of one (1) year from the date of receipt of such proposals;
4. Amendments or revisions shall be adopted by the Council of Ministers by consensus or, failing which, by a two-thirds majority.
5. The amendment or revision shall come into force upon adoption by the Council of Ministers.

Article 40
Authentic Texts

This Statute is drawn up in four (4) original texts, in Arabic, English, French and Portuguese languages, and all four (4) texts being equally authentic.

Adopted by the.....Ordinary Session of the

Assembly held in

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Draft statute of the African Audio Visual and Cinema Commission

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