

AFRICAN UNION

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**REPORT OF THE AD-HOC COMMITTEE OF HEADS OF
STATE AND GOVERNMENT ON THE ELECTION OF
THE MEMBERS OF THE COMMISSION**

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I. INTRODUCTION

1. The Assembly of the African Union, meeting in its 18th Ordinary Session from 29 to 30 January 2012 in Addis Ababa, Ethiopia, took Decision Assembly/AU/Dec. 414 (XVIII) which reads as follows:

1. “DECIDES to:

- i) suspend the elections of the Members of the Commission, in conformity with the Rules of Procedure of the Assembly¹;
- ii) extend the term of office of the current Members of the Commission until the next Ordinary Session of the Assembly;
- iii) establish an Ad-hoc Committee of Heads of State and Government composed of one (1) Member State per region together with the Republic of Benin as the Chairperson of the Union, the Republic of Gabon and the Republic of South Africa with the mandate to address the issues relating to the next elections of the Members of the Commission;

2. REQUESTS the Commission to take all the necessary measures towards the implementation of this Decision and **AUTHORISES** the Permanent Representatives’ Committee (PRC) to approve the necessary expenditures in this regard”.

2. In implementing this Decision, the five (5) geographical regions of the African Union were invited, by a Note Verbale issued by the Commission referenced BC/OSGC/A/A1/084.02.12 dated 8 February 2012, and addressed to all Member States, to carry out the necessary consultations to appoint their regional representatives on the Ad-Hoc Committee of Heads of State and Government on the Election of Members of the Commission (C8).

3. Sequel to the consultations in the regions, the following Member States were designated to become part of the C8, in addition to the Republic of Benin, Chairperson of the African Union and Chair of the C8; the Republic of Gabon and the Republic of South Africa, members nominally designated in Decision Assembly/AU/Dec.414 (XVIII):

- i) Republic of Chad for the Central Africa Region;
- ii) Federal Democratic Republic of Ethiopia for the East Africa Region;

¹ Reservation tabled by the Republic of Botswana

- iii) People's Democratic Republic of Algeria for the North Africa Region;
- iv) Republic of Angola for the Southern Africa Region; and
- v) Republic of Côte d'Ivoire for the West Africa Region.

4. In pursuance of the Committee's mandate, its Chair, His Excellency Dr. Boni Yayi, President of the Republic of Benin and Chairperson of the African Union, convened two meetings of the C8 in Cotonou on 17 March and 14 May, respectively.

5. The following Heads of State and Government and High Representatives participated in both meetings:

- H.E. Dr. Boni Yayi, President of the Republic of Benin and Chairperson of the African Union;
- H.E. Idris Deby Itno, President of the Republic of Chad;
- H.E. Alassane Dramane Ouattara, President of the Republic of Côte d'Ivoire;
- H.E. Jacob Zuma, President of the Republic of South Africa;
- H.E. Ali Bongo Ondimba, President of the Republic of Gabon;
- H.E. Meles Zenawi, Prime Minister of the Federal Democratic Republic of Ethiopia;
- H.E. Ahmed Ouyahia, Prime Minister of the People's Democratic Republic of Algeria; and
- H.E. George Rebelo Chikoti, Minister of Foreign Relations of the Republic of Angola.

II. CONCLUSIONS OF THE FIRST MEETING OF 17 MARCH 2012

6. At that meeting, members of C8 first defined the nature, context and contours of the mission entrusted to them by the Assembly. On this subject, they agreed as follows:

- i) The mandate of C8 was not to review the regulatory provisions governing matters relating to the election of members of the Commission;
- ii) The image and credibility of the African Union were seriously tarnished by the failure of the election of the Chairperson of the Commission by the 18th Session of the Assembly of the Union, and it is absolutely necessary to avoid a repeat of the same impasse at the July 2012 Summit;
- iii) The C8 should therefore examine the ways and means to facilitate the election of the Chairperson of the Commission of the African Union which

was not conclusive at the January 2012 Summit, a situation which was at the root of the stalemate in the process of election of other members of the Commission;

- iv) Consultations should continue among members of the Committee, especially between the Republic of Gabon and the Republic of South Africa; these two countries being specially invited to explore, in all sovereignty, all options including the withdrawal of their respective candidates so as to facilitate this process.

7. During deliberation, members of C8 evoked, without agreeing, certain unwritten traditions, customs and rules in vogue in the Organization, which among others, are:

- i) Geographical rotation in the filling of posts in the Organs of the African Union;
- ii) The practice whereby political appointees could exercise a second mandate if re-elected;
- iii) The tradition whereby the big contributors abstained from standing for the post of OAU Secretary General or Chairperson of AU.

8. Furthermore, while noting that Southern Africa Region and North Africa Region had not yet exercised the function of Secretary General of OAU/Chairperson of AU Commission since 1963, the C8 held the view that , at its level, it was not for it to pronounce on the aforementioned unwritten practices and rules and that it fell on the Assembly itself to examine them and indicate that, in future, the said unwritten practices and rules could be taken into account, and if need be, incorporated in the rules of the Organization in accordance with the procedures in force.

III. CONCLUSIONS OF THE SECOND MEETING OF 14 MAY 2012

9. At that second meeting, the C8 received from the President of the Republic of South Africa and the President of the Republic of Gabon a detailed account of the consultations undertaken between their two countries and institutions since the last meeting of the C8.

10. From this account, it was apparent that the consultations could not be conclusive, both parties having stood by their positions and maintained their respective candidates.

11. On the one hand, South Africa canvassed the principle of rotation so that its candidate who was that of SADC and represented the Southern Africa Region could be retained, thus enabling this Region to be the Chair of the African Union Commission for the first time since the creation of the OAU in 1963. South Africa also held the view that the two candidates could not be treated on the same footing, given that one had already exercised a mandate of four years, and the other, not at all. For this reason, it insisted on the principle of justice and equity to allow the candidate presented by SADC on behalf of Southern Africa the chance to exercise this mandate for the first time.

12. Gabon, on the other hand, canvassed the principle of according the out-going Chairperson a second mandate which was an established practice, stating that the principle of rotation could subsequently be applied. Gabon explained that the principles and traditions should be taken into account all together without exclusion and without prioritizing one in favour of the other. It further held the view that its candidate had accomplished his mission with great competence and loyalty despite the extremely difficult political and economic climate. As regards the principle of equity, Gabon recalled that a SADC representative (a Tanzanian citizen) had already occupied the post of Secretary General of OAU for three successive mandates.

13. However, Gabon indicated its readiness, in the event the two parties accepted to simultaneously withdraw their candidates, as suggested by the C8 at its meeting held on 17 March 2012, to enter into consultation with the other countries that back its candidate, for the withdrawal of the two candidates in the superior interest of the Continent.

14. After a lengthy debate, the C8 observed with regret that no progress had been achieved and that the two countries concerned had maintained their positions, and this with the risk of leading the Union into the same stalemate seen at the January 2012 Summit. Consequently, it decided to make a faithful report to the Assembly on the activities it had undertaken, pursuant to its mandate under the leadership of the Chairperson of the Union, Chair of the C8, to facilitate a solution to the issue. Meanwhile, the C8 strongly encouraged the two countries concerned to pursue their consultations up to the July 2012 Summit so as to help resolve the problem.

15. The C8 also expressed its sincere commendations to the Chairperson of the Union for all the initiatives he has taken and for his generous hospitality.

IV. GENERAL CONCLUSIONS AND RECOMMENDATIONS

16. It is important to note that, despite the numerous efforts deployed and the intense consultations undertaken by its members, in particular between the two countries concerned, the C8 did not achieve positive result in its mission to facilitate the election of members of the Commission.

17. Besides, the C8 could not take any decision, in the absence an agreement, regarding the road map aimed at implementing the principles, traditions and customs such as the principle of rotation, the principle of two mandates and other practices known in the Organization, given the fact that all the said principles and customs have not be reflected in the rules of the Union regarding the election of the Chairperson of the Commission. The C8 concluded that it naturally fell under the purview of the Assembly itself to take a decision of these various elements. It is also worth restating that the mandate of the C8 was by nature one of political facilitation, rather than that of examining the legal issues which should be addressed in accordance with extant procedures in the Union.

18. For reasons of the aforesaid, the Assembly is invited to consider this report and to take such decisions as it deems necessary to find an appropriate solution to

the election of the Chairperson of the Commission and, by extension, the election of other members of the Commission.

19. The Ad Hoc Committee of Heads of State and Government on the Election of Members of the Commission held a last Session on 14 July 2012 at the Headquarters of the African Union in Addis Ababa, Ethiopia to consider this Report which was adopted and is being tabled for consideration by the Assembly of the Union.

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