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**ORGANISATION DE L'UNITE
AFRICAIN**
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COUNCIL OF MINISTERS

Twenty-fifth Ordinary Session

Kampala, July 1975

CM/678(XXV)

REPORT OF THE ADMINISTRATIVE SECRETARY-GENERAL
ON OAU CO-OPERATION IN LEGAL MATTERS



CM0678

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REPORT OF THE ADMINISTRATIVE SECRETARY-GENERALON OAU CO-OPERATION IN LEGAL MATTERS

1. The Council of Ministers may recall that the difficulties encountered by Member States of the OAU in the fight against International Common Law Crimes that led the Ethiopian Government to place before the Council for consideration the question of extradition convention at the Eight Ordinary Session of the Council of Ministers.

2. The absence of a convention on co-operation in legal matters or in particular an extradition treaty binding all OAU Member States has often been observed and deplored by Member States and by the General and Regional Conferences of the International Criminal Police Organization (Interpol).

3. During the 8th Ordinary Session, the Council of Ministers for the first time had to consider the subject "of bilateral treaties or/and a multilateral extradition treaty between African countries." The Council of Ministers, nevertheless, believing itself insufficiently informed, decided to postpone examination of the question to its 9th Ordinary Session.

4. During the 9th Ordinary Session of the Council held in Kinshasa from the 4th to 10th September 1967, it was decided, at the instance of Morocco, to extend the scope of the question to the entire problem of co-operation in legal matters, and by resolution CM/Res.107 (IX).

"Recommends that the Ethiopian proposal, as complemented by the debate, which extended the scope of the subject to cover the whole body of inter-African co-operation in legal matters, be transmitted with all other proposals relating to this question, to Member States at the close of the present session;

3. "Invites the Member States to proceed to make an urgent study of these various proposals and to convey their observations and suggestions to the General Secretariat;

4. "Entrusts the General Secretariat with the tasks of compiling the observations and suggestions, and of communicating them again to member States, which are requested to convey their opinions to the General Secretariat before the end of June 1968;
5. "Finally charges the Administrative Secretary-General with making a report synthesizing the various opinions of the member States of this Assembly to the Council of Ministers prior to the next assembly of the Heads of State and Government."

In a note, the OAU General Secretariat, while communicating to them the text of the Ethiopian proposal and that of the aforementioned resolution, requested member States to acquaint it with their observations as soon as possible before the 31st December 1967. Only nine States conveyed their observations and suggestions which were compiled and circulated to all the member States.

5. The Council of Ministers, during its 14th Ordinary Session held in Addis Ababa in February/March 1970, had to study the entire question in the light of report CM/319 drawn up by the Secretariat. This time, to induce the member States to make known their comments and suggestions, the Council of Ministers decided (Decision CM/Dec.108 (XIV)):

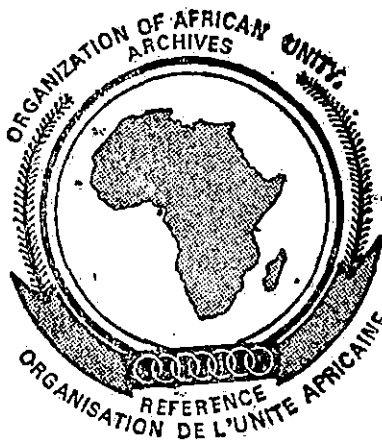
- i) "to postpone the consideration of this question to its fifteenth Ordinary Session;
- ii) "to request the Administrative Secretary-General to prepare a questionnaire with a view to determining areas of cooperation and problems, which would eventually form the basis of a convention on Inter-African Legal Cooperation, including the problem of extradition, as originally proposed by Ethiopia."

Upon this decision a questionnaire on cooperation in legal matters was drawn up by the Secretariat and sent to the Member States, annexed to note ORG/120/1/847-70 of 29th June 1970.

6. In report (CM/390) submitted to the 17th Ordinary Session of the Council of Ministers, the Administrative Secretary-General clarified the main outlines of the replies of the member States to this question.

He had then stressed that:

- a) most of the States thought that it would be necessary "to encourage member States which did not have national extradition laws to promulgate these as a first measure toward rendering effective the struggle of African countries against the criminality of ordinary law."
- b) most of the States thought that the conclusion of the greatest possible number of bilateral extradition treaties would constitute a positive improvement on the national extradition laws.
- c) most of the States felt that, in view of differences in political and social structure, in traditions, cultural habits and legal systems, it would be difficult, at the present time, to conclude a general cooperation convention on legal matters. For this reason these States feel that the conclusion of multilateral treaties of a regional or sub-regional character should be encouraged as much as possible.
- d) many States nevertheless felt that these differences should not constitute any real obstacle to the conclusion of an African extradition convention. The member States favouring the conclusion of a general convention in the matter of legal cooperation give as an example the European extradition convention to which belong countries obeying the system of Roman law and those of "Common Law."



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- e) they believe that a general convention of legal cooperation should bear not only on extradition but also on access to the courts, enforcement of judgement, execution of rogatory commission and exchange of documents and information.

7. During the sixteenth Ordinary Session held in Addis Ababa from 26th February to 1st March 1971, the Council of Ministers decided to set up "a Committee of nine experts to draw up a draft convention or draft conventions in cooperation in legal matters" (Decision CM/Dec.145 (XVI)). It had, by the same decision, instructed "the General Secretariat to convene a meeting of the Experts to prepare the required documents on Inter-African Legal Cooperation."

8. The Committee of nine Experts, feeling that the time granted it would not allow it to tackle all the aspects of cooperation in legal matters, decided to confine itself, as a first step, to the task of drawing up a draft African Convention on Extradition. It did not, however, exclude the possibility of beginning a study of the other aspects of legal cooperation if it should later appear that it had the time to do so.

9. The Council at its 19th Ordinary Session considered the Legal Experts report CM/429 and further decided its resolution CM/Dec.208 (XIX) "to refer back to the group of African Legal Experts which drew up the original draft, with the request that the Committee B draft should be reexamined taking into account the views of member States, and then redraft and submit to the Council of Ministers for consideration."

10. The Committee of Legal Experts has not met, and the General Secretariat will submit the redrafted Convention of the Legal Experts to the Council when it is available. In the meantime, the Chairman of the Committee is being urged to reconvene the Committee early, for the redrafting of the Convention as directed by the Council.

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