

AFRICAN UNION

الاتحاد الأفريقي



UNION AFRICAINE

UNIÃO AFRICANA

Addis Ababa, ETHIOPIA

P. O. Box 3243

Telephone: 517 700

Fax: 5130 36

website: [www. www.au.int](http://www.au.int)

EXECUTIVE COUNCIL

Twenty-Seventh Ordinary Session

7 – 12 June 2015

Johannesburg, SOUTH AFRICA

EX.CL/925(XXVII)

Original: English

**REPORT ON THE ACTIVITIES OF THE AFRICAN UNION
ADVISORY BOARD AGAINST CORRUPTION**

**AFRICAN UNION ADVISORY BOARD ON
CORRUPTION**

**المجلس الاستشاري للإتحاد الإفريقي
لمحاربة الفساد**



**CONSEIL CONSULTATIF DE L'UNION
AFICAINE SUR LA CORRUPTION**

**CONSELHO CONSULTIVO DA UNIÃO
AFRICANA SOBRE CORRUPÇÃO**

**P.O Box 6071, ARUSHA, TANZANIA -Tel: +255 27 205 0030- Fax: +255 27 205 0031
Email: info@auanticorruption.org *Website: www.auanticorruption.org**

**THE SIXTH REPORT OF THE AFRICAN UNION ADVISORY BOARD ON CORRUPTION TO
THE EXECUTIVE COUNCIL (JUNE 2015)**

**Arusha, Tanzania
Mai 2015**

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THE SIXTH REPORT OF THE AFRICAN UNION ADVISORY BOARD ON CORRUPTION TO THE EXECUTIVE COUNCIL (JUNE 2015)

I. INTRODUCTION

1. The African Union Advisory Board on Corruption (AUABC) was established by Article 22(5) (a) of the African Union Convention on Preventing and Combating Corruption (AUCPCC), adopted by the Second Ordinary Session of the Assembly of the Union in Maputo, Mozambique in July 2003 and entered into force on 5 August 2006, thirty (30) days after the deposit of the fifteen (15th) instrument of ratification. To date, only thirty-four (34) member States have ratified and are State Parties to the Convention.

2. In accordance with Article 22(5) of the Convention, the functions and tasks of the Board are, *inter alia*, to:

“promote and encourage the adoption of measures and actions by States Parties to prevent, detect, punish and eradicate corruption and related offenses in Africa” and to “submit a report to the Executive Council on a regular basis on progress made by each State Party in complying with the provision of this Convention”.

II. COMPOSITION, FUNCTIONS AND ORGANISATION OF THE AUABC

a) Composition

3. The Board is composed of 11 members, each proposed by States Parties and elected by the Executive Council from a list of experts. The Board Members should be of the highest integrity and impartiality, as well as, recognized competence in matters relating to preventing and combating corruption and related offences. For the election of Board Members, the Executive Council shall ensure adequate representation of women, and equitable geographical representation. The members of the Board are independent personalities who serve in their personal capacity. They are appointed for a period of two years, renewable once. The first Board was appointed in January 2009 and the current one, which is the fourth, was elected in January 2015 for the period of two (2) years.

b) Current Composition of the Board

4. The current Advisory Board, was elected in Addis Ababa, Ethiopia, in January 2015, and is composed as follows:

- Mr. Jacques III ACHIAOU, **Cote d’Ivoire**
- Mrs. Akossiwa AYENA, **Togo**
- Mrs. Angèle BARUMPOZAKO, **Burundi**
- Mr. Daniel BATIDAM, **Ghana**
- Mr. Ekwabi Webster Tekere MUJUNGU, **Tanzania**
- Mr. Jean-Baptiste ELIAS, **Benin**
- Mrs. Florence ZIYAMBI, **Zimbabwe**
- Mr. John KithomeTUTA, **Kenya**,

- Mr. Isa Ozi Salami, **Nigeria**
- Mr. Joseph Fitzgerald KAMARA, **Sierra Leone**
- Mr.Sefako Aaron SEEMA, **Lesotho**

c) Functions

5. The functions of the AUABC, which has clearly been stated in Article 22 (5) of the Convention, are to:

- a) Promote and encourage adoption and application of anti-corruption measures on the continent;
- b) Collect and document information on the nature and scope of corruption and related offences in Africa;
- c) Develop methodologies for analysing the nature and extent of corruption in Africa, and disseminate information and sensitize the public on the negative effects of corruption and related offences;
- d) Advise governments on how to deal with the scourge of corruption and related offences in their domestic jurisdictions;
- e) Collect information and analyse the conduct and behaviour of multi-national corporations operating in Africa and disseminate such information to national authorities designated under Article 18 (1) of the Convention hereof;
- f) Develop and promote the adoption of harmonized codes of conduct for use by public officials;
- g) Build partnerships with the African Commission on Human and People's Rights, African civil Society, governmental, intergovernmental and non-governmental organizations to facilitate dialogue in the fight against corruption and related offences;
- h) Submit a report to Executive Council on a regular basis on the progress made by each State Party in complying with the provisions of The Convention; and
- i) Perform any other task relating to corruption and related offences that may be assigned to it by the policy organs of the African Union.

d) Organisation: Bureau and Executive Secretariat

i. The Bureau of the AUABC:

6. During the 17th ordinary session held from 4 to 8 May 2015 in Arusha, Tanzania, the Board elected a new Bureau composed as follows:

- Chairperson, **Mr. Daniel Batidam**, Ghana;
- Vice Chairperson, **Mrs. Florence Ziyambi**, Zimbabwe;
- Rapporteur, **Mr. John KithomeTuta**, Kenya.

7. The Board elects from among its members a Bureau comprising a Chairperson, a Vice-Chairperson and a Rapporteur. Members of the Bureau are appointed for a period of one (1)

year. The Bureau ensures the planning and coordination of the activities of the Board necessary to execute its functions under Article 22 (5) of The Convention. The Bureau may represent the Board in regional and international conferences or meetings related to its functions and mandate. The Bureau may, after informing the African Union Commission (AUC) and on behalf of the Board, conclude partnerships and cooperation arrangements with other organizations or regional or international institutions pursuing similar goals.

ii. The Secretariat of the Board :

8. The Secretariat, which provides substantive, professional, administrative, and logistical support to the Board, is managed by an Executive Secretary. Its organizational structure conforms with the general policies and guidelines of the African Union (AU) and is designed to be staffed by professional, technical and administrative personnel.

➤ The Staff of the Secretariat

9. At present the staff of the Secretariat comprises just five (5) persons as follows:

- Senior Policy Officer for Legal and Political Matters
- Finance and Administration Officer, who arrived in August 2014
- Documentalist
- Bilingual Secretary
- Driver/ Messenger

10. The Board is of the opinion that the current Secretariat urgently needs more staff, namely :

- A Senior Officer on Economic Matters, P3 level (already included in the structure adopted by the Secretariat)
- An IT Specialist
- An Accounts Assistant
- An Administrative Assistant

11. The last two posts were recommended in the 2013 Audit Report. They are essential in order to avoid any conflict of interest that may arise in the duties of the current Finance Officer who makes requisitions, purchases and payments for products and services.

e) Financing

12. With regard to financing, the Board notes that the allocation approved by the Member States for 2015 is 739 436 USD. This budget is allocated for operational purposes only. The amount of \$ 1,603,479 was also approved as additional funds to be raised from partners for the programme budget for 2015.

13. Unfortunately, the funds expected from partners have not yet reached the Board. Therefore, the activities under the programme budget could not be carried out.

14. Since the establishment of the Board, Member States have not financed its programme budget. They preferred to leave the responsibility of funding the Board's missions to Partners. That is why Member States decided, at the Malabo Summit, held in June 2014, on "the need for Member States to provide the necessary support to the Advisory Board, including the resources

required from the budget of the AU and voluntary contributions, rather than relying too heavily on external funding partners."

15. On the basis of this decision, the Advisory Board submitted a budget proposal for 2016 amounting to Three million six hundred and eighty-one thousand nine hundred and eighty United States Dollars (US\$ 3,681,980) comprised as follows:

Staff Costs.....	831 982 USD
Operating Expenses.....	1 177 519 USD
Capital Expenses	69 000 USD
Programme Budget	1 603 479 USD

16. On the recommendation of the PRC Sub-Committee, the Board reviewed and re-submitted its budget proposal for 2016 as follows :

Staff Costs.....	788 353 USD
Operating Expenses.....	1 122 363 USD
Capital Expenses.....	69 000 USD
Programme Budget.....	504 504 USD
Total of the 2016 budget proposal requested from Member States.....	2 484 220.00 USD.

17. This is the minimum amount the Board is requesting from Member States.

III. ACTIVITIES

a) Swearing in of the new members of the Board

18. On 4 May 2016, following their election and before assuming their duties, the new Board members took their oath of office in Arusha, before the Registrar of the African Court of Human and Peoples' Rights, who was representing the Office of the Legal Counsel of the African Union Commission. By their oaths, Board members made a solemn commitment to exercise in all loyalty, discretion and conscience the functions and responsibilities entrusted to them as a Member of the African Union Advisory Board on Corruption to discharge their duties faithfully and impartially, acting exclusively in the interests of the fight against corruption in Africa.

b) Inaugural Session of the Board

19. The inaugural session of the new Board was held at the Board's Headquarters in Arusha from 4 to 8 May 2015. All eleven (11) elected members were present. Apart from the election of members of the Bureau (see paragraph 6 above), the Board members discussed, among others, the organization and functioning of the Board and discussed the extent of corruption in Africa and the enormity of the challenges ahead. The challenges are both enormous and complex. In order to deal with them the Board needs substantial human and financial resources. This, in essence, was the call made by the Board in its final communiqué, released on the side lines of the session.

c) Preparation of the Report on the implementation of the AU Convention by State Parties

20. In May, the Board addressed a note verbale to States Parties asking them to complete questionnaires on the implementation of the AU Convention on Corruption and return them duly completed no later than 31 July 2015. The Board will present a report on the implementation of the Convention by the State Parties at the AU Summit in January 2016.

21. In the past, very few State parties responded to the questionnaires. The Board requests all State parties to reply to the questionnaires. The January 2016 Summit will be the baseline year for the Report on the implementation of the Convention on Corruption which thereafter will be presented every two years in order to assess the efforts of State Parties in its implementation. A response from all State Parties would enable the Board to make a very good assessment of the fight against corruption in Africa and avail informed advice to State Parties and the African Union.

List of countries which signed, ratified/ subscribed to the AU Convention on Corruption

No.	COUNTRY/PAYS	DATE OF/DE SIGNATURE	DATE OF/ DE RATIFICATION/ ACCESSION	DATE DEPOSITED/ DATE DE DEPOT
1	Algeria	29/12/2003	23/05/2006	06/07/2006
2	Angola	22/01/2007	-	-
3	Benin	11/02/2004	20/09/2007	07/11/2007
4	Botswana	-	-	-
5	Burkina Faso	26/02/2004	29/11/2005	15/02/2006
6	Burundi	03/12/2003	18/01/2005	10/03/2005
7	Cameroun	30/06/2008	-	-
8	Central African Rep.	-	-	-
9	Cape Verde	-	-	-
10	Chad	06/12/2004	-	-
11	Côte d'Ivoire	27/02/2004	14/02/2012	05/11/2012
12	Comoros	26/02/2004	02/04/2004	16/04/2004
13	Congo	27/02/2004	31/01/2006	24/04/2006
14	Djibouti	15/11/2005	-	-
15	Democratic Rep. Of Congo	05/12/2003	-	-
16	Egypt	-	-	-
17	Equatorial Guinea	30/01/2005	-	-
18	Eritrea	25/04/2012	-	-
19	Ethiopia	01/06/2004	18/09/2007	16/10/2007
20	Gabon	29/06/2004	02/03/2009	08/04/2009
21	Gambia	24/12/2003	30/04/2009	09/07/2009
22	Ghana	31/10/2003	13/06/2007	20/07/2007
23	Guinea-Bissau	21/01/2006	23/12/2011	04/01/2012
24	Guinea	16/12/2003	05/03/2012	12/04/2012
25	Kenya	17/12/2003	03/02/2007	07/03/2007
26	Libya	05/11/2003	23/05/2004	30/06/2004
27	Lesotho	27/02/2004	26/10/2004	05/11/2004
28	Liberia	16/12/2003	20/06/2007	20/07/2007
29	Madagascar	28/02/2004	06/10/2004	09/02/2005
30	Mali	09/12/2003	17/12/2004	14/01/2005
31	Malawi	-	26/11/2007	27/12/2007
32	Mozambique	15/12/2003	02/08/2006	24/10/2006
33	Mauritania	30/12/2005	-	-
34	Mauritius	06/07/2004	-	-
35	Namibia	09/12/2003	05/08/2004	26/08/2004
36	Nigeria	16/12/2003	26/09/2006	29/12/2006

37	Niger	06/07/2004	15/02/2006	10/05/2006
38	Rwanda	19/12/2003	25/06/2004	01/07/2004
39	South Africa	16/03/2004	11/11/2005	07/12/2005
40	Sahrawi Arab Democratic Rep.	25/07/2010	27/11/2013	27/01/2014
41	Senegal	26/12/2003	12/04/2007	15/05/2007
42	Seychelles	-	01/06/2008	17/06/2008
43	Sierra Leone	09/12/2003	03/12/2008	11/12/2008
44	Somalia	23/02/2006	-	-
45	Sao Tome & Principe	01/02/2010	-	-
46	South Sudan	24/01/2013	-	-
47	Sudan	30/06/2008	-	-
48	Swaziland	07/12/2004	-	-
49	Tanzania	05/11/2003	22/02/2005	12/04/2005
50	Togo	30/12/2003	14/09/2009	22/10/2009
51	Tunisia	27/01/2013	-	-
52	Uganda	18/12/2003	30/08/2004	29/10/2004
53	Zambia	03/08/2003	30/03/2007	26/04/2007
54	Zimbabwe	18/11/2003	17/12/2006	28/02/2007

d) Review of (implementation of) the 2011-2015 Strategic Plan

22. In 2011, the Board adopted a Strategic Plan for 2011-2015. The 2011 – 2015 Strategic Plan of the African Union Advisory Board on Corruption is a framework that provides guidance on the initiatives to be taken by Board members and the Secretariat, for the realization of the short term vision of the Board, namely to have "an effective organization that provides appropriate support to Member States in the sustainable implementation of the AU Convention and the fight against corruption in Africa" by 2015. The Strategic Plan organizes the activities of the Board into 4 axes spread over five years. These are:

- Strategic Axis 1 : Support for Implementation of the Convention
- Strategic Axis 2 : Sensitization to the Convention and visibility of the Board
- Strategic Axis 3 : Establishment of Partnerships
- Strategic Axis 4 : Operational efficiency of the Board, monitoring and evaluation.

23. Due to lack of funds, none of the four (4) axes of activities has been conducted so far. However, the Board decided at its last session to evaluate the 2011-2015 Strategic Plan at the end of 2015 and to adopt a new strategic plan whose implementation will take effect from January 2016.

24. Since this activity was not planned in the 2015 budget, the Board requests Member States to grant a supplementary budget of USD 50 000 to support, in part, the overall budget for this activity which amounts to 75 000 USD. Technical partners (institutions and associations fighting against corruption in Africa) and financial partners that can finance the new plan will be invited to the evaluation workshop of the 2011-2015 strategic plan and the adoption of the new strategic plan.

e) Cooperation between Commission and the Advisory Board of the AU

25. In accordance with paragraph 4 of Decision (Doc. EX.CL/860(XXV)) on the Activity Report of the African Union Advisory Board on Corruption requesting the Commission and the

AU Advisory Board to strengthen their cooperation, the Chairman of the Advisory Board met with the Commissioner of Political Affairs and the Deputy Chairperson of the Commission during a recent visit to the AUC. The two organs of the AU had a working meeting on 21 May 2015 during which they reflected on the mechanism to enhance their cooperation.

26. The Advisory Board congratulates the Presidency of the Commission and its staff for this great initiative and reassures them of its willingness to contribute to the success of the noble ideals of the African Union.

IV. HOST AGREEMENT

27. On 18 January 2013, in Addis Ababa, the United Republic of Tanzania and the African Union signed the Host Agreement for the headquarters of the African Union Advisory Board on Corruption to be in Arusha.

28. Pursuant to this agreement, the Government has facilitated the establishment of the Board in Arusha. On 8 May 2015, the Tanzanian Government submitted to the Board a draft design for a building to accommodate the offices of the Board. This design was adopted by the Board. The Board hopes to take possession of its premises in early 2017.

29. The Board wishes to thank the Government of the United Republic of Tanzania, for all the facilities it continues to grant to the Board.

V. PERSPECTIVES AND CHALLENGES (vision of the Board)

a) 100% ratification of the Convention by Member States in two years.

30. Currently, the African Union seeks through its Agenda 2063 to "build an integrated, prosperous and peaceful Africa, supported and managed by its own citizens and representing a dynamic force on the world stage". Some Africans still endure the worst hardships of their lives to the point of losing hope of a better tomorrow: they lack classrooms, hospital infrastructure and the basics while God has blessed Africa with immense natural resources.

31. Corruption, this scourge that knows no boundaries, has spread exponentially on our continent. It undermines democracy and the rule of law and creates political and social instability; it hinders the development goals of our continent. Africa must fight corruption if it wants to achieve the objectives of its 2063 agenda.

32. Concerned about the devastating impact of corruption on political stability, economic and social development of African countries, the Heads of State and Government of the Union decided on 11 July 2003 in Maputo, Mozambique, on the adoption of the African Union Convention on Preventing and Combating Corruption.

33. Twelve years after the adoption of the Convention and nine years after its entry into force (5 August 2006), there are over 54 Member States, 48 signatures, 35 ratification / accession. 19 States have not yet ratified. However, 49 AU member states have ratified the UN Convention on Corruption and only five (5) member states of the AU have not yet done so. Among the five (5) states, four have signed neither the AU Convention on the Prevention and Fight against Corruption nor the United Nations Convention on Corruption. Unfortunately, this situation is tragic for the continent because it may allow agents of corruption to work across borders to circumvent laws that penalize corruption.

34. Therefore, the Advisory Board of the African Union on Corruption has set a goal in its fourth term of office to obtain the ratification of the Convention by the 19 States that have not yet done so. No African legal framework will serve as an umbrella for corruption because of the ratification of the Convention on Corruption by a member state of the AU.

b) The African Union must be a ‘dynamic force on the global scene’ in the fight against corruption

➤ ***The African Union must take a position in the current debate on the dimension of human rights in the fight against corruption***

35. According to the various known cases of corruption, it is clear that corruption undermines the enjoyment and exercise of human rights. Among these rights are: the right to work, right to health, the right to education, the right to development, right to a fair trial.

36. At the moment this issue is the subject of discussion due to decisions made in some multilateral organizations; it is desirable for Africa to have its views on the issue to make an informed decision.

37. Therefore, the Advisory Board requests Member States to mandate the Board to produce, in collaboration with the organs of the African Union that are interested in the subject, a report on the harmful effects of corruption on the enjoyment of human rights which will be submitted to Member States at the June 2017 Summit.

➤ ***The African Union must have its own mechanism for recovery of stolen assets***

38. Some Africans and their property are subject to asset recovery procedures instituted in non-African jurisdictions based on the United Nations Convention on Corruption (UNCAC). Nothing in this convention provides information on the relevant mechanism to manage the funds confiscated and the time required before these funds are returned to the rightful African owners. Meanwhile, the funds placed in banks and non-African businesses benefit the economy of States that have confiscated the assets. Although the funds will be repatriated to Africa later, the interest earned by the States will unfortunately never be sent back to the rightful African owners.

39. It is regrettable that the procedures for the prosecution of Africans and their property do not take into account the responsibility of financial institutions and State receivers of stolen goods whose laws promote and maintain the opacity of ill-gotten assets in their jurisdictions.

40. While arguing that these procedures are performed in fairness and transparency, the Advisory Board draws the attention of Member States to the risk of certain excesses of political regulation which hardly benefits the African people.

41. Furthermore, the Advisory Board recommends the establishment of an expert group to produce a report on the collection mechanism of ill-gotten assets.

VI. CONCLUSION

42. There is no doubt that corruption and related offenses impede economic development in Africa and efforts to fight against poverty and promote sustainable and equitable growth. That is why African countries are trying to use comprehensive and multi-dimensional approaches in the fight against corruption.

43. Africa has been at the forefront of initiatives to promote the adoption of legislation concerning freedom of legislation relating to information and to transparent governance in the world. These measures are beginning to seriously multiply in campaigns against corruption, but there should be more publicity and dissemination to highlight the AUCPCC.

44. The organizations of civil society and the media are key allies in the fight against corruption. It is essential to create an enabling environment for media and civil society in the fight against corruption and related offenses, and also to help to raise awareness and serve as a conduit for the general public so that it denounces corrupt officials. The method of appointment of these actors is certainly not always the same; however, State parties have made considerable efforts to create broader alliances for advocacy, exchange of information and advertising for campaigns against corruption.

45. The private sector is becoming an important constituency in the fight against corruption, but more efforts are required to promote initiatives that bring together the public and the private sector in order to curb corruption in a holistic manner.

46. Fruitful efforts to fight against corruption in the majority of State parties will occur as a result of actions and decisions made by senior government officials.

VII. RECOMMENDATIONS

47. In order to improve governance through preventing and combating corruption in Africa, the AUABC makes the following recommendations to Member States:

1. Strengthen the capacity of the Secretariat with the human resources needed to ensure its smooth running. In other words, provide for the following posts:
 - Senior Policy Officer for Economic Matters, P3 level (already included in the structure adopted by the Secretariat);
 - IT Specialist
 - Head of Protocol
 - Accounts Assistant
 - Administrative Assistant
2. Grant the Advisory Board a supplementary budget of USD 50 000 for the 2015 financial year to enable the Board to conduct an evaluation workshop of the 2011-2015 Strategic Plan and adopt a new strategic plan;
3. Consider the 2016 budget as a foundation budget in the amount of **\$ 2 484 220.00 USD** to be provided by Member States in accordance with the "Decision on the Activity Report of the African Union Advisory Board on Corruption (Doc EX.CL/860(XXV) relevant provision in paragraph 7".

4. Mandate the Advisory Board to produce, in collaboration with other concerned Organs of the AU, a report on the harmful effects of corruption on the enjoyment of human rights and to present the report at the June Summit in 2017
5. Request Member States and the Commission to allocate a special budget for this mission;
6. Mandate the Advisory Board to find a group of experts to produce a report on the collection mechanism of ill-gotten assets and present the report at the Summit in January 2018. The budget for this mission must be supported by the 2017 budget.

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