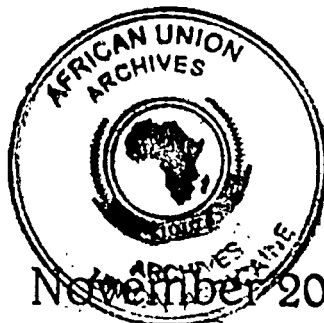




ORGANIZATION OF AFRICAN UNITY.

## **TRANSITION OF THE OAU TO THE AFRICAN UNION**

### **The First Initiatives of the Secretary-General for establishment of the Organs of the Union**

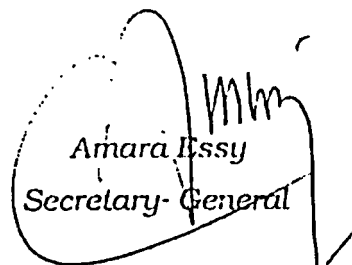


Addis Ababa, Ethiopia

## FOREWORD

With the Lusaka Summit, the OAU is undergoing transformation to become the African Union. From the conceptual standpoint, this Union which has been the dream of all Africans, is not a novelty. It has its origins in Pan-Africanism and the ideals which inspired the Founding Fathers of the OAU whose numbers included President Kwame Nkrumah. Between 25 May 1963 in Addis Ababa, Ethiopia, and 9 September 1999 in Sirte, Libya, sustained efforts have been deployed to translate this dream of union into reality. The Sirte Declaration which culminated in the adoption of the Constitutive Act of the African Union represented the linchpin for the political will of the Heads of State and Government of OAU Member States to take up the daunting challenge of integration of the African Continent. The mandate of the Lusaka Summit is perfectly in consonance with this political framework and testifies to the collective enthusiasm of the peoples of Africa to accomplish the Union.

The General Secretariat of the OAU which I have the honour and privilege to direct will, for its part, spare no effort to ensure that the confidence reposed in it by Member States is not misplaced, and to discharge the task assigned to it by the Lusaka Summit in a spirit of co-operation, transparency and trust. Besides, with the frank co-operation and active involvement of Member States' representatives, the General Secretariat will do its utmost to ensure that, at the next Summit which will take place in South Africa, Africa will come to terms with its destiny.



Amara Essy  
Secretary-General

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## **I. INTRODUCTION**

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1. The Constitutive Act of the African Union entered into force on 26 May 2001 following its ratification by over 2/3 of Member States of the Organization of African Unity. About 45 days after this historic date, the Lusaka Summit having elected me to the helm of our Continental Organization, entrusted to me the crucial mission of transforming the OAU into the African Union and putting in place the major organs of the Union.

2. On 17 September 2001, that is two months after my election, I assumed duty to take up this daunting and historic challenge: the transition of the OAU to the African Union. In view of the magnitude of this mission and the limited time that has been set to accomplish it, I opted to imbue my actions with transparency and trust, and to enlist the collaboration and contribution of everyone.

3. It is this spirit that I solicited the input of the Assistant Secretaries General and that of all OAU Staff members towards accomplishment of this exalting task. The fruitful discussion which I had with the Assistant Secretaries General and other senior officers of the Secretariat resulted in a Seminar on transformation of OAU to the African Union, which we organized at the Headquarters on 13-14 October, 2001. This Seminar which I myself presided offered all the participants (Assistant Secretaries General, Directors, Heads of Division and other officers as well as Experts) the chance to participate in a debate which turned out to be exciting, on the numerous challenges posed by the transformation of the OAU to the African Union. The meeting enabled us to undertake a collective reading of the Lusaka Summit Decision and to draw the necessary conclusions from the various discussions which have been taking place within the Organs of the OAU since the Sirte Summit of 9.9.99, on the nature and powers of the African Union. It should be mentioned as a matter of fact that if consensus and indeed unanimity was very quickly reached on the text of the Constitutive Act of the African Union, the same cannot be said of the content and scope of the Union. Divergent views were articulated on these issues during the recent Sessions of Council and Summit.

4. I also sought the support and collaboration of Member States' Permanent Representatives towards the fulfilment of my mission. To this end, I benefited from the informed advice of the Dean, the Regional Deans and all the Permanent Representatives with whom I had conferred.

5. Lastly, I solicited the input of partners outside the OAU, notably the European Union which constitutes a model of economic integration. We requested three Experts with wide knowledge of the functioning of the European Union institutions to animate a debate with the entire staff of the OAU on the European experience and the lessons to be drawn therefrom by the OAU.

6. The outcome of these brainstorming sessions have been consigned to this brochure for purposes of information and transparency. The Reports have not been adopted in any formal manner. The ideas contained therein have been reflected generally as they were articulated during the meetings.

7. The Reports in question have been made available to the two Sub-Committees which I set up within the General Secretariat to prepare the working documents on the Organs of the African Union in conformity with the Lusaka Summit Decision and the Terms of Reference drawn up to that effect (Annex I). The two Sub-Committees have, since 16 October 2001, got on with the job of producing the requisite working documents within the stipulated deadline (see Calendar in Annex III). These documents will be examined by the Coordinating Committee in Plenary which is chaired by me, prior to submission to the Committee of Ambassadors and Experts from Member States.

## **II. REPORT OF THE BRAINSTORMING ON THE AFRICAN UNION (ADDIS ABABA, 13-14 OCTOBER 2001)**

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1. At the initiative of the OAU Secretary General, a brainstorming bringing together the Assistant Secretaries General, the Directors of Department, the Legal Counsel, the Heads of Division, and other senior officers and consultants of the General Secretariat was convened in the OAU Conference Hall on 13 and 14 October 2001.

### **A. Introductory remarks of the Secretary-General**

2. In his introductory statement, the Secretary General placed the African Union in its historical and legal perspective. He gave a historical background to the Union since the extraordinary Summit of Sirte of 9.9.99, the process of establishment of the African Union which was marked by the signing of the Constitutive Act in Lome in July 2000. He recalled that the Act contained 33 Articles and listed the organs of the Union. However, he indicated that the provisions of the Constitutive Act were not very clear, particularly as regards the nature of the Union. The basic text of the Union being silent had given rise to speculations. There was need to carry out an in-depth brainstorming on the nature of the Union in order to have the same reading and understanding of the Union.

3. The Secretary General therefore pointed out that the present meeting would enable the Secretariat to have a common reading and appreciation of the African Union and to prepare the documents that would govern the major organs and determine their powers. The organs are: the Assembly, the Executive Council, the Pan-African Parliament, the Court of Justice, the Commission, the Permanent Representatives' Committee, the Specialised Technical Committees, the Economic, Social and Cultural Council and the Financial Institutions. The participants should also consider the possibility of integrating into the basic documents of the Union, the existing legal instruments such as the Abuja Treaty, the Cairo Declaration on the Mechanism for Conflict Prevention, Management and Resolution, the Conference on Security, Stability, Development and Co-operation in Africa and others.

4. The Secretary General pointed out that the Secretariat had a difficult but exalting task aimed at helping with the establishment of an African Organization, drawing inspiration from the experiences of other continents which had set up such institutions like the European Union, ASEAN, MERCOSUR, etc.

5. The Secretary General concluded by briefing participants on the outcome of his mission to the United States and Geneva. And then he called upon the Legal Counsel to make a presentation on the Constitutive Act.

#### **B. Presentation by the Legal Counsel**

6. In his introduction, the Legal Counsel recalled the difficulties faced in the attempt to highlight the legal aspects of the Constitutive Act. The document as such provided only a framework which was not detailed. Consequently, there were many issues that remain to be tackled in detail. That task befell Member States as well as the Secretariat. The Legal Counsel pointed out that it was necessary to understand the political and socio-economic context of establishment of the Union and that it was important to note that the African Union was not the individual work of one single state but rather the common endeavour of all Member States. He further pointed out that it was necessary to consider the relations between the Constitutive Act of the African Union and the other legal instruments governing cooperation between the States. As regards the nature of the Constitutive Act, he pointed out that it would be appropriate to look at the normative aspect, and this led him to consider the objectives and principles of the Union, stressing the difference between the OAU and the African Union.

##### **(i) Political context of the African Union**

7. The political context of the Union should be articulated around the meetings held in Sirte in September 1999 and Lome in July 2000. During that period, it was indeed observed that there was a speedy development of the process which led to the Sirte Declaration followed by the formal adoption of the Constitutive Act of the African Union by the Assembly of Heads of State and Government held in Lome in July 2000.

**(ii) Socio-economic context**

8. The socio-economic context of the Union derives from the desire of African Leaders to face up to the present challenges of globalisation and regional integration. Indeed, in the face of an increasingly globalised environment, the leaders saw the necessity to reflect on appropriate strategies. That search for original solution for Africa led to a review of the objectives, mandate and mode of functioning of the OAU, and to a reorientation of the parameters for addressing the challenges of globalisation.

**(iii) Internal dynamics within the African Continent**

9. The Legal Counsel drew the attention of participants to the fact that the OAU Charter had provided for a review process and that a Committee established for that purpose in the 80s convened soon after in Mogadishu. Between 1980 and 1996, that Committee had held 6 meetings. However, that exercise could not be successfully completed. That state of affairs motivated African leaders to take the initiative to speed up the integration process and strengthen African Unity. In that process, Leader Gaddafi was undoubtedly a catalyst, just as before him leaders like Jean Monnet had been for Europe.

**(iv) Relations between the Constitutive Act of the Union and the existing legal instruments**

10. It should be underscored that the Constitutive Act of the Union, with its present contents was not a global programme of action. It only defined a general framework aimed at taking up the challenges facing the African continent. Viewed from that angle, the Constitutive Act did not abrogate the Abuja Treaty but rather abrogated the Charter of the OAU (Article 33). That precise detail is important, for after a joint reading of the Constitutive Act and the Abuja Treaty, it was realised that the Sirte initiative was aimed at speeding up the integration process provided for in the Abuja Treaty which, as one is aware, was based on a programme of integration of the continent over a period of 34 years.

11. The Legal Counsel also cited several other legal instruments which remain in force despite the adoption and entry into force of the Constitutive Act: the Cairo Declaration on the Conflict Prevention,



Management, and Resolution Mechanism, the African Charter on Human and Peoples' Rights, the Protocol on Relations between the OAU and the Regional Economic Communities, etc. He therefore urged participants not to read the Constitutive Act in isolation but rather to consult the various texts in force so as to enrich the Constitutive Act and then come up with a proposal on its rightful place in the legal edifice of the Union.

**(v) *Nature of the Constitutive Act***

12. Speaking on this subject, the Legal Counsel indicated that there was a need to distinguish between the normative section and the structures and powers of the various organs.

**The Normative section**

13. This section deals with the provisions governing the objectives and principles of the Union. Articles 3 and 4 of the Constitutive Act form part of the normative section of the Act. These two Articles consist of crucial provisions which relate to the objectives of the OAU; however, they also introduce once again areas of cooperation among Member States such as: the need to speed up economic integration, democracy, the rule of law, good governance, Human Rights, etc. These new objectives are important because they provide direction for the gradual realization of the objectives contained in the Abuja Treaty. While the Constitutive Act reaffirms some of these principles, it is necessary to recall that the African Union is an Organization of sovereign states. The question therefore is whether, in the long term, the Union which is now in the making, will assume the form of federation or confederation.

14. In any case, the principle of recognition of the borders inherited from colonialism and recognized in the Constitutive Act should not connote that African States will not move towards a more integrated entity. It should be recognized that Article 4 of the Constitutive Act integrates not only the principles recognized by international law but also other principles which reflect the political and socio-economic programme of the Continent; for example, common defense policy, popular participation in the affairs of the Union, the right to intervene directly in a Member country in case of crimes against humanity, the

right to intervene to re-establish peace and security in a Member State at the latter's request, gender equality, etc.

15. These principles reflect a new school of thought which did not exist in the OAU Charter nor in the Abuja Treaty. It is therefore needful, as part of the ongoing debate, to highlight with greater precision, the differences between the OAU and African Union in order to determine in concrete terms, the transformation to be put in place.

### **Structure and powers of the various organs of the Union**

16. It should be noted that some aspects of the Constitutive Act have been well articulated and do not lend themselves to any confusion even though some loopholes and shortcomings may be observed. Article 5 lists the numerous organs to be established for the Union, but the Lusaka Summit defined the priorities to be implemented during the transition period.

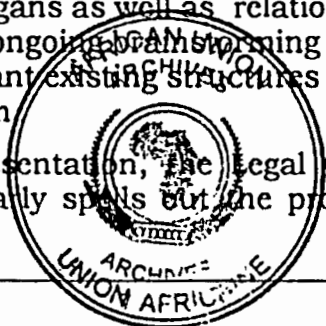
17. With regard to the priorities, one of the essential tasks to be accomplished will be to draft the Protocols on the other Organs, especially the Court of Justice.

18. The Protocol on the Pan-African Parliament has already been adopted in March 2001 by the Sirte II Extraordinary Summit. It had already been signed by 18 Member States 3 of which has ratified the Protocol.

19. Regarding the Specialized Technical Committees, it has been noted that the Assembly could establish other Committees whenever deemed necessary. On this, the Legal Counsel suggested that a Committee on Gender issues be created.

20. The Constitutive Act contains some shortcomings. For instance, it is silent on any provisions relating to conflict prevention and management, Human Rights mechanisms, relation between the Union and the existing organs as well as relation among the various organs of the Union. The ongoing brainstorming should also envisage incorporation of the relevant existing structures into the Constitutive Act as organs of the Union

21. Concluding his presentation, the Legal Counsel stated that Article 32 of the Act clearly spells out the procedure for effecting



amendments. He explained that every amendment should first be approved by the Assembly and then follow the same procedure for ratification, a process which could be very lengthy. For this reason, he suggested that the Secretariat should as far as possible refrain from undertaking amendments whose long procedure could hamper the proper functioning of the Union.

### **C. Methodology adopted**

22. After the above presentation, participants defined the methodology to be adopted in order to arrive at fruitful conclusions. The following methodology was agreed upon after a brief exchange of views:

**Saturday 13 October 2001:** General Debate

**Sunday 14 October 2001:** Consideration of the items contained in the Lusaka Decision regarding establishment of the organs of the Union and setting up internal mechanisms for the drafting of the Texts governing each of these organs.

### **General Debate**

23. The ensuing general debate centered on a number of matters relating, among other things, to the vision and mission of African Union, changes in the work method in the Secretariat, transfer of some powers of Member States to the Union, distribution of powers among the organs, involvement of African peoples and the civil society in the process, etc.

24. At the end of a lengthy and fruitful discussion during which participants freely aired their views, the following recommendations and suggestions emerged:

#### **(i) *The need to formulate a vision for the African Union***

25. The meeting underscored the need to develop a common vision on the manner in which the objectives and principles contained in Articles 3 and 4 of the Constitutive Act should be implemented by the

Union. In this connection, it is imperative to undertake an in-depth reflection on the necessity to build a Union of peoples; and to this end, to devise a gradual approach for realizing this ultimate objective. The Union should be anything but a modified version of the OAU. Therefore, in this transformation Member States should agree to transfer to the Union some of their prerogatives especially in the areas for which there has been general consensus for continent-wide action. In this process there will be the need to build on the achievements and experience of the OAU in order to develop common policies on issues such as consolidating peace and security on the Continent, integration of African economies, free movement of persons, goods and capital, food security, fight against poverty, coordination of the various initiatives in the field of development such as external debt, trade, environment, fight against pandemics, etc.

26. Upon the definition of common policies in the priority areas agreed upon, it would be necessary to devise a reasonable time table for their implementation, together with a mechanism for evaluation of the actions undertaken.

***(ii) Need to change the work methods within the Secretariat***

27. This is a critical initiative in the process leading to the Union. The General Secretariat should change its antiquated methods. In this connection, the Secretariat should be more proactive. It should on the basis of the vision to be adopted, come up with pertinent, bold but reasonable proposals consistent with the arrangements to be put in place, and the measures to be implemented to accomplish the objectives and principles of the Union. Here, an in-depth brainstorming should also be undertaken in order to define work methods corresponding with this vision.

***(iii) Need to popularize the African Union in Member States***

28. The popularization of the African Union could be achieved through seminars, informal exchange of views and every other relevant means, and should involve all key players in the African political and socio-economic scene; players like the Regional

Economic Communities (RECs) the private sector, the civil society, the universities, etc.

- (iv) Need to device a work time table and establish new institutions based on a flexible and gradual approach**
- (v) Need to promote popular participation in the process of establishment of the Organs of the Union**
- (vi) Need for the Secretariat to fully engage Member States in the process and give priority to the establishment of the four priority Organs**
- (vii) Need to endow the Union with adequate political resources to enable it react timely to the challenges of globalization and regional integration**

29. At this level, it will be necessary to establish a Commission different from the OAU General Secretariat in its structure, functions, mandate and powers. It will also be needful to determine the extent of the powers of the Executive Council to enable it fulfil its mandate.

30. The new African Union should further, and as a matter of absolute necessity, integrate the Regional Groupings. It will be necessary to this end, to map out the methodology to be adopted.

31. With respect to resources, an in-depth brainstorming on the sources of financing the Union has to be undertaken. Given the resources required by the Union, it is obvious that the existing system of statutory contributions is inadequate, in as much as the US\$30 million currently appropriated for the OAU will not be sufficient to finance both the structure and the activities of the Union as defined.

- (viii) Need to create a structure to be fully responsible for the elaboration of texts and the establishment of the new Organs of the Union**

32. The idea of creating such a structure stems from the current constraints faced in the OAU General Secretariat in terms of requisite human resources and competencies for undertaking the activities

leading to establishment of the Union. Consequently, it is proposed that a team of consultants be recruited and that their terms of reference be scrupulously prepared. The Consultants to be recruited should be specialists in various fields such as constitutional law, economics, political science, social science and human resources. The services of consultants should however be enlisted only when the Secretariat will have determined the nature and extent of the responsibilities to be assigned to them.

33. Furthermore, the General Secretariat should involve OAU missions abroad as well as Ambassadors of OAU Member States in the execution of the tasks.

***(ix) In the process of implementation, it is needful to start with simple actions***

34. Here, it will be necessary to convene a special meeting of representatives of African peoples with emphasis on the private sector. This seminar should identify elements for which provision had not been made in the Constitutive Act and which will form an indispensable part of the Act. The milestones of the Union have to be laid and the Union should be perceived as a force for integration. The OAU General Secretariat should get African Leaders to create the conditions conducive to implementation of the Union, while having recourse to the Specialized Institutions and Agencies of the OAU in various areas so as to enlist their contributions in their areas of competence.

***(x) Need to identify the pre-conditions for the establishment of the Organs of the Union***

35. What is required here is to define the preconditions to enhance the creation of a political and economic Union. In effect, the Union would be an illusion if Member States are in conflict one against another and also within their own borders. The Secretariat should also not ignore the fact that Member States are not at the same level of democracy and that pandemics like HIV/AIDS ravaging the Continent could constitute a cog to the establishment of the Organs if their negative effects are not alleviated.

36. Another view point held that, in view of Africa's insignificant share in global trade, the Union should strengthen the economic fabric of the Continent in order for it to become a force to be reckoned with on the market, while at the same time gradually pursuing political union.

37. The Union will become a reality only when the conditions conducive to its functioning will have been effectively established on the Continent. While the difficulties on the path of the Union should be highlighted, the fact also remains that the challenges to be faced can be tackled successfully only thanks to collective action on the part of Member States on which the responsibility devolves to create the conditions that are a *sine-qua-non* for transition to any form of Union.

***(xi) Need to draw inspiration from the integration models of other regional economic entities***

38. Participants were unanimous that the African Union should draw inspiration from the examples of other institutions like the European Union, the ASEAN, the MERCOSUR, the NAFTA, etc.

39. The reality to be fully appreciated is that in any Union, there are common principles. There must be something in it for every Member State.

***(xii) Need to identify the requisite resources for financing the Union as well as the sources of financing***

40. The Secretariat is of the strong view that it is impossible to create a Union different from the OAU with the existing resources. Consequently, it is imperative to undertake a study to be submitted to the Assembly of Heads of State and Government and to explore new ways and means for resource mobilization. It is equally necessary to carry out a study on the existing payment capacity of Member States.

***(xiii) The African Union should take on board the new dimension of information technologies***

41. Emphasis should be placed on the new Information and Communication Technologies in order for these technologies to

contribute to efforts at motivating African peoples in the drive towards integration.

42. Following the above observations, the Meeting examined the ways and means for effective implementation of the Lusaka Summit Decision, starting with establishment of the priority organs of the African Union.

**D. Implementation of the Lusaka Decision: Establishment of the Priority Organs of the Union**

**(i) The Assembly of the Union**

43. Proposals were put forward regarding elaboration of the Rules of Procedure. Observations of a general nature were also made. The session indicated that, for the African Union to be different from the OAU, Member States must accept to surrender part of their sovereignty to the Organs of the Union. It is crucial in this regard to determine the Organ which will exercise these powers on behalf of Member States: the Assembly, the Executive Council or the Commission. It will also be necessary to establish the relationship between the various Organs of the Union.

**(a) Drafting the Rules of Procedure**

44. The session noted that the functions and powers of the Assembly are defined by the Constitutive Act. Consequently, the Rules of Procedure will have to specify the extent of these powers and functions. To this end, the session recommended that the said powers be confined to defining the broad outlines of African integration by adopting core political decisions. Furthermore, it was indicated that some of these powers could be delegated to the Executive Council, especially the power to appoint members of the Commission except the Chairman and to vote the budget. As a matter of fact, in order for it to become an effective organ, the Assembly should limit itself to defining the broad guidelines and priorities of the Union. Incidentally, Article 9 (a) stipulates that the Assembly shall determine the common policies of the Union. The Rules of Procedure will have to define the areas in which the Assembly can exercise this function, such as prevention of endemic diseases, food security, external debt,



environment, etc. Member States should accept to transfer their sovereignty to the Union in these areas.

45. The session further proposed that the Rules of Procedure of the Assembly of Heads of State and Government of the OAU be retained as a reference document and that it be adapted to the objectives and principles of the Constitutive Act of the African Union. The Rules of Procedure must be precise and presented in great detail; it should make provision for maximum procedures and regulations to avoid recourse to regulations or procedures established on Ad Hoc basis. In this connection, it would be important to regulate the period between sessions of the Assembly and sessions of the Executive Council. Some of the proposals put forward during the session tended to make the Commission the Organ that should manage this period. According to other proposals, this role should be assigned to the Bureau of the Assembly or to the "Troïka".

#### **(b) Sessions of the Assembly**

46. Three proposals were made regarding the venue of sessions:

- sessions should be held every other year at the Headquarters of the Union;
- all ordinary sessions should be held at the Headquarters while Extraordinary Sessions should take place outside the Headquarters at the invitation of any Member State;
- each Member State should be in a position to host an ordinary session, for this will enable the Union to be popularized among African populations.

47. It was further indicated that it was important to envisage a third category of sessions, emergency or special, which would not require two-thirds majority to take place. It was indicated in addition that any Member State that wished to host the Summit should create the requisite political and material conditions to that effect.

48. The session expressed the view that cultural or other activities taking place on the margin of the Summit should be limited or should be held at the most appropriate moments.

**(c) Agenda**

49. The Agenda should be clear and should comprise items such as:

- Items needing a decision;
- Items needing directives;
- Items incorporated for information.

50. The above classification may be carried out during the preparatory session of the Permanent Representatives' Committee. To this end, it will be necessary to define the nature of the report of the Assembly as well as the modalities for its preparation and adoption.

**(d) Decisions of the Assembly**

51. The major difference between the OAU and the African Union should reside in the will of Member States to implement the decisions adopted. It is important, in this connection, that the Secretariat be endowed with the necessary capacities to prepare the sessions and to effectively implement the decisions.

52. The decisions should be published in an official Gazette or other publication. They should be applicable upon publication in the official Journal.

53. A mechanism should be put in place to ensure control of implementation of decisions. It may be necessary to create within the Commission, a Unit to which this task will be assigned.

**(e) Other provisions**

54. The session also came up with the following proposals:

- establishment of a mechanism to enable the civil society give its opinion on the work of the Union. It was proposed in this connection that this participation be carried out through the intermediary of ECOSOCC;
- setting up Committees to deal with gender issues and the new Information and Communications Technologies;

- creation, within the Foreign Ministries of Member States, of a Unit responsible for coordination with the Chairman of the Union;
- need to involve the Regional Economic Communities, pillars of African integration, in all stages of implementation of the Constitutive Act of the Union.

**(ii) *The Executive Council***

**(a) *Rules of Procedure***

55. Article 13 of the Constitutive Act defines the functions of the Executive Council. The Rules of Procedure should provide for a Council that is both effective and functional. The Rules of Procedure should therefore serve to specify these functions. However, since the Constitutive Act does not define the powers of the Executive Council, the Rules of Procedure should define the said powers.

**(b) *Sessions of the Executive Council***

56. The session proposed that, for greater effectiveness, the Executive Council should meet more than twice a year. Recommendation was made to the effect that the Council could meet every month or every two months.

57. The session further recommended that the Bureau of the Executive Council should have a statutory role. Lastly, it recommended that a procedure be instituted to enable the Council to consult the Chairman of the Commission. In this regard, a Unit in charge of relations with the Council should be established within the Commission.

58. The Rules of Procedure should make provision for regulations regarding Chairmanship of the Executive Council since the Constitutive Act has no provisions to this effect.

**(c) *Sectoral Meetings***

59. Some Sectoral Meetings should be institutionalized within the context of the Executive Council.

**(d) Decisions**

60. There is a need to establish a difference, as contained in the Abuja Treaty, between decisions of the Assembly and those of the Executive Council which are termed "Regulations" under this Treaty.

**(e) Other Provisions**

61. As the Regional Economic Communities are the pillars of African integration, the General Secretariat of these institutions should be involved in all stages of implementation of the Constitutive Act.

62. The session observed that the functions of the Executive Council and those of the Specialized Technical Committee could overlap. In this connection it emphasized that it would be necessary to negotiate a *modus vivendi* between the two organs.

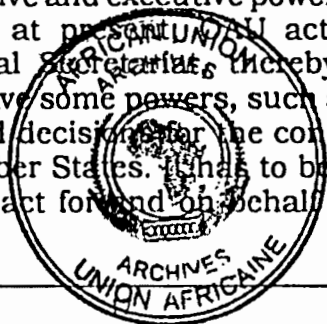
**(iii) The Commission**

**(a) Backdrop**

63. Three main observations provided the backdrop to the discussions, namely: (i) that the powers of the Commission were not specified in the Constitutive Act, (ii) that the Constitutive Act did not define the nature and role of the Commission, and (iii) that the precise nature of the proposed "Union" was not apparent. This was the general framework within which the interventions set out hereunder were expressed regarding the Commission.

**(b) Nature of the Commission**

64. While the Constitutive Act provided that the Commission was to be the Secretariat of the Union, it was quite clear that, if the Commission was to be able to execute the mandate entrusted to it, it had to have some deliberative and executive powers. This would not be such a novelty because, at present, UN activities were in fact conducted by the General Secretariat, thereby showing that the General Secretariat did have some powers, such as those of initiating policies, programmes, and decisions for the consideration, adoption and endorsement of Member States. It has to be a Commission that could take decisions and act for and on behalf of the Union, much



more than had been the case with the OAU General Secretariat. Some expressed the strong view that the Commission should be a Technical Commission, not a Political Commission.

**(c) Functions and powers of the Commission**

65. The meeting noted that there were areas of convergence between its views regarding the functions and powers of the Commission, and some of the recommendations of the Change Management Team. The Commission would need to have the power to develop and implement programmes. Among other things, the Commission would be the custodian of the various treaties signed by the Union, and it would monitor observance and implementation of various decisions and policies.

**(d) Cession of powers to the Commission by Member States**

66. To enable the Commission to execute its mandate, it would be necessary for Member States to cede some of their powers to the Commission as the engine driving the Union. This had to be done in a gradual or incremental manner. This would involve starting by building upon those facilitative attributes of the Union that were specified in the Constitutive Act and granting the Commission power to develop common policies regarding issues that commanded a large consensus among Member States (such as HIV/AIDS and other pandemics, food security, trade, environment, external debt, science and technology, transport and communication, and research). The Union could have expanded powers of decision and implementation in these common areas, as these were areas falling within the purview of the Union where there was clear need for collective action, and *vis-à-vis* which the Union could negotiate on behalf of the Continent on the basis of existing mandates and positions previously agreed upon.

**(e) Financing of the Commission**

67. The expected enhanced efficiency and effectiveness of the Commission had to be underpinned by increased resourcing of the Commission in both human and financial terms. There was, therefore, need for more imaginative ways of mobilising resources for the Union.

Possible sources of funding were the regular budget, imposition of a community levy, and extra-budgetary sources.

**(f) Profile of the Commissioners**

68. Members of the Commission, including its President, should be women and men with proven experience, leadership qualities and track record in government, parliament, international organisations and/or private sector – this list is indicative only, not exhaustive. The more of these combinations any particular individual possessed, the more the match between him/her and the required profile for a Commissioner. One strand of thought insisted that Commissioners should have technical expertise in their fields of responsibilities. The other view was that these should be elective posts, and that it would not be advisable to mix elective posts with professional posts by requiring technical criteria.

69. There was a third strand of thought which provided a middle ground by marrying political considerations with technical concerns through requiring either regions or Member States to submit for consideration only those candidates who satisfy the competence criteria.

**(g) Issue of Deputies to the President**

70. While some supported the idea of several vice -Presidents, others suggested only one deputy, and yet others were of the view that there was no need for deputies at least in the initial stages, although the issue could be reviewed at a later stage if and when circumstances changed.

**(h) Number of Commissioners**

71. While stressing the need to retain the flexibility that would allow the Commission to respond to whatever needs subsequently arose, and taking due cognisance of political considerations, as well as the financial implications of the number of Commissioners proposed, it was suggested that the Union could start with 5 to 7 Commissioners, to be increased gradually in accordance with the situation as it unfolded on the ground as the integration process gathered pace.

**(i) Modalities for selecting the Commissioners**

72. The following views were expressed:

- Member States should not take part in the selection of the Commissioners at all. Commissioners should be selected in their individual capacities, and not as representatives of Member States.
- Only the President or Chairperson of the Commission should be elected by the Heads of State and Government, and the President should appoint the other Commissioners on the basis of specific technical criteria in line with the new orientation of the Continental Organisation. This would rationalise the lines of authority within the Commission, and show clearly where responsibility within the Commission ultimately lay, since the various Commissioners would be accountable to the President.
- The President and his/her deputy should be elected by either the Assembly or the Executive Council, and the rest of the Commissioners should be appointed by the President in line with the second proposal.
- All Commissioners should be elected by the Heads of State and Government to ensure that they are endowed with the status and authority of leaders of the Continent so that they command the requisite respect when they interact and negotiate with other international actors on behalf of the Union. Technical criteria should not be taken into account. The overriding considerations should be whether they can speak intelligently on any issue, and whether they can articulate issues in such a way that they cut across national borders since they would be accountable to the whole Continent.

**(j) Powers of the Commissioners**

73. Commissioners have to be endowed with the necessary powers to enable them to execute their mandates, because giving them

responsibility without authority would be setting them up for failure, and undermine their overall performance.

**(k) Functions and specific responsibilities of individual Commissioners**

74. Those who favoured a Technical Commission stressed that the functions and specific responsibilities of individual Commissioners should be clearly spelt out, so that their responsibilities could be matched against the skills criteria required for specific positions, and that this should be taken into account during selection of the Commissioners.

75. Those who preferred a Political Commission and argued that technical considerations should not be a consideration in the selection process, were of the view that the areas of responsibility for each Commissioner could only be decided after the priority concerns of the Commission had been more clearly defined.

**(l) Allocation of portfolios to the Commissioners**

76. The portfolio and areas of competence of the individual Commissioners should be decided by the President of the Commission. Commissioners could be given responsibility for one or more Directorates. However, care should be taken not to overload them and to ensure a fair distribution of responsibilities among the Commissioners.

**(m) Collective responsibility**

77. There was need for collective responsibility on the part of all Commissioners as far as the work of the Commission is concerned. Therefore, there had to be consultation and collaboration among them. However, it was necessary to spell out clearly what was within the competence of each Commissioner

**(n) Periodicity of meetings**

78. There was need for regular consultation between the Commissioners (some suggested weekly meetings) because they are supposed to provide the policy guidelines for the Commission's work.



79. The Commission should meet at two levels:

- at the level of the Commission and its Secretariat; and
- at implementation and administrative level as an expanded group to include the office of the Legal Counsel and such other Directorates of the Commission as may be relevant to discussions on specific issues.

80. Because of the pivotal role that they were expected to play, the Commissioners should not be confined to the Headquarters. In particular, they should consult regularly with the RECs so that RECs develop a sense of ownership of, identification with, and commitment to policies, programmes and activities of the Union.

81. There was need to prepare thoroughly for these co-ordination meetings of the Commissioners, and that those Commissioners who could not attend any particular meeting would have to submit written communications. The small Secretariat of the Commission was the one to undertake the preparatory work to backstop these co-ordination meetings.

**(o) Need for a Secretariat of the Commission**

82. Although not provided for in the Constitutive Act, it was proposed that a core team be established to act as the Secretariat of the Commission to be charged with, among other things, monitoring of implementation of the decisions of the Commission, co-ordination of the activities of the various Directorates, and elaboration of the programmes and work-plans of the Commission.

**(p) Need for Directorates**

83. Although this is not provided for in the Constitutive Act, it was suggested that the architecture of the Commission should be structured around several Directorates which would be the technical pillars of the Commission and spearhead activities in their specific areas of expertise. The number of Directorates and their permutations were to be determined in accordance with Africa's priority issues of concern, especially the New African Initiative.

84. The following options for ordering the Directorates were proposed at the meeting:

**Option 1**

- The present Political Affairs Department could be split into two distinct Directorates, while the Community Affairs Department into three or four Directorates along the lines of the Specialized Technical Committees. Another Directorate could be established to take charge of Administration and Conferences, and another on Finance. To avoid unnecessary proliferation or duplication of Directorates, Communication and Information Technology could become a distinct entity within either the Directorate of Administration and Conferences or within the relevant Committee established under Article 14 of the Constitutive Act.

**Option 2**

- Observing that splitting the current Community Affairs into two Directorates along the lines suggested by one Department would create unwieldy Departments, and using the demarcation provided in the Abuja Treaty as a guideline, the following alternative Directorate permutation was offered: Continental Co-operation, Integration and Development; Trade, Customs and Immigration Matters, Monetary and Financial Affairs; Transport, Communications and Tourism; Industry, Energy, Natural Resources and Environment; Agriculture, Food Security and Rural Economy; Social Affairs, Health, Labour (including Population Issues); Science and Technology, Education and Human Resources.

**Option 3**

- Another alternative listing of Directorates was as follows: Political Affairs; Economic Integration; Social Integration including Gender; Administration and Finance; External Relations and Communication; Natural Resources and Water Resource Development, and Human Settlement.

**(q) Cross-cutting issues**

85. While some suggested that gender be included within other Directorates, others proposed that cross-cutting issues such as gender which involves performance of oversight functions and inspection, activities that are only possible from a vantage point which has the authority to insist on change, should be placed within the Office of the President of the Commission to endow them with the authority that comes with that Office.

**(r) Co-ordination Portfolio**

86. The meeting observed that despite the fact that a Policy and Programme Co-ordination Department already exists within the current structures, co-ordination had been one of the weakest links of the OAU General Secretariat. It was stressed that within the African Union the issue of elaboration and co-ordination of the programmes and work of the Commission had to be taken much more seriously. Consequently, it was underlined that the Co-ordination portfolio would be a meaningless one unless it was placed with the highest authority within the Commission (that is, the President) since it was only the President who would have the authority to co-ordinate the different components of the Commission so that it functions properly.

**(s) Relationship between the Commissioners and the Directors**

87. Commissioners should provide guidance for the overall policy orientation, while the Directors took charge of the day-to-day running of the Directorates. Consequently, the respective job descriptions of the Commissioners and the Directors had to be clearly spelt out.

**(t) Relationship between the President of the Commission and the Executive Council**

88. Some suggested that the President or Chairperson of the Commission should also be a member of the Executive Council to facilitate his or her participation in the deliberations and decision-making processes of Council. They also suggested that the President of the Commission should also co-chair the Executive Council, for the same reasons. However, others were of the view that

these proposals would not effectively expedite the work of the Commission because of the unstable nature of the Executive Council due to the Cabinet reshuffles that can take place any time.

**(u) Relationship between the Assembly, the Commission, and the Executive Council**

89. Care should be taken to ensure that there was no duplication of efforts between the different Organs of the Union. The functional relationships between the various arms of the Union needed to be articulated clearly and adequately in their respective Rules of Procedure.

**(v) Institutional linkages**

90. The Commission had to maintain close collaborative/working relations with other institutions, particularly with the RECs since they are the building blocks of the Union. This was especially important in relation to monitoring implementation of the decisions of the Union's policy Organs.

**(w) Staff of the Commission**

91. It would be necessary to attract the best brains for the Union. To do so it would be needful to improve the conditions of service to make them competitive with those of other international organisations. This issue had to be addressed from the very beginning because, at the moment, a lot of frustration was built into the system, which in turn bred low morale and inefficiency within the operations.

92. Regarding whether the current staff of the OAU General Secretariat were up to the requirements of the Union, there was need for a complete overhaul which would place emphasis on relevant skills that were already available within the General Secretariat and, where lacking, source additional staff from outside.

**(x) Consultants and experts**

93. The General Secretariat did not have all required expertise to pronounce on some of these issues raised. Therefore, consultants and experts from the Capitals should be engaged to undertake the work. However, the General Secretariat had to do the initial spadework. This

would give members of the Secretariat a clearer view of what was required of them, as well as of the terms of reference to be given to any consultants who might have to be engaged to finalise the work. This is why it was important to propose different options, together with the pros and cons of each scenario.

**(y) Observations of the Secretary General on this issue**

94. The Secretary General observed that the issues raised were many, varied and complex, and that it was not possible within the available timeframe to come up with answers to all of them. The issues probably required the involvement of experts from the Capitals and the engagement of consultants to help the Secretariat work through them since the requisite expertise might not be available within the OAU General Secretariat. There had, however, been consensus that the Commission had to have more power than that enjoyed by the OAU General Secretariat because of the expanded mandate as well as the increased expectations. He observed that co-ordination had been a thorny issue in the past, and hoped that it would be addressed more adequately within the Union. The Secretary General also underlined the need for balance in the coverage of the various Directorates.

**(iv) Permanent Representatives' Committee (PRC)**

**Rationale for the PRC**

95. It was pointed out that the Constitutive Act gave the Permanent Representatives' Committee (PRC) no specific competence. However, from a functional point of view, the PRC would facilitate the involvement of Member States in the work of the Commission, facilitate communication between the Union and the respective Capitals, and do the groundwork for the Executive Council. The PRC would also enhance transparency and accountability, and help bring Member States on board Union matters.

96. Clearly, therefore, there was a role for the PRC, but this had to be within clearly defined and agreed parameters to avoid tying up the work of the Union in unnecessary bureaucracy. While the Advisory Committee had been conceived of in a purely advisory capacity, the way its functioning had evolved had increasingly made the work of the Secretariat difficult due to its insistence that it be involved in the

day-to-day running of the Secretariat. Therefore, Rules of Procedure should be elaborated setting out the technical and other aspects of the PRC.

97. Because not all Member States are represented in Addis Ababa, it would be necessary to find imaginative ways of ensuring that these Member States nonetheless do participate in the deliberations of the PRC. This could include encouraging some Member States to open embassies in Addis Ababa, and providing others with financial assistance to attend PRC meetings.

### **Functions of the PRC and periodicity of its meetings**

98. The PRC should meet to prepare the work of the Executive Council and that of Sectoral Meetings. The PRC should debate issues and reach consensus before submitting them for consideration by the Executive Council or other sectoral Ministers in order to cut down on the duration of those meetings. The meetings of the PRC should involve experts from the Capitals who are actually working on the different sectoral concerns. Therefore, meetings of the PRC were to be issue-based. It was also suggested that the RECs should be requested to debate matters and then transmit their views to the PRC for inclusion in the deliberations and work of the Commission.

99. During deliberation on the priority organs of the Union, the meeting put forward suggestions on the financing of the Union.

### **(v) Budget and Financial Resources**

100. The following points were made on sources for financing the activities of the Union:

- a. Based on past experience, the budget of the Union will not be financed from Member States' contributions alone as some Member States of the OAU have already reached their limits in their ability to pay contributions.
- b. More imaginative ways of fund raising should be initiated which would involve moving away from the traditional ways of fund raising.

- c. Consideration should be given to the possibility of each Member State imposing a community levy, a kind of direct tax which each citizen of all Member States will have to pay as contribution to the Union's budget. Extra-budgetary resources will also be resorted to as is the case with the OAU. This can involve fund raising activities directed at our traditional friends and partners, Member States, institutions and individuals in the Member States and elsewhere. Such extra-budgetary contributions could be earmarked for specific purposes.
- d. Contributions from Member States to the regular budget will be a major source of the Union's resources.
- e. The point that the Constitutive Act provides for the budget to be adopted by the Assembly was brought up and the following suggestions were made:
  - The budget should be adopted by the Pan-African Parliament instead of the Assembly because budgets are normally adopted by parliaments in our Member States and parliamentarians are more familiar with budgetary issues than Heads of State.
  - The budget can be thoroughly examined by the Commission before it is passed on to the Pan-African Parliament for adoption.

### **III. BRIEFING ON THE EXPERIENCE OF THE EUROPEAN UNION (ADDIS ABABA, 16 OCTOBER 2001)**

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1. Within the framework of the collective brainstorming initiated by the OAU General Secretariat for establishment of the priority organs of the African Union, persons with wide experience of the European Union were invited to talk to the Secretariat about their experience. They were:

- Mr. Peter Gabriel Robleh, former Permanent Representative of Ethiopia to the European Union;
- Mr. Leopold Carrewyn, Ambassador of the Kingdom of Belgium to Ethiopia;
- Mr. Marcel Leroy, Counsellor at the European Union Delegation in Addis Ababa.

#### **A. Presentation by Ambassador Robleh**

##### ***(i) Historical background***

2. Ambassador Robleh gave the historical background to the formation of the European Union. European cooperation started when coal producing countries came together to forge some common interests just after World War I. Further cooperation arrangements followed after World War II, until 1961, when the OECD (Organization for Economic Cooperation and Development) was formed, taking a leap forward towards European cooperation.

3. Europe had been extensively devastated during World War II. A European recovery programme was designed by the USA not too long after the end of the war on the condition that Europe devised a cooperative long-term reconstruction programme. That was the Marshall Plan announced by George C. Marshall in 1947. The recipient countries, 16 in all, organised themselves to coordinate their participation in the Plan. They established a European Economic Co-operation Committee and put forward a four-year recovery programme. The Plan injected a substantial amount of capital into the economies of Western European countries and helped them emerge.



from the ashes of the war. Coal and Steel for the arms industry became another motivation for cooperation.

4. The efforts continued through to the Treaty of Rome in 1957. European cooperation took off slowly until it reached the present stage of monetary union.

***(ii) Structures of the European Union***

5. Initially, the main organs established were as follows:

- (a) The Parliament**
- (b) The Council of Ministers**
- (c) The Court of Justice**
- (d) The Court of Auditors**
- (e) The Commission**

6. As the institution evolved, other organs such as the European Central Bank were created.

***(iii) ACP-EU Cooperation***

7. Although the ACP-EU Cooperation Agreement, popularly known as the Lome Convention is one of the best North-South cooperation arrangements, its implementation has been problematic. The Lome Convention initially included conditionalities which have now been relaxed. Resources placed at the disposal of the beneficiary countries are substantial but many ACP countries lack the capacity to absorb the funds placed at their disposal.

**B. Presentation by Ambassador Carrewyn**

8. Ambassador Carrewyn dwelt on the shortcomings in the functioning of the European Union, caused by latent tension in the political, economic and institutional fields. He also focused his briefing on the dimension of the budget codes in financing the activities of the Union, the state of the institutions and the number of Member States of the European Union.

9. The Ambassador explained that within the framework of the European Union, economic motivations which were at the root of the European Union, had been subtended by political reasons. He particularly recalled that the first group of 6 States which were the pioneers of the European Union, had begun with the Coal and Steel Community (CECA). That initiative which at first sight, had economic objectives, had also a political dimension in so far as by establishing CECA, the States intended to control reciprocally their resources and prevent some of them going into the mining of resources likely to enable them reactivate their armament industry. Under the economic cloak, it was therefore in reality an eminently political idea which translated into the establishment of a baseline institution, namely, the High Coal and Steel Authority which had supranational powers. Unfortunately, the High Authority could not sustain its role as the importance of coal and steel in the armament industry had decreased.

10. Today, though the political dimension of European integration had increased, political co-operation had remained an area of interest whereas the supranational element had decreased. For example, in addition to the European Commissioner for External Relations, there was a High Representative of States for Foreign Policy.

11. The Ambassador also referred to the tension between the institutions of the European Union. He explained that the role of the Commission had decreased in favour of that of the Council because the political weight of the Union had increased. The demands of political nature assumed important proportions such that the Union had increasingly to draw up political policies as against economic policies. From another viewpoint, the Parliament was not a real legislative institution. Its action was limited rather to the role of control of the budget administration. It did not take legislative initiative. In brief, the European Parliament did not really find its vocation. The other weaknesses of the European Union were the fact that the European Parliamentarians did not have influence over public opinion although elected by direct universal suffrage. It was rather observed that the national Parliaments had greater influence.

12. As for the Council, it became increasingly important since the weight of the Member States had increased. The number of Summits increased and the Council became the Council of Europe and a

decision-making organ: an evolution which departed from the initial idea of a European Union with supranational powers. That, therefore, made it possible to note that the Union had evolved from supranationalism to inter-governmentalism, hence a distortion of the balance between the institutions to the detriment of the "supranational" organ which was the Commission and the Parliament. The Ambassador concluded by pointing out that there was a democratic deficit at the level of the institutions of the European Union, for decisions were taken without transparency at the level of the Council of Ministers, the Council of Europe and the Parliament.

13. As regards significance of the budget codes, the Ambassador pointed out that there was a paradox in the building of Europe, for the process of integration of economies began by particularly stressing agriculture while Europe was not basically an agricultural region. He stated that about 75% of the budget of the European Economic Community was devoted to agriculture. At present that weight had decreased.

14. The Ambassador pointed out that in spite of the large number of treaties that followed the Treaty of Rome, Europe functioned with institutions which were not commensurate with the number of its members. Indeed, the development of the Union showed that it grew gradually from the Europe of 6 to the Europe of 9, then 11 and at present 15. That reality generated tensions which were not beneficial to the Union. Within that framework, unanimous voting showed its limitations and some countries proposed to replace it by majority voting. Furthermore, with prospective expansion, it would be difficult to maintain the status quo without greatly impeding the functioning of the Union. The Ambassador explained that the European Union was an institution whose decisions affected millions of persons and had priority over national laws. The principle of unanimity was difficult to manage in the Europe of 6. It was still so at the level of the Europe of 15 Member States and could be more difficult with 28.

### **C. Presentation by Mr. Leroy**

15. Mr. Leroy concentrated on three (3) main issues:

- Evolution of the European Union;

- The Institutions;
- Co-operation between the European Union and the African Union.

***(i) Evolution of the European Union***

16. Mr. Leroy noted that the building of Europe began with six (6) Member States and that the expansion of the Union to fifteen (15) members was undertaken gradually. Each process was initiated after the conclusion of the previous one. In that connection, he stressed that the will of the States concerned to co-operate was based on strong political motivation. He pointed out that Africa was beginning with fifty three (53) members which was unthinkable for those who had followed the evolution of the European Union and the functioning of its institutions.

17. Europe, Mr. Leroy went on, had put in place a structure that did not function as one would have expected, with institutions which evolved with time.

***(ii) Institutions***

18. Mr. Leroy intimated that the European Union model could serve as basis for the building of the African Union. He however cautioned that the institutions of the European Union did not function without difficulties, adding that Europe's historical context explained the complex nature of the workings of the EU institutions which are governed by several Treaties. He underscored the importance of permanent interaction between Member States and the institutions of the Union to avoid tension as much as possible.

***(iii) Co-operation***

19. In the area of co-operation, Mr. Leroy reiterated the readiness of the European Union to help Africa, adding that the OAU should identify the areas in which the European Union could assist so that the modalities of co-operation between the two institutions could be subsequently worked out. A small group could be set up to that effect. Experts' visits could be organized to Addis Ababa and Brussels to examine priorities such as economic integration, conflict management

and capacity building. The ideal framework for such exercise would be the Cotonou Agreement which constitutes a basis for an effective co-operation policy.

#### **D. Debate**

20. In the ensuing debate, representatives of the General Secretariat made a few observations and asked many questions.

##### **(i) Observations**

21. The African Union would draw much from the European Union even if the latter is facing many difficulties, particularly with regard to a common foreign policy. It was noted that as far as common foreign policy is concerned, Member States are always reluctant to cede part of their sovereignty, but are ready to co-operate in the economic field.

The large number of Member States renders decision-making difficult. However, the fact that African States share a number of problems, namely poverty, risk of marginalization in the face of globalization, can serve as basis for the Union. Furthermore, it was noted that the Regional Economic Communities which are the pillars of African integration are, in reality, the elements around which the African Union could be built.

##### **(ii) Questions and answers**

###### **(a) Is the European Union willing to prepare a Marshall Plan for Africa?**

23. During the Europe-Africa Ministerial Meeting held in Brussels at the beginning of October, the European side expressed its willingness to assist Africa during the transition period, especially within the framework of the Cotonou Agreement which constitutes a solid basis for co-operation between Europe and Africa. It is therefore appropriate to identify the areas in which assistance is required and propose viable projects with a view to determining the nature of such co-operation. The areas of interest to Europe are among other things economic integration, conflict management and capacity building. In this connection, Europe attaches particular significance to the New African Initiative.

**(b) What is the role of the Commission and the Permanent Representatives' Committee?**

24. The Commission is a real executive authority vested with an exclusive initiative right. It initiates all the draft decisions of the Council. Generally, the Council exercises its legislative and statutory functions on the basis of the Commission's recommendations. The Commission also exercises its own decision-making power in a number of clearly defined areas. It is an organ independent of the States. It is said that it is the 16<sup>th</sup> partner of the European Union, in that it sits as a full pledged member at all the meetings of the Council. It is the custodian of the treaties.

25. The role of the Permanent Representatives' Committee is to examine the proposals tabled by the Commission to Member States, according to the following procedure: proposals are submitted to Member States. These proposals are examined by the permanent missions which have appropriate experts within their ranks, and then forwarded in a very detailed manner to the respective capitals where are organized co-ordination meetings involving all the departments concerned. The positions taken by Member States at the end of these meetings are communicated to the permanent missions which, in turn, meet within the framework of the Permanent Representatives' Committee to prepare the relevant meetings of the Council. As a matter of fact, the Committee prepares the ground for the Council to meet.

**(c) How has the European Union managed to reach out to the people, involve them in one way or the other in the life of the Union and meet their needs?**

26. Initially, the movement was spontaneous. At the time, the European people had keen interest in the unity of Europe, which was expressed through a vast movement at grassroots level. This movement later spread to include universities, schools and the man in the street, which is currently not the case in Africa. It should be acknowledged that the movement lost momentum due to the weariness of the people. European citizens seem to have a somewhat lukewarm attitude towards the European Union. Africa should be

able to realise this gigantic task by involving all African peoples in one way or other.

**(d) What is the importance of agriculture in the European Union project?**

27. Even though Europe is not rural, agriculture played a vital role in the European Union project. Even today the weight of agriculture cannot be underestimated. However, there are some disparities between policies and budgets. For instance, the agricultural budget far more exceeds that of transport, which is equally a very vital sector. The idea is to try to restore equilibrium between these two sectors and avoid tensions.

**(e) How are conflicts resolved between the Union and Member States?**

28. The Commission has the responsibility of resolving these conflicts and, as such, has been vested with considerable powers to deal with competition and trade policy. There is also the Court of Justice before which the Commission can prosecute States that have violated Community rules and regulations.

**(f) What can Africa do to avoid the tensions that the European Union has experienced in its history?**

29. Perhaps it would be necessary to begin with the adoption of a more political and better-integrated approach. The "Salami policy" is replete with enormous difficulties.

**(g) How is equilibrium ensured between the supra-national concept of Europe and the inter-governmental concept?**

30. Initially, the supranational concept seemed to gain the upper hand. Then things evolved differently, on account of the "shock of contradictory influences" which accumulated. Common policy is more "theoretical" than practical. There was therefore a deviation from the initial idea. As a result, significant progress was made within the context of European integration. The local market functions well, the European space is open to goods, capital and people; the European defence project is shaping up.

**(h) With the Afro-pessimists, can we say today that the African Union has made a poor start?**

31. NO. Africa is an indivisible entity. Ways and means must be found for the realisation of this big project, bearing in mind the difficulties that will inevitably crop up. The task is daunting and there is the need to be realistic and relatively modest. Over ambition might lead to failure. It is necessary therefore to proceed gingerly and to involve the general opinion as much as possible.

**(i) How is the European Union financed?**

32. The Union is financed by:

- import duties;
- export duties on certain commodities;
- a percentage of VAT which Member States must pay into Community coffers;
- National contributions based on a number of criteria.

33. Concluding, the Representatives of the European Union said that building of the African Union is not impossible but fraught with many difficulties. In that regard, they underscored the need to find appropriate ways and means towards its realisation. The civil society should be involved in this undertaking. Lastly, they pointed out that even though the Union had made inroads in the economic field, much remained to be done in the political field.



## **ANNEX I**

### **Terms of Reference of the Sub-Committees for Establishment of the Organs of the African Union**

#### ***Sub-Committee on the Assembly, Executive Council and the Permanent Representatives' Committee.***

**Co-Chairmen:** Assistant Secretaries General in charge of Communications and Conferences, and Community Affairs: Ambassadors Daniel Antonio and Lawrence .

#### ***Mandate 1: Assembly and Executive Council***

- prepare the Rules of Procedure of the Assembly and the Executive Council;
- identify such functions of the Assembly as may be delegated to:
  - The Executive Council;
  - The Commission.
- identify such functions of the Executive Council as may be delegated to the Commission;
- identify the ways and means to rationalize the work methods of the two organs, particularly in relation to:
  - organization of work;
  - reduction of the duration of sessions.

#### ***Mandate 2: Permanent Representatives' Committee (PRC)***

- powers and functions;
- functioning;
- organization of work and rationalization of the work methods of the Permanent Representatives' Committee;

- Relation between the:
  - PRC and Chairman of the Commission;
  - PRC and the General Secretariat of the Commission;
  - PRC and the Commissioners.

***Sub-Committee on the Commission and Resource Mobilisation for the Union***

**Co-Chairmen:** Assistant Secretaries General in Charge of Administration and Finance, Political Affairs and Policy and Programme Coordination: Ambassadors Vijay Makhan, Said Djinnit and Mahamat Habib Doutoum

***Mandate 1: The Commission – Chairmanship, Commissioners, etc***

- Composition of the Commission;
- decisions:
  - decision-making modalities;
  - nature of decisions.
- powers and functions of the Commission;
- powers and functions of members of the Commission:
  - Chairman;
  - Deputy Chairman;
  - Commissioners.
- mandate of members of the Commission;
- organization of the Cabinet of the Chairman of the Commission;
- process of appointment of the Deputy Chairman;
- process of appointment of the Commissioners;
- determination of the number of Deputy Chairmen and Commissioners;

- shall appointment of the Commissioners be governed solely by the competence criteria or shall this criteria be applied on the basis of equitable geographical distribution?
- grades of the Commissioners and members of the Commission Chairman's Cabinet;
- hierarchical and functional relation between the Commission and Directors;

***Mandate 2: Secretariat of the Commission***

- organizational structure and organization of the Secretariat of the Commission;
  - number of Departments, their organization and functions;
  - relation between the Departments;
  - relation between the Departments and the Committees;
  - grades of the various levels of responsibility;
  - the Legal Unit question: to make it a Department or a Section attached directly to the Chairman of the Commission with the status of Department;
  - the professional and technical staff required for the Union;
- popularization activities for the African Union.

***Mandate 3: Resource Mobilization***

- modalities for stepping up Member States' contributions to the regular budget of the Union;
- identify other sources of financing the activities of the Union;
- identify the transition budget;
- identify the initial budget for take off of the activities of the Union.

## **Observations**

- (a) The Chairmen should communicate the membership composition of their respective Sub-Committees to the Coordination Committee. To this end, they should indicate the human resources available as well as external resources needed (experts and consultants);
- (b) The Legal Counsel responsible for drawing up the Rules and Procedure should keep in touch with the Sub-Committee Chairmen for advice and guidelines;
- (c) The mandates herein listed are not exhaustive. The Sub-Committees are therefore free to enrich them if deemed necessary.

**ANNEX II****Schedule for the implementation of the Lusaka Decision on the launching of the priority Organs of the Union****October 2001**

<b>13-14 October</b>	Brainstorming at the level of the General Secretariat Establishment of two Sub-Committees on the preparation of documents on the Organs of the Union
<b>16 October</b>	

**November 2001**

<b>Mid-November</b>	Consideration of Progress Reports of the Sub-Committees by the Coordination Committee
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**December 2001**

<b>8-9 December</b>	Consideration of the Final Reports of the Sub-Committee by the Coordination Committee
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<b>17 December</b>	Submission of the Report of the Coordination Committee to the Committee of Ambassadors and other Plenipotentiaries
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<b>27-30 December</b>	Joint Coordination Committee and Committee of Ambassadors and other Plenipotentiaries Meeting
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**January 2002**

<b>4 January</b>	Adoption of the Report by the Joint Committee
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<b>20-25 January</b>	Meeting of Government Experts in Addis Ababa
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**March 2002**

<b>11-20 March</b>	Meeting of the Council of Ministers preceded by the meeting of the Ministerial Committee
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and that of the Committee of Permanent Representatives

***April 2002***

**5-7 April**

Meeting of the Joint General Secretariat-Ambassadors Committee

**End of April**

Meeting of the Ministerial Committee preceded by the Meeting of the Government Experts

***May 2002***

**End of May**

Extraordinary Session of the Council of Ministers

***June 2002***

**Mid June**

Transmission of documents to the Member States

### **ANNEX III**

#### **Europe on the MoveHistory of the European Union (EU): the Key Dates**

- 18 April 1951 :** The six countries that later will found the EU sign a treaty creating the European Coal and Steel Community (ECSC), as proposed in the Schuman plan. It is Europe's first « common market », uniting the coal and steel industries of Belgium, France, West Germany, Italy, Luxembourg and the Netherlands.
- 25 March 1957:** The members of the ECSC sign agreements called the Treaty of Rome. This is the beginning of the EU. It creates the European Economic Community (EEC), or « common market », because its first aim is free trade between its members. People, goods and money will be able to move freely between Member States.
- 30 July 1962:** the EU introduces the common agricultural policy, which gives member states joint control of food production. It aims to increase production to overcome food shortage, but also to protect farmers and ensure fair prices. Farming booms – and reforms to do away with overproduction and to focus on the quality of food are made in the 1990s.
- 20 July 1963:** The first big international agreement made by the EU is signed in West Africa. The Yaoundé Convention promises economic aid to former colonies of European powers, mostly in Africa. By 2000, 77 countries

receive subsidies, loans or other benefits from the EU.

**1 July 1968 :** The lifting of customs duties between EU members is finally completed, a big step towards creating a single market. Trade between members is increasing rapidly, and so is EU trade with the rest of the world. Customs duties on goods imported from other countries are now the same throughout the EU.

**24 April 1972:** The exchange rate mechanism () is introduced to guard against problems caused by sharp shifts in the value of the currencies of Member States. Rates are allowed to vary by not more than 2.5%, up or down. This sliding scale accounts for the ERM's nickname, the "snake".

**1 January 1973:** The six officially become nine when Denmark, Ireland and the United Kingdom formally become members of the EU.

**10 December 1974:** EU Heads of Government agree to set up the European Regional Development Fund (). Its purpose is to encourage economic growth, through subsidies and other benefits to poorer regions of the EU.

**7 July 1978:** The European Monetary System (EMS) replaces the ERM. A small variation in each country's currency rates is allowed. If it moves beyond those limits, national banks step in to restore the balance by buying or selling the currency. However, international pressure on sterling and the lira forces the UK and Italy out of the EMS in 1992.



- 7 – 10 June 1979:** The first direct elections are held for the European Parliament. Members are elected in each country, but in the parliament they sit not as national representatives but according to their political affiliations (such as "Conservative" or "Social Democrat"). Although at first it does not make laws, the Parliament represents ordinary people, and its influence is increasing.
- 1 January 1981:** Membership of the EU reaches double figures when Greece is admitted as the 10th member. Greece has been politically eligible since its military regime was overthrown and democracy restored in 1974.
- 28 February 1984:** The EU adopts the Esprit programme, for research and development in IT (information technology). It aims to make sure the European IT industry keeps up with competition in other continents.
- 14 June 1985:** At a meeting signed at Schengen in Luxembourg, five national governments agree in principle to abolish border controls between Member States.
- 1 January 1986:** Following an agreement signed in 1985, Spain and Portugal enter the EU, bringing membership to 12 states.
- 17 February 1986:** The Single European Act is an effort to overcome remaining obstacles to a common market by 1993. These are chiefly differences in national regulations, which hamper free trade. The act makes the EI more democratic by increasing the powers of the European Parliament and promotes efforts for a cleaner environment.

- 15 June 1987:** "Erasmus", part of the Socrates educational programme for helping students, is finalized. It sets up financial grants for students who wish to study for up to a year in another European country.
- 15 June 1989:** EU leaders meeting in Madrid agree a plan leading to economic and monetary union (EMU). They also agree on the importance of social as well as economic aspects in the common market, to be incorporated into a charter of the rights of workers.
- 7 February 1992:** The Treaty on European Union is signed in Maastricht. It lays down the basis for a common foreign policy and closer cooperation in justice and home affairs, and decides on a single currency. The treaty comes into effect in November 1993, when the name "European Union" officially replaces "European Community".
- 1 January 1993:** The single market comes into effect. People, goods, services and money can now move freely throughout the EU. Difficulty in agreeing on tax policies, business regulations and professional qualifications, plus governments' temptation to protect national markets against foreign competition, has caused the delay since customs duties ended in 1968.
- 1 January 1995:** Austria, Finland and Sweden join the EU. Member States now number 15. They now include almost all of the major States of Western Europe.
- 17 June 1997:** The Treaty of Amsterdam, discussed at an inter-governmental conference in Turin in

1996, is signed. It is the most important agreement on future policy since Maastricht. It lays down plans to reform EU institutions, to give Europe a stronger voice in the world, and to concentrate more resources on employment and the rights of citizens.

**13 December 1997:** A Luxembourg summit agrees to start negotiations for EU membership with many new countries. The 13 candidates are: Bulgaria, Cyprus, the Czech Republic, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Romania, Slovakia, Slovenia and Turkey. In 2000, treaty changes agreed in Nice opened the way for enlargement by reforming EU's voting rules.

**1 January 1999:** Monetary exchange rates become fixed and the new currency, the Euro, is introduced into Austria, Belgium, Finland, France, Germany, Greece, Ireland, Italy, Luxembourg, Portugal, Spain and the Netherlands. For the time being, the old national currencies continue in use. The Euro will enter general use on 1 January 2002, when the old currencies will be gradually withdrawn.

2001-12

# Report Of The Secretary General On The Implementation Of The Lusaka Summit On The Texts Relating To The Key Organs Of The African Union December 2001 Addis Ababa, Ethiopia

Peace and Security

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