

**ASSEMBLY OF THE AFRICAN UNION**  
**First Ordinary Session**  
**9 - 10 July 2002**  
**Durban, SOUTH AFRICA**

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**STATUTES OF THE COMMISSION OF THE**  
**AFRICAN UNION**

## **GENERAL PROVISION**

The Commission shall be the Secretariat of the Union and shall act as such in conformity with articles 5 and 20 of the Constitutive Act.

### **Article 1 Definitions**

In these Statutes:

- “**Assembly**” means the Assembly of Heads of State and Government of the Union;  
“**Chairperson**” means the Chairperson of the Commission unless otherwise specified;  
“**Commission**” means the Secretariat of the Union;  
“**Committee**” means a Specialized Technical Committee of the Union;  
“**Constitutive Act**” means the Constitutive Act of the African Union;  
“**Council**” means the Economic, Social and Cultural Council of the Union;  
“**Court**” means the Court of Justice of the Union;  
“**CSSDCA**” means the Conference on Security, Stability, Development and Co-operation in Africa;  
“**Executive Council**” means the Executive Council of Ministers of the Union;  
“**Member State**” means a Member State of the Union;  
“**Members of the Commission**” means the Chairperson, the Deputy Chairperson and the Commissioners;  
“**NEPAD**” means the New Partnership for Africa’s Development.  
“**OAU**” means the Organization of African Unity;  
“**Parliament**” means the Pan-African Parliament of the Union;  
“**PRC**” means Permanent Representatives’ Committee;  
“**RECs**” means the Regional Economic Communities;  
“**Union**” means the African Union established by the Constitutive Act;

### **Article 2 Composition**

1. The Commission shall be composed of the following members:
  - a) a Chairperson;
  - b) one Deputy Chairperson; and
  - c) eight (8) Commissioners.
2. The Assembly may, when it deems necessary, review the number of Commissioners.
3. The Members of the Commission shall be assisted by the necessary staff for the smooth functioning of the Commission.

### **Article 3**

## Functions

1. The Commission shall carry out the functions assigned to it under the Constitutive Act, those specified in Protocols thereto, decisions of the Union as well as those established in these Statutes.
2. The Commission shall:
  - a) represent the Union and defend its interests under the guidance of and as mandated by the Assembly and the Executive Council;
  - b) initiate proposals for consideration by other organs;
  - c) implement the decisions taken by other organs;
  - d) organise and manage the meetings of the Union;
  - e) act as the custodian of the Constitutive Act, its protocols, the treaties, legal instruments, decisions adopted by the Union and those inherited from the OAU;
  - f) establish, on the basis of approved programmes, such operational units as it may deem necessary;
  - g) coordinate and monitor the implementation of the decisions of the other organs of the Union in close collaboration with the PRC and report regularly to the Executive Council;
  - h) assist Member States in implementing the Union programmes and policies, including, CSSDCA and NEPAD;
  - i) work out draft common positions of the Union and coordinate the actions of Member States in international negotiations;
  - j) prepare the Union's Programme and Budget for approval by the policy organs;
  - k) manage the budgetary and financial resources including collecting the approved revenue from various sources, establishing fiduciary, reserve and special Funds with the appropriate approvals, and accepting donations and grants that are compatible with the objectives and principles of the Union;
  - l) manage the assets and liabilities of the Union according to laid down regulations and procedures;

- m) prepare strategic plans and studies for the consideration of the Executive Council;
- n) take action in the domains of responsibility as may be delegated by the Assembly and the Executive Council. The domains shall include the following:
  - i) control of pandemics;
  - ii) disaster management;
  - iii) international crime and terrorism;
  - iv) environmental management;
  - v) negotiations relating to external trade;
  - vi) negotiations relating to external debt;
  - vii) population, migration, refugees and displaced persons;
  - viii) food security;
  - ix) socio-economic integration; and
  - x) all other areas in which a common position has been established.
- o) mobilize resources and devise appropriate strategies for self-financing, income generating activities and investment for the Union;
- p) promote integration and socio-economic development;
- q) strengthen cooperation and co-ordination of activities between Member States in fields of common interest;
- r) ensure the promotion of peace, democracy, security and stability;
- s) provide operational support to the Peace and Security Council;
- t) elaborate, promote, coordinate and harmonise the programmes and policies of the Union with those of the RECs;
- u) prepare and submit an annual report on the activities of the Union to the Assembly, the Executive Council and the Parliament;
- v) prepare the Staff Rules and Regulations for approval by the Assembly;
- w) implement the decisions of the Assembly regarding the opening and closing down of sections, administrative or technical offices;
- x) follow up and ensure the application of the Rules of Procedure and Statutes of the organs of the Union;
- y) negotiate, in consultation with the PRC, with the host countries, the Host Agreements of the Union and those of its administrative or technical offices;

- z) build capacity for scientific research and development for enhancing socio-economic development in the Member States;
- aa) strive for the promotion and popularization of the objectives of the Union;
- bb) collect and disseminate information on the Union and set up and maintain a reliable database;
- cc) ensure the mainstreaming of gender in all programmes and activities of the Union;
- dd) undertake research on building the Union and on the integration process;
- ee) develop capacity, infrastructure and maintenance of intra-continental information and communication technology; and
- ff) prepare and submit to the Executive Council for approval, administrative regulations, standing orders and Rules and Regulations for the management of the affairs of the Union and keeping proper books of accounts.

#### **Article 4** **Obligations**

1. In the performance of their duties, the Members of the Commission and the other staff shall not seek or receive instructions from any government or from any other authority external to the Union. They shall refrain from any action which may reflect adversely on their position as international officials responsible only to the Union.
2. Each Member State undertakes to respect the exclusive character of the responsibilities of the Members of the Commission and the other staff and shall not influence or seek to influence them in the discharge of their responsibilities.
3. The Members of the Commission and the other staff shall not, in the discharge of their duties, engage in any other occupation, whether gainful or not. When taking up their duties they shall give a solemn undertaking that, both during and after their term of office, they shall respect the obligations arising therefrom and in particular their duty to behave with integrity and discretion and to regulate their conduct with only the interests of the Union in view, and not to seek or accept instructions from the Government of any Member State or authority external to the Union.
4. In the event of any breach of these obligations, the Assembly may, on application by the Executive Council or the Commission, decide disciplinary measures to be applied to the Members of the Commission.

5. In the event of breach of these obligations, by other staff, the internal procedures set out in the Staff Rules and Regulations shall be applied provided that the staff member concerned shall have a right of appeal, after exhausting all the internal administrative measures, to the Court.

#### **Article 5**

#### **Headquarters of the Commission**

1. The Commission shall be based at the Headquarters of the Union in the city of Addis Ababa, Ethiopia.
2. The Headquarters is for the official use of the Union.
3. The Chairperson of the Commission may authorise the holding of meetings or social functions at the Headquarters or other offices of the Union when such meetings or functions are closely linked or are compatible with the objectives and principles of the Union.

#### **Article 6**

#### **Election of Members of the Commission**

1. The election of Members of the Commission shall be governed by the Rules of Procedure of the Assembly, of the Executive Council and these Statutes.
2. The region from which the Chairperson and the Deputy Chairperson are appointed, shall be entitled to one (1) Commissioner each. All other regions shall be entitled to two (2) Commissioners.
3. At least one Commissioner from each region shall be a woman.

#### **Article 7**

#### **The Chairperson**

1. The functions and responsibilities of the Chairperson shall be:
  - a) the Chief Executive Officer;
  - b) the legal representative of the Union;
  - c) the Accounting Officer of the Commission;
2. The Chairperson of the Commission shall be directly responsible to the Executive Council for the effective discharge of his/her duties.

#### **Article 8**

#### **Functions of the Chairperson**

1. The functions of the Chairperson shall be to, inter-alia:
  - a) chair all meetings and deliberations of the Commission;
  - b) undertake measures aimed at promoting and popularising the objectives of the Union and enhancing its performance;
  - c) promote cooperation with other organizations for the furtherance of the objectives of the Union;
  - d) participate in and keep records of the deliberations of the Assembly, the Executive Council, the PRC, the Committees and any other organs of the Union as may be required;
  - e) submit reports requested by the Assembly, the Executive Council, the PRC, the Committees and any other organs of the Union as may be required;
  - f) prepare, in conjunction with the PRC, and submit the Staff Rules to the Executive Council, for approval;
  - g) prepare, together with the PRC, and transmit to Member States the Budget, Audited Accounts and Programme of Work at least one (1) month before the commencement of the sessions of the Assembly and the Executive Council;
  - h) act as depository of all Union and OAU Treaties and other legal instruments of the Union and perform depository functions thereof;
  - i) act as a depository for instruments of ratification, accession or adherence of all international agreements concluded under the auspices of the Union and communicate information in this respect to Member States;
  - j) receive copies of international agreements entered into between or amongst Member States;
  - k) receive the notification of Member States which may desire to renounce their membership in the Union as provided for in Article 31 of the Constitutive Act;
  - l) communicate to Member States, and include in the Agenda of the Assembly, as provided in Article 32 of the Constitutive Act, written requests of Member States for amendments or revisions to the Constitutive Act;
  - m) circulate the provisional agenda of sessions of the Assembly, the Executive Council and the PRC to Member States;

- n) receive proposals, together with explanatory notes, for the inclusion of items on the agenda of the Assembly and the Executive Council at least sixty (60) days prior to the session;
  - o) receive and circulate requests which conform to the correct Rules of Procedure of the Assembly or the Executive Council, from any Member State, for the convening of an extraordinary session of the Assembly or the Executive Council;
  - p) in conjunction with the PRC, assess the need for branches, administrative and technical offices as may be considered necessary for the adequate functioning of the Commission, and create or abolish them as necessary, with the approval of the Assembly;
  - q) consult and coordinate with the Governments and other institutions of Member States and the RECs, on the activities of the Union;
  - r) appoint the staff of the Commission in accordance with the provisions of Article 14 of these Statutes;
  - s) assume overall responsibility for the administration and finances of the Commission;
  - t) prepare an Annual Report on the activities of the Union and its organs;
  - u) carry out diplomatic representations of the Union;
  - v) liaise closely with the organs of the Union to guide, support and monitor the performance of the Union in the various areas to ensure conformity and harmony with agreed policies, strategies, programmes and projects;
  - w) carry out such other functions as may be determined by the Assembly or the Executive Council;
  - x) supervise the functioning of the Headquarters and other offices of the Union;
  - y) coordinate all activities and programmes of the Commission related to gender issues.
2. The Chairperson may delegate any of his/her functions to the Deputy Chairperson of the Commission.

#### **Article 9**

#### **The Deputy Chairperson of the Commission**

1. The Deputy Chairperson of the Commission shall, in the discharge of his/her responsibilities, be accountable to the Chairperson. He/she shall have, inter alia, the following functions:
  - (a) assist the Chairperson in the exercise of his/her functions;
  - (b) exercise the functions delegated to him/her by the Chairperson;
  - (c) shall be in charge of the administration and finance of the Commission;
  - (d) act as Chairperson in case of death or permanent incapacity of the latter, pending the appointment of a new Chairperson;
  - (e) act as Chairperson in the absence or in case of temporary incapacity of the latter.
2. In case of absence, death, temporary or permanent incapacity of the Deputy Chairperson, the Chairperson shall, in consultation with the Chairperson of the Union, appoint one (1) of the Commissioners to act as the Deputy Chairperson, pending the return of the incumbent or the appointment of a new Deputy Chairperson, as the case may be.

#### **Article 10**

##### **Term of Office and Termination of Office**

1. The term of office of the members of the Commission shall be four (4) years. The Members may be eligible to compete for re-election for another term of four (4) years.
2. When so required for the good functioning of the Union, the Assembly may terminate the appointment of a Member of the Commission, based on the provisions of the internal rules of the Commission.
3. Where, due to any reason, a Commissioner is unable to complete his/her term of office, the region from which that Commissioner was appointed, shall be given the opportunity to present a candidate to complete the remaining term.

#### **Article 11**

##### **The Commissioners**

Each Commissioner shall be responsible for the implementation of all decisions, policies and programmes in respect of the portfolio for which he/she has been elected, and be accountable to the Chairperson of the Commission.

#### **Article 12**

##### **Portfolios of the Commission**

1. The portfolios of the Commission shall be as follows:
  - a) PEACE AND SECURITY (Conflict Prevention, Management and Resolution, and Combating Terrorism...);
  - b) POLITICAL AFFAIRS (Human Rights, Democracy, Good Governance, Electoral Institutions, Civil Society Organizations, Humanitarian Affairs, Refugees, Returnees and Internally Displaced Persons);
  - c) INFRASTRUCTURE AND ENERGY (Energy, Transport, Communications, Infrastructure and Tourism...);
  - d) SOCIAL AFFAIRS (Health, Children, Drug Control, Population, Migration, Labour and Employment, Sports and Culture...);
  - e) HUMAN RESOURCES, SCIENCE AND TECHNOLOGY (Education, Information Technology Communication, Youth, Human Resources, Science and Technology...);
  - f) TRADE AND INDUSTRY (Trade, Industry, Customs and Immigration Matters...);
  - g) RURAL ECONOMY AND AGRICULTURE (Rural Economy, Agriculture and Food Security, Livestock, Environment, Water and Natural Resources and Desertification...);
  - h) ECONOMIC AFFAIRS (Economic Integration, Monetary Affairs, Private Sector Development, Investment and Resource Mobilization...).
  
3. Considering that gender issues are cross-cutting through all the portfolios of the Commission, a special unit shall be established in the Office of the Chairperson to coordinate all activities and programmes of the Commission related to gender issues.

### **Article 13** **Nomination of the Commissioners**

There shall be a pre-selection process at the regional level. Each region shall nominate two candidates including a woman for each portfolio. The nomination process shall be based on modalities to be determined by the region. The candidates selected at the regional level shall form part of the continental pool.

### **Article 14** **Central Pre-selection Process**

1. A panel consisting of two (2) representatives from each region shall be established for the central selection exercise.
2. The panel shall be made up of Ministers assisted by a team of independent consultants, to conduct the selection.

3. The panel shall submit, for election by the Executive Council, a list of at least two (2) candidates for each portfolio. The shortlist of candidates shall take into account the agreed regional geographic distribution formula.

**Article 15**  
**Qualifications and Experience of the Commissioners**

1. The Commissioners shall possess minimal educational qualification not below the first degree, or equivalent from a recognized university.
2. They shall also possess a significant and wide-ranging working experience with a good track record in government, parliament, international organizations, a recognized university, multinational or private sector organizations.
3. Only nationals of Member States shall be appointed as Commissioners, provided that no two (2) Commissioners shall be nationals of the same Member State. A minimum age criteria of thirty-five (35) years shall apply.

**Article 16**  
**Voting Procedure for Election of Commissioners**

1. Nominations for the office of Commissioners shall be circulated to Member States at least three (3) months before election.
2. Where no candidate obtains, in the first ballot, the two-thirds majority required for his/her election, the balloting shall continue until one of the candidates obtains the two-thirds majority required. If the third ballot remains inconclusive, the next ballot shall be restricted to the two candidates who obtain the greatest number of votes in the third ballot.
3. If after three further ballots neither of the two candidates obtains the majority required, the candidate with the fewer votes shall be obliged to withdraw. The ballot shall then proceed to elect the remaining candidate.
4. If the remaining candidate fails to secure the required two-thirds majority, the election shall be suspended until the next session of the Executive Council. The Chairperson shall, in consultation with the Chairperson of the Executive Council, appoint one of the Commissioners to act until a new Commissioner has been appointed in accordance with these Rules.

**Article 17**  
**Rules of Procedure**

The Commission shall adopt its own Rules of Procedure.

**Article 18****Appointment of other Staff of the Commission**

1. The Members of the Commission shall be assisted, in the discharge of their functions, by a corps of suitably qualified, experienced and well-motivated senior administrative, professional and technical staff.
2. Appointment of senior administrative, professional and technical staff of the Commission shall be made by a Recruitment Board, comprising the Members of the Commission, the Head of Human Resources, the Legal Counsel and a Representative of the Staff Association.
3. Prior to the commencement of the recruitment process of senior administrative, professional and technical staff of the Commission, the approval of the Advisory Sub-Committee on Administrative, Budgetary and Financial Matters of the PRC shall be obtained, upon the submission of job descriptions, justification and financial implications.
4. The remaining general/ancillary staff of the Commission shall be recruited and appointed in terms of a mechanism and procedures contained in reviewed Staff Rules and Regulations.
5. The recruitment process shall be conducted in accordance with elaborate recruitment procedures calculated to ensure the utmost transparency and objectivity.
6. In recruiting senior administrative, professional and technical staff, the Recruitment Board shall:
  - a) uphold the principles of equitable geographical representation and gender equality; and
  - b) apply a quota system recommended by the Executive Council and approved by the Assembly on the basis of a minimum number of posts allocated to a Member State, and additional posts allocated on the basis of agreed criteria including assessed contributions.
7. Paramount in the employment of the staff referred to in the preceding paragraph shall be the need to guarantee the highest standards of competence, efficiency and integrity.
8. Nationals of Member States which are under sanctions for defaulting in the payment of assessed contributions to the budget of the Union amounting to two years or more or for failure to comply with the decisions and policies of the Union shall not be eligible for appointment.

9. The preceding provision shall also be applicable to recruitment for projects financed by extra-budgetary resources/funds.
10. The promotion and advancement of the senior administrative, professional and technical staff of the Commission shall be carried out by a Promotions Board, based on the following criteria, among others:
  - a) annual performance evaluation reports;
  - b) result of competitive examination and interviews to be conducted by a Board made up of representatives of the Commission, and the Staff Association.
11. A Disciplinary Board, which shall be composed of representatives of the Commission shall be set up under the Staff Rules and Regulations. The type of misconduct to attract disciplinary measures shall be spelt out in the Staff Rules and Regulations to be drawn up by the Commission and approved by the Executive Council.
12. The Commission shall maintain a package of remuneration and conditions of service comparable to those obtainable in other international organizations, multilateral institutions and the private sector organizations of equivalent status, in order to attract and retain the appropriate caliber of employees.

#### **Article 19**

#### **Privileges and Immunities**

1. The Headquarters of the Union, other organs and administrative and technical offices of the Union shall be governed by Host Agreements negotiated by the Commission with the Host countries and approved by the Executive Council and reviewed periodically to ensure strict compliance and facilitate the smooth functioning of the Commission.
2. The Headquarters and other offices of the Union shall enjoy the privileges and immunities stipulated in the OAU General Convention on Privileges and Immunities, the Vienna Convention on Diplomatic Relations and the Vienna Convention on the Law of Treaties between States and International Organisations or between International Organisations.

## **FINANCES OF THE UNION**

### **Article 20 Programme and Budget**

1. The Commission shall prepare the Programme and Budget of the Union every two (2) years and shall submit it, through the PRC and the Executive Council, to the Assembly for consideration.
2. The proposed Programme and Budget shall include:
  - a) the programme of activities of the Commission;
  - b) the expenses of the Assembly, the Executive Council, the Committees and other organs of the Union;
  - c) a list of contributions made by Member States in accordance with the scale of assessment established by the Executive Council;
  - d) an estimate of the various incomes of the Union;
  - e) a description of the financial status of the working Fund as created under these Statutes;
  - f) staff nominal rolls of the Commission.
3. In preparing the Programme and Budget of the Union, the Commission shall consult the different organs of the Union.

### **Article 21 Financial Resources**

1. The Chairperson shall, as soon as the Assembly approves the Budget, communicate it to the Member States, with all pertinent documents, at least three (3) months before the first day of the Financial Year.
2. The budget shall be accompanied by a list indicating the assessed annual contributions in respect of each Member State.
3. The assessed annual contribution of each Member State becomes due on the first day of the Financial Year, namely 1<sup>st</sup> November.

4. The Chairperson shall submit to Member States a quarterly statement on payments of contributions and outstanding contributions.

#### **Article 22 General Fund**

1. There shall be a General Fund, in which the following categories of accounts shall be maintained:
  - a) annual Contributions of Member States;
  - b) miscellaneous income including donations and grants ; and
  - c) advances from the Working Fund.
2. All expenditures established in the budget shall be met from the General Fund.

#### **Article 23 Special Funds**

The Chairperson may establish Special Funds including fiduciary funds, reserve funds, with the approval of the Executive Council. The objectives and limitations of these funds shall be defined by the Executive Council. These funds shall be administered in separate accounts, as provided for in the Financial Rules and Regulations of the Union.

#### **Article 24 Gifts and Other Donations**

1. The Chairperson, may accept, on behalf of the Union, gifts, bequests and other donations made to the Union, provided that such donations are consistent with the objectives and principles of the Union and shall remain the property of the Union.
2. In the case of monetary donations for specific purposes, these funds shall be treated as fiduciary or special funds as provided for in Article 20 of these Statutes. Monetary donations for no specific purposes shall be considered as miscellaneous income.

#### **Article 25 Deposit of Funds**

The Commission shall determine the financial Institutions in which the funds of the Union shall be deposited. The interests accrued by such funds, including the Working Fund, shall be entered as miscellaneous income.

#### **Article 26 Accounts and Auditing**

1. The accounts of the Union shall be maintained in the currencies specified by the Executive Council on the proposal of the Commission.
2. The Chairperson shall ensure that the accounts of the Union are audited by external auditors at the end of each Financial Year, including the accounts of projects funded through extra-budgetary resources.
3. The Chairperson shall submit to the Executive Council for its approval, at the earliest possible moment, the complete regulations governing the accounting method of the Union, in accordance with established international accounting standards.

**Article 27**  
**Amendments**

These Statutes of the Commission may be amended by the Assembly.

**Article 28**  
**Entry into Force**

These Statutes shall enter into force upon their adoption by the Assembly.