

AUDIT OF THE AFRICAN UNION

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THE HIGH LEVEL PANEL

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FOREWORD

1. The setting up of an independent High Level Panel of the Audit of the African Union by the Assembly of the Heads of State and Government of the African Union to undertake an audit review of the state of the union is a most historic initiative. It demonstrates the vision, courage and foresight of African leaders. Its wide and comprehensive terms of reference are symptomatic of the psychological paradigm shift that has occurred insofar as achieving the political and socio-economic unification of Africa is concerned. The desire to accelerate and fast track the process has become real and urgent. By taking this historic step to undertake a systematic examination and self-assessment of the performance of the African Union, African leaders have reasserted their collective self-reliance and have, once again, concretised the claim of Africa to own the twenty-first century.
2. The Panel very much appreciates that it has been called upon to be part of this historic development. In order to convince the sceptics that there is indeed a determination for Africa to own the twenty-first century, the recommendations that have emerged from this historic audit are intended to revamp the Organs and Institutions of the Union so as to foster African unity and fast-track the political and economic process. The Panel, therefore, urges that they must be implemented fully and without delay. The Panel has been left in no doubt that this is indeed the intention of the Union Assembly. In this connection, the Panel sincerely hopes that its recommendation that the audit should from now on be undertaken every five years will be endorsed by the Assembly and implemented so that in 2012 another audit review will take place. By internalising periodic audit reviews, African leaders will show beyond doubt their conviction that the deliverance of Africa will not come from outside the continent but from within.
3. The idea that somehow Africa's deliverance from political fragmentation, socio-economic underdevelopment, poverty and disease, etc, will come from outside the continent has become so ingrained in official and public discourse that the decision that this audit review should be undertaken has come as a surprise to many, in and outside Africa. However, it has been widely welcomed by millions of the peoples of Africa because it portends a great future and a greater tomorrow. What remains now, in order that the sceptics and the cynics can be silenced permanently, is to embark immediately on the implementation of the recommendations.

4. The Panel strongly urges that the implementation should also be inclusive and engage all the actors at all levels -continental, regional and national. By so doing, the ownership of the process would remain African.
5. Finally, it is encouraging to note that, as stated in the Accra Declaration, there is a consensus that the ultimate objective of the African Union is the establishment of a Union Government. To assist in the monitoring of the progress in the march towards unification, benchmarks have been provided. They will serve as both a radar of hope and the barometer of progress.
6. Without doubt, the transformation process needs to be accelerated most urgently, and this will not happen by chance. To join the rich world and do away with the toga of dependency, political, structural and economic transformation must take place. There must be a deconstruction of the inherited political and economic architecture to make way for the constitution of a new indigenous socio-economic order based on the three pillars of the democratisation of the political and development process, national and continental collective self-reliance and the restitution of an African indigenous social democratic order. Without this, the promotion of African solidarity and acceptance of the oneness of the African humanity will be impossible to achieve. If the African Union that we seek is to become a reality, it must be a union of the peoples of Africa and not just a union of African States and Governments.
7. Once again, my colleagues and I feel greatly honoured that we have been called upon to undertake this historic audit review and would like to place on record our sincere appreciation for the cooperation that we have received from the Chairperson of the Commission and all his colleagues and members of the staff. We are also grateful for the cooperation of all the Organs and the persons we have interacted with. Above all, we express, through the Chairperson of the Assembly, H.E John Agyekum Kufuor, President of the Republic of Ghana, our sincere appreciation to the Assembly for the confidence and trust placed in us.

Long Live Africa!

African Union
Addis Ababa
Ethiopia
December 18,2007

Adebayo Adedeji, CFR
Chairperson of the High Level Panel
of the Audit of the African Union

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TERMS OF REFERENCE FOR THE AUDIT

General Objectives of the Audit

1. The general objectives of the audit are to:
 - (i) Evaluate the African economic and political integration agenda and existing and ongoing reviews on political and economic integration by the Commission as well as other AU Organs and the RECs;
 - (ii) Review the operations of all the various Organs and Institutions of the AU as presently constituted with a view to identifying the weaknesses and strengths in their functioning and aligning them with the realities of political and economic integration;
 - (iii) Review the structures and processes of the various Organs of the African Union with a view to promoting efficiency and coherence in the functioning of the various Organs;
 - (iv) Review the nature of relationship between the various Organs and Institutions of the African Union, and with other relevant continental Organisations, and indicate the nature and character of inter-Organ relationship and relation with other Institutions that will help to accelerate the integration process;
 - (v) Review the global trends with respect to political and economic integration, outline the specific and general challenges confronting the African integration process;
 - (vi) Make concrete recommendations on the policies, strategic orientations, Institutions and structures, programmes, roadmaps, and possible scenarios required to accelerate economic and political integration; and,
 - (vii) Assess the efficiency of the African Union in the maintenance of peace in the Continent.

Specific Objectives of the Audit

2. The specific objectives of the Audit are the following:

- (i) Review the current state of affairs, with an in-depth analysis of the dynamics underlining the current situation and provide a factual description and assessment of the state of the Union, particularly as it relates to Africa's quest for economic and political integration taking into account the core values outlined in the Constitutive Act of the African Union;
- (ii) Highlight the major trends with respect to political and economic integration, outline the specific and general challenges to the African integration process, including major constraints and obstacles at national, regional and international levels, and make concrete proposals on the appropriate strategies to address these challenges and overcome these constraints, and on the nature of programmes, initiatives, policies and decisions that will be required to facilitate the achievement of the desired goals;
- (iii) Review the Report of the Chairperson of the Commission on the strengthening of the Commission, and the operations of the different Organs and Institutions of the AU as presently constituted and analyse their structures and quality of staff and their functioning and the nature of their operations and their interactions with one another, highlighting deficiency and gaps as well as modalities and strategies for overcoming the perceived deficiency and gaps;
- (iv) Review NEPAD structures and programme as well as the ongoing work on its integration and incorporation into the AU structure, and make specific recommendation regarding its location within the African Union Commission;
- (v) Review existing Union decisions and agreements with a view to identifying the challenges and constraints facing Member States with respect to the implementation of agreed decisions and agreements;
- (vi) Review Union experiences on the application of sanctions and propose recommendations on strategies for deterring

non-adherence of member States to agreed union policies and decisions;

- (vii) Review the 1998 Protocol on Relations between the African Economic Community and the RECs, as well as the Draft Protocol on Relations between the African Union and RECs and against this background, examine the functioning and activities of the RECs, taking into account the conclusions of existing studies and reports, and propose concrete strategies for harmonising the instruments and Organs of the RECs with those of the Union and modalities for their eventual incorporation into the Union structure;
 - (viii) Review challenges and progress made in establishing pan-African financial Institutions as envisaged under article 19 of the Constitutive Act of the AU and make recommendations on strategies for effecting their timely establishment and operationalisation;
 - (ix) Provide requisite background for building alternative scenarios describing different possible futures for stepping up unity at the continental level, as well as suggest programmes, initiatives, policies and decisions that will be required to facilitate the achievement of economic and political integration;
 - (x) Review the finances and financial management of the Union and the current system of assessed contributions of Member States vis-à-vis the financial challenges of economic and political integration as well as the ongoing discussions on funding options, and make concrete suggestions on workable options;
 - (xi) Indicate the nature and character of the ideal relationships between the principal Organs, Institutions and high officials of the Union, particularly the Head of the Commission;
 - (xii) Make an assessment of the degree and conditions of the involvement of the Civil Society and the African population in the process of continental economic and political integration.
3. The audit is expected to provide an in-depth analysis and assessment of the current state of integration. Specifically, it must also suggest programmes, initiatives, policies and decisions that

will be required to facilitate the achievement of political integration.

ABBREVIATIONS AND ACRONYMS

AACB	Association of African Central Banks
AAFSAP	African Alternative Framework to Structural Adjustment Programmes
ACB	Africa Central Bank
ACHPR	African Charter on Human and Peoples' Rights
AEC	African Economic Community
AfCJ	African Court of Justice
AfDB	African Development Bank
AGOA	Africa Growth and Opportunity Act
AEC	African Economic Community
AfCHPR	African Court of Human and Peoples' Rights
AIB	African Investment Bank
AMF	African Monetary Fund
AMIS	African Union Mission in Sudan
AMISOM	African Union Mission in Somalia
APRM	Africa Peer Review Mechanism
AU	African Union
AUC	African Union Commission
CA	Constitutive Act
CEGL	Economic Community of the Great Lakes Region
CEMAC	Central African Economic and Monetary Community
CEN-SAD	Community of Sahel-Saharan States
CEWS	Continental Early Warning System
CIDO	African Citizens' Directorate
COMESA	Common Market for Eastern and Southern Africa
CSO	Civil Society Organisations
CSSDCA	Conference on Security Stability and Development Cooperation in Africa
DRC	Democratic Republic of Congo
EAC	East African Community
ECCAS	Economic Community of Central African States
ECOSOC	Economic and Social Council
ECOSOCC	Economic, Social and Cultural Council
ECOWAS	Economic Community of West African States
ECDPM	European Centre for Development Policy Management
EPAs	Economic Partnership Agreements
EU	European Union
EC	Executive Council
FAL	Final Act of Lagos

FTA	Free Trade Area
G-8	Group of 8
GTZ	Deutsche Gesellschaft für Technische Zusammenarbeit (German Technical Cooperation)
HSGIC	Heads of State & Government Implementation Committee
IBAR	Inter-African Bureau for African Resources
IGAD	Inter-Governmental Development Authority
IGADD	Inter Governmental Authority on Drought and Development
IMF	International Monetary Fund
IOC	Indian Ocean Commission
LPA	Lagos Plan of Action
MOU	Memorandum of Understanding
MRU	Mano River Union
NEPAD	New Partnership for Africa's Development
NGO	Non-Governmental Organisation
OAU	Organisation of African Unity
PAP	Pan-African Parliament
PANVAC	Pan -African Veterinary Vaccine Centre
PAWO	Pan -African Women's Organisation
PCRD	Policy Framework on Post Conflict reconstruction and Development
PRC	Permanent Representatives Committee
PSC	Peace and Security Council
PSD	Peace and Security Department
RECs	Regional Economic Communities
SACU	Southern African Customs Union
SADC	Southern African Development Community
SADCC	Southern African Development Coordination Conference
SAFGRAD	Semi-Arid Grain and Development and Coordination Office
STCs	Specialized Technical Committees
TICAD	Tokyo International Conference on African Development
UEMOA	West African Economic and Monetary Union
UMA	Arab Maghreb Union
UN	United Nations
UNECA	United Nations Economic Commission for Africa
UNSC	United Nations Security Council
WTO	World Trade Organisation

EXECUTIVE SUMMARY

1. This report is the result of the audit review which the African Union commissioned at the request of the Assembly of the African Union as contained in the Accra Declaration of July 2007. It was conducted by a High Level Panel appointed by the Chairperson of the African Union, H.E John Agyekum Kufuor, President of the Republic of Ghana.
2. Based on the Terms of Reference of the audit, the report provides an in-depth review of the Organs and Institutions of the African Union as well as the nature of the relationships among them. It reviews the structures and functions of the RECs, including their relations with the African Union. The review also includes the relationship between the AU on the one hand, and the UNECA and the AfDB on the other.
3. The methodology of the audit consisted of analysing the information contained in the Decisions, Resolutions and Declarations of the African Union and in related reports and studies. The Panel exchanged views on the issues arising from these documents in the light of its Terms of Reference. It also conducted a number of interviews within and outside of the Commission and with representatives of other Organs and Institutions. The Panel further held discussions with high officials of the RECs, ECA and ADB.
4. The Panel met between September 10, 2007 and December 18, 2007 during which it discussed the scope of its work as well as its internal organisation. This culminated in the production of this report which contains three main parts. These are: A brief overview of the integration process in Africa since the 1960s; an in-depth assessment of the current state of integration through the examination of the Organs, Institutions and RECs, and their inter-relationships; and, finally, the formulation of roadmaps and benchmarks based on the Panel's recommendations and which would accelerate the transformation and integration process in Africa.

Overview of Africa's transformation process

5. Africa's experience of integration shows that historically, one strand of opinion has stood in favour of immediate integration, while another has supported gradual integration. During the formation of the OAU, the compromise reached between these opinions shaped the path towards integration. Thus, the current debate on integration has had the benefit of over forty years of the combined experience of the OAU and AU, during which Africa has faced multiple economic, social and political challenges on the national, regional and global fronts. Among them are the widespread poverty and the devastating social and economic impacts of such pandemic diseases as HIV/AIDS, Malaria and Tuberculosis. Its collective responses to these challenges have repeatedly affirmed the logic of unity and integration as formulated in the Charter of the OAU (1963); the Lagos Plan of Action and the Final Act of Lagos, (1980); the Abuja Treaty,(1991); the Sirte Declaration, (1999), and the Constitutive Act of the AU, (2000). These instruments stand as galvanising landmarks for integration in the face of Africa's political and economic challenges. Despite these defining moments, the current Grand Debate on the future of the AU is as divergent as it was when the OAU was established in 1963.

Assessment of the Organs/Institutions and their relationships and audit findings

6. The Panel found out that the Assembly, as the supreme Organ of the Union could have done more in providing leadership in the acceleration of the integration process. It has, more often than not, been preoccupied with recurrent issues which have no direct bearing on the integration process. Consequently, the Panel has strongly recommended that the sessions of the Assembly should be more focused. Firstly, it should undertake an in-depth review of the implementation of past decisions and provide the necessary directives at the commencement of every ordinary session. Secondly, each session of the Assembly should be devoted to a theme pertaining to the integration process. Thirdly, to achieve these two objectives, the Panel recommends that the Chairperson of the Assembly should hold office for two years to provide leadership and policy continuity; and, that the Assembly should revert to holding only one annual session to give time for adequate follow-up and implementation.

7. The Executive Council needs to be optimised and focused. It has so far been dealing with a wide range of issues, most of which are specialised. The Panel, therefore, recommends that the Executive Council be re-designated as the Council of Ministers with several configurations depending on the issues to be discussed. This will enable sectoral Ministers to play the role which is essential for the achievement of integration. This configuration will make the establishment of the STCs unnecessary, while the sectoral Councils of Ministers could establish *ad hoc* committees of officials to help with the preparation of their meetings.
8. The Panel noted that since it became operational, the Peace and Security Council has been active in the pursuit of its mandate of promoting peace and security in Africa, even in the face of severe constraints. The Panel has made specific recommendations aimed at enhancing the performance of the Council, including its working methods and the early operationalisation of all the components of the AU peace and security architecture -The Panel of the Wise, the Continental Early Warning System and the African Standby Force. The Panel also recommends that AU Member States should provide more funding and logistical support for AU peace operations rather than the Union being compelled to rely heavily on external funding.
9. The PRC has played an important role in maintaining contacts between the Commission and Member States. However, the Panel found out that the balance between the oversight and advisory functions of the PRC needs to be adjusted. The capacity of the PRC - its members and subsidiary bodies - needs to be enhanced to enable it to play an effective and well-informed advisory role to the Council of Ministers.
10. Although the Commission, as the nerve center of the AU architecture, has lifted the profile of the Union globally, it is handicapped at three levels. First, there is lack of clarity in the set up of its leadership. Second, its activities are spread too widely for it to be effective in playing the role envisaged for it; and thirdly, the management needs to be improved. Furthermore, the Panel has addressed the issue of the current relations between the Commission and the PRC and has made recommendations to improve them. In the same vein, the Panel has made recommendations with respect to the Commission's relations with the RECs.

11. Another area that has engaged the attention of the Panel is the election of the Commissioners. In that respect, the Panel has made recommendations aimed at strengthening the collegiate culture of the Commission. While auditing the Commission, the Panel devoted attention to the management of its finance and human resources, which require a complete overhaul. In that context, the Panel has recommended the establishment of an African Union Staff Commission to be responsible for staff matters, as well as the appointment by the Council of an African firm of international repute for the regular audit of the accounts of the Commission. The Panel has also addressed the alternative sources of financing of the Union and, as a starting point, recommended that a tax be levied on airline tickets for travel within Africa.
12. The Panel has made certain recommendations in the perspective of inculcating a culture of pan-Africanism among the youth of the continent. Similarly, it has addressed the issue of the non-implementation at national, regional and continental levels of AU Decisions and has recommended that, among other things, National Commissions for African Union Affairs be set up in Member States.
13. The Panel would like to underscore that while the AU has made major strides in mainstreaming gender in its activities, as evidenced by the gender parity at Commissioners' level, consideration should be given to the application of gender parity in the staffing of the AU since at present, women constitute only 25% of the workforce.
14. While the pan- African Parliament has been in existence since 2004, it has not performed as expected. The Economic, Social and Cultural Council is taking steps to become operational. The Panel recommends that the process should be expedited. The Panel recommends that these bodies be given proper guidance by the Assembly in carrying out their functions.
15. Similarly, the Panel is of the view that more support should be provided to the judicial organs in the discharge of their duties. Specifically, the merging of the African Court of Justice with the African Court of Human and Peoples' Rights should be speeded up. Member States should also commit themselves to accepting the jurisdiction of the Court.

16. The RECs, which are expected to serve as building blocks in the integration process, have been constrained by a number of factors, particularly the overlapping memberships, the insufficient inter-RECs co-operation and lack of coordination and harmonisation at the continental level. The Panel recommends that while abiding by the decision of the Assembly to recognise eight RECs, a strategy be devised for them to play a more proactive role in fast-tracking integration at regional and continental levels.
17. The Panel is of the view that the African Union should endeavour to fully exploit the potential of the UNECA and the ADB. Specifically, UNECA should provide more technical expertise in support of the implementation of the integration programme and projects, while the ADB should substantially increase its funding for regional programmes and projects.

Implementation of the Recommendations and the Acceleration of the Integration Process

18. In order to facilitate the implementation of the recommendations, the Panel has suggested that roadmaps should be developed at national, regional and continental levels by relevant actors within a timeframe of four to six weeks. In addition, in order to fast-track the integration process, the Panel has recommended that bold measures should be taken with respect to the free movement of persons, infrastructure development, and the creation of multinational African companies such as the pan-African Infrastructure Development Fund which was launched in Accra in July 2007. In the same context, the early establishment of the three financial institutions; namely, the African Central Bank, the African Monetary Fund and the African Investment Bank is imperative.
19. With respect to NEPAD, the Panel is of the view that its activities are too widely spread and not focused on the integration process as initially intended. The Panel recommends that NEPAD should be one of the main instruments of the Commission in the injection of accelerators into the integration process, particularly the development of trans-continental and inter-regional infrastructure and the promotion of multinational companies.

20. The Panel, while welcoming the increase in the number of countries that have voluntarily acceded to the African Peer Review Mechanism (APRM), encourages all Member States of the African Union to follow suit. In addition, countries that have acceded to the mechanism should take measures to undertake the necessary processes to facilitate their reviews. Finally, the follow-up actions after country reviews should be conducted in an all-inclusive and transparent manner.
21. This audit review is not an end in itself. The Panel is persuaded that the near 170 recommendations it has put forward, if fully and expeditiously implemented, would energise the Organs and Institutions of the African Union to work *in tandem* with re-invigorated RECs towards the achievement of the goal of African integration and unity. The Panel emphasises the need to institutionalise periodic reviews.
22. The Panel is fully aware of the fact that the peoples of Africa strongly desire and expect that the AU should achieve its vision of becoming “people-centered and driven”. The Union has established several important institutions such as the PAP and the ECOSOCC towards that end. Also, the Commission has an African Citizens’ Directorate – CIDO – which aims at involving the African peoples and the Diaspora in the AU activities. In addition, it has a Communication Unit for providing information on the AU to the public and as an outreach instrument of the Commission. Despite this institutional framework for involving African citizens, the Panel finds that there are many institutional obstacles which still impede the realisation of the AU’s original vision. In this regard, the Panel finds that the involvement of African citizens, Civil Society Organisations and the private sector is still at a nascent stage. There is, therefore, a critical need, especially once ECOSOC is fully operational, for this institutional framework to become more effective in involving African citizens and the Diaspora in moving forward the integration process.

CHAPTER ONE: LOOKING BACK TO LOOK FORWARD – THE GRAND DEBATE ON THE UNIFICATION OF AFRICA

The Roots, Trajectories and Travails of Unity in the African World

1. All over the African continent, a new momentum for unification is evident. This momentum has manifested itself as much in official quarters as in non-official ones. It is underpinned by a determination to ensure that in the long-standing struggles of the peoples of the continent for a place of dignity, well-being and honour in the global community of nations, the shared values and histories that make them Africans are matched incrementally with joint actions that would encourage the projection of the African voice towards a common destiny.
2. Values of community and social solidarity have deep roots in the African world. They have manifested themselves over the ages in different forms according to changing local and global circumstances. These values have come under strain in the face of external pressures, such as the advent of the slave trade and its deeply disruptive impact on the development processes on the continent. Ironically, however, such external pressures and their disruptive impacts also contained the seeds of new forms of solidarity and community. The slave trade also prompted the idea of pan-Africanism to galvanise united actions by a people who had been wronged by a dark moment in world history to re-master their destiny.
3. State and nation-building preceded the arrival of the first Europeans in Africa. The forms of state and nation-building were based on the centrality of community, solidarity and inclusion of populations around emerging territorial spaces. Boundaries, such as they existed, were not necessarily conceived as sacrosanct and immutable walls of division and separation. They also served as transactional spaces for mediating various social, economic, political and cultural flows. It was this fact that was lost when the forces of European colonialism gathered at the Berlin Conference of 1884/1885 and partitioned Africa into a host of small politico-administrative units on the basis of the Westphalian concept of the nation-state.

4. Driven exclusively by the need to maximise their competing cultural, economic and political interests, the participants in the Berlin Conference could never have grasped the full import of the balkanisation of the entire continent of Africa in one fell swoop. Like the slave trade, the Berlin Conference was one of the most momentous events in the trajectory of Africa. Once partitioned and atomised, the stage was set for full-scale colonial domination until forcefully challenged by the peoples of Africa.
5. The aftermath of the slave trade reinforced the sense of affinity and solidarity among Africans. This was so, especially among succeeding generations of the African Diaspora in the Americas, the Caribbean and Europe. These generations would be determined first to sustain memories of the motherland from which they and their forbears had been forcibly removed and then to reunite directly with their homeland. They did so through the construction of a comprehensive, all-round pan-African consciousness and the pursuit of various return-to-Africa movements. These movements constructed projects that saw large-scale resettlements taking place in Freetown and Monrovia.
6. The partition and its aftermath generated, within Africa itself, nationalist movements which drew their inspiration from the pan-Africanist ideal of restoring the sovereign independence of Africans and overturning the worst consequences of balkanisation and atomisation. For the leading nationalists, success would reside as much in the historic justness of their cause as in their capacity to forge cross-national solidarity among themselves and the Organic inter-linkages between nationalism and Pan-Africanism. Few, then, were the leading nationalist politicians who did not establish contact with others in order to share ideas and build joint strategies. Many were the nationalist leaders who also became partisans for the pan-African ideal. In this way, the essential unity and indivisibility of the peoples of Africa structured the language of anti-colonialism.
7. While the anti-colonial, nationalist independence struggle was pursued within the different national-territorial entities that emerged out of the Berlin Conference, common resistance to continued foreign domination and the quest for the restoration of the sovereignty of African peoples were deeply shared across boundaries and ingrained in the consciousness of the populace. Nkrumah's historic proclamation in 1957 that Ghana's

independence would be meaningless unless it was linked to the total liberation of Africa reflected this aspiration. Further, the independence of African countries marked successive steps culminating in the 1994 democratic elections in South Africa. By this time, Africa was largely rid of direct colonial political domination that flowed from the Berlin Conference. From Cape to Cairo, Nouakchott to Lagos, Praia to Port Louis, Africa was free: free, free at last!

Africa's Resurgence for Freedom, Dignity and Unity

8. Nationalism and pan-Africanism had their meeting point in the twin commitment to the dignity of the African and the unity of the peoples of Africa. In the period after 1945, a flurry of formal and informal consultations was undertaken which centred on this twin commitment. The importance of the 1945 Manchester pan-African Conference was that it strengthened the spirit of unity among the peoples of Africa and of African descent and committed them to the complete independence of the African continent. The point was reinforced when the hat of Dr W.E.B. Du Bois, as the President of the pan-African movement, was symbolically handed over to Kwame Nkrumah after he was sworn in as the first Prime Minister of independent Ghana in 1957.
9. The immediate aftermath of Ghana's independence was marked by an intensification of consultations on the pursuit of the freedom of Africa from the shackles of colonialism and the pursuit of the unity of Africans. For the first time on the African continent, independent African countries came together at the behest of Prime Minister Nkrumah to discuss mutual support and the acceleration of the de-colonisation of the continent. In addition, in 1958, he convened the All African Peoples' Conference in Accra. This marked the first occasion when leaders of independent African countries met with representatives of various Organisations, nationalist parties and liberation movements. In 1961, independent African States met in Accra and considered, in addition to support for the liberation process, the launching of a project for reunification in order to begin to correct the travesty that was the Berlin Conference. Although it did not adopt a blueprint, that meeting also focused its attention on the imperatives of unity.

The March Towards the Creation of the OAU

10. Consultations continued on what might be the best approach for redressing the divisive legacy of the Berlin Conference and colonial rule. Various experiments in unification were pursued during the course of the 1960s. The most prominent among them included the Mali Federation, the *Conseil de l'Entente*, the Ghana-Guinea-Mali Union and the East African Community. Each of these entailed differing degrees of the ceding of sovereignty and contained the seeds for different possibilities towards the unification of Africa. While they offered a regional approach, it was also clearly understood that it was at the continental level that the key opportunities lay. Not surprisingly then, Africa-wide consultations were relentlessly pursued within a framework for complete unification.
11. Two schools of thought emerged among independent African States on the alternatives that were open to the continent for its unification. The first of them was the Casablanca group, which advocated a rapid programme of unification that would entail the creation of a central governmental authority to reverse the colonial legacy of artificial boundaries. The second school, the Monrovia group, advocated a more gradual approach that would recognise the boundaries inherited at independence as a starting point for the gradual construction of continental unity. Thus, the 'block by block', 'step by step', approach would start the functional economic and political cooperation arrangements that would culminate, over the long haul, in a politically-united Africa.
12. The Organisation of African Unity (OAU) that emerged in 1963 was the product of a compromise that was reached between the Casablanca and the Monrovia groups. It was established as a pan-African framework for the promotion of cooperation among African States and the total liberation of the continent from colonial rule. Its guiding principles were good neighbourliness among African States, the respect of the boundaries inherited at independence, the sovereign equality of States, non-interference in one another's internal affairs and the peaceful settlement of disputes through submission to conciliation, mediation and arbitration.
13. For the Member States of the OAU, comprising all independent African States, there was no dispute about the desirability - even the eventual inevitability - of African unity. What was in question

was the modality for realising it, the speed with which it should be achieved and the form that it should take. The OAU model was an attempt to blend commitment to the ideals of unity with a functionalist pragmatism, which involved a limited ceding of sovereignty. It was hoped that this would lead in the final analysis to a much deeper ceding of sovereignty. In the meantime, regional economic cooperation and integration arrangements and a host of institutional mechanisms were established. Unfortunately, African governments took multiple, overlapping memberships in these mechanisms. Many of the Institutions set up defined functionalist ends. A few others had a broader remit as inter-governmental organisations of sovereign States performing a sub-regional role similar to the continental one played by the OAU. Significantly, whatever form they took, all the sub-regional cooperation and integration efforts were conceived as part of the broad movement towards the eventual unification of the African continent.

The Performance Record of the OAU

14. Given its status as an instrument in the service of its sovereign Member States, the health of the OAU was largely dependent on the well-being of its constituent units. African countries were faced with the challenges of forging nations out of the multi-ethnic entities that were administered on the basis of the colonial principle of divide-and-rule, and promoting rapid national socio-economic development. These were the challenges that were to absorb the energies of national leaders and the populace. Governments grappled, sometimes successfully and sometimes unsuccessfully, with the task of nation and state-building in a hostile world polarised between rival East-West ideological and military blocs.
15. The massive energies required for the maintenance of domestic order tended to divert governments from their commitment to the incremental strengthening of the OAU. Matters were not helped much by the increasingly vicious competing claims of the Cold War protagonists to transform Africa into a primary theatre for their rivalries. This quest had destabilising consequences for the emergent nation-States of the continent. However, it also produced an ironic turn of events, for, without the emergence of the now defunct Union of Soviet Socialist Republics and of China onto the world stage, the accession of African countries to independent nationhood might have been resisted more ferociously by the colonial powers and their allies.

16. As independence progressed in Africa during the decade of the 1960s and 1970s, national-level disagreements on the unity and development process degenerated in many cases, leading to the overthrow of independence governments by the military, the emergence of single party rule, the outbreak of civil wars and, in a limited number of cases, violent inter-state boundary disputes. These developments weakened the connection between the domestic and the continental in the quest for African unity. Sometimes, it even threatened the continued survival of the OAU itself when some of the most intense national disputes polarised its meetings. Through most of the difficulties that characterised the post-independence nation-building process, the OAU, as a pan-African Organisation, was mostly unable to assume a role as a decisive actor in redressing the challenges that arose. The multiplicity of economic difficulties eventually faced by a majority of the post-independence governments compounded this. The apparent inability of the Organisation to take initiatives that would overcome the growing crises of human suffering on the continent led many Africans to dismiss it as an increasingly expensive irrelevance. Through the 1980s and 1990s, therefore, the Organisation was buffeted on all sides with criticisms, fair and unfair.
17. Still, it is remarkable that the OAU survived the various stresses and strains from its founding in 1963 to the time it was transformed into the AU in 2002, having served as the primary continental focal point for the complete liberation of Africa and the abolition of *apartheid*. It acted as a collective platform and a common voice and chief advocate for the unification of Africa. The Abuja Treaty of 1991, establishing the African Economic Community carried forward some of the commitments made in the Lagos Plan of Action and the Final Act of Lagos (1980), represented the first major step towards injecting new life into the African unification and integration project. The formal end of *apartheid* in South Africa was a defining moment in both African and world history. It also marked a turning point for the OAU and the project of African unity. With Africa rid of the last vestiges of European colonialism, the widespread feeling across the continent was that the time had come to accelerate the project of unification in order to make it more effective and inclusive.

Advancing African Unity Beyond the OAU in a Post-Cold War Global Era

18. The Abuja Treaty sets out a clear blueprint for regional economic cooperation and integration and a roadmap towards the establishment of an African Economic Community (AEC) in a post-colonial continental context. The 1990s were a decade of immense changes in the international system. These changes were multi-layered and occurred on several fronts at the same time. They included the end of the East-West Cold War, a new global wave of democratisation and an accelerated globalisation on the back of an unrelenting technological revolution with an information and communications edge. International development discourse was also decisively shifting away from concerns about the creation of a new, more equitable international order to preoccupation with a one-dimensional market liberalisation project mid-wifed by the World Bank, the International Monetary Fund (IMF) and the World Trade Organisation (WTO).
19. Previous collective determination of the countries of the global South to strengthen their self-reliance and defend their sovereignty in bodies such as the Non-Aligned Movement and the Group of 77 developing countries, faded off the global scene and the concerns that preoccupied them went into recession. For the countries of Africa, the changes in the international system carried far-reaching consequences. In many cases this went way beyond their individual abilities to cope and necessitated a serious re-thinking of strategy. The question that arose was simple and direct; how was Africa to respond to the structural, ideological and policy shifts that were unfolding in order to advance its interests? It was a question that exercised many minds across the continent.
20. Contemporary globalisation promised even closer integration of the world—economically, socially and culturally. It posed the question of global political governance as a priority international issue. It also portended a greater competition for opportunity and advantage among States. However, the most fundamental change it has brought about is the shift in focus of policy from multilateral negotiations on development issues to the domestic policies and actions of developing countries. International actions specifically aimed at the global environment for development – weaknesses in commodity markets, preferential tariffs for exports from developing countries, transfer of technology and measures

to counter instability – have virtually disappeared from the international agenda. With it, North-South dialogue has also ceased to exist. Globalisation has thus effectively put paid to the concept of international development cooperation.

21. The embrace around the world of regionalist strategies was one of many responses among nations, rich and poor, to the changing demands of history. This worldwide regionalist revival was refracted into Africa. It even partially displaced the zeal of international financial institutions to foist a neo-liberal market reform agenda on African governments in the guise of pursuing economic restructuring. Although the Abuja Treaty provided a framework within which the revival of regional economic cooperation and integration in Africa was nurtured and advanced, the continent appeared irretrievably to be at the losing end of the processes of globalisation. The gap between it and the rest of the world appeared to widen *in tandem* with the decline of the overall welfare of the citizenry. There was consensus on the continent that this situation was as untenable as it was unacceptable. If Africa was to claim the 21st century, it called for nothing less than the reopening of collective reflections on the unification of the continent.

The Birth of the AU

22. The Sirte Declaration of 1999 was the most immediate product of the collective reflections that were undertaken on the imperatives of the unification of Africa in a rapidly changing global context. It was a signal recognition of the urgency and imperative of a reinvigorated and rejuvenated push to cohesive collective action. The Declaration sets the stage for the Constitutive Act of 2000. Africa was once again confronted with a historic challenge to forge a common framework within which to realise its shared destiny. That challenge was posed in terms of the desirability of a Union Government or the creation of a United States of Africa. This challenge generated widespread discussion within the continent and beyond. African leaders seized the initial step on which consensus was easily achievable and replaced the OAU with the AU in 2002. With the new Organisation, came important modifications in the principles underpinning the quest for continental political unification and economic integration. Among the principles embodied was the confirmation of the rejection of unconstitutional changes of government. It also endorsed the new principle of “non-indifference” in the conduct of inter-state affairs.

23. Other significant differences between the principles underpinning the OAU and the AU include the greater recognition given, within the institutional framework of the AU, to the involvement of African Civil Society Organisations (CSOs) in the continental project of unification. This recognition represented the first time in the post-independence history of institution-building for continental unification that such close attention was paid to mechanisms for securing popular participation in line with the 1990 African Charter for Popular Participation in Development and Transformation adopted in Arusha, Tanzania. A commitment was taken to promote greater gender parity and equality in the workings of the Union. This was further concretised in the decision of the Assembly to observe a 50-50 ratio in the election of the Commissioners of the AU. The Constitutive Act also provided for a completely revamped set of Organs whose combined actions were designed to give the AU a more effective presence and impact than the OAU was ever able to enjoy. Commitments that were taken within the framework of the Abuja Treaty were reaffirmed with a view to deepening regional economic cooperation and integration as building blocks towards the African unification and transformation project.
24. Clearly, the birth of the AU, with its host of structures and instruments, represents a serious attempt to infuse the project of continental unification with a breath of fresh air. Taken to their logical conclusions, the remit of the AU and its modus operandi implied that African countries were prepared to cede a greater amount of sovereignty than they did under the OAU. But was there a sufficient understanding of this and, irrespective of whatever understanding they had, are Africans and their leaders ready to take the next steps towards a fully-fledged political Union? These questions are at the heart of the continent's new grand debate. Successive meetings of the Assembly of Heads of State and Government have reviewed these questions without arriving at a definite conclusion. Working parties have been set up at Heads of State and Government level to consider possible roadmaps towards unification that would be acceptable to all Member States and various possible scenarios have been considered without coming to firm conclusions.
25. At the Accra Summit of July 2007, African leaders had a collective occasion to symbolically toast 50 years of Ghana's independence. It was fitting that this moment saw the

contemporary debate on Africa's future reach its nadir, involving governments, non-governmental organisations, social movements and ordinary citizens. As with the reflections that occurred in the immediate aftermath of independence and during the lead-up to the creation of the OAU, two broad schools of thought have emerged. In spite of the differences of the radical and gradualist perspectives on the pace of continental unification, there remains a consensus that Africa must unite. Clearly then, Africa is at another defining moment in its long history. It is a moment that calls for sober and critical self-introspection as well as a forward-looking visionary leadership. Only through introspection can the appropriate lessons of history be learnt and Africans, as a people, confidently forge ahead towards the desired future.

Defining Moments in Africa's Long Quest for Unity and Integration

26. Post-independence efforts at promoting pan-African unity, integration and transformation can be characterised by five defining moments. These are the:

- Creation of the OAU in 1963;
- Adoption of the Lagos Plan of Action and the Final Act of Lagos in 1980;
- Signing of the Abuja Treaty in 1991;
- Signing of the Sirte Declaration of 1999 and the adoption of the Constitutive Act of 2000 and,
- Launching of the New Partnership for Africa's Development (NEPAD) in 2001.

Each of these moments has been characterised by the crystallisation of a set of common challenges to which collective responses were both required and attempted. Regrettably, however, in responding to the challenges that arise, Africa has not always acquitted itself with credit and the project of unification has been the poorer for it.

27. At the time of the creation of the OAU in 1963, important swathes of Africa were still under colonial domination. For those countries that had attained independence, the challenge of building self-reliance in order to overcome economic balkanisation and safeguard their hard-won independence was one of the principal issues they had to address. While the project of political liberation

was pursued with a single-mindedness of purpose to its logical conclusion, the task of economic integration through collective self-reliance remained unfulfilled. In consequence, African countries were subjected to the structural injustices of the world economic order and the vagaries of external aid. These injustices partly informed the adoption of the Monrovia Declaration, the Lagos Plan of Action and the Final Act of Lagos. The Plan and the Act were Africa's own bold statement of a readiness to take its economic destiny into its own hands. The path that was preferred was economic integration towards an African Economic Community (AEC) by the year 2000.

28. As soon as the Lagos Plan of Action and the Final Act of Lagos were adopted, the Bretton Woods Institutions piled pressure on the countries of Africa to abandon the commitments they had just made to integrate in favour of the Washington Consensus of individually-negotiated structural adjustment programmes. These, in design, were ideologically hostile to the very notion of integration. Structural Adjustment Programmes (SAPs) accentuated rather than ameliorated the social and economic crises faced by most African countries, which included the collapse of internal production systems and the social fabric, as well as balance of payments and external debt problems. Throughout the decade of the 1980s, the African integration agenda was put in abeyance. In 2007, it is clear to the sponsoring Institutions of structural adjustment policies, that these policies have failed to stabilise African economies and restore growth and development. At last, the 2007 World Development Report has now rediscovered the imperative of a human-centred holistic development paradigm. Nevertheless, it was the heavy toll of SAPs that prompted the production in 1989 of the African Alternative Framework to Structural Adjustment Programme (AAF-SAP) by the United Nations Economic Commission for Africa (UNECA). Both the LPA (1980) and AAF-SAP (1989) were founded by UNECA on the imperative of a human-centred holistic development paradigm.
29. AAF-SAP represented a concise African challenge to the structural adjustment framework of World Bank and the IMF. It created the much-needed intellectual and political context for African governments to rethink the Washington Consensus foisted upon them. In this sense, AAF-SAP fed into the processes that resulted in the Abuja Treaty of 1991. That Treaty represented

an effort at retrieving the dreams and high hopes embodied in the Lagos Plan of Action and the Final Act of Lagos, and extending them further with a view to building regional economic integration processes towards the eventual establishment of an AEC by 2028. Indeed, the Regional Economic Communities (RECs), rationalised and revamped, were recognised in the Treaty as building blocks in the task of creating an AEC.

30. The Abuja Treaty undoubtedly represented a renewal of continental commitment to speeding up the process of African economic integration. It came on stream at a time when the forces of contemporary globalisation were gaining in ascendancy, making its pertinence incontestable. Yet, thus far, progress has been mixed at best on account of several factors. At one level, the process of the rationalisation and reconfiguration of the RECs has proved much slower and more complicated than may have been anticipated. At another level, the logic of integration continues to come against the logic of unalloyed market liberalisation still being pushed across Africa by the international financial institutions and the WTO. The African integration project has also been subject to competing pressures from outside the continent that pull it in different directions and seek to lock it into binding agreements that portend a new scramble for the continent. Amidst these pressures, focus and coherence are undermined. Coordination among the RECs, and between them and pan-African organisations, has been very poor, even almost non-existent.
31. Rapid continental economic integration required its own political corollary for which, by the end of the 1990s, there was widespread recognition that the OAU was no longer adequately equipped. Moreover, as noted earlier, new challenges had emerged in the international system which called for a much more strategic response by Africa beyond what was possible to achieve within the framework of the OAU. It was these considerations that resulted in the 1999 Sirte Declaration that paved the way for the Constitutive Act of 2000 and the launching of the AU as the successor to the OAU in 2002 in Durban, South Africa. Within the same logic, NEPAD was adopted in 2001 as a socio-economic blueprint for the development of the continent. Its status was subsequently re-defined as a programme of the AU in a calculated bid to eliminate the early problems of competing

jurisdiction and mandate that emerged soon after the NEPAD Secretariat began to function.

32. Whilst there is a lot to be said about the record of the Abuja Treaty, its connection to the Constitutive Act, and the functioning of the Organs and programmes of the AU – indeed, these issues constitute the objects of this audit report – it would suffice, at this point, to ask if Africa has drawn the necessary lessons from its persistent failure to rise to the challenge and full exploitation of the opportunities that the previous defining moments posed. Looking back at what was done or not done with these previous defining moments is critically important for this audit review. Perhaps the easiest way of answering this question is to draw attention to the consensus that is shared across the board in Africa that the performance that has been registered thus far could have been much better. It is this answer that must frame the urgency and sense of purpose with which all Africans, governors and the governed alike, should approach the current conjuncture. This conjuncture is defined by a clear and unambiguous path towards the integration, unification and transformation of the continent with a resolve that cannot be derailed by outside pressure or by domestic dysfunctions that have held most African countries down for too long.

Africa at the Crossroads

33. In the matter of how to proceed towards political unification, and in the light of the debates that have taken place from the Sirte Declaration of 1999 to the July 2007 summit in Accra, it is clear that Africa stands at the crossroads. Several declarations have been issued by the Assembly of Heads of State and Government committing Member States of the AU to an accelerated programme of unity and integration that would culminate in a Union Government or the United States of Africa. This seems to be the easier part of the task. Much more complicated, is ensuring that Member States remain committed to the development and implementation of the detailed roadmaps. Such roadmaps must address both the structure of a possible political union, the economic integration arrangements that would underpin it and the degree of sovereignty to be ceded by Member States of the AU at different stages of the process. It would also need to address the tightening of the functions of the various Organs of the AU and streamlining of their operations for the

achievement of greater synergies and effectiveness. Furthermore, it would entail a thorough revamping of the AU Commission with a view to enabling it function effectively as the principal hub around which the movement towards unity and integration can be organised. Finally and most importantly, is the full domestication and implementation at national and regional levels of Decisions taken at continental levels. The tasks are many but not insurmountable if Africans – peoples and leaders alike – are prepared to seize the moment.

34. By definition, crossroads pose enormous challenges. Courage, vision and foresight are required if the right choices are to be made. African leaders have repeatedly stated their resolve to bring to fruition, a people-centred and people-driven unification and integration project for the continent. The Panel endorses this choice and submits that it is realisable within this generation. The alternatives to unity and integration, at a time when irredentist forces around the world are openly or subtly threatening a new colonialism, are too frightening to contemplate. The choice before Africa is, therefore, not so much whether to unite or not to unite – that, indeed, is already a settled historical issue.
35. The real options centre on a set of starker choices: collective self-reliance or perpetual foreign dependence; collective autonomy or continued foreign domination; a continent with one voice or a latter-day tower of Babel; a people-centred union or a high profile members' club; a pact for transformation or a land of stagnation and retrogression; a place which all Africans and peoples of African descent can recognise as home or a field where foreign adventurers come to scavenge at will. In sum, Africa is called upon to choose between progress and backwardness.

CHAPTER TWO: ORGANISATION OF WORK AND METHODOLOGY OF THE AUDIT REVIEW

36. The Assembly of Heads of State and Government meeting in Accra, Ghana, July 2007, adopted the Terms of Reference for this audit review. In summary, the audit seeks to provide an in-depth review and assessment of the structures, review the nature of the relationships between these Organs and Institutions and the other continental Organisations; review and evaluate the current state of integration especially the functioning of the activities of the Regional Economic Communities. The Audit is also required to evaluate the African political and economic agenda and highlight major trends with respect to political and economic integration. The Panel was instructed to make recommendations to strengthen the efficiency and effectiveness of current Institutions as well as accelerate continental integration. The current Chairperson of the African Union, H.E. John Agyekum Kufuor, the President of the Republic of Ghana, nominated thirteen members of the Panel to carry out this assignment. Resource persons were also appointed to support the Panel.
37. The Panel held its inaugural meeting on September 10, 2007 and its final meeting between December 10 –18, 2007 for the approval and adoption of this report. The Panel held 18 hearings, considered 300 documents and interviewed over 60 officials and staff of the Commission, African missions and external partners during this period. The Panel was painfully aware that the original timeframe for the Audit was four to six months. Since it was made clear to the Panel that its report should be ready for the AU Summit in January 2008 and since adequate allowance of time must be made for translation and circulation of the report to Member States, the Panel has endeavoured to produce the report in three months. The Panel has been asked to be ready to review comments that may be received on this report and to formally present the report to the Assembly of the Heads of State and Government in January 2008.

Organisation of Work

38. On the first day of the inaugural session, the Chairperson of the African Union Commission addressed the Panel. Given the central role of the Commission, this address set the stage for

looking closely into the functioning of existing Organs of the Union and their inter-relationships. Indeed, one of the specific objectives in the Terms of Reference is to review the report of the Chairperson of the Commission. Having this presented personally by the Chairperson gave Members of the Panel an added insight into the dynamics of the AU and the Commission.

39. The Panel undertook to assess the following Organs and Institutions: The Assembly of the Union, The Executive Council, The Pan-African Parliament, The Commission, The African Court of Justice, The Commission for Human and Peoples' Rights, The African Court on Human and Peoples' Rights, The Permanent Representatives Committee, The Specialised Technical Committees, The Economic, Social and Cultural Council, The New Partnership for Africa's Development, proposed Financial Institutions (the African Central Bank, African Investment Bank, and the African Monetary Fund), the Peace and Security Council, as well as the Technical and Representational Offices and the Specialised Agencies. The Panel also examined the relationships between the Union and the Regional Economic Communities, the African Development Bank and the UN Economic Commission for Africa. Lastly, while studying the finances of the Union, the Panel examined the various proposals that have been made on alternative sources of financing for the Union.

40. Given the scope of the Audit, the Panel organised itself into the following four Working Groups assisted by resource persons:

- Background to the Union and the Constitutive Act and its Core Values;
- The AU Commission, financing of the Union activities, management of financial resources of the Union and alternative sources of financing;
- Other Organs of the African Union; and,
- Regional Economic Communities, the African Development Bank, the UN Economic Commission for Africa and NEPAD.

41. The Working Groups undertook the detailed Audit and produced draft findings and recommendations, which were submitted to the plenary sessions for consideration.

Methodology

42. The Panel's work was conducted in such a manner as to gather maximum information and have as many face-to-face interactions as possible with relevant actors within and outside the Union. The AU Commission and the resource persons provided the Panel with key Union Organs' statutory documents, relevant studies, publications and reports. As already indicated, the Panel received and considered over 300 documents related to the African Union and the development and integration of Africa.
43. In addition to the Chairperson of the Commission, the Panel also met with the Deputy Chairperson and the Commissioners. The Chief of Staff and the Secretary to the Commission in the Office of the Chairperson also attended the initial meetings to provide clarity and explanations where required. Subsequent meetings were restricted to the Panel and the resource persons. The Panel invited African citizens to participate in the audit through the African Union website. In spite of the short deadline, the invitation through the website generated a few but thoughtful submissions in English and French by individuals and Civil Society Organisations (CSOs). Subsequently, and at their request, the Panel met with representatives of African CSOs, namely; *Rencontre Africaine pour la Defense des Droits de l'Homme* (RADDHO), Afroflag Youth Vision – Ethiopia (AYV), Equality Now and FAHAMU/AU Monitor.
44. The Chairperson of the Panel seized the opportunity of a regional consultative conference on the Diaspora, which took place at the AU Commission Headquarters on October 15 –16, 2007 to invite comments and suggestions on the Panel's Terms of Reference. Panel members also invited African CSOs at the NGO Forum during the November 2007 session of the African Commission on Human and Peoples' Rights to make submissions, should they so wish.
45. The Panel met the Permanent Representatives Committee, its Bureau and sub-committee Chairpersons, as well as the Bureau of the pan-African Parliament. In addition, separate meetings were held with the President of the African Court on Human and Peoples' Rights, a Commissioner of the African Commission of Human and Peoples' Rights, and the Peace and Security Council. A meeting was also held with the Chief Executive of the

NEPAD Secretariat. During these hearings, the Panel listened as well to representatives of Institutions outside the Union. These included the Executive Secretary of UNECA, the Adviser to the President of AfDB, the Secretary General of the Sahel-Saharan Economic Community (CEN-SAD), the Secretary General of the Common Market for Eastern and Southern Africa (COMESA), the Vice-President of the Commission of the Economic Community of West African States (ECOWAS), the Executive Secretary of the Inter-Governmental Authority for Development (IGAD) and the Deputy Secretary-General of the East African Community (EAC). In spite of the invitation of the Chairperson of the Assembly of the African Union, the Economic, Social and Cultural Council (ECOSOCC), the Southern African Development Community and the Arab Maghreb Union (UMA) did not put in an appearance.

46. Apart from the interactions with various Organs and Institutions, the Panel and its resource persons conducted over sixty face-to-face interviews with Commission staff in Addis Ababa and received completed questionnaires from AU Specialised Offices and Representational offices as mentioned above.
47. While the High Level Panel is confident that it has discharged its responsibility under the Terms of Reference to the best of its ability, it was unable to visit Member States, the Organs of the AU outside Addis Ababa and the RECs because of the time constraint. The list of documents examined, persons interviewed and the contacts made are provided in the appendices to this report. The Panel gratefully acknowledges the assistance provided by the resource persons and the staff of the Commission. This report is, indeed, the product of an intense investigation into the state of the Union.

CHAPTER THREE: THE CONSTITUTIVE ACT: AN INSTRUMENT FOR THE ESTABLISHMENT OF A UNITED AFRICA?

48. In its Preamble, the Constitutive Act acknowledges that African leaders have been inspired by the noble ideals of Pan-Africanism, which also guided the founding of the OAU and their determination to promote unity, solidarity, cohesion and cooperation among the peoples of Africa. In this regard, the Constitutive Act is an embodiment of the core values on which the OAU was founded. The Preamble to the Constitutive Act also pays due regard to the determined and invaluable role played by the OAU in the liberation of the continent, the affirmation of a common identity and the process of attainment of the unity of the continent, while providing a unique framework for collective action in Africa and in her relations with the rest of the world.
49. As a 'constituting' instrument, the Act combines the objectives of the OAU Charter and the Abuja Treaty with new ones. The key objectives of the Union under Article 3 of the Act are, *inter alia*, to achieve greater unity and solidarity among African countries and the peoples of Africa; defend the sovereignty, territorial integrity and independence of its Member States; accelerate the political and socio-economic integration of the continent; and, promote and defend African common positions on issues of interest to the continent and its peoples. The Act also provides for the encouragement of international cooperation, taking due account of the Charter of the United Nations and the Universal Declaration of Human Rights, the promotion of peace, security, and stability on the continent, the establishment of necessary conditions that should enable the continent to play its rightful role in the global economy and in international negotiations, and the promotion of sustainable development at the economic, social and cultural levels as well as the integration of African economies. However, the Act leaves open the question as to how such integration is to be accelerated.
50. The present conceptual vision of unity under the Constitutive Act is a union of equal and sovereign States that are inter-dependent, respect their existing borders as inherited at independence and do not interfere in the internal affairs of each other, except when the Union makes a decision to intervene, or receives a request to do so.

51. Although Article 4 of the Constitutive Act lists the principles guiding the functioning of the Union, there are functional contradictions in the text of the Act. The Constitutive Act maintains the principles of sovereignty and respect for borders, which inherently place limitations on the extent to which political integration can be accelerated. But sovereignty can also be exercised to accelerate political integration when there is political will to do so. While the Act prohibits the use of force or threat to use force among Member States of the Union, it also upholds the right of the Union to intervene in a Member State pursuant to a decision of the Assembly in respect of grave circumstances, namely, war crimes, genocide and crimes against humanity.
52. As an integrating treaty, the Act does not specify what steps need to be taken to accelerate the political and economic integration of Africa. Neither does it provide clear and sufficient guidance as to the powers and functions of the various Organs, Institutions and key players, nor the relations among them. Also, it does not contain an institutionalised mechanism for the promotion and management of Union affairs at national level. No provision is made in the Act for remedying or rectifying the prevailing and dominant inter-governmental tendencies carried over from the OAU, except by stating, in Article 33, that the Act shall replace the Charter of the OAU.
53. By contrast, the Abuja Treaty seeks to achieve economic integration based on equality and inter-dependence among African States. It would seem that the Abuja Treaty omitted reference to 'sovereignty' because this would have been a stumbling block to the establishment of an Economic Community. The Monrovia Declaration and the Lagos Plan of Action that preceded the Abuja Treaty only refer to equality and inter-dependence. The implication is that economic integration implies ceding of a degree of sovereignty for this purpose. It should be emphasised that the additional dimension of political integration makes the ceding of sovereignty inevitable.
54. The Abuja Treaty lays down the modality for attaining economic integration. Article 4(2) of the Treaty specifically requires that, in order to promote the attainment of the objectives of the Community as set out in its relevant provisions, the Community shall, by stages, ensure that certain things are done, including the

strengthening of existing Regional Economic Communities, and the establishment of other communities, where they do not exist.

Contemporary Globalisation: Challenges and Opportunities for African Unity

55. As an integral part of the global order, Africa has not been exempt from the multi-layered process of change associated with contemporary globalisation. But much of the political and policy perceptions of globalisation in Africa have tended to relate to the challenges and opportunities posed by globalisation in negative terms, centring around the notion of “*marginalisation*” and exclusion. As the previous Chapter shows, the African continent should ensure that past mistakes that cost it dearly are not repeated. Appropriate steps should be taken to tap into available opportunities and to project Africa’s interests with a view to expand and extend the depth of unity, as well as the maximisation of the welfare of African peoples.
56. The totality of the changes being brought under the aegis of contemporary globalisation poses the challenge of ensuring that Africa’s own commitment to unity and efforts at integration are not torn asunder as they are pulled in different directions by competing external claims for collaboration and partnership with the Continent. The pressures for the atomisation of Africa within the ambit of contemporary globalisation are many and correspond with the interests of powerful forces exercising dominance in the global order. Africa must ensure that its response to the pressures is a coordinated one that promotes its unification rather than divides it. The AU should be the forum for such a coordinated response.
57. In addition to the distinction being made by Africa’s development partners between sub-Saharan Africa on the one hand and North Africa and the Middle East on the other, there is now an attempt by some leaders of the European Union to further divide Africa. This is magnified by the proposal to establish a new integration scheme, which will bring together countries on both sides of the Mediterranean. It should be noted, in this regard, that this development undermines the effectiveness of the Arab Maghreb Union, which is one of the weakest building blocks for the AEC.

58. If Africa is to take full advantage of the globalisation process, it should put more emphasis on strengthening the RECs as highlighted in Chapter Nine, and move towards the creation of an African Common Market and the establishment of the African Economic Community. In this regard the establishment of the Free Trade Areas between Europe and individual North African countries and South Africa as well as the projected Economic Partnership Agreements would not contribute to accelerating the regional and continental integration process.

Conclusion

59. As already indicated, the Constitutive Act is not a perfect instrument. To the extent that it allows Africa to move along the road to continental unity, economic integration and transformation, focus should initially be on areas where there is consensus and accordingly help to strengthen and extend unity. At the same time, efforts should be made to identify and confront specific weaknesses and overcome them.

60. There is need to identify those core values contained in Article 3 of the Constitutive Act (CA) which must be promoted, internalised and domesticated in all African countries and AU Organs. Can these be linked to the core values that guided the preparation of the LPA, FAL, African Charter for Human and Peoples Rights and the APRM? Similarly to what extent are the issues of immigration - immigration from Africa to Europe and internal migration- within Africa being addressed? The failure to do so has impacted negatively on the vision of pan-Africanism. While the vision of unity is popular with the people of Africa and the CSOs, the inter-governmental discourses have tended to focus on structures. Yet, structures derive from clarity of vision. Little wonder that there is a long road to tread with regard to the development of a pan-African consciousness.

61. The Panel is of the opinion that there is considerable potential for moving the integration process forward without tampering with the Constitutive Act. However, the reform and the strengthening and efficient functioning of the various Organs and Institutions of the AU are necessary preconditions. Unless they are dynamic, proactive, efficient and effective, they will constitute the Achilles heel of political and economic integration.

62. The African Union must grasp the decisive role of Institutions in governance. As has been rightly and repeatedly acknowledged, institutions play a decisive role in the destiny of nations. However, they require good governance and leadership and peoples' participation. Good governance depends on the qualities of the men and women that deal with governance. It is institutions that guarantee good governance. Without doubt, the destiny of the AU rests with its Organs and Institutions. Appropriate institutional framework and infrastructure are the bedrocks upon which development at all levels – local, national, regional and continental is built. When institutional capacity is very high and is untainted by corruption and arbitrariness, the rate of progress is accelerated. Furthermore, it is only by fully implementing decisions at all levels and by promptly ratifying, adhering to and implementing trans-continental treaties at national level that progress becomes sustainable. The findings of the Audit of the AU Organs and Institutions in the chapters that follow, therefore, provide the basis for putting the integration of Africa on a fast track. If all the recommendations which have emerged from this Audit are fully implemented, a culture for good governance will become well and truly internalised.

CHAPTER FOUR: ASSESSMENT OF THE ORGANS OF THE UNION – THE ASSEMBLY, THE EXECUTIVE COUNCIL, THE SPECIALISED TECHNICAL COMMITTEES AND THE PERMANENT REPRESENTATIVES COMMITTEE

THE ASSEMBLY

The Mandate

63. In both the Abuja Treaty and Constitutive Act, the Assembly, which consists of Heads of State and Government or their duly accredited representatives, is the supreme Organ and the highest decision-making body. The powers and functions of the Assembly are wide-ranging as stipulated in Article 9 of the Act and include the following:
- Determination of common policies of the Union;
 - Monitoring the implementation of the decisions of the Union and ensuring compliance by Member States;
 - Issuance of directives and regulations to the Executive Council;
 - Oversight over the affairs of the Union;
 - Establishment of new Organs of the Union;
 - Appointment of certain categories of the AU personnel according to their respective rules and procedures; and,
 - Consideration of requests for membership of the Union.
64. These powers and functions are strengthened and expanded in the Rules of Procedure (Rule 4). In Rules 4(e) to (g), for example, the Assembly's powers and functions include deciding on intervention in, and determining sanctions to be imposed on a Member State. Whereas in Article 9(1)(e) the Assembly can monitor the implementation of the Union's decisions and ensure compliance by Member States, Rule 4(1)(b) provides that this can be done "through appropriate mechanisms". Other aspects addressed in the Rules include the sessions and meetings of the Assembly, decision-making procedures and categories of decisions of the Assembly, instances where the Assembly may impose sanctions on a Member State, and the Assembly's role in

the appointment of members of the Commission (the Chairperson, the Deputy Chairperson, and the eight Commissioners).

Execution of Statutory Functions and Audit findings

65. The performance of the Assembly can, therefore, be assessed on the basis of five indicators: the work programme of the Assembly; the state of ratification of AU treaties and other instruments; Assembly decisions taken and their implementation; the imposition of sanctions; and, the application of the 'right-to-intervene' provisions of the Constitutive Act.
66. Since the launch of the AU in Durban, South Africa, in July 2002, the Assembly has held nine Ordinary and five Extraordinary Sessions. The Assembly met once every year until the Third Ordinary Session, July 2004. From January 2005, Ordinary Sessions have been held twice a year, in January and July respectively. In effect, the Assembly has met 14 times in five years. (Table 1)
67. It is recognised that the Heads of State and Government have enormous demands on their time and attention resulting from the responsibilities of their offices and duties. According to the work programmes of the most recent sessions of the Assembly, the Heads of State and Government were to meet for two days and were, therefore, expected to arrive at the venue, at least a day earlier. In practice, many of the leaders actually arrived on the day that the session was to commence. What is more, the first day of the session was occupied mainly by ceremonies, consultations and procedural matters, thereby leaving the second and the last day to deal with the substantive issues on the agenda. The experience so far is that by the second day, most leaders have returned to their capitals. Therefore, substantive items, including sensitive issues, are left to be handled by a few Ministers and, in the majority of cases, by the Ambassadors who remain as heads of their respective delegations, leading to postponement of issues.
68. Clearly, the Heads of State and Government, because of the demands of their office, cannot cope with a two-day Assembly programme. However, if the Policy Organs of the Union (i.e. the

Assembly, Executive Council and the Permanent Representatives Committee) and the Commission can improve their working methods, this problem will be averted. The programme of the Assembly can focus on one or two policy issues, while routine procedural and other matters are left to the Executive Council, the Permanent Representatives Committee and the Commission.

Table 1: Sessions of the Assembly of Heads of State and Government of the African Union

Summit Venue	Session	Date	Theme	No. of Decisions Taken	No. of Declarations Made
<i>Durban, South Africa</i>	<i>1st Ordinary Session</i>	<i>9-11/7/2002</i>	<i>No Theme</i>	<i>5</i>	<i>3</i>
<i>Addis Ababa, Ethiopia</i>	<i>1st Extraordinary Session</i>	<i>3/2/2003</i>			
<i>Maputo, Mozambique</i>	<i>2nd Ordinary Session</i>	<i>10-12/7/ 2003</i>	<i>No Theme</i>	<i>27</i>	<i>8</i>
<i>Sirte, Libya</i>	<i>2nd Extraordinary Session</i>	<i>27-28/2/2004</i>			
<i>Addis Ababa, Ethiopia</i>	<i>3rd Ordinary Session</i>	<i>6-8/7/2004</i>	<i>No Theme</i>	<i>23</i>	<i>2</i>
<i>Ouagadougou, Burkina Faso</i>	<i>3rd Extraordinary Session</i>	<i>3-9/9/2004</i>			
<i>Abuja, Nigeria</i>	<i>4th Ordinary Session</i>	<i>30-31/1/2005</i>	<i>No Theme</i>	<i>21</i>	<i>-</i>
<i>Sirte, Libya</i>	<i>5th Ordinary Session</i>	<i>4-5/7/2005</i>	<i>No Theme</i>	<i>18</i>	<i>3</i>
<i>Addis Ababa, Ethiopia</i>	<i>4th Extraordinary Session</i>	<i>4/8/2005</i>	<i>No Theme</i>		
<i>Addis Ababa, Ethiopia</i>	<i>5th Extraordinary session</i>	<i>31/10/2005</i>			
<i>Khartoum, Sudan</i>	<i>6th Ordinary Session</i>	<i>23-24/1/2006</i>	<i>No Theme</i>	<i>20</i>	<i>3</i>
<i>Banjul, The Gambia</i>	<i>7th Ordinary Session</i>	<i>1-2/7/2006</i>	<i>Rationalisation of the RECs and Regional Integration</i>	<i>22</i>	<i>4</i>
<i>Addis Ababa, Ethiopia</i>	<i>8th Ordinary Session</i>	<i>29-30/1/2007</i>	<i>Science, Technology & Scientific Research for Development</i>	<i>31</i>	<i>6</i>

<i>Accra, Ghana</i>	<i>9th Ordinary Session</i>	<i>1-3/7/2007</i>	<i>Grand Debate on Union Government</i>	<i>5</i>	<i>2</i>
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Total Decisions ----- 172 Total Declarations----- 31

69. Furthermore, the practice of two ordinary sessions of the Assembly per year has a number of implications for the Union. Firstly, there is a problem of cost associated with the meetings of the Heads of State and Government borne by Member States and, in most cases, by the Union. Secondly, Assembly decisions require time and capacity on the part of the Executive Council and the Commission to follow-up and implement. As a result, the latter two Organs find themselves with increased workloads and insurmountable pressures to deliver on very tight deadlines, thus affecting their efficiency and effectiveness. This is compounded by the mandatory obligation of translating documents into the Union's working languages.
70. At present, the agenda of the Assembly seems to be loaded with issues that can be dealt with even more effectively at lower levels. If the focus of the Union is to accelerate the political and socio-economic integration of the continent in accordance with the Constitutive Act, it should be expected that substantive issues would dominate the agenda of the Assembly.
71. According to Rules 33 and 34, the decisions of the Assembly fall into three categories – namely: (a) regulations; (b) directives; and (c) recommendations, declarations, resolutions and opinions. Regulations and directives are binding on Member States, Organs of the Union and RECs and, according to Rule 34, “shall be automatically enforceable thirty (30) days after the date of the publication in the Official Journal of the African Union or as specified in the decision.” Category (c) – recommendations, declarations, resolutions and opinions, by contrast, are not binding. However, in practice, the categorisation has so far been restricted to decisions, which are binding.
72. At the request of Member States, the Commission has produced a “Report on the Status of Implementation of the Previous Decisions of the Executive Council and the Assembly” for the 13th Ordinary Session of the PRC meeting of January 22 –23, 2007, and a “Report on the Status of OAU/AU Treaties (as at 13 June 2007)” for the 11th Ordinary Session of the Executive Council meeting of June 25 –29, 2007. Tables 1 and 4 serve as an important starting point for an audit of the decisions of the Assembly and their implementation.

73. The Assembly has adopted thirty-three treaties since the formation of the OAU. As of 13 June 2007, only eighteen of these have been duly ratified and have come into force. Since the launch of the AU in 2002, ten treaties have been adopted covering the following areas: peace and security, continental economic integration, AU Organs, human rights issues, good governance, vulnerable groups, environment and energy. Only three of these ten have entered into force. Clearly, Member States have to work on increasing the ratifications of the legal instruments they adopt.
74. The decisions of the Assembly are required to be implemented by other Organs of the Union, particularly the Executive Council and the Commission. Since the inaugural session of the AU, the Assembly has taken a total of 172 Decisions and adopted 31 Declarations (Table 1). For example, Assembly Decisions of the Summits that took place in 2006 were in the following areas: legal matters; peace and security; political affairs; human resources, science and technology; social affairs; labour, employment and migration; infrastructure and energy; rural economy and agriculture; economic affairs; and trade and industry. The total number of these decisions is 42 and only 21 were fully/partly implemented.
75. Each Summit includes as an agenda item a report on the implementation of decisions. Beyond this report, there is no formal process of ensuring implementation of decisions by the Assembly. In order to ensure policy continuity, full implementation of decisions and an element of proactive leadership, the Panel is of the view that the Chairperson of the AU Assembly should serve for two years. It is worthy to note that this is the practice in some RECs. It is also necessary for the Assembly to monitor implementation on an annual basis and impose sanctions where appropriate. Failure to do so this will undermine the efficient and meaningful operation of the Union.
76. The Assembly, as provided for in Rules 35-37, may impose sanctions on a Member State for (a) arrears in payment of assessed contribution to the Union; (b) non-compliance with decisions and policies of the Union; and, (c) unconstitutional changes of government. Also, the Assembly, under Rule 4(e) and (f), can intervene in a Member State: (a) "in respect of grave circumstances namely, war crimes, genocide and crimes against humanity"; and,

(b) at the request of a Member State “in order to restore peace and security”.

77. The Assembly, with the support of other Policy Organs, has been firm in the imposition of sanctions on Member States who are in arrears in the payment of their assessed contributions to the Union. At the end of November 2007, Member States had contributed US\$ 87,461,276. More than half of the fifty-three Member States of the AU had honoured their assessed contribution to the budget of the Union as at June 2007. (Table 2). Liberia, a country coming out of conflict, is a good example, having paid US\$320,486 to settle its arrears for 2004, 2005, 2006 and 2007. Central African Republic, Guinea and Guinea Bissau are other examples. They have paid \$1,460,264, \$819,401 and \$1,230,740 respectively towards their arrears and are now out of the sanctions regime.

Table 2: Performance of Member States on Assessed Contributions (as at December 2007)

<i>Member States</i>	<i>Number in Arrears</i>
Those in arrears of one year and above	21
Those without arrears but that have not paid their 2007 assessed contributions	25
Those up to date with their contributions including the 2007 assessment	9 (Nigeria, Zambia, Liberia, Ghana, South Africa, Ethiopia, Burkina Faso, Botswana, and Algeria)
Those that have made an advance payment	1 (Burkina Faso)

Those of the five who account for 75 percent of assessed contributions (Algeria, Nigeria, Egypt, South Africa, and Libya) who have paid their 2007 contributions	3 (Nigeria, Algeria and South Africa)
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78. As at November 2007, twenty-one Member States were in arrears of one year and above, thus contributing to a total outstanding amount of \$106,812.035.48. Of the five countries accounting for 75 percent of the total of assessed contributions, Nigeria, Algeria and South Africa had honoured their obligations for 2007. The six countries still under sanctions for non-payment of arrears as at June 2007 are: Cape Verde, Democratic Republic of Congo, Eritrea, Mauritania, Sao Tome and Principe, and Seychelles (Table 3). The arrears of the DRC as at 31 December 2006, for example, stood at \$11,160.449.87. The DRC and Cape Verde requested a special waiver to be granted under sanctions to enable them to participate fully at the Accra Summit because of the historic significance of the Grand Debate on Union Government, but the Permanent Representatives Committee turned this down. They are now holding discussions with the Commission over terms for rescheduling payments.

79. So far, non-compliance with Decisions and Policies of the Union has not been subjected to sanctions. With regard to the unconstitutional changes of government, the Assembly invoked the rule against Togo, Cote D'Ivoire, Mauritania and Sao Tome and Principe, until they returned to constitutional governance. To date, there has been no intervention at the request of a Member State.

Table 3: Member States under Sanctions

Sanctions/Intervention	Member States affected
Arrears in payment (as at June 2007)	Cape Verde, DRC, Eritrea, Mauritania, Sao Tome and Principe, and Seychelles
Non-compliance with decisions	None
Unconstitutional changes of	Togo, Mauritania, Cote

government	D'Ivoire, Sao Tome and Principe
Intervention in respect of grave circumstances	None
Intervention at the request of Member State	None

Recommendations

80. The Panel recommends that:

- **The Assembly should revert to the old system of one annual summit at the Headquarters of the Union, while the provision for Extraordinary Sessions is retained, as exigencies arise. This would (a) ensure cost-effectiveness; (b) smoothen the operations of the Union; (c) allow sufficient time for the implementation of decisions; and (d) continue with the current practice of de-linking the hosting of Summit with the Chairpersonship of the Assembly. Extraordinary sessions should be convened only sparingly;**
- **As the supreme Organ of the Union, the Assembly should provide leadership and general direction and in particular, it should endeavour to adopt a thematic approach to its annual meetings. The theme of the next annual meeting should be announced at the closing of each ordinary annual meeting of the Assembly;**
- **The first substantive item of each Summit should be dedicated to the consideration and review of the implementation of previous decisions;**
- **In order to ensure policy continuity, pro-active leadership and full implementation of decisions, it is necessary for the Chairperson of the Assembly to serve for two years; and,**
- **The Heads of State and Government should, after the Summit, endeavour to report on the proceedings of summits and significant substantive issues discussed and decisions reached, to their populace, including their parliaments and other deliberative bodies.**

THE EXECUTIVE COUNCIL

The Mandate

- 81.** The Executive Council, which is responsible to the Assembly, is established as per Articles 10-13 of the Constitutive Act, and the details of its operations are spelt out in its Rules of Procedure. Whereas Article 10 of the Act provides that the Council shall be composed of the Ministers of Foreign Affairs or such other Ministers or Authorities as are designated by the Governments of Member States, in practice and in conformity with Rule 18(1), the Organ is composed of Ministers of Foreign Affairs.
- 82.** Under Article 13, the Council is responsible for coordinating and taking decisions on policies in areas of common interest to the Member States, including: foreign trade; energy, industry and mineral resources; food, agriculture and animal resources, livestock production and forestry; water resources and irrigation; environmental protection, humanitarian action and disaster response and relief; transport and communications; insurance; education, culture, health and human resources development; science and technology; nationality, residency and immigration matters; social security, including the formulation of mother and child care policies, as well as policies relating to the disabled and the handicapped; and the establishment of a system of African awards, medals and prizes.

Execution of Statutory Functions and Audit Findings

- 83.** It is not spelt out in both the Act and the Rules how Ministers of Foreign Affairs can collectively coordinate and take decisions on matters relating to portfolios, which at national level are the competencies of other ministries. However, Rule 5 of the Rules of Procedure gives the Executive Council the powers and functions that fall largely in the domain of Ministers of Foreign Affairs.
- 84.** These powers and functions range from providing support to the Assembly, including monitoring of the implementation of the decisions, to making recommendations to the Assembly with respect to certain aspects of work of the Union (e.g. budget and conditions of service for employees) and categories of appointments (the eight Commissioners, members of the African

Commission on Human and Peoples' Rights, and the African Committee of Experts on the Rights and Welfare of the Child).

85. The Council has met 15 times, (both in ordinary and extraordinary sessions) since its establishment and has taken 393 Decisions and adopted two Declarations (Refer to Table 4).

Table 4: Sessions of the African Union Executive Council

Session	Venue	Date	Year	No. Decisions Taken	No. of Declarations Made
1st Ordinary Session	Durban, South Africa	9-10 July	2002	1	-
2nd Ordinary Session	N'djamena, Chad	3-6 March	2003	19	-
3rd Ordinary Session	Maputo, Mozambique	4-12 July	2003	55	-
3rd Extraordinary Session	Sun City, South Africa	21-24 May	2003	12	-
4th Ordinary Session	Addis Ababa, Ethiopia	15-16 March	2003	18	-
5th Ordinary Session	Addis Ababa, Ethiopia	30 June - 3 July	2004	72	-
6th Ordinary Session	Abuja, Nigeria	24 – 28 January	2005	27	-
7th Ordinary Session	Sirte, Libya	28 June – 2 July	2005	44	-
7th Extraordinary Session	Addis Ababa, Ethiopia	7-8 March	2005	3	-
8th Ordinary Session	Khartoum, Sudan	16 – 21 January	2006	42	
8th Extraordinary Session	Khartoum, Sudan	19 January	2006		
9th Ordinary Session	Banjul, The Gambia	25 June	2006	37	1
9th Extraordinary Session	Addis Ababa, Ethiopia	17-18 November	2006	One Item on Agenda	-
10th Ordinary Session	Addis Ababa, Ethiopia	25-26 January	2007	33	-
11th Ordinary Session	Accra, Ghana	25-26 June	2007	30	1

Total Decisions ----- 393 Total Declarations----- 2

Note: In this Table, the performance of the Executive Council can, therefore, be assessed on the basis of the following indicators: Assembly decisions implemented by Council; Council Decisions taken and their implementation, and Council delivery with respect to areas of responsibility, as spelt out in Article 13 of the Constitutive Act.

86. While the Assembly is the highest decision-making body of the African Union, the Council is also empowered to coordinate and take decisions on policies in areas of common interest to Member States which encompass practically all the issues that the Union is seized with. In effect, both the Assembly and the Executive Council appear to be co-decision making bodies. However, and in practice, the Assembly makes all principal decisions because the decisions of the Council are subject to its endorsement or approval before they can take effect. This is the case when the Council meets immediately before the sessions of the Assembly whereby the Council's decisions are passed on to the Assembly for endorsement.
87. The Council as presently constituted, is an all-purpose body, which contrasts with the practice at national level. It is also not consistent with the Constitutive Act. Many of the issues that are brought up for discussion at the level of the Council require specialised competences which may not fall within the portfolios of Ministers Foreign Affairs. In order therefore to create the right kind of institutional framework for appropriate and knowledgeable decision-making process, the Council should also be composed sectorally. Accordingly, the Executive Council of Foreign Ministers should be renamed Council of Ministers. The Specialised Technical Committees will then become the sectoral Council of Ministers. The Council will continue to be under the oversight of the Assembly.
88. While the Constitutive Act provides that the Council shall be composed of Ministers of Foreign Affairs or such other Ministers or Authorities as are designated by the Governments of Member States, the practice in the African Union, as indicated already, does not clearly reflect this intention. It is, therefore, proposed that arrangements should be made to expand the composition of the Council to include other sectoral Ministers. For example, if the Ministers of Agriculture were to sit on an agricultural matter, or Ministers of Trade sat on trade related issues, such Ministerial sessions should also count as meetings of the Council of the Union. That will mean the Council will always be in session to consider different issues. Consequently, the provision that the

Council meet at least twice a year in ordinary session needs to be reviewed. This is the best way that the Council will be able to effectively and efficiently handle all the myriad of subjects that the Union is seized with.

89. To summarise, some of the advantages of the proposed format include the following:

- Most of the powers and functions given to Executive Council under Article 13 of the Act fall under the competence of different ministries at national level;
- The sectoral conferences of ministers, which are now a common phenomenon in the AU, should be institutionalised and linked directly to the Assembly. Currently, these conferences of Ministers report to the Assembly through the Executive Council. There have been some instances when the Executive Council has attempted to modify the recommendations and decisions of such sectoral conferences without the mandate of the Ministers concerned;
- The performance and delivery of the AU on its vision and mission, including the powers and functions of the Executive Council, as enumerated under Article 13, will be enhanced, as capacities at country level will be mobilized through this format. Currently, most of these sectoral Ministerial conferences meet on irregular, *ad hoc* and uncoordinated basis. In the proposed format, the sectoral Ministerial conferences will constitute the various fora of the Council of Ministers; and,
- The proposed format will clarify the confusion between the current practice and the stipulation in Article 14 (3) of the Constitutive Act regarding the STCs, which envisage sectoral Ministries.

Recommendation

90. The Panel recommends that:

- **The Executive Council should be redesignated as a Council of Ministers and its composition aligned to Articles 10(1) and 14 of the Constitutive Act. The Council of Ministers will consist of representatives of each Member State, at Ministerial level, who are authorised to take decisions on behalf of Member States; and, Different Ministers, according to the agenda, will attend meetings of the Council of Ministers falling within their respective portfolios. In the proposed format, the Council of Ministers of Foreign Affairs will be one of the fora of the Council of Ministers. The brief for each Council will flow from the powers and functions of the Executive Council as stipulated in Rule 5 of the Rules of Procedure, thereby ensuring a more reflective handling of sectoral issues.**

THE PERMANENT REPRESENTATIVES COMMITTEE

The Mandate

91. The Permanent Representatives Committee (PRC) is a body of Permanent Representatives and other Plenipotentiaries of Member States accredited to the African Union. It is established under Article 21 of the Constitutive Act. Its powers and functions are defined under Rule 4 of its Rules of Procedure. The Organ's powers and functions fall within four areas: (a) to act as a liaison between Member States and the Commission; (b) to exercise oversight over the Commission; (c) to facilitate and support the Executive Council in executing its powers and functions; and, (d) to participate in the preparation of the Union's programme of activities. According to Rule 26 of the Rules of Procedure of the PRC, "decisions of the PRC shall be recommendations until adopted by the Executive Council".

Execution of Statutory Functions and Audit Findings

92. The PRC is supposed to meet at least once a month to discuss recommendations for adoption by the Executive Council. In practice, this has not been observed due to the pressure of other meetings. The PRC's Rules of Procedure allow it to establish any sub-committee and to collect information from any source including CSOs, if desired. Currently, the PRC has seven

standing sub-committees. They are; Advisory Sub-Committee on Administrative, Budgetary and Financial Matters; Sub-Committee on Programmes and Conferences; Sub-Committee on Refugees; Sub-Committee on Contributions; the Sub-Committee on Structural Reforms and the Policy Sub-committee on the Special Emergency Assistance Fund for Drought and Famine in Africa; Sub-Committee on the Review of the Scale of Assessment. In addition, at the time of auditing the Organ had four *ad hoc* Sub Committees. They are: the Sub-Committee on Headquarters and Host Agreements; the Sub-Committee on NEPAD; the Sub-Committee Economic and Trade Matters; and, the Sub-Committee on Multilateral Cooperation (The Cairo Plan of Action of the Africa/Europe Summit, multilateral negotiations, TICAD, AGOA, Commission for Africa etc).

93. Clearly, the standing Sub-committees seem to be largely focused on Organisational oversight matters, as opposed to the substance of the agenda of the Union. This gap between substantive and oversight is partly addressed by the *ad hoc* Committees, but even they seem to be preoccupied more with issues at hand than strategic concerns of the Union. The Panel is of the view that the Committee system of the PRC should focus on substantive issues.
94. Moreover, the PRC Sub-Committees often experience a lack of quorum when meetings are convened. While this can be attributed to the relatively small size of most missions and their limited expertise to handle the broad range of technical issues addressed by the AU it, inevitably, has had a negative impact on the implementation of the work programme and management of human and financial resources.
95. The capacity of the PRC is very important if the Organ is to carry out its mandate, and effectively and efficiently service the Executive Council. However, it is imperative that the Permanent Representatives and Plenipotentiaries are and remain in charge of the PRC and handle substantive issues, which are of utmost importance to the Union. *Ad hoc* Committees may have a role from time to time, but they should not proliferate or become permanently institutionalised. In the same vein, African governments should strengthen the size, calibre and competencies of their mission staff. The challenge that faces the

African Union in the years ahead, demands a very experienced and professionally qualified African diplomatic corps equivalent to the corps at the UN.

96. The re-composition of the Council of Ministers, as proposed, will require technical capacity to deal with sectoral issues. Member States should therefore endeavour to include in their delegations such technical officers as are professionally appropriate to these Council of Ministers meetings to facilitate the taking of informed positions.

Recommendations

97. The Panel recommends that:

- **The powers and functions of the PRC as listed in Rule 4 of its Rules of Procedure be reviewed in such a manner that its oversight functions will be carried out by the Advisory Sub-Committee on Administrative, Budgetary and Financial Matters whose members should preferably come from the Ministries of Finance;**
- **Experienced Ambassadors from Member States should be posted to head their missions. Permanent Representatives should assume full control and personal responsibility for AU matters rather than delegate official responsibilities to subordinates. Whenever meetings of the PRC are convened, Permanent representatives should attend personally;**
- **African permanent missions to the AU should be staffed with competent personnel to handle issues of strategic importance to the union, such as finance, trade, the environment and economic development among others;**
- **The current Sub-Committee system should be streamlined to focus on substantive and strategic issues. Ad hoc Committees should only be set up where absolutely essential, with clear terms of reference and time frames;**
- **The Commission should issue a calendar of meetings to the PRC for the following year, three months before the**

end of each year. Both the Commission and the PRC should adhere to that calendar, unless there are unforeseen circumstances; and,

- The PRC should ensure that its Sub Committees meet regularly in order to support the work of the PRC, interaction with the AU Commission and preparation of the work of the Council.

THE SPECIALISED TECHNICAL COMMITTEES

The Mandate

98. The Specialized Technical Committees (STCs) are provided for as an Organ in both the Abuja Treaty and the Constitutive Act with the responsibility, in Article 15 of the Act, to: prepare projects and programmes of the Union and submit it to the Executive Council; ensure the supervision, follow-up and the evaluation of the implementation of decisions taken by the Organs of the Union; ensure the coordination and harmonisation of projects and programmes of the Union; submit to the Executive Council either on its own initiative or at the request of the Executive Council, reports and recommendations on the implementation of the provisions of the Constitutive Act; and, carry out any other functions assigned to it for the purpose of ensuring the implementation of the provisions of the Constitutive Act.

99. The following seven STCs, to be composed of Ministers or senior officials responsible for each respective sector, are provided for in the Act: the Committee on Rural Economy and Agricultural Matters; the Committee on Monetary and Financial Affairs; the Committee on Trade, Customs and Immigration Matters; the Committee on Industry, Science and Technology, Energy, Natural Resources and Environment; the Committee on Transport, Communications and Tourism; the Committee on Health, Labour and Social Affairs; and, the Committee on Education, Culture and Human Resources.

Execution of Statutory Functions and Audit Findings

100. Since its inception about four years ago, the AU has been grappling with the challenge of making the STCs a reality. The terms of

reference and the modalities for the functioning of the STCs remain unclear, and so is the challenge of how these bodies are to relate to existing structures and programmes of the Union, the RECs, and national level Ministerial configurations. The Commission was, accordingly, directed by the first Ordinary Session of the Assembly held in Durban (July 2002) and the Executive Council meetings in Maputo (July 2003) and Banjul (July 2006), to examine all the key aspects relating to the operationalisation of the STCs. Thus the Commission prepared a report on the STCs for consideration at the 10th Ordinary Session of the Executive Council (January 2007).

- 101.** Clearly, and this is evident from studies conducted by the Commission on the subject, the STC model envisaged in the Act would have to be revisited if these bodies are to see the light of day. Firstly, the sectoral clustering of the envisaged STCs is not optimally aligned with the portfolios of the Commission and sectoral Ministries at country-level. For example, a meeting of the Health, Labour and Social Affairs will have to be attended by three or four ministers from Member States, which makes the cost of participation prohibitive.
- 102.** Secondly, some sectoral Ministers from Member States are already meeting on annual basis within the AU and the United Nations system to develop and elaborate programmes whose objectives are not necessarily informed by the STCs model. For example, Ministers of Public Administration have been meeting since 1994 and have developed a programme, the implementation of which is overseen by a Bureau that meets on regular basis. This then brings in the third and last point: that some key sectors, such as public administration and water affairs, are not among the seven envisaged STCs clusters. Yet, not only are the sectoral Ministers already meeting as indicated above, but also those sectors themselves are critical to the realisation of the Union objectives.
- 103.** The Panel has carefully examined the alternative proposal on STCs submitted by the Commission to the Executive Council. The proposal seeks to increase the number of STCs from seven to nineteen with a cost implication of \$1,167,721. However, the Panel finds that the cost implications of such an increase are grossly under-estimated. Moreover, the proposal fails to consider other important factors. First of all, the meetings – schedule of the STCs, given their mandate, will be issue and sector-driven,

not a bureaucratic exercise. Secondly, the STCs will have to meet at different levels (ministerial, ambassadorial, and senior officials, for example) if they are to be effective. Meetings will have to be held not only at the AU headquarters but also at sub-regional and country levels. The cost implications here are not limited to the AU, but will also affect the Member States. Finally, the Commission's proposal does not take into account the capacity of the Commission itself to service such a large number of STCs.

104. The Panel is, therefore, of the view that the whole STCs model should be unbundled and more focus given to strengthening the effectiveness and capacity of the Council of Ministers.

Recommendation

105. **The Panel recommends that:**

- **The STCs which are provided for under Article 14(3) of the Act, should be transformed into a Council of Ministers. They may establish their own technical preparatory Committees.**

CHAPTER FIVE: ASSESSMENT OF THE ORGANS OF THE UNION

THE COMMISSION

106. This chapter examines the power and legal authority of the Commission. It analyses the performance of the Commission in operationalising the Strategic Plan and its internal governance in terms of its planning systems, human resources and financial management. The relationship of the Commission with the Permanent Representatives Committee and the Office of the Chairperson of the Assembly is also analysed.

The Mandate

107. Article 20 of the Constitutive Act states that the African Union Commission is the Secretariat of the Union and shall be composed of a Chairperson, his or her Deputy or Deputies, Commissioners and necessary staff. The Assembly shall determine its structure, functions and regulations.

108. The powers of the Commission derive also from its Statutes adopted by the Assembly in Durban (2002) as amended in Addis Ababa (2007). The Commission is mandated, among other functions, in Article 3(2) to:

- Represent the Union and defend its interests under the guidance of, and as mandated by, the Assembly and the Executive Council;
- Initiate proposals for consideration by other Organs;
- Implement the decisions taken by other Organs;
- Coordinate and monitor the implementation of the decisions of the Union in close collaboration with the PRC and report regularly to the Executive Council;

- Work out draft common positions of the Union and coordinate the actions of Member States in international negotiations; and,
 - Prepare the Union's Programme and budget for approval by policy Organs.
- 109.** It is the Panel's view that the Statutes vest clear powers, authority and functions in the Commission to act not only as a Secretariat of the Union, but also to provide leadership and representation of the African Union and to monitor and implement decisions taken by the policy Organs of the Union. The Panel, however, finds that key stakeholders within the Commission, the Permanent Representatives Committee, and external partners, have different perceptions of the roles and responsibilities of the Commission. It is imperative to clear this misunderstanding once and for all.
- 110.** Article 7 of the Statutes of the Commission states the functions and responsibilities of the political leadership of the Commission as follows:
- i) The functions and responsibilities of the Chairperson shall be:
 - a) Chief Executive Officer;
 - b) Legal representative of the Union; and,
 - c) Accounting Officer of the Commission.
 - ii) Further, in Article 8, the functions of the Chairperson shall be to, *inter alia*:
 - a) Appoint the staff of the Commission in accordance with the provisions of Article 18 of this Statute;
 - b) Assume overall responsibility for the administration and finances of the Commission; and,
 - iii) In Article 9, the Deputy Chairperson shall in the discharge of his or her responsibilities, be accountable to the Chairperson. He/She shall have, *inter alia*, the following functions;
 - b) Assist the Chairperson in the exercise of his/her functions;

- c) Exercise the functions delegated to him/her by the Chairperson of the Commission; and
 - d) Shall be in charge of the administration and finances of the Commission.
- iv) Article 11 states that the Commissioners shall be responsible for the implementation of all decisions, policies and programmes in respect of the portfolios for which they have been elected, and be accountable to the Chairperson.
111. The process for electing the leadership of the Commission derives from the Rules of Procedure of the Assembly adopted in July 2002. It states that the Assembly shall elect a Chairperson and a Deputy Chairperson of commensurate leadership qualities and a good track record in government, parliament, international organisations or other relevant sectors of society and eight Commissioners drawn equally from the five regions of the Union and chosen on the basis of gender parity for a four-year tenure which may be renewable only once.

Execution of Statutory Functions and Audit Findings

112. The Chairperson, the Deputy and the eight Commissioners were simultaneously elected to specific portfolios by the Assembly of June 2003. They assumed office from the end of September onwards. However, four years on, their relationship can best be described as dysfunctional with overlapping portfolios, unclear authority and responsibility lines and expectations, due to inadequate comprehension on their part.
113. In the light of the above-cited Articles regarding the Chairperson's functions and responsibilities, the Panel finds no basis for both the perception and practice that the Deputy Chairperson has sole responsibility for the administration and finances of the Commission. In the performance of his/her duties, the Deputy Chairperson is ultimately answerable to the Chairperson who is the Accounting Officer of the Commission. Similarly, the Panel finds no basis that the Commissioners, by virtue of their election by the Assembly, have no direct accountability to the Chairperson in his capacity as the Chief Executive Officer.
114. Nevertheless, as these misperceptions and practices have driven inter-personal and professional relationships, the Panel has

sought to understand what might have given rise to them. Three factors might have contributed to this state of affairs. They are:

- The lack of operational clarity as to the lines of authority. Despite the provisions of Article 7 of the Statutes of the Commission that make it absolutely clear that the Chairperson is the Chief Executive Officer, the election with designated portfolios of the Commissioners by the Assembly has led to the belief that they have a complete mandate to manage their portfolios and that at best, their relationship with the Chairperson is one of *primus inter pares*;
 - Most of the Commissioners are serving in an international organisation for the first time. There is little evidence that they were inducted. Consequently, an opportunity was lost to develop an informed and collegiate culture among the Commissioners; and,
 - The simultaneous election of the Chairperson, Deputy Chairperson and the eight Commissioners further compounded the situation.
115. On the whole, the underlying factors are the fundamental lack of a full comprehension of the power, the function, the authority and the responsibilities of the principal actors. The determination of portfolios *a priori* by the Assembly has not helped the situation. In future, the Assembly should consider staggering the election of the Commission to allow for the election of the Chairperson and the Deputy Chairperson first, and subsequently, the election of the Commissioners.
116. This problem needs to be addressed urgently. Failure to do so would be detrimental and costly. The Commission is the Organ which, in the final analysis, will make the difference to the credibility, effectiveness and efficiency of the Union in its quest for political and economic integration.
117. Changes are urgently required to professionalise and strengthen the collegiate culture of the Commission. It is clear that a set of core capabilities would strengthen the nomination and election of Commissioners. Most importantly, the demonstrated experience of applicants having served at inter-governmental levels is critical.

118. The portfolios are currently unwieldy and illogical as they represent baskets of different items. Further, the current allotment bears no relationship to the experience of some of the incumbents. As the Chief Executive Officer, the Chairperson is best placed to rationalise the portfolios in consultation with the Chairperson of the Assembly and thereafter assign them among the Commissioners. Whenever necessary, the Chairperson can redeploy the Commissioners.
119. The Panel is painfully cognisant of the need to designate the positions of the Chairperson and the Deputy Chairperson as continental roles, irrespective of their regions of origin. It would be an important step towards developing a culture of Pan-Africanism within the Union Commission itself. It is imperative that the holders must have a clear vision of pan-Africanism and a personal mission as well as a total commitment in leading the acceleration and fast-tracking of political and economic integration.

Recommendations

120. The Panel recommends that:

- **The Chairperson should exercise full authority within the Commission as the Chief Executive and Accounting Officer;**
- **There should be a compulsory induction for all Members and Staff of the Commission that clearly defines the *modus operandi* and code of conduct of the Commission;**
- **All members of the Commission should be required to acquaint themselves with the Statutes of the Commission and the Rules of Procedure of other Organs;**
- **The Chairperson and the Deputy Chairperson should be men and/or women with a known vision of and commitment to pan-Africanism and continental integration. They must have experience in governance. Their election should be unrelated to their regions;**

- **The election of the Commissioners should focus more on core competencies. Each region will provide at least two, but preferably more candidates for election;**
- **The election of the Commissioners should be de-linked from the portfolios that they will occupy. The responsibility for assigning portfolios, monitoring and managing the performance of the Commissioners should be assumed by the Chairperson in his capacity as the Chief Executive Officer of the Commission;**
- **The portfolios of the Departments should be rationalised by the Chairperson of the Commission in consultation with the Chairperson of the Assembly and in accordance with the agreed strategies and priorities of the Union;**
- **The tenure of office for the elected posts should remain four years. For the purpose of the impending election, and in order to avoid the problems of simultaneous elections of all members of the Commission, the elections of the Chairperson and the Deputy Chairperson should take place six months prior to the elections of the Commissioners. For subsequent elections, the Chairperson and the Deputy Chairperson should be elected one year before the election of the Commissioners; and,**
- **In the light of the above recommendations and in view of the special circumstances prevailing, it is imperative that the Assembly should adopt modalities for the election of the next Commissioners.**

Overview of Management in the Commission

- 121.** The Panel finds that inadequate in-house leadership and weak management systems have resulted in poor supervision in the Commission, within and between departments, and low morale among staff. Few Commissioners and Directors can claim to have had a respectful and productive relationship. By October 2007, five of the thirteen Directors appointed in July 2004 had left the Commission. Further, the lack of supervision stems from the regular absence of Commissioners. It is easy to put this down to the personalities and level of professionalism of either the

Commissioners or the Directors but the problems are more systemic.

122. There has been a failure to articulate and accept a chain of command in the Commission. There is insufficient clarity on authorisation levels, the exercise of power and its delegation. Poor to non-existent internal communication strategies and ineffective accountability mechanisms are central to the disempowerment of and demoralisation among staff.
123. Evidence of this situation can be found in some cases of Directors being sidelined in favour of other professional staff because of their alleged incompetence and lack of commitment coupled with the failure of some Commissioners to adequately delegate to their Directors when away on travel. Most mid-level staff rarely receive mission reports from Commissioners and Directors and, therefore, find it difficult to follow up on these missions. A number of mid-level staff complained of the disempowering practice of Directors requesting inputs to departmental strategies, work plans and reports and then not receiving feedback. These are clear signs of an unhealthy organisational culture. Unless checked, the departments will continue to work in silos, producing gaps, overlaps and a fragmented institution. The Panel's attention has also been drawn to the fact that often no reports are filed following official missions undertaken by Commissioners themselves.
124. According to records of meetings of the Commission availed to the Panel, the first meeting of the Commissioners took place on September 8, 2005, two years after they had assumed office in September 2003. At that meeting, it was agreed that they would meet weekly. The Commissioners met nine times from September to December 2005, seventeen times in 2006 and only ten times between January and October 2007. That is, a total of 37 meetings of the Commissioners took place over a period of 138 working weeks, an average of one meeting every three weeks between 2005-2007, as against their own decision to hold weekly meetings.
125. The Panel noted that the Secretary to the Commission invariably set the agenda in the absence of the submission of agenda items by the Commissioners as expected. Agenda items ranged from common responsibilities such as preparations for upcoming

Summits, annual budgets and staff policies to initiatives planned by specific Directorates. Regrettably, strategic and substantive issues were hardly ever discussed. Opportunities were missed to discuss common positions for international negotiations and policy frameworks, the Regional Economic Communities and for harmonising the work of the Commission.

126. On average, five to six of the ten members of the Commission did not attend each of the meetings due to travels on missions. Only on four occasions did at least seven members attend the meetings. The minutes show that the Chairperson and the Deputy Chairperson hardly attended these meetings. The reduced frequency of meetings suggests that the initial energy and resolve to meet regularly have tapered off. The Panel was surprised to learn that minutes of collegiate meetings have not been circulated for over a year, as they had not been translated from the language in which they had been prepared. Further, action points were not well prepared and subsequent meetings did not review what had been discussed in past meetings.
127. No consistent attempt was made over this period to bring the Directors together despite their obvious managerial role. The consequences of this can be seen in the “silo” approach of working, overlapping mandates and activities. Indeed, very few examples of the Departments working together could be found. Regular meetings would have allowed for Departments and Directorates to present short progress narratives, human resource and budget reports to their peers as well as discuss corporate issues, upcoming planning, budgeting and reporting activities. The situation, as described above, will persist as long as there is no leadership to coordinate the various Departments and Directorates. Accordingly, the Panel proposes that the Secretary to the Commission should be designated as the Head of African Union Commission staff.

Recommendations

128. The Panel recommends that:

- **The Secretary to the Commission should be the Head of the African Union Commission staff and be responsible for inter-departmental and directorate coordination;**

- **Mandatory monthly meetings of the Commissioners to be chaired by the Chairperson and serviced by the Secretary to the Commission should be held. The Secretary to the Commission should prepare and circulate the minutes of the meetings in the working languages of the Union;**
- **A schedule of monthly meetings of Directors should be adopted. These meetings should be held before that of the Commissioners, convened and serviced by the Secretary to the Commission. The Directors' report should be submitted for consideration at the monthly meetings of the Commissioners;**
- **Prior to the budgeting and reporting process, there should be an annual inter-departmental planning, reporting and learning retreat of Commissioners, Directors and other relevant staff;**
- **The Secretary to the Commission should monitor the submission of mission reports and ensure that the Chairperson is regularly briefed;**
- **A shared intranet system should be established for the exchange of non-public Commission documents and departmental folders for plans, budgets and progress reports;**
- **The minutes of the Directors' meetings should, with the appropriate sensitivity, be made available to all staff members of the Commission, thereby bridging the communication divide;**
- **The proposed e-governance project linking all AU Organs, RECs and Member States should be accelerated to facilitate greater links between departments and relevant line-ministries concerned with regional integration; and,**
- **The Office of the Secretary to the Commission should be strengthened in terms of human resources and logistics to deliver effectively and efficiently to enable it to meet the new responsibilities to be assigned to it.**

Staff recruitment, performance standards and career development

129. Between 2003 and 2007, the overall number of staff increased dramatically from 284 to 617 with an increased ratio of professional (349) to general service staff. Despite adequate financing, the Commission is operating in October 2007 with only sixty percent of the 912 staff approved. This is less than the 752 staff that had been approved in 2003. Some directorates are still heavily under-staffed. For example, the Directorate of Conference Services is operating with about fifty percent of the 126 staff approved. The categories of professional staff are most affected.
130. From interviews held, the Panel finds that the structure approved in Maputo suffered from the lack of clear expectation of what the Commission's programmes should be or what they should deliver. A thorough job evaluation was not done as required by the Maputo decision. This has led to the retention of a number of former OAU staff without a clear responsibility, or being assigned to non-approved positions.
131. The failure to meet the approved staff complement was due to an inefficient recruitment process, encumbered by the application of the quota system agreed upon in Maputo and the need to seek PRC approval for all vacant positions to be filled.
132. Lengthy decision-making processes have contributed to the use of short-term contracts to fill the transitional periods. This year, the Executive Council was informed that despite finding competent and qualified staff to fill 60 professional posts, only 41 could be issued with letters of appointment as the rest came from countries whose quotas were already filled. With 21 Member States already having filled their quotas and 6 Member States under sanctions, only 26 are left from which staff can be recruited. Currently, there are insufficient applications coming from under-quota countries.
133. Inadequate publicity of the vacancies at the Commission may have restricted the pool of competent men and women willing to apply. Currently, the Human Resources and Administration Directorate relies on the AU website, Member States and staff to generate motivated and qualified applications. Without a review of the readership of the website and an assessment of how many

Addis-Ababa based missions do forward the advertisements to appropriate Ministries and whether they, in turn, place them in the public domain, it is not possible to state how widely these vacancies are advertised. The Panel suspects that key constituencies of the Commission may be unaware of the processes of recruiting staff for the Commission.

134. It is clear that the Commission is overlooking a wide range of media, including popular African and national websites and specialist e-mail list-serves, newspapers and “Careers in Africa” Fairs. Alongside these broadcast strategies, targeting African nationals from under-quota countries living abroad and in those countries themselves may rectify the problems currently being faced. The Panel is sufficiently concerned to propose that the Commission should explore more direct ways of placing the advertisements in the public domain by advertising in key universities, websites, newspapers and magazines throughout the continent.
135. Nevertheless, the Maputo and post-Maputo decisions on staff structure have helped to ease the pressure of under-staffing. The implementation of a recent decision by the Executive Council to harmonise the disparity in remuneration policy has rectified the large gaps between higher and lower grades. This decision has been well received by staff.
136. However, the Panel also finds that the performance and morale of staff over this period were grossly undermined by severe structural and management weaknesses. Despite qualifying for higher grades and the availability of posts, many staff have stagnated at the top of their salary scales. No wonder, therefore, that quality staff recruited for the Organisation leave their posts for better-remunerated positions in other international organisations. There are also many cases of short-term staff who although having served for five to twelve years in essential functions, have not had their situation regularised. Similarly, some staff members have seen the positions they hold being declared vacant and filled, with the consequence that they have found themselves without responsibility in the Commission and yet are on the payroll.
137. Post-recruitment induction has been by all accounts extremely weak. A basic orientation process is patchy or non-existent.

There is no evidence that a brochure for new staff which has been produced by consultants working on the Institutional Transformation Project, is in circulation.

138. Despite a new vision, mission and programme, the OAU Staff Regulations and Rules approved nearly fifteen years ago in 1993 have continued over this period. The Panel has been informed that a new compendium of Staff Rules and Regulations is being developed towards the end of 2007. The Panel understands that, in 2008, the Commission will apply new training policy and evaluation forms as part of a system of moving to performance-based management. The Panel welcomes this development and urges its speedy implementation.
139. A performance-based system for setting, monitoring and disciplining individual staff against mutually agreed annual objectives and standards has been lacking in the Commission. The Administrative Tribunal has not been convened for over four years, leaving many staff awaiting a hearing, in order to receive payments or benefits that have been held up. This is an untenable position and must be rectified with urgency.
140. Furthermore, the attention of the Panel was drawn to the persistent use of consultants to supplement the gaps caused by the lack of adequate programme staff. The Panel is concerned that the repeated use of consultants may distract management staff from the real task at hand, namely, the appointment of competent staff.
141. The use of consultants to manage the process of recruitment should cease immediately. It has failed to accelerate recruitment to approved levels and left the Commission struggling to fulfil its mandate due to a lack of staff despite the heavy cost of engaging consultants.
142. While the Panel does not believe that Commissioners should be involved in the process of recruiting staff, it recognises that the centralisation of personnel recruitment in the hands of the Human Resources Directorate in the Office of the Deputy Chairperson has not created a transparent process. The absence of departmental input in the selection of professional staff has resulted in management alienation.

143. Furthermore, there is need for the Commission to develop into an institution that spreads the objectives of pan-Africanism among the youth of the continent. To this end, the Panel observes that there does not exist within the Commission any mechanism to achieve this objective. As a start, therefore, the Panel finds it necessary for the Commission to establish a paid programme of Young Professionals and a Voluntary Internship Programme to inculcate pan-African perspectives and skills in the next cadre of professional African leadership.
144. The Commission is in dire need of a transparent, efficient and effective way of recruiting, promoting, motivating and disciplining all members of staff to produce results against the agreed plans and budgets. A proposal for institutionalising the proper recruitment, management and career development system is made below.

Recommendations

145. The Panel recommends:

- **The urgent establishment of an African Union Service Commission AUSC to be responsible for recruitment, making appointments and promotion and enforcing discipline. In doing this, it will receive job descriptions from the Commission and manage all advertisements. It will also be in charge of setting conditions of service and grading of posts under the Staff Rules and Regulations of the AU;**
- **That the AUSC should comprise five members, one from each region appointed by the Assembly on the recommendation of the Council, on four-year terms renewable only once. Only persons with the appropriate experience and expertise in national/international recruitment and human resources management should be appointed. They should meet at least twice a year on a fixed schedule with appropriate specialised resource-persons drawn from the departments. This body should also elaborate a code of conduct and discipline for all staff. In exceptional cases, the AUSC can hold extra meetings;**
- **That the Council should take a decision to increase the quota proportionately across the continent in line with the formula approved in Maputo, taking in account the increased number of posts;**

- Further, that the Council should take a decision to the effect that in the case of the failure to recruit competent and qualified candidates from under-quota countries, the relevant Embassies should be informed and the African Union Service Commission should be free to recruit the best candidates regardless of their nationality. This system should be kept under constant review;
- That the Commission should establish a paid programme of Young Professionals and a Voluntary Internship Programme to inculcate pan-African perspectives and skills in the next cadre of professional African leadership;
- The setting up of a system whereby conditions of service for staff are regularly reviewed and brought to international standards, as far as possible, with a view to attracting and retaining the best staff;
- The swift adoption of the draft Staff Rules and Regulations; and,
- That the Commission should establish links with a network of African Universities and research Institutions. This linkage should be used to make known the work of the Commission, and to promote the vision and understanding of pan-Africanism. The Commission should also advertise staff vacancies through this network.

Representation of Women and Gender Parity in the Staffing of the Commission

146. The African Union has made major strides in mainstreaming gender. The Panel welcomes the establishment of the Women, Gender and Development Directorate in the Office of the Chairperson. It is regrettable that the Organisation of African Unity did not produce a single female Secretary General or Assistant Secretary General in the thirty-seven years of its existence, but today, there is gender parity in the appointment of Commissioners. It is worthy of note that the AU was the first and probably the only multilateral institution that has gender parity as its policy at its most senior level.

147. However, at the professional level, women constitute only about 25 percent (Table 5). Over one half of the women employed by the Commission are in the General Service A grade (Table 6). One reason adduced for the lack of gender parity is that fewer qualified and competent women seem attracted to apply. The Panel is not convinced by this argument. It is, therefore, necessary to introduce a gender parity quota for all levels of the staff.

Table 5 The Staff Gender Profile of the AU

Staff gender profile (as of October 2007)			
	Female	Male	Total
	203	414	617

Table 6: Gender Profile Categorised by Grade

Gender profile categorised by grade			
	Female	Male	Total
Elected	5	5	10
Professional	68	188	256
General Service A	103	96	199
General Service B	27	125	152

148. Nevertheless, it is clear from the recently completed Audit of the Departments' progress in mainstreaming gender that the number of women alone is not an end in itself, but a means to an end. There is no direct corollary between the appointment of women Directors and Commissioners and their Departments' progress in mainstreaming gender concerns. In order to accelerate the mainstreaming of gender, the Chairperson has created a Women, Gender and Development Directorate.

Recommendations

149. The Panel recommends that:

- **The Gender Mainstreaming Strategic Plan should be finalised, disseminated and implemented in all Member States and the Commission;**

- **A programme to ensure gender mainstreaming in all activities of the AU should be developed;**
- **The African Union should maintain the active participation of continental women's organisations and ECOSOCC members in all integration processes;**
- **Consultations between the Commission, The Pan-African Women's Organisation (PAWO) and other relevant continental Women's Organisations should be speeded up to develop a common agenda to facilitate integration;**
- **The report of the women's annual pre-summit meeting should be regularly routed through ECOSOCC to the Assembly;**
- **The Assembly should consider the application of gender parity for all staff of the African Union;**
- **The Commission should develop a data base of qualified women at all levels similar to the one now established at the United Nations; and,**
- **The Commission should review its organisational design and culture and make appropriate gender-sensitive modifications.**

Official and Working Languages of the Commission

- 150.** Currently, the high demand for servicing meetings of the Commission and the PRC outstrips the capacity of the Conference Services Directorate. The Directorate has about fifty percent of the staff it requires. It is hampered by the late submission of documents for translation and an uncoordinated approach to the scheduling of meetings. This practice has resulted in the many meetings convened spending time discussing the quality of the translation or interpretation.
- 151.** The Panel notes the importance surrounding the official languages used in Africa and the political and symbolic significance of adopting Kiswahili. The Panel notes also that arrangements are under way for the inclusion of Spanish as one of the languages to be used in the Union. The Panel believes that

this will further exacerbate the capacity of the Conferences Directorate to perform adequately. The Panel further cautions against the inclusion of Spanish without a clear and sustainable source of additional financing from Member States. Therefore, for cost efficiency, it is now appropriate that the African Union streamline its working languages.

Recommendations

152. The Panel recommends:

- **The adoption of the proposals made by the Conference Services Directorate in their review of August 2007 to restrict translation to official documents and overhaul the technological capacity of this Directorate and put in place a modern Conference Directorate of the Union; and,**
- **That the working languages of the Commission should be English and French.**

The Relationship with the Office of the Chairperson of the Assembly of the African Union

153. Currently, each Head of State who assumes the Chairpersonship of the Assembly develops his or her own method of coordination with the Commission. The Panel believes this is not the most efficient way of managing this important relationship. The Panel finds the need for better coordination between the Commission and the Office of the Chairperson of the Assembly to foster a more cohesive and efficient relationship and, accordingly, is of the view that it should be institutionalised.

Recommendations

154. The Panel recommends:

- **The establishment of a small Unit in the office of Chairperson of the Commission to serve as the link to the Chairperson of the Assembly; and,**
- **That, on assuming the position of Chairperson of the Assembly, the Member State concerned should establish**

a corresponding focal point in the Office of the Head of State or Government.

The Relationship with the Permanent Representatives Committee

- 155.** As detailed in Paragraph 91, the PRC is established under Article 21 of the Constitutive Act. The importance of the relationship between the Permanent Representatives Committee and the Commission cannot be overstated. This relationship flows from the Constitutive Act, the Rules of Procedure of the PRC and the Statutes of the Commission.
- 156.** The Panel has found that misunderstanding exists on the role that each is supposed to play, and this has inevitably led to tensions, strained relationships and mistrust between the PRC and the Commission. The Panel experienced how deep-rooted this is during the hearing with the PRC on October 23, 2007 when some members questioned the purpose and legitimacy of the Panel despite the Assembly Decision in Accra. It would appear that some members of the PRC have convinced themselves that the setting up of the Panel was an independent initiative of the Commission and that the Chairperson of the Assembly was not involved. Indeed, some members of the PRC categorically argued that the Audit was meant to be undertaken by a professional consulting firm and, by implication, not by 'amateurs'!
- 157.** The PRC has asserted that the financial and administrative management of the Commission leaves much to be desired and that this necessitates vigilant oversight. On the other hand, the Commission asserts that the PRC has sometimes strayed beyond its distinctive role as an advisory body to the Council and has entered the domain of management of the Commission. The Panel finds both assertions valid.
- 158.** The Panel has been informed that pressures have been exerted by some members of the PRC for the recruitment of their relatives and other nationals of their countries. While it is natural for Ambassadors to promote the national interest of the country they represent, it is an abuse of power to attempt to influence the recruitment and management of staff in the Commission. While constituting a form of harassment, it also undermines the

continental role of all officers of the Commission. They are recruited to serve Africa's collective interest, not to be an extension of their countries' missions or to pursue a national or personal interest. On the other hand, members of the Commission and staff should desist from having recourse to their Embassies on matters of a purely managerial nature.

159. Further, the attention of the Panel has been drawn to the case of some Ambassadors sitting on the Permanent Representatives Committee who have applied recently for the position of the Secretary to the Commission. Applications for jobs in the Commission by Embassy staff members who serve on the PRC constitute a clear conflict of interest of the most basic of established principles and procedures across Africa. Sitting members of a governance body cannot also vie for positions in management of an institution over which they have oversight responsibilities. When such applications are unsuccessful, it becomes a major source of conflict between the afflicted PRC members and the Commission.
160. The Panel, having listened to both Organs, is of the view that the current strained relationship has been exacerbated by the failure of the Commission to exercise its functions vis-a-vis the PRC, in as transparent a manner as possible. Examples of this can be found in the Commission's management of the financial and human resources sectors and procurement and in its carrying out of major AU projects. These are not always in conformity with existing rules and regulations and established procedures.
161. The need was expressed by some Permanent Representatives for the PRC to have a secretariat of its own. This arises from the fact that they have slowly but surely been drawn into the field of management of the Commission. However, the Panel does not see the need for the establishment of such a secretariat, since the Statutes of the Commission provide for it to exercise such a function. The Statutes further provide for collaboration and consultation between the PRC and the Commission, which at present appear to be superficial.
162. With greater mutual trust, the Panel believes that the PRC and the Commission would improve their working relationship. Indeed, it is imperative that they do so in the larger interest of the Union and Africa. The PRC, although it has oversight responsibility, is

primarily advisory to the Executive Council and in accordance with the Constitutive Act, the Council is to be more focused on matters of policy and not management. The PRC derives its mandate from the Council.

163. It is important, for the restoration of trust and the spirit of cooperation between the two bodies, that the practices be re-aligned with the Constitutive Act, the Rules of Procedures and the Statutes governing this relationship.
164. The Commission should strive to meet the Secretariat needs of the PRC and its sub-Committees which should be streamlined and focused on substantive and strategic issues.

Recommendations

165. The Panel recommends that:

- **Member States should strengthen their capacities both quantitatively and qualitatively to play an effective role;**
- **Confidence-building measures should be developed to build the mutual trust between the Commission and the PRC which is essential for the advancement of the objectives of the Union;**
- **The Commission should be appropriately strengthened to serve as a secretariat to the PRC; and,**
- **There should be regular structured consultations between the PRC and the Commission at the highest level.**

Technical and Representational Offices and Specialised Agencies

166. The audit time-frame and resources did not allow for the Panel to visit at least some of these stations and interview staff. The Panel sent out questionnaires to all these stations to which some responses were received. In addition, interviews were carried out with two Heads of Mission who were on official business in Addis Ababa while the Panel was in session.
167. From the information made available to the Panel, the African Union has the following technical bodies; the Inter-African Bureau

for Animal Resources (IBAR, Nairobi), the Semi-Arid, Food Grain and Development and Coordination Office (SAFGRAD, Ouagadougou), the Pan-African Veterinary Vaccine Centre (PANVAC, Debre Zeit, Ethiopia), Coordination Project for the Fouta-Djallon Project (Conakry), the Inter-African Phytosanitary Council (Yaounde), the Scientific Technical and Research Commission (Lagos), the Centre for Historical Studies by Oral Tradition (Niamey), and the International Centre for Education and Training of Girls in Africa (Ouagadougou). From the information made available to the Panel, the technical expertise and resources residing within these offices are insufficiently known and, therefore, they are under-utilised in most member States.

168. There are six Representational Offices of the African Union; namely, in Brussels, Geneva, New York, Cairo, Washington and Lilongwe. The Panel found that the Representative Offices clearly understood their role to promote the mission, objectives and common positions of the African Union. The older offices in Brussels, Geneva, New York and Cairo have assisted to coordinate the activities of the African Group of Ambassadors and advised the Headquarters on strategies for engaging international and regional Organisations such as the World Trade Organisation, the European Union, the United Nations Agencies and the Arab League, among others. The Lilongwe office was established to liaise with the Southern African region. Within this Audit period, a new office has been established in Washington DC. Others are in the process of being considered in other regional power centres including Brazil. The Panel has learnt that the programmes are largely based on the AU Strategic Plan. Yet, the Panel finds little clear focus in the Strategic Plan for these specific offices.
169. With the resources available, the Panel could not measure the effective value of most of these offices. However, it was made clear to the Panel that these offices are operating less than optimally because most of them do not have technically qualified personnel nor the necessary skills required to deliver adequately and uphold their respective mission statements.
170. Two offices indicated that feedback to their regular reports to Headquarters is irregular. One technical office reported regular exchanges with its line department. The Panel is concerned that

the representational offices and, especially, the recently established one in Washington DC are not receiving sufficient direction from Headquarters.

171. Further, the Panel could not understand the rationale of having regional representational offices away from countries where recognised RECs are headquartered. A case in point is the AU Office in Southern Africa, currently located in Lilongwe.
172. There are presently eight Specialised Agencies of the AU; namely, the African Civil Aviation Commission (Dakar), the Union of African Railways (Kinshasa), the African Telecommunications Union (Nairobi), the Pan-African Postal Union (Arusha), the African Rehabilitation Institute (Harare), the Supreme Council for Sports in Africa (Yaounde), the Pan-African Institute of Education for Development (Kinshasa) and the Pan-African Youth Union (Algiers).
173. The Panel took cognisance of the Assembly Decision taken in Lusaka in 2001 requiring a review of the existing Specialised Agencies so as to determine their continued relevance to the Continent. It also called for concrete proposals to be made on their possible incorporation as Specialised Agencies of the African Union. That decision had also directed that a meeting with these Specialised Agencies should be held as soon as possible, so as to define all aspects of their relationship with the AU. These would include the functional, institutional and programmatic dimensions of the relationship. The Panel urges that that decision should be implemented without further delay.

Recommendations

174. The Panel recommends that:

- **A thorough cost-benefit analysis should be carried out on the future of the existing offices and prior to the opening of new ones. The analysis should also review the competencies of the staff required to manage these offices. Such an analysis should inform on the need to maintain, relocate or close the present stations. Such a study should be undertaken without delay and encompass the overhauling of the reporting systems of these offices to the Commission;**

- **Urgent action should be taken for the filling of vacancies in such stations as Brussels and Geneva where very complex negotiations affecting Member States are ongoing with little or no input from these offices;**
- **With regard to the technical offices, efforts should be undertaken to audit their performance and outreach; and,**
- **The AUC should implement the Assembly Decision taken in 2001 in Lusaka on the Specialised Agencies so as to determine their continued relevance.**

Implementation of the Strategic Plan (2004-2007)

175. The vision, mission and structure of the African Union Commission were evolved through a consultative process of developing five volumes of the Strategic Plan 2004-2007 over 2004. The nature of wide consultations among Member States, academics and practitioners in development, human rights and human security, on the Strategic Plan development process in 2004, was a positive watershed for the working methods of the African Union.
176. There are four priority areas of the Strategic Plan; namely;
- Institutional transformation;
 - Promotion of peace, security and governance;
 - Promotion of regional integration; and,
 - Building and strengthening a shared vision among Africans.
177. Combined, the five volumes of the Strategic Plan offer an ambitious vision and mission for the African Union for a “peaceful, integrated and prosperous Africa, driven by its own people and a dynamic force in the global community”. In the first three years, the African Union committed itself to consolidate the institutional pillars of integration, build the human network and forge a network of relations for the continent. It set out four key roles of the AUC, namely, providing leadership in areas of comparative advantage, setting and monitoring common standards, harmonising socio-economic policy areas and coordinating advocacy and the representation of Africa in global policy arenas.

178. Partly because the Strategic Plan was done centrally and by consultants, there was a failure to internalise it in the programmes of various Departments. Consequently, by 2005, the gap between the stated goals in the Strategic Plan and the annual departmental programmes and reporting systems had become evident. The Directorate of Strategic Planning, Policy, Monitoring, Evaluation and Resource Mobilisation (SPPME) alerted the Commission on the lack of progress in institutional planning, implementation, funding and human resources development.
179. The Institutional Transformation Project aspects in the Strategic Plan were outsourced to a consortium of ECDPM, GTZ and Performance Management Consulting (PMC) Ltd, after an open tendering process, thus exacerbating the lack of departmental ownership. Between twelve to fifteen consultants worked on aspects of Commission structures, management and organisational cultural transformation for six months over 2006. The consultancy cost the Union over US\$2 million. Inadequate management guidance and oversight alienated staff from the project. The Commissioner appointed to supervise the process withdrew after a few months on account of divergences with procedures adopted and was replaced by the Deputy Chairperson.
180. Two further contracts have been awarded to PMC and ECDPM as addendum to the original contract in 2006. The first of these contracts sought their services to upgrade the knowledge management systems. The second sought to implement the e-governance project. The values of the two contracts were US\$588,600 and US\$334,000 and the Director of Strategic Planning Policy, Monitoring Evaluation and Resource Mobilisation and the Deputy Chairperson signed them on behalf of the Commission respectively. The Panel has found no indication that, prior to their signature, the Tender Board subjected these contracts to scrutiny. The signing of the addendum by the Director of Strategic Planning, Policy, Monitoring, Evaluation and Resource Mobilisation is contrary to the Financial Rules and Regulations of the African Union.
181. Studying the initial contract, the Panel finds that this contract was a costly investment that has left little lasting impact on efficient processes for procurement and logistics, accounting, finance and management information systems. At the time of this Audit, the

contractor was reviewing the performance of the Commission against the Strategic Plan that they had largely written. In this understanding, the Panel queries the subsequent Management decision to award the same consulting firm these two additional consultancies. While the Management maintains that, as addendums to an original contract, there was no need to apply the procurement and tendering procedures, the Panel finds that this issue requires further examination.

182. Cross-departmental coordination, planning and reporting weaknesses persisted through 2005-2006. Most departments experienced difficulties reporting on outcomes and impact, expenditure variances to the PRC and external partners. In 2007, the Strategic Planning Policy, Monitoring, Evaluation and Resource Mobilisation (SPPME) Directorate has formulated project planning and reporting instruments to ensure that planning is objective-driven and outcome-based rather than activity focused. Further, they have harmonised the format of plans and budgets to be submitted to the Permanent Representatives Committee and external partners for the year 2008.
183. Related to these conditions, the number of activities organised by the Commission proliferated over this review period. Whereas in 2004, there were approximately 100 meetings scheduled by the Commission, three years later, the Commission had scheduled over 300 meetings. The proliferation of meetings has been addressed during a joint PRC and Commission retreat in April 2007, but it seems that no decisive action was taken to address the issue, with each Department apparently organising meetings alone without any coordination and/or policy orientation at any other level.

Recommendations

184. The Panel recommends that:

- **The contract to review the Strategic Plan and develop information management systems should be suspended forthwith and an independent evaluation be commissioned to review the performance of the three contracts. Depending on the findings, a decision should be taken to continue, cancel and/or re-negotiate the current contract;**

- **In future, management and administrative development plans should be driven internally on an inclusive and participatory basis; and,**
- **The findings of this Audit, if accepted, should inform any future Strategic Plan.**

Impact of the Commission on the Policies, Resource Allocation and Regulatory Frameworks of Member States

185. Under Article 3.2 of the Statutes of the Commission, it is, *inter alia*, mandated to:
- a) Initiate proposals for consideration by other Organs;
 - b) Implement the decisions taken by other Organs; and,
 - c) Coordinate and monitor the implementation of the decisions of the Union in close collaboration with the PRC and report regularly to the Executive Council.
186. The Panel finds that the Commission has played an active role in drafting treaties, common policy frameworks and positions. By the time of this audit, the policy Organs of the Organisation of African Unity and the African Union had adopted thirty-three Charters, Protocols, Conventions, Treaties and Agreements, one of the most recent being the African Charter on Democracy, Elections and Governance on 30 January 2007. The thirty-three cover a wide range of issues including natural resources, economic production and trade, rights of marginalised groups, democratic and transparent governance, essential services, culture and national defence, among others.
187. The initiation and formulation of Treaties and common positions and standards is one of the Commission's major successes. Three powerful illustrations of this exist in the social, human security and governance arenas:
- The adoption and follow up to the 2001 Abuja Declaration on HIV/AIDS, Tuberculosis and Malaria contributed to the reversal of widespread official denial of HIV/AIDS in the 1990s. In 2007, all Member States have established national AIDS Commissions. As a result of interventions under the auspices of the African health ministers, chloroquine is being phased out and certain countries have launched

programmes for supplying mosquito bed nets. It is also true that Abuja Declaration planted some of the seeds for the Global Health Fund, now an US\$ 8.4 billion dollar facility for 136 countries across the world;

- The second illustration can be drawn from the area of Peace and Security. One of the most risky ventures undertaken by the Commission during this period was the deployment of 9000 peacekeepers to Darfur, a region the size of France, and the mediation between the warring factions and the Government of Sudan. While four years on, the conflict continues to rage with the tremendous cost of more than two hundred thousand lives and four million displaced, the Panel notes that the AU chose this dangerous path at a time when it was the only body willing to do so. In so doing, the Commission has upheld the principle of non-indifference despite the fact that the African Standby Force has not been put in place;
- Representatives of the AU have also been involved in mediating and shuttle diplomacy in a number of countries that were ridden with conflict in the nineties including Burundi and Liberia as well as more recently restoring democracy in Mauritania and supporting demobilisation efforts in Somalia;
- Lastly, the Protocol on the Rights of Women in Africa (2003), Non-Aggression and Common Defence pact (2005) and the Charter on Democracy, Elections and Good Governance (2007), among others, offer hope of change in an Africa wracked by the mismanagement of public resources, conflict and the denial of civil, political and socio-economic rights.

188. However, the full realisation of these achievements is dependent upon the implementation of policies by the resource allocation and the putting in place of regulatory frameworks by Member States. The Panel finds that the promise of the African Union is being stalled by the failure of Member States to domesticate and implement the agreements. Only 18 of the 33 treaties have fully entered into force as of October 2007. A glaring example of this situation is the fact that thirteen countries have yet to sign the same Protocol four years after the amendments thereto were

agreed upon. Thirty-seven States are yet to ratify the Protocol on amendments to the Constitutive Act.

189. The Commission has placed these Treaties and the status of their ratification in the public domain by making them available on the AU website. However, a system of tracking the incorporation of treaty obligations into domestic laws remains to be developed. In addition, the Commission has published three issues of the African Union Journal containing Assembly Decisions in 2006 and 2007.
190. Furthermore, for all those treaties that guarantee and expand the range of rights and policy standards for the peoples of Africa, it has been difficult to verify the extent to which these treaties have been adequately popularised. Unless people are aware of their rights, they will be unable to access and exercise them.
191. In this regard, the Panel finds that the Commission has not fully exercised the mandate in Article 3.2(g) of the Statutes of the Commission to coordinate and monitor the implementation of the decisions of the Union in close collaboration with the PRC.
192. There are a number of obstacles that hinder the implementation of decisions and the domestication of treaties and common policy frameworks at Member States' level. Furthermore, few Member States have an effective system in place to popularise, advocate and monitor national compliance of Union decisions and treaties. In this regard, the Panel wishes to recall Article 4.1(b) of the Rules of Procedures of the Assembly which requires it to monitor the implementation of policies and decisions of the Union as well as ensure compliance by all Member States through appropriate mechanisms and to ensure that necessary steps are taken.

Recommendations

193. The Panel recommends that:

- **All Member States should establish a National Commission on African Union Affairs (NCAUA) to be composed of representatives of Government, Parliament, Private Sector and Civil Society Organisations with the capacity to ensure domestication and popularisation of the decisions of the Union, monitor compliance with**

Assembly decisions and produce gap analysis reports between AU instruments and national laws. The NCAUA will act as the focal point and provide guidance to their respective missions in Addis Ababa;

- **Ministries of Foreign Affairs should ensure that all relevant ministries and other branches of the executive as well as NCAUA in each country, are informed about and invited to contribute to the agenda items that concern them at forthcoming summits;**
- **The Office of the Secretary to the Commission, through the PRC, should obtain regular reports from the NCAUA, for their compilation, analysis and submission to the Council and Assembly for further action thus ensuring the promotion of best practices among Member States;**
- **The AUC in collaboration with the network of universities and research institutes, the setting up of which has been recommended earlier, should exercise its functions to undertake research in developing the Union and, on the integration process. It should also institute an in-country analysis of implementation progress to present recommendations of how to accelerate Treaty ratification and implementation; and,**
- **The Assembly should mandate the Commission to develop a comprehensive list of actions, including a sanctions regime, to ensure compliance with Assembly decisions and treaties.**

Outreach of the Commission

- 194.** Despite stated commitment from all policy Organs of the African Union, the Panel finds that the involvement of African citizens, Civil Society Organisations and private sector bodies is still at a nascent stage. A combination of limited outreach and under-prioritisation of the importance of actively and regularly informing continental public opinion has reduced the effectiveness of the Commission. The Commission has simply not publicised itself enough or developed space for African citizens and their Organisations to contribute to the realisation of its mission.

- 195.** The involvement of the African peoples and their Organisations is the responsibility of the African Citizens' Directorate (CIDO). CIDO is located in the Office of the Chairperson of the AU Commission and is the focal point mandated to facilitate civil society contributions to the decision-making processes of the AU, including the summits. Other departments of the AU Commission also independently consult with civil society and seek their views on AU policy. The Women, Gender and Development Directorate, also located in the Office of the Chairperson, has been exemplary in this regard.
- 196.** Formerly the Conference for Security, Stability, Development and Co-operation in Africa (CSSDCA), the African Citizen's Directorate was established in late 2005 to liaise with Civil Society Organisations on the continent, reach out to the African Diaspora and function as an interim secretariat for ECOSOCC. With the exception of the Tripoli and Khartoum Summits in June 2005 and January 2006 respectively, CIDO has convened CSOs to attend pre-Summit consultations since June 2004 and raised resources for the establishment of ECOSOCC. CIDO has also coordinated the finalisation of ECOSOCC interim structures; Conferences of intellectuals from Africa and the Diaspora in Dakar, Senegal in 2004 and Bahia, Brazil in 2006 and the Africa-EU Strategy over 2007, among other initiatives.
- 197.** The Priority Plan of Action of the Commission sets out to achieve greater popularisation of the African Union through an elaborate set of actions and events including a communication strategy, e-newsletters, quarterly publications and strengthened website. By the time of this report, most of these actions and activities had not taken place.
- 198.** Furthermore, the absence of reliable tools and mechanisms within the Commission makes it difficult to accurately assess the performance of the Commission in popularising the vision and activities of the African Union. A rapid internet-based analysis of the number of times that the African Union has been cited in the mass media and on the Internet suggests that there has been a steady increase in coverage of the African Union with an upward spike in 2006.
- 199.** The leadership of the Commission generated the web and news hits. Below is an analysis of the news hits in terms of the top leadership of the Commission over 2004-2007. (Tables 7 and 8)

Table 7: Citation of the AU in the Mass Media

Search engine	Number of times AU is quoted					Content Analysis on 21st October
	2003	2004	2005	2006	2007	
Google News	5,500	14,000	12,500	30,700	3,050	In 2003, the media focused on the launch of the AU and its transition from the OAU. Between 2003 and 2007, the media covered mostly peace and security issues focusing on Darfur. In 2005, it was the AU-led Negotiations on UN Security Council Reform that dominated the news
Google Web	1,910,000					The first result is the AU website. Subsequent results are directly attributable to AU-related websites. Most of the coverage of the AU on websites relates to its role in peace and security issues, particularly the situation in Darfur, Sudan.

Table 8: Citation of Members of the Commission in the Mass Media

Officers (in order of number of times quoted)	Hits
Chairperson	4,930
Commissioner for Peace and Security	409
Deputy Chairperson	154
Commissioner for Social Affairs	61
Commissioner for Trade and Industry	39
Commissioner for Infrastructure and Energy	35
Commissioner for Political Affairs	34
Commissioner for Economic Affairs	33
Commissioner for Rural Economy and Agriculture	27
Commissioner for Human Resources, Science and Technology	25
Spokesperson and Head of Communications Unit	1

200. Future visibility for the Commission and the issues it espouses could be harnessed by stressing media experience as competencies for future appointments and training of Commissioners. While it is clear that even with these limited tools the visibility of the Commission is growing, it has happened without agreed media editorial policies, strategies for accelerating future visibility and tools for professionally measuring impact. Contributing factors emerged in interviews with communications

staff; namely, that some Commissioners are reluctant to do press work and are over cautious that confidential information will inadvertently be released to the public.

201. The Panel finds that the website is under-prioritised and, therefore, inadequately resourced. Since its establishment in 2003, the volume and range of materials on the website has grown tremendously. The website contains news and information about the African Union in French, English, Arabic and Portuguese. It is organised in eight main parts; African Union instruments and organs; Regional Economic Communities; Member States; Commission; conferences; key documents; publicity materials and help pages. The website has evolved from a static to a dynamic platform.
202. The exponential increase in conferences is reflected in an upward demand on the Communications team to upload note verbales, concept notes, agenda and the background papers. It also contains an archive of past decisions and legal documents from as far back as 1963. Drawing from the e-mails received, staff from AUC, Member States and partners consult the website regularly. An important feature of the website is a link that allows readers to write directly to the Chairperson, who receives these e-mails.
203. Despite the website being the ultimate source of news about AU policy positions, staff, upcoming activities, tenders and vacancies at the Commission, it is clearly under-resourced and under-valued. There is no information disclosure policy or clear editorial policies in place. Between two to three persons on short-term contracts have managed the multi-lingual website since 2002. They have other assignments as well.
204. The Commission has no server of its own and the website is located in a folder on the UNDP server in North America. For this reason, there are no ways of monitoring the number of users or pages that are visited. The Webmaster receives fifteen to twenty e-mails on average each day, asking for information or informing her that the links do not work. At the time of the audit, at least twenty-one pages on the site are still in a state of construction and readers are met only with the message "coming soon".

205. Despite investment in CIDO and the Communications Team, many institutional obstacles still block the realisation of the African Union's original vision. There are still considerable difficulties in obtaining access to information about policies and documents under discussion by AU Organs, preventing effective participation by Africa's citizens in continental decision-making processes. Accreditation by CSOs to the Summits remains unpredictable and highly selective despite the growing number of NGOs that have found resources to hold fringe events alongside the Summit.
206. The Panel notes a growing "glasnost" in some Member States to co-organise and participate in CSO organised pre-summit consultations for experts and the public. A small number of Member States have included CSO leaders on national delegations and in experts and Ministerial meetings. The practice of the Head of State or a Cabinet Minister issuing statements prior to and following Summits and Ministerial meetings should be encouraged in all countries.
207. This "glasnost" is not shared by some of the African missions in Addis Ababa. In a Panel interaction with the Permanent Representatives Committee, one of the Ambassadors seemed to echo a common feeling that the African Union should be more "Member State-driven", an apparent abandonment of the vision of a "people-driven Union".
208. A more revealing example of this can be seen in the meeting of the PRC during their meeting in Khartoum in January 2006. Considering the application of the Lions Club for observer status with the African Union Commission, they noted; "Generally, Lions Club International had met the required criteria for the granting of observer status; the request for observer status by Lions Club International should be considered favourably as it has a wide representation in forty-five Member States on the continent. Also, it had fulfilled the requirements of the criteria, and there was no legal basis for denial of its application; however, more time is needed to consider all aspects of the application. Granting of observer status to Lions Club might open the floodgates for granting observer status to other organisations, which the African Union might find very difficult to handle or process".

Recommendations

209. The Panel recommends that:

- **The Communications Unit, regularly and proactively, should reach out to the African and international media and broadcast Union priorities and achievements by anticipating the need for press briefings, holding conferences and monitoring the press by keeping a media file;**
- **The Communications Unit should undertake learning opportunities to build the confidence and skills of Commissioners, and provide them with comprehensive media support;**
- **The preparation of a policy on information disclosure and access for adoption by the PRC, modelled on international best practices should be undertaken. This policy should provide for automatic publication of most documents, as well as the right for African citizens to request and obtain access to all official documents, except where explicitly categorised as confidential according to published, restrictive criteria. Denial of access should be subject to an appeal procedure;**
- **The exploration of new media technologies that could allow for papers to be downloaded directly by state officials in their capital cities, thus circumventing the need for their missions in Addis Ababa to manually pass on the documentation should be undertaken;**
- **The draft agendas for summit meetings and supporting documents (including the AU Commission Chairperson's report on activities, and documents submitted on agenda items by Member States) as soon as they are distributed to Member States should be placed on the AU website;**
- **Resourcing and improving of the AU website, in particular, to keep all details up-to-date, provide a search function and archive system and complete those sections that are currently empty should be done fortnightly;**

- **The Women, Gender and Development Directorate should establish a steering committee to draw up the programmes for their respective pre-summit forums, publicly announce the meetings, invite papers and presentations on the summit themes and solicit interest in participation;**
- **Since CIDO will continue to play the role of the secretariat to the ECOSOCC, it is important to strengthen the department particularly in the areas of staffing and budget;**
- **The Commission should initiate consultations on revised criteria for observer status for Civil Society Organisations at the AU that would increase the number of qualifying organisations;**
- **The Commission should adopt clear criteria to govern and advertise the process by which Civil Society Organisations may obtain support from the AU Commission for their accreditation to attend AU summits; and,**
- **ECOSOCC should explore, in collaboration with the Commission, creative ways of generating interest in the AU across the continent by the use of such events as AU Games, re-branding of national passports to also state the African Union, popularisation of the anthem and symbols of the AU as well as the propagation of the history of pan-Africanism and the African identity.**

Impact of the Commission on Africa's Global Visibility and Assertiveness

- 210.** Signs have emerged of a growing ambition by Africa under the leadership of the Commission to reverse the marginalisation of a unified Africa in key global policy negotiations. The presence of world leaders at Summits and in Addis Ababa, the appointment of Special Representatives of the United States of America and the European Union to the African Union, the assertiveness of Africa in the World Trade Organisation Inter-ministerial Conferences

and Africa's assertion of its leadership in peace-keeping are indicators of a growing profile.

211. Over this period, Member States, under the umbrella of the African Union, have interacted with traditionally powerful global political and policy institutions such as the European Union, the United States of America, the G8, the World Trade Organisation and the United Nations. Member States and the Commission have proactively championed new relationships with China, Japan, India and Brazil, among others.
212. The work of the Commission is now informing the priorities of Africa's external partners. For instance, the Africa Health Strategy is now the point of reference for the World Health Organisation and the newly announced International Partnerships Fund for Health. The common position by African Ministers on migration was accepted by the European Union as the working document on this issue in preparation for the Lisbon Heads of State and Government EU-Africa Dialogue held in early December 2007.
213. This ambition to negotiate more forcefully in the collective interest is, however, undermined by the failure of Member States to uphold African common positions. In 2006, Member States and the recognised Regional Economic Communities abandoned a common African position on the Economic Partnership Agreements (EPAs). Despite widespread analysis and public perception that the EPAs offer less than the previous Cotonou Agreement and are potentially disastrous for Africa's fledgling industries, domestic public revenue base and agriculture, Africa has faced the European Commission with contradictory and divided configurations.
214. Africa has also missed opportunities to uphold a more unified stance towards global powers. Despite a bold decision by the Assembly at the Khartoum Summit, in January 2006, for Member States not to collectively hold summits with individual States, this happened on at least two occasions, namely the Forum for China-Africa Cooperation (FOCAC) in November 2006 and the France-Afrique Summit in 2007. These two moments showed Africa at its weakest. In the case of the Forum for China-Africa Cooperation (FOCAC), all references to the Constitutive Act of the African Union were removed to placate the presence of an African non-Member State, thus undermining African solidarity.

The African Union Commission has been further excluded by the coordinating Member State. Another recent instance where African solidarity has been rebuffed relates to the EU-Africa dialogue where one Member State has been made to stay away from the process, again, to placate an African non- Member State.

Conclusion

- 215.** Over the past four years, the Panel recognises the achievements of the Commission especially in the area of visibility, elaboration of some common standards, peacekeeping and external resource mobilisation. However, much more could have been achieved had a proper implementation of the Institutional Transformation Process taken place.
- 216.** For the Commission to carry out its mandate to meet the aspirations of the peoples of this continent and their expectations from their leadership, good governance, probity, accountability and transparency must be institutionalised. The Panel remains seized of the urgent need to address the management and leadership capacities at all levels of the Commission with respect to its role as the driving force of all the activities of the Union. Unless it develops its capability to play this role, the objective of Africa's political and economic integration will not be realised.

Recommendations

- 217. The Panel recommends that :**
- **The Commission, after consulting appropriately, should fully exercise its mandate contained in its Statutes to play a more assertive coordinating and representational role in the global policy arena; and,**
 - **Member States who are leading the African group at international negotiations should work within the Decisions of the Assembly and thereby promote and uphold the collective interest of Africa.**

CHAPTER SIX: ASSESSMENT OF THE ORGANS OF THE UNION: THE PAN-AFRICAN PARLIAMENT, THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS, THE AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS, AND THE ECONOMIC, SOCIAL AND CULTURAL COUNCIL

THE PAN-AFRICAN PARLIAMENT (PAP)

218. Even before the transformation of the OAU into the AU, the need for the creation of an Organisation, which is a union of people and not only a union of States and governments, had been put forth as an overriding imperative. The creation of the pan-African Parliament (PAP) and the Economic, Social and Cultural Council (ECOSOCC) are both firmly grounded on this premise. While the PAP is meant to provide the interface between the Parliamentarians who hold an elective mandate, the ECOSOCC, for its part, is meant, according to the preamble of its Statutes, to satisfy “the need to build a partnership between governments and all segments of civil society, in particular women, youth and the private sector, in order to strengthen solidarity and cohesion among our peoples, as well as encourage the full participation of the African Diaspora as an important part of the Continent”.

The Mandate

219. The PAP, currently an advisory body of the AU, was established in March 2004 on the basis of Articles 7(c) and 14 of the Abuja Treaty. The PAP Protocol was adopted before the OAU was transformed into the AU but the Organ is recognized under Article 5 of the Constitutive Act. The PAP is now fully integrated into the AU system as an Organ, reporting to the Assembly and its budget processed through the Policy Organs of the Union.

Execution of Statutory Functions and Audit Findings

220. The PAP is presided over by a Bureau headed by the President and four Vice Presidents. It has the following ten Permanent Committees, some of which are covered in the portfolios of the STCs: the Committee on Rural Economy, Agriculture, Natural

Resources and Environment; the Committee on Monetary and Financial Affairs; the Committee on Trade, Customs and Immigration Matters; the Committee on Co-operation, International Relations and Conflict Resolution; the Committee on Transport, Industry, Communications, Energy, Science and Technology; the Committee on Health, Labour and Social Affairs; the Committee on Education, Culture, Tourism and Human Resources; the Committee on Gender, Family, Youth and People with Disability; the Committee on Justice and Human Rights; and, the Committee on Rules, Privileges and Discipline.

221. According to Article 2 of the Protocol, the PAP is expected to exercise advisory and consultative functions. According to Article 25, these functions will be reviewed after 5 years of its existence. Each of the Member States of the PAP is entitled to five (5) representatives selected from national parliaments or other deliberative bodies, at least one of whom must be a woman. The number of its members has increased from 202 members representing 41 member States to 265 today, as all Member States have ratified the PAP Protocol.
222. In its 2004-2005 Annual Report, the PAP listed some of its activities, such as: the adoption of its Rules of Procedure, the establishment and operationalisation of its ten Permanent Committees and the formulation of a Strategic Plan to support resource mobilisation efforts. The PAP has held 8 ordinary sessions since its inception. Its website is fully operational and a trust fund has been established. The PAP has also sent a mission to Darfur, observed elections in Member States, put a management and personnel structure in place and established a network of continental and international partners. It has also held some workshops with the RECs on relations with the two regional parliaments, with a view to streamlining their respective activities. It has deliberated on the Grand Debate on the Union Government.
223. The roadmap for the PAP is now its Strategic Plan (2006-2010), which is anchored on two pillars: institutional and political objectives. The Parliament's overall objective, as espoused in the Strategic Plan, is "to evolve into an institution with full legislative powers."

224. Discussions with the Panel revealed that the PAP has had little impact on substantive issues of significance to the Continent. For example, important issues such as the Economic Partnership Agreements have not been deliberated upon.
225. In the course of that hearing, the Bureau informed the Panel that it was encountering difficulties in executing its mandate and in the management of the affairs of the Organ, including its financial resources. In this regard, it is worth mentioning that the Executive Council had recently expressed grave concern at the findings of the External Auditors regarding the PAP's management of its resources and endorsed the recommendations of the PRC on the matter contained in Document PRC/RPT (XIV).
226. The PRC had earlier recommended the following:
- The PAP should respect the AU Financial Rules and Regulations, AU Staff Rules and Regulations, as well as all relevant Decisions of the Executive Council and refrain from making its own rules;
 - All members of the Bureau should refund all monies paid/received from PAP for attending meetings of the Bureau in the form of per diem, refunds for air tickets and communications allowance during the financial years 2004, 2005 and 2006;
 - That all members of PAP (including members of the Bureau), should refund all monies received from PAP for attending sessions and meetings of the committees during the financial years 2004, 2005 and 2006; and
 - That the PAP Fund, established without following due procedures and processes, should be frozen until proper regulations governing the establishment of such Funds are followed. The \$375,000 appropriated for the Fund should be returned to the general coffers of PAP.
 - In its response, the Bureau of PAP raised a concern with the directive of the Executive Council of July 2004 in the form of EX.CL.Dec.98 (V), which, among others, set guidelines for the responsibility of Member States towards meeting the expenses of their PAP delegates. It was also decided that there was no need for the PAP Bureau to reside at the

headquarters of the Organ. The view among some sections of the PAP is that the Organ cannot receive directives from the Executive Council as it reports directly to the Assembly as per provisions of its Protocol. It should be noted however, that the Assembly can delegate to the Executive Council, and indeed, Dec.98 was confirmed by the Assembly as contained in Assembly/AU/Dec.39 (III).

227. Any debate on the Union immediately invites a review of the powers of the PAP as well as the mode of election of its members. Article 11 of the PAP Protocol does give legislative powers to the PAP but these are suspended in the first term of its existence. For the Parliament to be able to play such a role, its legitimacy must necessarily be enhanced by the introduction of provisions on direct elections.

Recommendations

228. **The Panel recommends that:**

- **The PAP should comply with Decision 98 of the Council which was confirmed by the Assembly as Decision 39 (III);**
- **The Clerks of National Parliaments should immediately inform PAP of the cessation of the membership of their Parliamentarians whose national tenure expires;**
- **The PAP should put in place policy guidelines on its relationships with other Organs of the Union subject to the concurrence of the other Organs of the Union and the approval of the Assembly;**
- **The Code of Conduct for PAP members identified as a deliverable in 2005, should be finalized;**
- **The PAP President should report to the PAP on AU Summit outcomes; and,**
- **The PAP should work closely with the Regional Assemblies to streamline their activities at continental and regional levels.**

JUDICIAL ORGANS OF THE AFRICAN UNION

A: THE AFRICAN COMMISSION ON HUMAN AND PEOPLES' RIGHTS

229. As a continent, Africa has specific instruments and systems for the promotion and protection of human rights. They are the African Commission on Human and Peoples' Rights, the Committee of Experts on the Rights and Welfare of the Child and the African Court on Human and Peoples' Rights.

The Mandate

230. The African Charter on Human and Peoples' Rights of 1981 (African Charter), which came into force on October 21, 1986, provides, among other things, for mechanisms to promote and protect the rights embodied in the Charter. To date, all Member States of the African Union are party to the African Charter. The Organ charged with the mandate to promote and protect human rights, in terms of Article 30, is the African Commission on Human and Peoples' Rights (ACHPR) which was established on November 2, 1987 with the election of its first members and is headquartered in Banjul, The Gambia. The ACHPR has developed its own Rules of Procedure to guide its deliberations as well as guidelines on State reporting which is an obligation on State parties under Article 62 of the African Charter. Despite the fact that it was established before the Constitutive Act, this Organ is integrated into the AU system as a *de facto* Organ requiring it to report to the Executive Council. Its eleven (11) members are appointed by the Executive Council as per Rule 5(1)(f) of the Rules of Procedure of the Council. The core budget of the ACHPR is sourced from the AU.

231. The functions of the ACHPR are enumerated under Article 45 of the African Charter and include, *inter alia*, the following:
- The promotion and protection of human and peoples' rights;
 - Interpretation of the provisions of the Charter and any other task assigned to it by the Assembly.
232. To achieve the above, the Commission is mandated, under Article 45(1), "to collect documents, undertake studies and researches on African problems in the field of human and peoples' rights and organise seminars, symposia and conferences, disseminate information, encourage national and local Institutions concerned with human and peoples' rights and, should the case arise, give its views or make recommendations to governments."
233. As per Rule 5(1)(f) of the Rules of Procedure, the ACHPR's eleven members serve for a six-year term, renewable, in their personal and independent capacity and not as representatives of their countries even though States party to the African Charter nominate them. It should be noted that there is no limit to the number of terms a Commissioner can serve. However, throughout the years, some members of the ACHPR have held official positions in their respective States, thereby creating a perception that they were not discharging their functions with total independence and impartiality.

Execution of Statutory Functions and Audit Findings

234. To date, the ACHPR has held forty-three (43) ordinary sessions. It has been active in the domain of the promotion of human rights on the continent, notably through missions it sends to Member States such as Darfur in July 2004. Its Ordinary Sessions are held twice a year. The Special Rapporteurs of the ACHPR have also investigated violations of women rights, conditions in African prisons, freedom of expression, and the rights of refugees and internally displaced people. Their reports have been used to further the objectives of the ACHPR.
235. The ordinary sessions are held in public and bring together a wide variety of stakeholders. The 41st Ordinary Session, for example, was attended by 484 participants, including 33 Member

States, 6 national human rights Institutions, and 247 African and international NGOs from 42 different countries.

236. With respect to the protection of the human rights mandate, the ACHPR receives an average of 50 complaints a year, which it investigates in the light of the Charter. Since 2006, the ACHPR is required, by the Assembly (Assembly/AU/Dec.101(VI) to submit its findings on such complaints to Member States against whom the complaints were made prior to submitting them to the Assembly. This, in effect, undermines the substance and spirit of Article 46 of its Charter, which requires the ACHPR to conduct its work with impartiality and without interference.
237. The following are other challenges from Member States which constitute an impediment to the work of the ACHPR:
- Some Member States do not grant the ACHPR authorisation to undertake missions in their countries even though all Member States have ratified the Charter;
 - The bulk of Member States do not submit their mandatory reports to the ACHPR (Table 9);
 - Certain State Parties do not comply with the recommendations of the ACHPR; and,
 - National Human Rights Institutions do not participate regularly and actively in the ordinary sessions of the ACHPR.

**Table 9: Status of Submission of State Reports to the ACHPR
(as at May 2007)**

Category	Number of States
States which have submitted and presented all their reports	14
States which have not submitted any report	15
States which have submitted all their reports and were to present it at the 42nd Ordinary Session of the ACHPR	2
States which have submitted two or more reports but owe more	8
States which have submitted one report but	14

owe more	
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238. The ACHPR has considerable challenges in the area of staffing and budget. Currently, the ACHPR has 17 staff posts, including that of a Secretary, five Legal Officers, and a Documentation Officer. However, the post of the Secretary was vacant for over a year until recently, and that of the Documentation Officer is yet to be filled. Five positions, including that of the two Legal Officers, were funded from the vacant posts of that of the Secretary and the Documentation Officer due to financial constraints. The ACHPR has proposed an increase of its staff personnel from the current 17 to 35, in order to create a position of Deputy Secretary, two Researchers, and a Public Relations Officer, among others.
239. In 2006, the ACHPR was allocated \$1,142,436. The bulk of this was spent on operational costs. This is not spelt out in its 22nd Activity Report to the AU Commission. Out of this allocation, only \$47,000 was spent on its core mandate; namely promotion and protection of human rights. The perception that the ACHPR is dependent on donor funding is not unfounded. If it had not been for the US\$530,000 received from external sources, the Commission would not have been able to operate.
240. The Panel is of the view that the ACHPR has to address the problems relating to its work and the budget. Firstly, it will have to review its spending patterns with a view to making cuts in operational costs and through a process of rationalisation, increase the resources allocated to its core mandate. This is especially important given the fact that the host country bears the cost for office space and the Organ has 17 employees. Secondly, the role of external partners in this Organ is a cause for concern. For example, the Danish Institute has been assisting the ACHPR with its Strategic Plan, even deploying experts on the premises of the ACHPR. A strategic plan is the operational plan of the mandate of an Organisation and cannot be outsourced to a foreign interest. The Canadian NGO, Rights and Democracy, put three technical advisors at the disposal of the ACHPR in January 2006.
241. Lastly, and linked to the latter point, is the accreditation of non-African human rights NGOs for the attendance of the ordinary sessions of the ACHPR. Human rights are not only a sensitive

issue among the Member States, but it is also used by some non-African actors to pursue their geo-political agendas on the continent and influence the behaviour of African States. The ACHPR has to be sensitive to this reality in its interaction with non-African actors, lest Member States will continue to question the credibility and impartiality of the body's report.

B: THE AFRICAN COURT ON HUMAN AND PEOPLES' RIGHTS

The Mandate

- 242.** In July 1998, the Protocol to the African Charter on Human and Peoples' Rights on the establishment of an African Court on Human and Peoples' Rights (AfCHPR) was adopted in Ouagadougou, Burkina Faso. AfCHPR was established to complement the protective mandate of the ACHPR and the African Committee of Experts which was established under the Charter on the Rights and Welfare of the Child, thus providing the missing link in the African human rights system.
- 243.** The Protocol entered into force on January 25, 2004. To date, twenty-four Member States have ratified the Protocol. The AfCHPR was established by the Khartoum Summit of January 2006 with the election of the first eleven Judges. AfCHPR held its first session in July 2006, in Banjul, The Gambia. AfCHPR is now established at its Headquarters in Arusha, Tanzania, with an approved staff complement of 57, including the 11 judges. The Assembly of the Union in July 2004 decided that the AfCHPR and the Court of Justice of the African Union established under Article 5 of the Constitutive Act should be merged under Assembly Decision AU/5(V). The Protocol on the merged courts is yet to be adopted by the Policy Organs of the Union. It should be noted that the Court of Justice provided for under the Constitutive Act has not been operationalised.
- 244.** Article 2 of the Protocol that established the African Court for Human and Peoples' Rights (AfCHPR) stipulates that it

complements and strengthens the functions of the protection of human and peoples' rights which were until recently exercised by the ACHPR. However, Article 3 of the same Protocol vests the Court with similar competence as that given to ACHPR in Article 40 of the African Charter for Human and Peoples' Rights.

Execution of Statutory Functions and Audit Findings

- 245.** Under Article 5 of the Protocol that established the Court, individuals and non-governmental organisations, which are recognised as observers of the AfCHPR, can file their complaints against a Member State directly to it. However, the Court can exercise that competence only if the Member State against which a complaint is filed has given its prior consent to the competence of the Court, through a declaration in line with Article 34(6) of the Protocol. Only one Member State; Burkina Faso, has consented to the Court's jurisdiction regarding individual citizens and CSOs.
- 246.** The Panel considers that a more ambitious revision of the Protocol would make recognition of the competence of the Court mandatory for all Member States. This would greatly extend access to the administration of justice more widely across the continent.
- 247.** The AfCHPR has identified for itself four key challenges. They are: human resources and financial autonomy; clarification of the mandate of the AfCHPR and its standing within the Union, especially vis-à-vis the Commission; access to the AfCHPR by the African peoples; and the popularisation of the AfCHPR. However, it is still early to determine the human and financial resources that the AfCHPR will require as the body is yet to be fully operationalised. Out of the 78 posts requested, the Assembly approved 46 posts for the AfCHPR. This figure has to be compared to the 17 staff that the ACHPR currently has and the 37 it has requested for 2007.
- 248.** It is important to note that the Court has held three sessions since July 2006. In the process, it has been able to adopt an organisational chart, rules of procedure and a staff structure.

Recommendations

- 249. The Panel recommends that:**

- **The process of merging the African Court of Justice with the African Court on Human and Peoples' Rights and Establishing the African of Justice should be accelerated;**
- **The competence of the Court should be accepted by all Member States of the African Union;**
- **The Assembly and the Executive Council of the African Union should ensure that decisions of the Court are complied with by Member States;**
- **Member States, as signatories to the Constitutive Act which is very explicit on issues of human rights, should accept the oversight role of the ACHPR;**
- **The ACHPR should review its partnership arrangements with non-African actors with a view to correcting the perception that it is overly donor-dependent;**
- **The ACHPR should review its budget proposal to the AUC with a view to allocating more of its resources for the delivery of its mandate;**
- **In addition, it would be important for the ACHPR to establish links with the other Organs of the Union;**
- **Consideration should be given to the adoption of a non-renewable mandate for the Commissioners of the ACHPR for one term of office for six years only. The current Charter allows them to renew their tenure without limitation;**
- **Article 19 of the Protocol establishing the Peace and Security Council should be used to ensure enforcement of the recommendations of the ACHPR;**
- **The Union should ensure that these judicial organs are provided with the necessary qualified and experienced human resources as well as other material and financial resources to enable them discharge their mandate effectively;**

- **States Party to the Protocol should be reminded of their obligation to grant authorization to the members of the ACHPR to visit their countries; and,**
- **The ACHPR and the AfCHPR should ensure that they work closely together in order to avoid duplication of efforts, in view of the fact that the two Institutions have a mandate in the protection of human rights in the continent.**

THE ECONOMIC, SOCIAL AND CULTURAL COUNCIL (ECOSOCC)

The Mandate

250. The Economic, Social and Cultural Council (ECOSOCC) is an advisory Organ of the Union established under Article 5 of the Constitutive Act and designed to give Civil Society Organisations a voice within the AU Institutions and decision-making processes. It has its own Statutes and Rules of Procedure. The composition of the ECOSOCC is complex because it consists of non-state actors and Civil Society Organisations from a wide range of sectors, including labour, business, professional groups, service providers and policy think-tanks including the African Diaspora. The objectives of the Organ, as stipulated in Articles 1 and 2 of its Statutes, fall into three categories: (a) promoting dialogue and partnership between African governments and their peoples' and among the African people themselves; (b) participation in programmes and activities of the AU, including promoting the overall principles and objectives of the Union; and (c) building the capacity of African Civil Society Organisations (CSOs).

Execution of Statutory Functions and Audit Findings

251. With respect to structure, ECOSOCC has, on a transitory basis, four main bodies: (a) a 150-member General Assembly, which is the highest decision and policy-making body of the Organ; (b) a 15-member Standing Committee with representatives from the 5 regions of Africa as a body responsible for the coordination of the work of the Organ; (c) ten Sectoral Cluster Committees for feeding opinion and inputs into the policies and programs of the Union.

These Committees are Peace and Security; Political Affairs; Infrastructure and Energy; Social Affairs and Health; Human Resources, Science and Technology; Trade and Industry; Rural Economy and Agriculture; Economic Affairs; Women and Gender; and Cross Cutting Programmes; and (d) a 5-person Credentials Committee for determining the eligibility of CSO representatives to contest elections or participate in the processes of the Organ. Also, a 5-person Bureau of the General Assembly is established under Article 3(12) of the Rules of the Organ.

252. The Organ is still in the process of being established in its final form. In order to ensure the speedy launching of a substantive ECOSOCC General Assembly, a decision of the Executive Council directed the Commission to convene a General Civil Society Conference, which was to serve as the Interim General Assembly of ECOSOCC pending the election and setting up of the General Assembly. Its sole mandate, which it subsequently delegated to its Interim Standing Committee, is to ensure that elections for membership of ECOSOCC are finalized as soon as possible so that the General Assembly of ECOSOCC can become fully operational as soon as possible.
253. According to Article 3, the composition of the General Assembly is as follows: CSOs, including but not limited to Social groups, such as those representing women, children, the youth, the elderly and people with disability and special needs; Professional groups such as associations of artists, engineers, health practitioners, social workers, media, teachers, sport associations, legal professionals, social scientists, academia, business organisations, national chambers of commerce, workers, employers, industry and agriculture as well as other private sector interest groups; Non-governmental Organisations (NGOs), Community-Based Organisations (CBOs) and voluntary organisations; Cultural organisations; as well as social and professional groups in the African Diaspora. The only session of the Interim General Assembly that was convened was that of March 2005 in Addis Ababa. The first meeting of the Interim Standing Committee took place in Nairobi in April 2005 to put in place a plan of action. Instead of concentrating its efforts on the electoral process that was to lead to the permanent ECOSOCC, the Nairobi meeting proceeded to organise Sectoral Cluster Committees as stated in Article 11 of the Statutes. This confusion slowed down the whole process for over a year. The mandate of

the Interim General Assembly was supposed to end in March 2007. It was only after an extension to December 2007, granted by the Executive Council, that the Interim Standing Committee was able to return to its proper mandate. The Cairo Interim Standing Committee of February 2007 put in place the electoral process while the September 2007 Yaounde meeting set out a calendar for the elections.

254. The agreed criteria for contesting elections were that candidates should:

- Have objectives and principles that are consistent with the principles and objectives of the Union as set out in Articles 3 and 4 of the Constitutive Act;
- Show proof that the ownership and management of the CSO is made up of not less than fifty percent of Africans or African Diaspora;
- Be registered in a Member State of the Union; and/or,
- Be national, regional, continental or African Diaspora CSO, without restriction to undertake regional or international activities;
- Meet the general conditions of eligibility for the granting of Observer Status to non-governmental organisations; and,
- Provide annual audit statements by an independent auditing company.

255. At the time of this review, applications had been received and short-listed for the elections which were to be held between October and December 2007. The first election for Continental CSOs was held on 31 October 2007, in Addis Ababa, Ethiopia. The eligibility requirements also guaranteed that the CSOs that qualified exhibited profiles that can be said to be those described by the Statutes.

256. The Panel has noted the recent sustained effort of ECOSOCC to emerge as a forum for Civil Society to interface with the AU. CIDO should continue to serve as a secretariat of ECOSOCC, raising money for the new Organ from AU sources, supplying information about AU debates and providing other support. (Table 9). In this regard, it is essential to note the various CSOs Pre-Summit fora that have now become a recurring item on the Commission's agenda. These fora which are held in the lead up to Summits, are designed in a manner that their outcomes will feed into Summit deliberations. The Panel is of the opinion that under the Rules of Procedure of the Commission, CIDO should continue to be the secretariat for the

ECOSOCC and that it be strengthened as ECOSOCC becomes more operational.

257. The criteria for eligibility will also need to be re-examined. Many CSOs and CBOs, regardless of their successful impact in their respective areas, sometimes do not fully meet the conditions for eligibility. Consequently, they are heavily dependent on organisations and institutions from the North and cannot, therefore, meet the conditions for participation under the Statutes of the ECOSOCC.

258. A practical and more complete evaluation of the ECOSOCC can only be made after the substantive General Assembly is launched in January 2008. After its first year in operation, one can realistically examine the adequacy of the Organ's process and spread of representation, the functioning of the Sectoral Clusters and the impact of their input on the work of the Commission.

Table 9: AU-CSO pre-summit fora and other Consultations

AU-CSO Forum	Venue	Date	Issues
1st AU-CSOs Consultative Workshop on Peace and Security	Accra, Ghana.	2005	To explore areas of AU-CSO collaboration on peace and security
2nd AU-CSOs Consultative Workshop on Peace and Security	Abuja, Nigeria.	5-7/4/2006	Enhancing CSOs' collaboration in AU Peace and Security Agenda
3rd AU-CSOs Consultative Workshop on Peace and Security	Dar es Salaam, Tanzania.	28-30/10/2006	To further explore ways of evolving practical, effective and sustainable working relationship between AU and CSOs
1st Conference of Intellectuals of Africa and the Diaspora (CIAD I)	Dakar, Senegal.	6-9/10/2004	African renaissance and the valorisation of Diaspora population
2nd Conference of Intellectuals of Africa and the Diaspora (CIAD II)	Bahia, Brazil.	12-14/7/2006	Consolidation of the outcomes of CIAD I
2nd African Congress for Scientific Research and Technology	Cairo, Egypt.	6-8/11/2006	Popularisation of the importance of scientific research and technology for the development of Africa
1st AU-CSO Forum	Addis Ababa, Ethiopia	July 2004	
2nd AU-CSO Forum	Abuja, Nigeria	January 2005	
3rd AU-CSO Forum	Banjul, The Gambia	June 2006	
2nd Meeting of ECOSOCC Interim Standing Committee	Cairo, Egypt.	24-26/2/2007	To establish processes and modalities for elections into the ECOSOCC General Assembly.

African Civil Society Forum	Addis Ababa, Ethiopia.	22-24/3/2007	To discuss challenges to attainment of MDGs
1st CSO Consultation on AU-EU Joint Strategy	Accra, Ghana.	26-28/3/2007	The involvement of African CSOs in the evaluation of the AU-EU Joint Strategy.
AU-OATUU Partnership Forum	Accra, Ghana.	3-5/4/2007	Building sectoral partnership with African Trade Unions.
African CSO Mission to EU Forum on Joint Strategy	Bad Honnef, Germany.	23-24/4/2007	Exchange of views between the African and European CSOs on the AU-EU Joint Strategy
AU-CSO Consultations on Union Government	Addis Ababa, Ethiopia.	29-31/5/2007	Collation of CSO input on the Union Government.
Meeting of ECOSOCC Credentials Committee	Accra, Ghana.	17-18/6/2007	To shortlist candidates for the ECOSOCC elections
4th AU-CSO Forum	Accra, Ghana	June 2007	Union Government
Meeting of Governmental Experts on African Union Volunteer Corps	Abuja, Nigeria.	16-17/8/2007	Validation of the framework document on African Union Volunteer Corps
Meeting of ECOSOCC Credentials Committee	Yaoundé, Cameroon	9/2007	To finalise short-listing of candidates for ECOSOCC elections
3rd ECOSOCC Interim Standing Committee Meeting	Yaoundé, Cameroon	3-5/9/2007	Review preparations for ECOSOCC elections.

259. Reliable and regular information between CSOs and the Commission is a pre-condition for building trust and the possibility of collaboration and joint actions. It is clear that greater synergy could be achieved by pro-actively inviting non-state actors to jointly advocate for the realisation and implementation of AU positions globally and common standards continentally. The experience of non-state actors on a range of issues for example, health and HIV/AIDS, Darfur, women's rights, post conflict reconstruction and the African Court of Justice provide a formula for informing, accelerating ratification, monitoring and popularisation of AU decisions within Member States.

Recommendations

260. The Panel recommends that:

- **A register should be opened at the Commission for the registration of CSOs and professional associations based on criteria laid down in the ECOSOCC Statutes. This list must be updated from time to time and serve as the database for the organisation of ECOSOCC processes;**
- **ECOSOCC should be fully and effectively operationalised without further delay;**

- **CIDO, as the competent department within the Commission as prescribed by the Statutes, should continue to be the Secretariat of the ECOSOCC and provide it with the necessary expertise and logistical support to permit it exercise its prerogatives and fulfil its mission; in this regard CIDO should be strengthened adequately to cope with this responsibility;**
- **ECOSOCC Cluster Committees should make regular inputs into the different Organs of the AU;**
- **The Statutes of ECOSOCC should be reviewed after the forthcoming elections with respect to the eligibility of CSOs and the Organisation of elections;**
- **Member States should provide enabling financial support for deserving Civil Society Organisations to assist them to become less reliant on external partners. By so doing, this will enable them to become eligible to join ECOSOCC;**
- **The ECOSOCC should fully organise the pre-Summit fora with CIDO with the latter serving as its secretariat;**
- **The ECOSOCC report should be submitted to the Council for onward transmission to the Assembly;**
- **The ECOSOCC should be given an opportunity to substantively address the Assembly on this report; and,**
- **The pre-Summit Civil Society meeting should be organised by the ECOSOCC and supported by CIDO.**

CHAPTER SEVEN: ASSESSMENT OF THE PEACE AND SECURITY COUNCIL

261. In view of the prevalence of conflicts and civil wars in Africa at the dawn of the 21st century, it has long been recognized that developing a robust framework for peace and security architecture is an imperative for Africa. Although the Constitutive Act is silent on a mechanism for peace and security, the need for such a body was not lost on the founders of the AU, which has, as one of its core objectives, the promotion of peace, security and development on the continent, as spelt out in Article 3(f) of the Constitutive Act.

The Mandate

262. In this connection, it will be recalled that during the formative process of the AU, the Assembly of Heads of State/Government of the OAU, meeting in Lusaka, Zambia in July 2001, adopted Decision 8 on the implementation of the Sirte Declaration, including the incorporation of other Organs. It was on the basis of this decision and Article 5(2) of the Constitutive Act, which authorised the Assembly to establish Organs that may be necessary to fulfil its objectives, that the Peace and Security Council (PSC) of the AU replaced the Central Organ of the OAU Mechanism for Conflict Prevention, Management and Resolution, established under the 1993 Cairo Declaration.

263. The Protocol relating to the Establishment of the Peace and Security Council (PSC) was adopted by the inaugural meeting of the Assembly of the Union held in Durban, South Africa in July 2002 and entered into force on 26 December 2003, upon obtaining the required ratifications (simple majority according to Article 22.5 of the Protocol). The original fifteen (15) members of the PSC were elected by the Executive Council in January 2004. The PSC adopted its Rules of Procedure in mid-March, thereby marking the beginning of its operations. The Organ was solemnly launched at the level of Heads of State and Government not only of its Members but also of other Member States and AU Partners in Addis Ababa, on 25 May 2004, a day chosen for its symbolic importance to Africa, being the day on which the erstwhile OAU was founded and is celebrated as Africa Day throughout the continent.

264. The Protocol, in Article 2, defines the PSC as “a collective security and early-warning arrangement to facilitate timely and effective response to conflict and crisis situations in Africa”. Article 3 confers on the Organ wide-ranging responsibilities for the prevention, the management, and the resolution of conflicts, and post-conflict peace-building. The promotion of democracy, the rule of law and good governance, are all regarded as conflict prevention. The PSC is expected to coordinate and harmonise continental efforts in the prevention and combating of terrorism in all its aspects. It is also entrusted with the responsibility of developing a common defence policy. Article 4 of the Protocol reinforces provisions in the Constitutive Act under which the AU can intervene in the affairs of a Member State.
265. Article 2(2) of the Protocol stipulates that the PSC shall be supported in its work by the Commission, a Panel of the Wise, a Continental Early Warning System (CEWS), an African Standby Force (ASF) and a Special Fund. The Organ is also authorized to establish subsidiary bodies, as it deems necessary for the performance of its functions. It may also under Article 8(5) seek such military, legal and other forms of expertise as it may require for the performance of its functions.
266. Ten of the fifteen members of the PSC are elected for a two-year term, whilst the remaining five members are elected for a term of three years in order to ensure continuity. Unlike the United Nations Security Council (UNSC), there are no permanent members nor veto power. Retiring members of the PSC are also eligible for immediate re-election.
267. Article 5(2) states that in electing the members of the PSC, the Assembly shall apply the principle of equitable regional representation and rotation. The article also puts forward a list of criteria for a Member State to be eligible to seek election to the PSC and to be qualified for election. These include commitment to uphold the principles of the African Union, including respect for constitutional governance, contribution, capacity and commitment of the Member State to the promotion and maintenance of peace and security in Africa, including experience in peace support operations. Member States are committed to honour their financial obligations to the Union, including contribution to the Peace Fund and/or Special Fund created for a specific purpose.

268. The audit of the performance of the PSC, therefore, focuses on the application of the principles enshrined in the PSC Protocol; the operationalisation of the bodies intended to support the PSC in its work; funding and sustainability; and specific PSC contributions and successes in the area of peace and security.

Execution of Statutory Functions and Audit Findings

269. In March 2004, the Executive Council elected Algeria, Ethiopia, Gabon, Nigeria and South Africa, representing the five regions, for a three-year term. On the same geographical basis, Libya, Kenya and Sudan, Cameroon and Congo, Ghana, Senegal and Togo, and Lesotho and Mozambique, were elected to serve for two years. It is worth noting that since then Libya has been replaced by Egypt. In Central and West Africa, there has been no change, since all have been re-elected for a second term. In East Africa, Ethiopia has been re-elected for a second three-year term and Sudan and Kenya have been replaced by Uganda and Rwanda, respectively. It is only in Southern Africa that all the original three members have been replaced with Angola taking over from South Africa for three years, and Malawi and Botswana for two years, replacing Mozambique and Lesotho.
270. It is evident from the above analysis that the principle of equitable regional representation and rotation has so far been respected. West Africa, with fifteen Member States and the largest regional group, has four members on the Council, with three other regions – Southern Africa, Central Africa and East Africa – having three each, whilst North Africa, with six Member States has two seats. It should be noted that under the Protocol, there is no limitation on the term of office as a retiring member can seek immediate re-election. It is, however, not clear how far the elections of members of the PSC have been influenced by the conditions set for eligibility, since the criteria are too broad to exclude any Member State from membership of the Organ. It is of cardinal importance that this principle is respected to ensure inclusiveness and equitable participation. While not overlooking this principle, it is also important that the PSC should always include Member States that have the resources to shoulder the responsibility of contributing troops.
271. With regard to its working methods, it should be noted that the PSC, like the United Nations Security Council (UNSC), is

organised to be able to function continuously. For this purpose, each Member State of the Council shall at all times be represented at the headquarters of the AU. Article 8 of the Protocol provides that the Council should meet at three levels: Ambassadorial level, at Ministerial level and at the level of Heads of State and Government. Whilst the Council is required to meet as often as requested at the Ambassadorial level but at least twice a month, it is required to meet at least once a year at the Ministerial and Heads of State and Government levels.

272. The number of PSC meetings has been impressive. It has met 24 times in 2005 and 2006 and 27 times as at 10 October 2007. In 2006, special PSC meetings were convened on the Sudan, the Central African Republic, the Democratic Republic of the Congo, Darfur, Chad, Comoros, Somalia and Cote d'Ivoire. For 2007, special PSC sessions have focused on Burundi, Comoros, Mauritania, Cote d'Ivoire and Darfur. However, it should be pointed out that whilst, in practice, the Ambassadorial-level sessions have convened as and when necessary, the Ministers and Heads of State and Government meetings have quite often been incidental and taken place during the annual ordinary sessions of the Assembly. It is doubtful whether, given the incidence, complexity, diversity and variety of peace and security issues on the continent, the occasional Ministerial and Heads of State/Government meetings allow them sufficient time to delve into issues, take informed decisions and provide the leadership required.
273. Furthermore, Article 8 of the Protocol provides for three types of meetings; closed, open and informal consultations. In practice, the Council has combined consultations, decisions, procedural debate and deliberations, all being mixed up in one meeting and cases of briefing sessions being turned into formal meetings without proper preparation by Council and the Commission for that exercise. This is bound to affect the Council's effectiveness. It is imperative, therefore, that a more accommodating and predictable format of meetings is set up to allow the Council time and space to address various subjects in a situation under consideration in an effective manner.
274. Rule 32 of the PSC's Rules of Procedure stipulates that at the end of each meeting, the Council may issue a Communiqué relating to deliberations. However, in practice, the PSC has

formulated the outcomes of its deliberations in two forms: decisions communicated through the issuance of a communiqué and issuance of press statements. This format needs to be streamlined in order to use appropriate formats for presenting the outcome of Council meetings to different intended recipients, audiences and stakeholders. A pertinent issue is the implementation of and compliance with the PSC's communiqués, which, according to the Protocol, are decisions binding on the Member States.

275. It may also be noted that since its establishment in 2004, the Council has undertaken only one field mission to Darfur. The Panel is of the view that much as the PSC may work well from the AU Headquarters, there is the need to add practical value to its decisions through the undertaking of fact-finding and assessment visits to conflict zones or post-conflict recovery areas. Field Missions can also avail selected PSC members the opportunity to interact with the parties to a conflict and have first hand information on conflict situations, as well as help draw the attention of the international community to the crisis areas concerned.
276. Due to the conflicts on the continent, the PSC has been compelled to deal mainly with country-focused issues. Given the comprehensive nature, complexity and variety of its mandate and the growing dimensions of security in contemporary international relations, the Council will have to broaden its consideration of issues to cover topical subjects like terrorism, illegal exploitation of natural resources, the phenomenon of child soldiers, human security, pandemics, the illegal trade in small arms and light weapons, the role of women in peace and security, and human rights. Indeed, this will be in consonance with article 4 of the Protocol which states that in carrying out its work, the PSC should, inter-alia, be guided by the principles enshrined in the UN Charter, the Constitutive Act of the AU, the Universal Declaration of Human Rights and international humanitarian law.
277. Article 10(4) of the Protocol further provides for the establishment of a Secretariat within the Commission to assist the PSC in discharging its responsibilities. Despite the determined efforts that have been made by the Commission to provide an effective human resource support to the PSC since 2004, it is crystal clear that many more personnel and operational tools would be

needed. The present staff complement of three; the Head of the Secretariat, a P2 Officer (not yet recruited) and a Secretary (GSA), (in the process of being recruited), cannot provide enough capacity and the requisite support services in light of the increasing volume, complexity of work and frequency of PSC meetings.

278. Article 11 of the Protocol further envisages the creation of a Panel of the Wise, an advisory body of five highly respected African personalities who have made outstanding contributions to the cause of peace, security and development on the continent. They will support the PSC in its work, particularly in the area of conflict prevention. The five, representing the five regions of the continent, are to be selected by the Chairperson of the AU after consultation with Member States concerned and appointed by the Assembly to serve for three years. The Panel will meet as may be required for the performance of its mandate and shall report to the PSC and, through the PSC, to the Assembly.
279. Although the five persons have been duly appointed, the Panel of the Wise has not been commissioned. The Audit Panel was informed that the delay in operationalising the Panel of the Wise was due mainly to lack of office space, human and financial resources. The Panel has learned that the operational modalities for the Panel of the Wise are being worked out and that the Panel would be operational by December 2007. The Panel of the Wise, made up of the right calibre of people with time and energy, can be a flexible mechanism that can serve many purposes. It should be operationalised early.
280. Article 12 of the Protocol also provides for the establishment of a Continental Early Warning System (CEWS) in order to facilitate the anticipation and prevention of conflicts. The CEWS shall consist of two main components, namely, a 'Situation Room', which will be responsible for data collection and analysis and the Observation and Monitoring Units of the Regional Mechanisms for Conflict Prevention, Management and Resolution (known as the Regional Mechanisms), which are to be linked directly to the 'Situation Room' and thus feed into the continental system.
281. Although in July 2005 a roadmap for the operationalisation of the CEWS was adopted, this has not yet been implemented. Eight assistants manage the 'Situation Room' at the Conflict

Management Division of the AU operating on a 24-hour basis during weekdays and until 9pm during the week-ends. It needs more qualified personnel and technical expertise to operate optimally. The regional mechanisms are also at different stages of development and generally not yet operational. While ECOWAS and IGAD have established their Early Warning Systems and ECCAS and SADC are in the process of doing so, the EAC has now developed a Protocol on it. COMESA is in the process of conceptualising one, and CEN-SAD is preparing a framework for its eventual establishment. Nothing has been heard from the Arab Maghreb Union.

282. Given the new philosophy of prevention underlying the peace and security architecture, the need for the early operationalisation of the CEWS cannot be overemphasised.
283. In another departure from the OAU's peacekeeping efforts, the AU intends to achieve more in terms of integrating African defence forces and reducing the overall costs that individual African countries have to bear on many African peacekeeping operations. In conformity with Article 13 (1) of the Protocol, the AU plans to have an African Standby Force to serve, as a rapid reaction force, comprising 15,000 troops by 2010. The force will be drawn from the regional brigades. SADC launched its Standby Force in Lusaka. In relation to this, a Military Staff Committee, comprising Senior Military Officers of the Members of the PSC, has been established to advise the PSC, but is inadequately staffed.
284. The current developments outlined above can be attributed to the late President Kwame Nkrumah's original idea of a Continental High Command. At the time, the idea was not accepted due to differences in vision among the political leaders of Africa. It seems that the idea has gestated over the years and now there is a sentiment that integrated continental armed forces is necessary to conduct police action and peacekeeping operations across the continent. Despite the obvious advantages of such a system, the proposal does not lend itself to easy implementation. The Panel was informed that although a roadmap has been adopted and progress made on the working tools of the ASF, like Doctrine, Standard Operating Procedures, Command, Control, Communications and Information Policy, as well as the

establishment of the Regional Brigades, much more remains to be done before the ASF could be operationalised.

285. Article 21 of the Protocol establishes a Special Fund known as the Peace Fund for the purpose of financing peace operations. The Fund is to be raised and sustained from appropriations from the regular budget, voluntary contributions from Member States and other sources within Africa. At the initiative of the Chairperson of the Commission, and in conformity with the objectives and principles of the Union, contributions from outside Africa may also support the fund. A revolving Trust Fund is also to be established within the Peace Fund with the appropriate amount determined by the relevant Policy Organs of the Union upon recommendation by the PSC.
286. There is, however, cause for concern regarding the funding of peace operations in Africa. The Fund remains small and precarious. On average, only 6 percent of the regular budget is allocated to the Peace Fund. This is a paltry sum viewed against the needs of peacekeeping activities of the continent. The assessed contributions to finance peacekeeping has not been done and the reimbursement within six months of States contributing contingents to peace support operations, as provided for in the Protocol, has not always been honoured within the stated period. Since the Peace Fund is virtually empty, the establishment of a revolving Trust Fund remains an illusion.
287. Furthermore, the OAU/AU Peace Fund receives contributions from four sources: OAU/AU regular budget, voluntary contributions by Member States, non-Member States contributions and miscellaneous receipts. Over this period, Member States' voluntary contributions were very scanty. In Chapter 11, the financing of the Peace Fund is explored in more detail. (Table 16).
288. The experience of the AU Mission in Sudan (AMIS) and AU mission in Somalia (AMISOM) demonstrates an over-reliance on external sources to finance peace operations. In this regard, it should be emphasized that both peacemaking and peace building are expensive undertakings. Indeed, at present, the UN peacekeeping budget is around \$5 billion as compared to about \$3 billion for its regular budget. Funding for peacekeeping in Africa has been inadequate and ad hoc. African countries should do more to show their commitment to taking the destiny of their continent in their own

hands by providing substantial resources for peace operations. The AU Commission, particularly the Chairperson, should also accentuate efforts at mobilising funds from within Africa and the Diaspora.

289. The need for cooperation and collaboration between the PSC and other entities is provided for in the Protocol to enhance the efficiency and effectiveness of the Council. According to Article 16, the Regional Mechanisms are expected to play an active role in the implementation of the peace and security architecture through anticipating and preventing conflicts and, in circumstances where conflicts have occurred, peacemaking and peace-building functions.
290. Although the PSC has since 2004 taken the initiative to enhance its working relations with the RECs, particularly towards the establishment of the CEWS and the ASF, it is only in a few instances that the RECs have taken the lead to help resolve conflict with the PSC subsequently endorsing those steps and recommendations. The only known examples are the complementary actions taken by ECOWAS and the PSC in Cote d'Ivoire, Togo and Guinea Conakry and recently IGAD in Somalia. Beyond this, not much has been done to strengthen the relations between the PSC and the RECs.
291. A similar situation persists in the relations between the PSC and the pan-African Parliament (PAP), as well as the African Commission on Human and Peoples' Rights (ACHPR). The PSC has never been requested by PAP to submit a report to facilitate the Council's discharge of its responsibilities in the area of peace and security, as expected under Article 18 (2). Article 19 of the Protocol provides for close cooperation between the PSC and the ACHPR, yet the latter's only request in March 2006 to participate in a PSC meeting to consider the situation in Sudan, was rejected, although its mandate covers essentially the dossiers of human rights, which are always an issue in conflict and crisis situations.
292. In the same vein, Article 20 of the Protocol mandates the PSC to engage non-governmental and Civil Society Organisations, particularly women's groups, to participate in the efforts aimed at promoting peace, security and stability in Africa. When so required, such organisations may be invited to address the PSC. In broad terms, Article 20 should be viewed as providing space

for interaction between the PSC and Civil Society Organisations in line with the AU's aspirations to involve a cross-section of African peoples in its activities. Yet, instances of Civil Society Organisations being invited to address the PSC are few.

293. On the other hand, determined efforts have been made and continue to be made by the AU through the PSC to implement Article 17 of the Protocol which recognises the need for cooperation between the AU and the UN and its affiliated agencies. Such cooperation is also enshrined in Chapter VIII of the UN Charter and Article 3(c) of the Constitutive Act. Although efforts are being made to strengthen the relations between the PSC and the UN and its agencies within the AU-UN Ten Year Capacity Building Framework authorised by the 2005 World Summit, there is a limitation as to what the UN can do for Africa.
294. Section 17(2) of the PSC Protocol provides that recourse will be made to the UN to provide financial and logistics support for AU's activities in the promotion of peace, security and stability in Africa, in keeping with the provisions of Chapter VIII of the UN Charter. This chapter relates to the role of regional organisations in the maintenance of international peace and security. Although the UN has been providing assistance in Darfur, this is being done on ad hoc basis, because the provisions in Article 54 of Chapter VIII of the UN Charter do not make it easy for the UN to provide support to a regional organisation.
295. Articles 3(a) and 6 of the PSC Protocol also mandate the Council to undertake peacebuilding, post-conflict reconstruction, humanitarian and disaster management as its core activities. In response to the Executive Council Decision EX.CL/191 (vii) in Sirte, Libya, of July 2005, the AU Commission has developed a Policy Framework on Post-Conflict Reconstruction and Development (PCRD). Studies in Africa and elsewhere have shown that, on the average, societies emerging from conflicts relapse into violence five years after concluding peace agreements. The policy is, therefore, conceived as a tool to consolidate peace and prevent relapse of violence; help address the root causes of conflicts; encourage fast-track planning and implementation of reconstruction activities; and enhance complementarities, coordination and coherence between and among diverse actors engaged in the PCRD processes.

296. However, the PCRD has not been implemented and the Standing Committee called for by the Executive Council in its Dec. 302 (IX), endorsing the document, to provide political support and mobilise all the necessary and available resources for the implementation of the Policy Framework, has not been set up. In this regard, it is pertinent to underscore that the Standing Committee is to interface with the UN Peace building Commission, which has also been set up to ensure a seamless transition from war to peace of countries emerging from conflict and has already given \$25 million each to Sierra Leone and Burundi as the first beneficiaries of its Peacebuilding Fund.
297. Since becoming operational, the PSC has vigorously pursued its mandate with respect to the promotion of peace in the continent. A peace and security architecture has been established which all Member States are aware of and can utilise. A set of institutions has been agreed upon specifically focusing on peace and security, which are still being developed as the AU evolves. If this amalgam of institutions and legal instruments were effectively operationalised and functioning, they would lay the foundations for a more effective and efficient peace and security system. This is one area where the Panel believes the AU Commission has been effective in making proposals and implementing related decisions.
298. The birth of the PSC led to a reversal of one of the key principles of the OAU, national sovereignty, by replacing the principle of non-interference with the principle of non-indifference. The PSC has been effective in upholding sanctions against unconstitutional changes of government, as demonstrated in the cases of Togo and Mauritania. Even though the PSC has shied away from discussing the conflict between Ethiopia and Eritrea, in spite of the fact that the AU is a guarantor of the Algiers Agreement, on the whole, the PSC has been active in responding to threats to peace and security on the continent. The PSC has been able to bring a lot of parties to conflict together through its mediation efforts, as exemplified in Cote d'Ivoire, Burundi and the Democratic Republic of Congo, where it deployed peace support operations. African Peace Monitors have also been sent to Darfur and AMIS, despite limitations, has played a key role in the Darfur conflict.

299. The programme of activities of the PSC indicates that the AU is committed to being on the ground whenever there is the need for a peacekeeping operation on the continent. Whether as an AU operation or in support of the UN, the PSC has not failed to articulate AU's commitment to the promotion of peace and security across the continent. Indeed, some of the forgotten conflicts in Africa, like Somalia and Comoros, have been left to AU to carry the burden of solving. All these initiatives were modest but nonetheless significant efforts to give the AU a field presence on the continent and begin restoring the responsibility for bringing peace to Africans.
300. Thus, the AU through the PSC has brought visibility and credibility to Africa in the area of peace and security. It is now invariably the PSC that takes the lead in dealing with conflicts in Africa followed by the international community. It is an eloquent manifestation of the credibility that the AU now enjoys on the international plane in the area of peace and security that the UN Security Council, the Organ with the primary responsibility for maintaining international peace and security, invariably takes its cue from the PSC on conflict situations in Africa. Indeed, UNSC is now considering holding joint sessions and exchanging visits with the PSC, as reflected in the Joint AU-UN Communiqué issued at the end of the meeting between the PSC and the UN Security Council delegation in Addis Ababa in June 2007.
301. It is important to emphasise that the achievements of the PSC have been attained in the face of severe constraints that persist in the search for peace and security in Africa. In a document provided to the Panel, it is noted that inadequacies exist in staffing and the operational equipment in the PSC Secretariat and in the Embassies of the Members of PSC. Inadequate and unpredictable funding for Peace Support Operations has contributed to the difficulties encountered in the Sudan (AMIS) and also by the AU Mission in Somalia (AMISOM). The shortage of logistical capacity from within the continent, inadequate capacity and personnel for both the management of peace support operations and the manning of the theatre of operations has left the AU Peace Support Operations to the mercy of non-African logistical support and contributed to the slow rate of troop mobilisation and deployment of peace support operations. The Panel also notes with concern that there is a low level of effectiveness in the Military Staff Committee.

302. It is also important to note that although Article 8(5) of the Protocol permits the PSC to establish subsidiary bodies to assist it in its work, to date the PSC has not availed itself of this provision to create any ad-hoc or working groups, even though such bodies can provide it with the relevant information and technical support to monitor and evaluate compliance with its decisions.

Conclusion

303. It is evident that no simple or single strategy can provide peace and security to Africa. Strategies should be tailored to focus on different stages of conflicts, namely: conflict prevention, management and resolution, as well as peacebuilding and post-conflict reconstruction and development. In line with current thinking, strategies need to move beyond purely military definitions of security to more comprehensive strategic visions. Strategies also need to be devised at local, civil society, national, regional and continental levels in the social, political, economic and military spheres. But for Africa, with its glaring limitations and inadequate capacity in mounting peace operations, the emphasis should continue to be on conflict prevention, the new philosophy underlying its peace and security architecture.

Recommendations

304. The Panel recommends that :

- **The PSC should continue to streamline and enhance its working methods;**
- **The PSC should broaden the scope of issues to be considered in order to discharge its diverse responsibilities efficiently and effectively. This should include the setting up of mechanisms to ensure compliance;**
- **The PSC would do well to borrow ideas from the UNSC and use the Arria type of meeting, a format that enables the members of the Security Council to interact on informal basis with Civil Society Organisations on issues before the Council;**

- **The PSC should give serious consideration to the establishment of subsidiary bodies to facilitate its access to information, knowledge and technical expertise on the various subject matters pertaining to peace and security;**
- **The Peace and Security Department (PSD) should be strengthened in respect of personnel and operational equipment to enable it support the PSC more effectively;**
- **The other bodies or components of the peace and security architecture - the Panel of the Wise, the CEWS and the AFS - should be effectively and optimally operationalised to enable them play the roles envisaged for them in the system;**
- **The Policy Framework for Post Conflict Reconstruction and Development, including the establishment of the Standing Committee, should be implemented expeditiously to ensure a smooth transition from conflict to peace of African countries emerging from conflict. In this connection, there should be stronger cooperation between the PSC and the UN Peace building Commission, using the African members serving on the latter body;**
- **The PSC should intensify its efforts to strengthen its cooperation and collaboration with the RECs, the PAP and the ACHPR as envisaged in its Protocol;**
- **The PSC, in concert with the AU Commission, should endeavour to ensure speedy implementation of the AU-UN Ten-Year Capacity Building Programme authorized by the 2005 World Summit. Within this framework, the PSC should strengthen its collaboration with the three non-permanent African Members of the UN Security Council and submit periodic reports to the Assembly; and,**
- **African countries should endeavour to contribute substantially to AU peace operations. The assessed contributions of Member States to peacekeeping operations should be paid regularly. The percentage of regular budget allocated to the Peace Fund should be increased and the AU Commission Chairperson should**

also intensify his efforts at mobilizing funds and resources for AU peacekeeping operations from within the Continent and the Diaspora.

CHAPTER EIGHT: THE AFRICAN UNION AND ITS RELATIONSHIPS WITH THE UNITED NATIONS ECONOMIC COMMISSION FOR AFRICA AND THE AFRICAN DEVELOPMENT BANK

305. In this Chapter, the relations of the African Union with the UNECA and AfDB are examined both in their tripartite and bilateral aspects. The objective is to assess the extent to which the activities carried out in those frameworks have contributed to the integration process in the continent.

Trilateral Cooperation: The Mandate

306. Since the integration of African economies also involves other organisations, especially the African Development Bank (AfDB), the United Nations Economic Commission for Africa (UNECA) and other UN Organisations and specialized agencies, this chapter reviews the role of these Institutions in the regional and continental integration process.

307. After the signing of the Abuja Treaty in 1991, the Assembly of Heads of State and Government of the OAU decided to establish a Joint OAU/UNECA/AfDB Secretariat to promote and follow-up on the implementation of the Treaty. The promotion and follow up consisted mainly of (i) maintaining the awareness of Member States of the importance of the Treaty and promoting the ratification of the latter (ii) ensuring that the stages of the Treaty are properly followed, especially the initial stage of strengthening existing RECs and establishing new ones in regions where they do not exist, and (iii) the harmonisation of policies among the RECs.

308. Although the Treaty came into force in May 1994 after the required number of ratifications by Member States, the Joint Secretariat failed to pay sufficient attention to the strengthening of existing RECs and create new ones where they do not exist (Chapter 9 on the RECs). This may have contributed to the proliferation of RECs with multiple memberships.

309. The initial activities of the Joint Secretariat were mainly concentrated in the preparation of protocols. These protocols cover the larger number of the areas, including free movement of persons; agriculture; industry; education, health and other social

sectors; transport, communications and tourism; culture; environment; science and technology. This task, which also involved relevant UN specialized agencies, was found cumbersome and later discontinued.

310. As experience has shown, these protocols, though important, were not essential tools for carrying out sectoral policy coordination activities among the RECs. Such activities had they been carried out when the Treaty entered into force in 1994 would have made the present need for harmonisation less compelling.
311. The Joint Secretariat did not focus its activities on annual assessment of Africa's progress towards regional and continental integration. This would have greatly helped the decisions-making Organs of the AU in advancing the agenda of continental integration.
312. Such assessment should be followed by appropriate recommendations on ways and means of accelerating the integration process at all levels (Member States, RECs, AU, UNECA, AfDB, and other Institutions. These recommendations may require adjustment in national, regional and continental programmes, and the identification of joint actions at international levels. They would also relate to ways and means for UNECA and AfDB to assist in developing inter RECs strategies, policies and programmes and in resources mobilisation for operationalising them.

Bilateral Cooperation: The Mandate

313. Besides the Joint Secretariat, the OAU and then AU have also been cooperating bilaterally with UNECA and AfDB. Many of the seminal documents adopted by African leaders were the result of cooperation between OAU and UNECA. For several years, the two Organisations have also been organising joint sectoral conferences of African Ministers.
314. Besides the UNECA, most UN Organisations and Specialized Agencies have established formal relationships with the AU, often in the form of financial and technical support to the latter. However, their respective regional or special programmes are not always consistent with the objectives of regional and continental

integration. More often than not, they are based on these organisations' own priorities for Africa. Moreover, the UN Organisations and Specialised Agencies continue to operate as if they do not share AU's vision and mission of Africa's political and economic integration. They divide African countries into two separate groupings, known as " Middle East and North Africa" on the one hand, and "Sub-Saharan Africa" on the other. This is no doubt inconsistent with the objectives of the African Union.

315. In order to ensure that the existing relationships between the AU and UN Organisations and Specialized Agencies are strengthened and exclusively focused in supporting continental integration, the AU should utilise the competencies of the UNECA and the AfDB to the fullest extent possible in so far as its relations and activities with UN Organisations and Specialised Agencies are concerned. The Panel notes that during the past two years, efforts have successfully been made by UNECA to re-establish its sectoral competences. This should continue in order for it to be able to play an effective role with the AU in the transformation and integration process in Africa. The Panel would also request that every effort be made to enhance the UNECA's role in the UN system. The African Permanent Representatives to the UN should also continue to assist in getting more resources for UNECA during the UN annual budget-making process.
316. In other respects, bilateral cooperation seems not to have been so effective in terms of resource mobilisation for the financing of integration projects. For example, AfDB involvement, together with that of the World Bank, in resource mobilisation for implementing the United Nations Transport and Communications Decade for Africa (UNTACDA), did not yield the expected results.
317. The AfDB's President and the African countries that are members of its Board, should endeavour to ensure that the Bank re-orders its priorities for financing regional and continental integration projects in such critical areas as transport and communications, and energy are accorded the highest priority in the Bank's investment portfolio-as high as at least 50 percent of the total investment resources. The AfDB should also provide the necessary support in the establishment and functioning of the African Investment Bank provided for in Article 19 of the Constitutive Act of the African Union.

Recommendations

318. The Panel recommends that;

- **The Joint AU-UNECA-AfDB Secretariat should be reinvigorated to make it more effective in accelerating the integration process. This should include the publication of a joint annual report to the Assembly on progress towards continental integration. Such a report should focus on cross-border trade and investment, the degree of free movement of persons across national and regional borders, the implementation of regional and continental projects, the level of effective supranational authority entrusted by Member States to RECs, resource mobilisation efforts at continental, regional and national levels and, lastly, including progress in operationalising the continental financial Institutions;**
- **AfDB should play a more prominent role in resource mobilisation in implementing integration programmes and projects at national, regional and continental levels particularly in the acceleration of integration and transformation process. To that effect, efforts should be made to ensure that the present level of funding regional programmes be substantially increased from 15 percent to at least 50 percent; and,**
- **UNECA should be supported by Member States at the United Nations for reconstituting and further strengthening its capacity so as to be able to fully play its role as main implementing agency of the UN economic development programmes in the continent.**

CHAPTER NINE: THE AFRICAN UNION AND ITS RELATIONSHIPS WITH THE REGIONAL ECONOMIC COMMUNITIES

319. This chapter starts with a brief historical overview of the processes involved in establishing the existing RECs, including their structures and functioning. It reviews and assesses progress made in the integration processes in various regions of the continent towards the creation of an African Common Market and the establishment of an African Economic Community (AEC). It identifies areas for improvement, including the present institutional set up and harmonization of policies among Regional Economic Communities (RECs).

The Mandate

320. In the Preamble of the Constitutive Act, African leaders have expressed their conviction to accelerate the process of implementing the Treaty establishing the African Economic Community in order to promote the socio-economic development of Africa and to face more effectively the challenges posed by globalisation. The objectives contained in the Constitutive Act are, among others, to "accelerate the political and economic integration of the continent" (Article 3(c)), and to "coordinate and harmonize the policies between the existing and future Regional Economic Communities..." (Article 3(l)).

321. Regional Economic Communities are no doubt of paramount importance for the continental integration process. As stated in the Accra Declaration, African Heads of State and Government have agreed "to rationalize and strengthen the Regional Economic Communities, and harmonize their activities...so as to lead to the creation of an African Common Market, through the stages set in the Treaty establishing the African Economic Community (Abuja Treaty), with a revised and shorter time frame to be agreed upon in order to accelerate the economic and, where possible, political integration".

Historical Background

322. In 1980, the OAU adopted the Lagos Plan of Action (LPA) and Final Act of Lagos (FAL) with a view to establishing the African

Economic Community (AEC). The objective of the community was to promote collective, accelerated, self-reliant and self-sustaining development of Member States, as well as interstate co-operation. The FAL called for the strengthening of the existing regional economic communities (RECs) and the establishment of other economic groupings in the other regions of Africa, so as to cover the continent as a whole. At the time, only ECOWAS in West Africa existed since 1975. The other regions in which it was deemed imperative for RECs to be set up were Central, Eastern, Southern and East Africa and reinvigorated in the case of North Africa.

323. Under the LPA/FAL, Member States committed themselves to undertake the effective strengthening of sectoral integration at the continental level, and particularly in the fields of agriculture, food, transport and communications, industry, and energy. It was also agreed that it was necessary to promote co-ordination and harmonisation among the existing and future economic groupings in order to foster the gradual establishment of an African Common Market and ultimately, the African Economic Community.
324. In the same year, however, the introduction of Structural Adjustment Programmes (SAPs) of the World Bank and IMF proved to have a counter effect on the effective realisation of the LPA/ FAL goals. While LPA/FAL focused on integration, SAPs aimed at strengthening national economies, financial Institutions and the economic sector through restructuring processes that pulled African economies in the opposite direction of integration. Attempts within the continent, led by the UNECA to reverse these trends, were foiled.
325. The Treaty establishing the African Economic Community (AEC) was adopted in 1991 and came into force in May 1994. The Abuja Treaty reiterated the objectives outlined in the FAL, including the need to promote economic, social and cultural development and the integration of African economies in order to increase economic self-reliance, as well as an endogenous and self-sustained development. The Treaty also aimed to create institutional frameworks and mechanisms to coordinate and harmonise policies among existing and future economic communities in order to foster the gradual establishment of the Community.

326. Five countries, namely, Madagascar, Eritrea, Somalia, Djibouti and Gabon, have not signed or ratified the Abuja Treaty. These five countries are Member States of the AU, which in its Constitutive Act, incorporating the Abuja Treaty, provides for the RECs to serve as the vehicles for accelerated integration. In addition, they are members of more than one REC, despite not having signed the Abuja Treaty. This raises significant legal issues.
327. Six stages were to be followed in the establishment of the Community over a period of 34 years in order to culminate in the African Common Market under the auspices of the Community. These are:
- a) In the First Stage, and within 5 years from the coming into force of the Treaty, the strengthening of existing RECs as well as the establishment of economic communities in regions where none existed was to be undertaken;
 - b) In the second stage, the Treaty provided for tariff and non-tariff barriers to regional trade to be stabilized until they are phased out. It also provided for sectoral integration, coordination and harmonization of RECs activities;
 - c) Subsequently, stages three and four are to usher in the creation of free trade areas and Customs Union, respectively, including the coordination and harmonisation of tariff and non-tariff systems among RECs in order to eventually establish a Continental Customs Union;
 - d) The establishment of an African Common Market were to occur in the fifth stage characterized by the adoption of a common policy in several areas and the harmonisation of monetary, financial and fiscal policies; and,
 - e) In the sixth and final stage, the Common Market would be consolidated through the strengthening of the integration process in all sectors with the establishment of key Institutions, including a pan-African Economic and Monetary Union, a single African Central Bank, a single African Currency and a Pan-African Parliament whose members would be elected by universal suffrage.

328. However, it should be noted that the Treaty provisions did not specifically address the political and socio-economic developments and trends that challenged several African States in the 1990s and particularly in the face of conflict, structural adjustments and the era of neo-liberalisation and globalisation.

The 1998 Protocol on Relations between the AEC and the RECs

329. The 1998 Protocol on Relations between the AEC and the RECs clearly identified the lead roles to be played by Member States in the RECs configurations, and the AEC. The OAU Secretariat was to be the Secretariat of the Community, and following the transition to the African Union, the African Union Commission (AUC) is now responsible for the execution of the duties and mandates for the OAU/AEC Secretariat.
330. Article 88 of the Abuja Treaty clearly establishes the relationship between the Community and RECs. A vertical and horizontal cooperation mechanism was provided for within and across the RECs, as well as between the RECs and the AEC secretariat. The Community was to be established mainly through the co-ordination, harmonisation and progressive integration of the activities of RECs with roles for Member States, the Community and the RECs.
331. In the integration process of the various RECs, the AEC Secretariat primarily was assigned the role of co-ordination, harmonisation and evaluation of the activities of existing and future RECs. Member States, on the other hand, undertook to promote coordination and harmonisation of the integration activities of the RECs they are members of, 'it being understood that the establishment of the latter is the final objective towards which the activities of existing and future regional economic communities shall be geared.' Member States further agreed to coordinate and harmonise the activities of their sub -regional Organisations in order to rationalise the integration process at the level of each region.
332. The Community was mandated to identify priority activities and to identify together with the RECs areas that required the assistance of the Community in order to strengthen them. It also had a

monitoring and evaluative role in determining the stage at which a REC should be placed as provided for in the Treaty, and in the implementation of harmonised and rationalised policies, measures and programmes of the RECs in order to ensure that the Treaty timeframes are adhered to. Further, the Community was required to provide financial resources and technical assistance as appropriate to enable RECs to meet the objectives of the Treaty. An analysis of the performance of the different actors who were assigned mandates, roles and powers is to be found in a subsequent section.

333. The Constitutive Act of the African Union consolidated the provisions of the Final Act of Lagos and the Abuja Treaty in its preamble. In addition to its objective to accelerate the implementation of the AEC, the Constitutive Act sought to promote sustainable development at the economic, social and cultural levels as well as the integration of African economies. In keeping with the FAL and the Abuja Treaty, the Act upholds the objective of coordinating and harmonising policies between existing and future RECs for the gradual attainment of the objectives of the Union.
334. In this regard, the objectives of the Union, (in keeping with those of the OAU/ AEC) all point towards the attainment of an integrated African Common Market. It is clear that the Constitutive Act sought to maintain the logic and imperative of attaining a Common African Market through a rational and effective RECs system that would culminate in an economic community for the continent.

Overview of the existing RECs

335. From the outset of the integration process, it was envisaged that the RECs would be formed along five geographical regions. To that end, SADC, COMESA, ECOWAS, UMA and ECCAS were the five RECs that signed the 1998 Protocol. EAC, CEN-SAD and IGAD were later recognised as RECs by the AU (Table 10).

Table 10: The RECs recognised by the AU

REC	Member States	Objectives	Activities/ Programmes
Arab Maghreb Union (UMA)	Algeria, Libya, Mauritania, Morocco, Tunisia	Promote trade and economical cooperation	Infrastructure, Security, food safety
Common Market for Eastern and Southern Africa (COMESA)	Burundi, Comoros, Democratic Republic of the Congo, Djibouti, Egypt, Eritrea, Ethiopia, Kenya, Libya, Madagascar, Malawi, Mauritius, Rwanda, Seychelles, Sudan, Swaziland, Uganda, Zambia, Zimbabwe	<ul style="list-style-type: none"> • Attain trade and economic cooperation • <i>Promote peace and security in the region.</i> 	Trade and investment, trade liberalization and facilitation, Agriculture and food, Private Sector Support, infrastructure, Women In business, Peace and Security, multilateral negotiations, Monetary Harmonization
Community of Sahel-Saharan States (CEN-SAD)	Benin, Burkina Faso, Central African Republic, Chad, Cote d'Ivoire, Djibouti, Egypt, Eritrea, Gambia, Ghana, Guinea Bissau, Liberia, Libya, Mali, Morocco, Niger, Nigeria, Senegal, Sierra Leone, Somalia, Sudan, Togo, Tunisia.	<ul style="list-style-type: none"> • <i>Strengthen peace, security and stability</i> • Achieve global economic and social development. 	<i>Agriculture, industry, energy, trade liberalization, transport and communication, education, security</i>
East African Community (EAC)	Burundi, Kenya, Rwanda, Tanzania, Uganda.	<ul style="list-style-type: none"> • Attain Socio economic cooperation, development and integration • <i>Maintain peace and Security</i> • <i>Attain political federation</i> 	Trade liberalization, natural resources management, peace and security, energy, infrastructure, environmental management, science and technology
Economic Community of	Angola, Burundi, Cameroon, Chad, Central African Republic,	<ul style="list-style-type: none"> • Achieve collective autonomy and maintain economic 	Peace and Security, Agriculture, energy cooperation, natural

REC	Member States	Objectives	Activities/ Programmes
Central African States (ECCAS)	Democratic Republic of The Congo, Equatorial Guinea, Gabon, Republic of The Congo, Rwanda, Sao Tome and Principe	<p>stability</p> <ul style="list-style-type: none"> • <i>Develop capacities to maintain peace and security</i> • Attain economic and monetary integration 	resources cooperation, tourism, trade liberalization, industrial development, transport and communications, science and technology
Economic Community of West African States (ECOWAS)	Benin, Burkina Faso, Cape Verde, Cote d'Ivoire, Gambia, Ghana, Guinea, Guinea Bissau, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone, Togo	achieve social political interactions, economic cooperation, integration and shared development	Agriculture, Economic and Monetary Affairs, Education and Training, Health and Social affairs, Energy, Environment, Trade , food Security, Defence and Security, humanitarian interventions, ACT, Infrastructure, Rural Development, Telecommunications, Trade, Transport and water
Intergovernmental Development Authority (IGAD)	Djibouti, Eritrea**, Ethiopia, Kenya, Somalia, Sudan, Uganda	<ul style="list-style-type: none"> • Attain regional economic cooperation and integration • Promote regional security and political dialogue • Promote trade and social economic development and cooperation 	Conflict Prevention, Management and Resolution and Humanitarian Affairs; Infrastructure development (Transport and Communications); Food Security and Environment Protection.
South African Development Community (SADC)	Angola, Botswana, DRC, Lesotho, Madagascar, Malawi, Mauritius, Mozambique, Namibia, Seychelles, South Africa, Swaziland, Tanzania, Zambia, Zimbabwe.	cooperation and integration in the socio economic arena as well as political, development	Food, Agriculture and Natural Resources, Trade, Industry, Finance and Investment, Infrastructure and Services, Social and Human Development

Table 11: Other Regional Entities

Regional Entities	Number of States	Member States	Functions/ Purpose of REC	Activities/ Programmes
Economic and Monetary Community of Central Africa (CEMAC)	6	Cameroon, Central African Republic, Chad, The Republic of the Congo, Equatorial Guinea, Gabon	<ul style="list-style-type: none"> Promote sub-regional integration through economic and monetary union promote trade 	Trade promotion, Trade liberalization, agriculture and food security,
Economic Community of the Great Lakes Region (CEPGL)	3	Burundi, Democratic Republic of the Congo, Rwanda	promote regional socio-economic cooperation and integration	Agriculture, Energy, Mining, Institutional Capacity building
Indian Ocean Commission (IOC)	5	Comoros, Reunion (France),** Madagascar, Mauritius, Seychelles	Promote cooperation in several diplomatic, socio economic and cultural areas	Diplomacy, economy, trade, agriculture, fishing, the conservation of resources and ecosystems, culture, science and education
Mano River Union (MRU)	3	Guinea, Liberia, Sierra Leone	Foster economic cooperation and integration	Energy development, transport and telecommunications, agriculture and industry
South African		Botswana, Lesotho, Namibia, South	Foster regional integration, economic	

* Not a member of the African Union

** Eritrea suspended its membership in IGAD in April 2007

Source: Website of the RECs and Official sources (Italics indicate purposes and functions not provided for in the Abuja Treaty)

** Not a member of the African Union

Source: Website and Internet sources

West African	8	Benin, Burkina Faso, Cote d'Ivoire,	To achieve monetary integration	Harmonisation of

Monetary and Economic Union (UEMOA)		Guinea Bissau, Mali, Niger, Senegal, Togo		macroeconomic programs, policies, legislature
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336. The Preferential Trade Area for Eastern and Southern African States was later transformed in 1994 with the goal of establishing a common market in 2000. It also admitted States from Northern and Central Africa. The genesis of COMESA and SADC highlights some of the various historic and geo-political considerations and peculiarities that shape regional outcomes.
337. SADCC was established in 1980. Established in 1992, SADC emerged from Southern African Development Coordination Conference (SADCC) after the collapse of the apartheid regime and increased its membership to include some other states from Eastern Africa. The necessity to create a buffer against the apartheid regime of South Africa that was having negative economic impact on countries of Eastern and Southern Africa was a key factor in the development of the SADCC. SADCC was originally advanced as a framework for the engagement of these states in reducing their dependence on the economy of South Africa and in promoting development coordination. At the emergence of South Africa as a majority rules country, SADCC was transformed into a Regional Economic Community for Southern Africa in 1992.
338. Although the AU has recognised only eight RECs, currently several integration entities exist, which are not recognised as RECS by the Assembly. These are, in West Africa, among others, the Western African Economic and Monetary Union (UEMOA) and the Mano River Union (MRU); in Central Africa; the Economic Community of the Great Lakes Countries (CEPGL) and the Central African Economic and Monetary Community (CEMAC); in Southern Africa, the Southern African Customs Union (SACU); and the Indian Ocean Commission (IOC) comprising Mauritius, Madagascar, Comoros and Seychelles, Reunion (France). (Table 11 above refers).
339. Like SADC, other RECs have evolved from their initial status and modified the mandates under which they were established. The Inter -Governmental Authority on Drought and Development (IGADD), which was established to combat drought and desertification, has since evolved into IGAD and adjusted its mandate to include regional integration and conflict management and resolution. ECOWAS and SADC have also included, important functions alongside regional integration, such as conflict resolution, peace and security.

340. The newly adopted Protocol on the Relations between the AU and the RECs (2007) has recognized the peacebuilding, security and stability functions of the RECs and calls for the harmonisation of all such efforts. It has been rightly argued that insecurity and conflicts are deterrents to regional integration, trade cooperation, and development. In this perspective, RECs provide a necessary interface for political dialogue and collaboration that can provide mutually restraining incentives and serve to alleviate or even eliminate insecurity, hence the prevalence of the component of conflict resolution in the mandates of RECs.
341. Overlaps exist within and between the memberships of the eight recognized RECs and the other regional integration entities. (Table 16) In certain instances, Member States are members of two or more RECs, hence leading to irrational configurations, negotiating positions, and inconsistencies in harmonisation and coordination of trade liberalization and facilitation. This is undoubtedly a negative factor in the ability of the African States to integrate as required under the Abuja Treaty and for the rationalization of these Organisations in order to promote convergence towards its objectives.

Structures and Functions of the RECs

342. The RECs have developed and progressed at varying levels of integration and with diverse institutional frameworks of engagement. In the light of the extended mandates that some RECs have, there are also additional Institutions that were not envisaged under the Abuja Treaty. The focus on peace and security is an example. All RECs except the Arab Maghreb Union have institutional frameworks and mechanisms for Peace and Security (Table 14).

Table 12: Institutional Organs and Institutions Of RECs

REC	LEGISLATIVE	EXECUTIVE	JUDICIAL	FINANCIAL	PEACE AND SECURITY
Arab Maghreb Union (AMU)		<ul style="list-style-type: none"> • Presidential Council • Ministerial Commissions 			
Economic Community of Western African States (ECOWAS)	Parliament	<ul style="list-style-type: none"> • Authority of Heads of States and Government • Council of Ministers 	Court of Justice	<ul style="list-style-type: none"> • ECOWAS Investment and Development Bank 	ECOWAS Ceasefire Monitoring Group (ECOMOG)
Common Market for Eastern and Southern Africa (COMESA)		<ul style="list-style-type: none"> • The Authority of Heads of States and Government • Council of Ministers 	Court of Justice	<ul style="list-style-type: none"> • Bank of PTA • COMESA Clearing House • PTA Re-Insurance Company 	Tripartite structure of The Authority, Ministers of Foreign Affairs, Committee on Peace and Security
Community of Sahel- Saharan States (CEN-SAD)		<ul style="list-style-type: none"> • Conference of Heads of State • Executive Council 		<ul style="list-style-type: none"> • Sahel-Saharan Bank for Trade and Investment • African Bank for Development and Trade 	Sectoral meetings of Ministers in charge of Public Security and Defence
East African Community (EAC)	Parliament	<ul style="list-style-type: none"> • Assembly of Heads of States and Governments 	Court of Justice		Sectoral Committee on Co-operation in Defence, Inter-State Security Committee

REC	LEGISLATIVE	EXECUTIVE	JUDICIAL	FINANCIAL	PEACE AND SECURITY
		<ul style="list-style-type: none"> • Council of Ministers 			
Economic Community for Central African States (ECCAS)		<ul style="list-style-type: none"> • Assembly of Heads of States and Government • Council of Ministers 	Court of Justice		Conseil de Paix et de Sécurité de l'Afrique Centrale (COPAX),
Intergovernmental Authority for Development (IGAD)		<ul style="list-style-type: none"> • Assembly of Heads of States and Government • Committee of Ambassadors • Council of Ministers 			Eastern African Standby Brigade, Conflict Early Warning and Response Mechanism and Unit,
South African Development Community (SADC)		<ul style="list-style-type: none"> • Assembly of Heads of States and Government • Council of Ministers 	Tribunal		Organ on Politics, Defence and Security Cooperation

Source: Website of the RECs and official sources

Assessment of Structures

- 343.** A common trait in all the RECs is the existence of executive structures. These include Heads of States and Government, designated Ministerial Councils, and Committees comprising sectoral technocrats in various areas and executive secretariats in a replication of the continental structures. These actors are key in the smooth negotiation and operationalisation of the RECs, as both political and technical inputs are required to realize the integration process. (see Table 12)
- 344.** The development of legislatures and courts has been sporadic across the RECs. Even where courts exist, they are often not resorted to by nationals or entities of Member States, who more often than not resort to domestic courts or political and diplomatic mechanisms. Most of the courts have limited jurisdiction within Member States. This may be attributed to the fact that RECs have been viewed as a collaborative effort by Member States rather than sanctioning entities. In addition, the nature of some RECs is such that the diversity of legal regimes robs the courts of the homogeneity that would promote integration of an African common jurisprudence. In turn, the existence of several legal systems and procedures thereby increasing administrative costs for court users and RECs, may explain the preference for local judicial mechanisms.
- 345.** So far two regional Parliaments have been established, namely, ECOWAS and EAC. They comprise representatives of national legislatures who are not directly elected, and most lack legal competence to make laws as no such powers are ceded to them by the Member States. EAC has limited legislative powers while the ECOWAS Parliament envisages that it will have legislative powers after its Members have been directly elected. Information flow is not well developed to enable the Parliamentarians to play useful representative roles. Often the citizenry of RECs are unaware of what such Parliaments debate or achieve. Linkages between the work of the regional Parliaments and national Parliaments have not been well developed. Indeed, national Parliaments rarely debate issues of regional integration.
- 346.** The existence of the Pan-African Parliament (PAP) and the need to review its role provide an opportunity to rationalise the

existence of the regional assemblies. However, there is a fundamental question about the parallel existence of regional parliaments and the PAP.

347. The dominance of Institutions, Protocols and mechanisms for the prevention and resolution of conflicts in the RECs points to the importance of peace and security in the attainment of regional integration. The continent has since the end of colonial rule been plagued by intra-state and inter-state tensions and conflicts that have had debilitating effects on the economy and political stability of Africa. To this end, the establishment of enduring mechanisms for political dialogue may be a feasible outlet for maintaining or restoring peace and security in order to promote socio economic development.
348. Economic, Social and Cultural Councils also exist in certain RECs. They are formed to serve as linkages between the nationals of Member States and the RECs and to promote popular participation by non-state actors in integration activities and programmes. In practice, these bodies are not well known or operational, and have a very small membership base. The active involvement of the academia, intellectuals, research Institutions, media and civil society, private sector and consumer associations is key in providing the impetus for Member States to adhere to commitments undertaken at regional level and to create appropriate investment, production and development oriented environments.

Assessment of the Activities of the RECs

349. The RECs have been designated as building blocks for the realisation of the economic and political integration of Africa. There is, therefore, need to ascertain the extent to which this objective is being achieved. The fact of the matter, as this section clearly shows, is that Africa is still a long way from the achievement of the goals of political and economic integration. While the RECs have tried as much as possible to advance along the six stages of the Abuja Treaty, in reality they are very much behind even what was considered in 1991 as a generous estimate of the time it would take to achieve economic integration. This section will, therefore, examine the reasons for the slow movement and the challenges confronting the acceleration of the process of political and economic integration.

350. The first challenge posed is lack of convergence. The Abuja Treaty calls for the strengthening of existing RECs and the establishment of new ones where there are gaps. While the Treaty does not elaborate on what it would mean to strengthen the RECs, the underlying assumption (as provided for in the 1998 Protocol on the relations between the AEC and the RECs) is that the capacity of the RECs to achieve convergence towards the various stages outlined in the Treaty would be bolstered.
351. An overview of the RECs progress indicates that several years after the adoption of the Abuja Treaty, certain RECs have not yet achieved the foundational stage within the envisaged timeframes. UMA, CEN-SAD, ECOWAS and IGAD are yet to fully establish Free Trade Areas. EAC, COMESA, and SADC have indicative plans to move towards a Common Market as early as 2009, 2014 and 2015, respectively. The approach to integration seems to be based more on deadlines than concrete achievements.
352. It should be the case that the attainment of stages 2 and 3 would result in increased trade between the Member States based on competitiveness and larger markets and the elimination of technical barriers to trade. Nonetheless, more often than not, the RECs have not significantly increased intra-REC trade as a result of establishing Free Trade Areas and Customs Unions. (Table 13) The failure to address structural issues associated with trade such as employment creation, diversification of production structure, the regime of free market liberalisation and trade partly explains this phenomenon. Another reason that can explain low intra-REC trade is the failure of RECs to effectively remove tariff and non-tariff barriers as a result of multiple membership in different RECs with conflicting or overlapping standards, procedures and obligations and the failure to coordinate and harmonise extra-community import policies in key sectors.

Table 13 Intra-REC Trade as a percentage of total trade in selected RECs 1994-2000 (figures have been rounded off)

	SADC	COMESA	UMA	ECOWAS	CEN-SAD
Exports	31	9	8	19	12
Imports	30	9	8	20	13

Source: UNECA

Assessment of the Progress Towards Harmonisation and Rationalisation

- 353.** It should be recalled that the main task of the AEC was to ensure policy harmonisation and coordination so as to promote common sectoral policies. This was meant to facilitate continental sectoral integration and subsequently the establishment of the Community.
- 354.** The harmonisation between the RECs as envisaged in the Abuja Treaty is to ensure that the various steps of the Treaty are consistently followed throughout the continent. In other words, sectoral policies within the RECs should be compatible with each other so that there is convergence towards the creation of an African Common Market and, ultimately, the African Economic Community and political integration. The Panel is of the opinion that without convergence of macro and sectoral policies within the RECs, harmonisation and coordination among the RECs, between the RECs and the Union would be difficult.
- 355.** Countries belonging to more than one REC face contradictions and tensions with respect to tariff and non-tariff barriers, bureaucratic procedures and formalities in customs and immigration offices, fear of competition, corruption, and the perceived fear of sovereignty loss. In other cases, tariff harmonisation for countries belonging to more than one REC has caused disruptions in their trade liberalisation policies. This is best illustrated by those countries that belong to a preferential trade area such as COMESA and also a Customs Union such as the EAC. Countries belonging to RECs with divergent timelines for trade liberalisation programmes aggravate the situation.
- 356.** The proliferation of RECs has had a two-pronged effect. First, it has weakened the logic of regional cooperation caused by irrational configurations of the RECs. The AEC envisaged establishing new RECs in regions where none existed. On the contrary, several of the RECs formed after the Abuja Treaty have been formed alongside established RECs within the same region, resulting in a duplication of mandates, objectives and activities.

Second, to further aggravate the problem countries have joined more than one REC (Table 14).

357. Member States that belong to more than one REC find themselves burdened with the technical, administrative and financial rigors of multiple memberships. These include multiple membership contributions, coordinating a plethora of sometimes conflicting policies, programmes and institutional frameworks, divergent integration schedules, objectives and priorities, hence weakening the effective functioning and harmonised development of the RECs.
358. Rationalising the RECs would require the AUC to concentrate on providing guidelines to the RECs to articulate and harmonize sector policies, aimed at integrating into continental sector policies. In turn, this would facilitate the harmonisation of macro-economic and monetary policy convergence and the establishment of the continental financial Institutions, especially the African Central Bank and the African Monetary Fund.

Table 14: Membership of States in the various Regional Economic Communities and other Entities

Countries belonging to only 1 REC	Countries belonging to 2 RECs or entities	Countries belonging to 3 RECs or Entities	Countries belonging to 4 RECs or Entities
<ul style="list-style-type: none"> • Algeria-UMA • Mauritania-UMA • Cape Verde-ECOWAS • Namibia-SADC, • Guinea- ECOWAS 	<ul style="list-style-type: none"> • Morocco, -UMA, CEN-SAD • Tunisia, -UMA, CEN-SAD • Comoros,-IOC, COMESA • Egypt-CEN-SAD, COMESA • Sao Tome and Principe-ECCAS, CEMAC • Ethiopia,-IGAD, COMESA • Gambia, CEN-SAD, ECOWAS • Mozambique- SADC, COMESA • Malawi, SADC, COMESA • Zambia- SADC, COMESA • Zimbabwe-SADC, COMESA • South Africa- SACU, SADC • Botswana-SADC, SACU • Lesotho,- SACU, SADC • Somalia,- IGAD, CEN-SAD, COMESA • Cameroon,- CEMAC, ECCAS, • Republic of Congo, CEMAC, ECCAS, • Equatorial Guinea,- 	<ul style="list-style-type: none"> • Tanzania,-EAC, SADC, IGAD • Central African Republic-CEN-SAD, CEMAC, ECCAS, • Niger-ECOWAS, UEMOA, CEN-SAD • Chad- CEMAC, CEN-SAD, ECCAS • Cote D'Ivoire-ECOWAS, UEMOA, CEN-SAD • Guinea Bissau-ECOWAS, UEMOA, CEN-SAD • Angola-ECCAS, SADC, COMESA • Sudan, -IGAD, CEN-SAD. COMESA • Benin-ECOWAS, CEN-SAD, UEMOA • Kenya-IGAD, COMESA, EAC • Madagascar- COMESA, SADC • Mauritius-IOC, 	<ul style="list-style-type: none"> DRC- SADC, COMESA, CEPGL , ECCAS Burundi,-EAC, ECCAS, CEPGL, COMESA Rwanda,-CEPGL, ECCAS, EAC, COMESA

	<p>CEMAC, ECCAS</p> <ul style="list-style-type: none"> • Gabon, - CEMAC, ECCAS • Ghana-ECOWAS, CEN-SAD • Sierra Leone-ECOWAS, CEN-sad • Nigeria- ECOWAS, CEN-SAD • Libya- CEN-SAD, UMA • Liberia- ECOWAS, CEN-SAD 	<p>COMESA, SADC</p> <ul style="list-style-type: none"> • Seychelles- ,IOC, SADC, COMESA • Swaziland-SADC, COMESA, SACU • Uganda,-IGAD, EAC, COMESA • Senegal_ UEMOA, CEN-SAD, ECOWAS • Burkina Faso- CENSAD, ECOWAS, UEMOA • Djibouti- COMESA, IGAD, CEN-SAD • Eritrea-COMESA, IGAD, CEN-SAD • Central African Republic- CEN-SAD, CEMAC, ECCAS • Mali- ECOWAS, UEMOA, CEN-SAD • Togo- ECOWAS, UEMOA, CEN-SAD 	
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Harmonisation

- 359.** It would seem that rationalisation would ideally precede effective policy harmonisation within and among the RECs. A number of studies have been undertaken in that respect, including by the African Union, as directed by the Banjul Summit, the UN Economic Commission for Africa and the Global Coalition for Africa. Several scenarios have been proposed in this respect. They include 1) maintaining the status quo of eight RECs; 2) confining the number of RECs to the 5 Regions of the African Union, as contained in Decision CM/Res.464 of the 26th Session of the OAU Council of Ministers (23 February to 1st March 1976), 3) having only one REC recognised by the AU per region with the others to operate as sub-regional communities and rationalisation by merger, with the various RECs in a given region coming together to form only one REC to constitute the 5 RECs recognised in the Abuja Treaty.
- 360.** Regardless of whatever scenario is followed, membership of States in more than one REC is an impediment to harmonisation, if not addressed properly by the existing eight AU recognised RECs in a cooperative manner. Overlapping and duplicated mandates as a result of multiple memberships has led to a wastage of resources and resulted in financial and technical incapacitation.
- 361.** It would appear that the issue of rationalisation is not as acute in West and Central Africa as in other regions. In West and Central Africa, the role of ECOWAS and ECCAS as building blocks is not disputed by the sub-regional integration entities, namely, UEMOA and CEMAC, respectively. Nonetheless, CEMAC and UEMOA should concentrate only on activities that facilitate the strengthening of the building blocks in the two RECs. While ECOWAS and UEMOA have agreed to this end goal and ECOWAS is to ultimately absorb UEMOA, this is not the case in Central Africa. Efforts should be made to ensure that the same approach applies in Central Africa to ensure that only one REC prevails.
- 362.** COMESA and SADC are the RECs in Southern Africa. However, SADC includes some countries outside the region e.g. the Democratic Republic of Congo, Seychelles, Madagascar, Mauritius and Tanzania. The same applies to COMESA which includes both, but not all, Eastern and Southern African countries.

It is, however, encouraging to note that this situation is being addressed in tripartite regular consultations among SADC, COMESA and EAC. It would be desirable that SADC and ECCAS undertake similar consultations.

363. In Eastern Africa, 3 RECs have been recognised by the AU; IGAD, EAC and COMESA. There is, therefore, need for clarification for effective regional integration. First, IGAD's membership is entirely included in COMESA. The countries concerned are, therefore, fully involved in the integration process carried out by COMESA. Second, it appears that IGAD's focus is more on issues such as peace and security and desertification control, where it has built strong comparative advantages, rather than economic integration.
364. In North Africa, UMA consists of 5 countries, including Mauritania, a former member of ECOWAS. Although Egypt is in the region, it is not a member of UMA. Clearly, for UMA to be a viable REC, it should be constituted by all countries of Northern Africa, namely Morocco, Egypt, Libya, Tunisia, SADR and Algeria.
365. The Community of Sahel-Saharan States (CEN-SAD) includes countries from all regions except Southern Africa. Its stated main objective is to bring together countries from different regions in order to support the African Union in the process of political and economic integration of the continent. Specifically, CEN-SAD, as a non-integration scheme, aims at strengthening peace and security and socio economic development, and should support the African Union in mobilising resources to that effect.

Institutional Relations between the AU and the RECs

366. As provided for in the Abuja Treaty, as well as in the 1998 and 2007 Protocols on Relations between the RECs on the one hand and the AEC and AU on the other, respectively, it is the responsibility of the African Union to support the RECs in the areas of human, financial and technical development. The AU, so far, has been unable to provide policy, human and material support to the RECs.
367. The activities of RECs in various areas are, therefore, largely uncoordinated at continental level, within and across the RECs,

with the AU and with external partners. Despite attempts to set up coordinating mechanisms such as joint task forces and memoranda of understanding as cooperation modalities, the RECs still exhibit a low level of common policies, sector integration programmes and macro-economic convergence.

368. RECs provide a useful platform for the exercise of collective bargaining power in trade negotiation fora, where numbers carry weight. The Secretariats of RECs can potentially provide useful technical assistance in terms of studies, information dissemination and coordination of common positions. However, in the absence of a coordinating function by the AU and as a result of divergent and sometimes incompatible positions adopted by RECs regarding multilateral trade negotiations such as Economic Partnership Agreements with the EU, Africa tends to get unfavourable deals in international trade negotiations. In addition, competition for bilateral donor funds may cause national interests to trump over African ideals of solidarity and lead to Member States acting contrary to agreed principles and commitments made at regional level. A coordinated approach to donor financing and technical assistance may yield more results.
369. Adequate leadership at the continental level to steer the important work of the RECs in implementing the Treaty is urgently required. Member States at the RECs level and RECs themselves have been reluctant to cede significant aspects of their sovereignty to supranational regional or continental entities, respectively. This has contributed to non-compliance with Treaty obligations and ascribed roles at regional and continental levels. For example, under the 1998 Protocol, the Assembly could develop specific benchmarks to be attained at each stage of the Treaty. However, this is yet to happen.
370. The AUC does not play an effective role in coordinating the activities and programmes of the RECs as envisaged under the Treaty and the 1998 Protocol. A Coordination Committee comprising the Executive Heads of the OAU/AU Commission, RECs, AfDB, and the UNECA which was set up under the 1998 Protocol to provide policy orientation, coordinate and harmonise policies, monitor the RECs and mobilise resources for the implementation of the Treaty, has not been effective. Since the AU was established, the Coordination Committee has met only four times and not all the Chief Executives attended all meetings.

In addition, there was little discussion and almost no output on the outstanding issues of harmonisation and coordination of the programmes, activities and policies of the RECs. Further, no monitoring mechanisms to evaluate progress towards the achievement of the Abuja Treaty's goals and phases were designed or established by this Committee. The failure of the Coordination Committee to meet regularly and forge far-reaching strategies to facilitate the RECs has implications for the accelerated convergence towards the African Common Market as provided for in the Sirte Declaration.

371. The new Protocol on the Relations between the African Union and the RECs, adopted in July 2007 in Accra, takes into account the Sirte Declaration's call for an accelerated integration process for the RECs in the political and socio-economic fields. Important Organs of the AU that have grassroots links within RECs such as the STCs and ECOSOCC are also dealt with in the Protocol. The AUC is also to open a liaison office at the Headquarters of each REC. In addition, each REC is invited to establish a national integration structure in each of its Member States. In the Protocol, the RECs are also urged to invite their Member States to designate the same coordinating Ministries for the implementation of the Treaty.
372. Unlike its predecessor, the 2007 Protocol empowers the Union, through its principal Policy Organ, to enforce sanctions for non-compliance by RECs with Treaty obligations, particularly incompatible policies, measures, programmes and activities that lag behind the time limits of the Treaty or the Protocol. Where such culpability rests with a Member State of a REC, the Assembly shall address its directives to the relevant Union Member States. Although the RECs have indicated their willingness to sign the Protocol, this has not been done.
373. The Protocol increases meetings of the Coordination Committee to twice a year in order to provide greater technical leadership. The Protocol enhances the leadership role of the Commission by mandating it to determine the progress of regional economic integration within RECs, and to design appropriate programmes to accelerate the integration process. The central role of the Commission in providing direction is recognized by empowering it to set and monitor general and specific benchmarks. Immediate priority activities by the Union include monitoring, working

towards coordination and harmonisation of the RECs to accelerate integration and identifying within the RECs areas requiring assistance in order to achieve the objectives of the Treaty.

374. Regarding international trade negotiations, the Commission is also mandated to establish mechanisms to coordinate regional and continental efforts. It also provides for the sharing of inter-REC experience to harmonize cooperation with donors and international financial Institutions. RECs may not also enter into cooperation agreements with other international Organisations or third countries, if such agreements conflict with the objectives of the Constitutive Act, the Abuja Treaty and other AU Treaties. The effective implementation of this Protocol will serve to improve coordination among the RECs by providing meaningful leadership at the continental level through the AUC.
375. The above institutional framework, including the setting up of the Coordination offices at continental, regional and national levels, with their respective roles, would certainly contribute to improving the harmonisation of activities at various levels. However, the implementation modalities for more effective coordination are not spelt out.

Conclusion

376. From the foregoing analysis, it would appear that there is no coherence in the evolution of the decisions and treaties of the AU as they relate to the RECs. There is absence of follow-up and implementation mechanisms and consequently considerable problems have arisen. Overall, there is no effective harmonisation of the integration process throughout the continent in spite of several attempts to that effect.
377. Member States have not incorporated integration strategies into their programmes, policies and Institutions at all levels. The involvement of key non-state actors such as the private sector, civil society, academia and the public at large is limited.
378. Coordination in integration efforts between Member States within RECs has only taken place in limited areas. Member States have not given due regard to policy coordination and harmonisation of the key sectors stated in the Abuja Treaty. Attention has instead shifted to institution building, such as establishing Parliaments, Courts and external representation, in an ad-hoc rather than systematic manner.

379. Inter-RECs cooperation has rarely been undertaken at continental level under the auspices of the AU and on the occasions it has happened, it has occurred on an ad-hoc basis at the initiative of RECs themselves.
380. The relationships between the AU and the RECs, within the RECs and among the RECs and with AU and AfDB are, on the whole, well-covered by treaties and protocols of both the AU and the RECs. The problem, therefore, is not the lack of procedures, rules and regulations, but the non-implementation of what has already been agreed.
381. The relationship among AUC, the RECs, external partners, UNECA and the UN system and other Inter-Governmental Organisations are incoherent and inconsistent. The AUC has not been able to coordinate cooperation with these Organisations. The ongoing process of EPAs negotiations is an example of such inability.

Recommendations

382. The Panel recommends that:

- **Member States should live up to their commitment to integration by faithfully implementing decisions at national, regional and continental levels. National mechanisms such as the proposed NCAUA should be set up with necessary linkages to all national Institutions and stakeholders which should accelerate integrations;**
- **Member States should incorporate at country level the decisions taken at the RECs levels and at the AU level into their national legal systems, policy frameworks, and development plans;**
- **The Assembly should regularly review the progress of harmonisation in line with agreed plans, and the Chairperson of the Assembly should submit the report of the Assembly to each of the Assemblies of the RECs;**
- **The Assembly should adhere to its Decision AU/Dec.112 (VII) recognizing only 8 RECs;**

- **The RECs should focus on those activities that would fast track the objective of creating an African Common Market and establishing an Economic Community as contained in the Abuja Treaty;**
- **IGAD, whose membership is entirely included in COMESA, should entrust the latter with integration programmes and projects along the stages laid down in the Abuja Treaty while it focuses on issues of drought and desertification, peace and security;**
- **CEN-SAD should provide full support to the AUC in mobilisation of resources for financing continental and inter-regional programmes and projects, and should also play a supporting role in the acceleration of the integration process; (See Chapter 13)**
- **It should be made mandatory for the Coordinating Committee to present annual reports to the Assembly of the AU on the activities of the RECs in relation to the economic integration of the continent;**
- **The existing Coordination Committee should be made more strategic and hold regular meetings focused on RECs policies and, strategies geared towards the implementation of the stages contained in the Abuja Treaty. It is imperative that the Chief Executive should personally attend these meetings;**
- **Member States may need to consider reviewing their multiple memberships to RECs with a view to maximising their inputs to continental integration through the RECs as building blocks;**
- **The AUC should be pro-active role in the harmonisation and coordination of the RECs towards accelerating the process of creating an African Common Market and the African Economic Community. In this regard, the Panel urges the immediate signature of the Protocol by the Chief Executives of the AUC and the RECs; and,**
- **The AUC should develop the necessary internal mechanisms to strengthen its coordinating and harmonising role among the RECs and its leadership responsibility viz-a-viz external**

actors. To that end, the AUC should put greater emphasis on promoting inter-RECs cooperation, particularly the exchange of experiences based on their respective comparative advantages.

CHAPTER TEN: THE NEW PARTNERSHIP FOR AFRICA'S DEVELOPMENT

- 383.** In Declaration AHG/Decl. 1 (XXXVII), the African Heads of State and Government meeting in Lusaka, Zambia on 11 July 2001 at the 37th Session of the Assembly of the OAU, decided to merge two previous initiatives, namely, the Millennium Partnership for the African Recovery Programme (MAP) and the OMEGA Plan, as the New African Initiative (NAI). In the Declaration, the NAI was defined as “a pledge by African leaders, based on a common vision and a firm and shared conviction, that they have a pressing duty to eradicate poverty and to place their countries, both individually and collectively, on a path of sustainable growth and development, and at the same time to participate actively in the world economy and body politic”.
- 384.** The Lusaka Summit also decided to establish a Heads of State and Government Implementation Committee (HSGIC) consisting of fifteen Heads of State and Government, including the five initiating Heads of State (Algeria, Egypt, Nigeria, Senegal and South Africa). This number was subsequently increased to twenty at the inaugural Summit of the AU in July 2002 in Durban.
- 385.** In the Lusaka Declaration, the HSGIC was entrusted with the following functions:
- “Identification of strategic issues that need to be researched planned and led at the continental level;
 - Setting of mechanisms for reviewing progress in the achievement of mutually agreed targets and compliance with mutually agreed standards;
 - Reviewing of progress of the implementation of past decisions and taking appropriate steps to address problems and delays”.
- 386.** The New African Initiative was later renamed the New Partnership for Africa's Development (NEPAD), after receiving the support of external partners. In doing so, the objective was to ensure that NEPAD was conceived as an instrument for forging

partnerships among African countries, between African governments and their private sector, and between Africa and the international community.

387. At its first meeting on 23 October 2001, and in accordance with its functions, the HSGIC established the Steering Committee, composed of Personal Representatives of its members, and a Secretariat located in South Africa. The Steering Committee was specifically mandated to develop a strategic plan for marketing NEPAD at national, sub-regional, regional and international levels, so as to mobilize domestic support and facilitate private-public sector partnership in Africa as well as international partnership. Subsequently, the Declaration on the Implementation of NEPAD adopted by the AU Summit in Durban mandated the HSGIC to further elaborate the NEPAD framework and to ensure implementation of the NEPAD Initial Action Plan until reviewed by the next AU Summit in July 2003 in Maputo, Mozambique.

The Mandate

388. The Initial Action Plan of NEPAD focuses on the following three priority areas; namely, preconditions for sustainable development (political governance, economic and corporate governance), sectoral priorities (agriculture and market access, human resource development, infrastructure, environment) and resources mobilization. The implementation strategy of the Initial Action Plan aims at achieving higher rate of growth and increasing employment, reducing poverty and inequality, diversifying production structures, enhancing international competitiveness and promoting exports and regional cooperation, improving competitiveness.
389. The preconditions for sustainable development were entrusted to the African Peer Review Mechanism (APRM), which was to be voluntarily acceded to by Member States. A High Level Panel of Eminent Personalities was set up to proceed with the country reviews as and when they are requested.

Execution of Statutory Functions and Audit Findings

Pre-conditions for sustainable development

390. NEPAD has successfully operationalised the APRM. As of December 2007, 25 countries have voluntarily acceded to the Mechanism. Among them, 5 countries have undertaken their

reviews (Kenya, Rwanda, South Africa, Ghana and Algeria), and 6 are in the pipeline (Benin, Uganda, Mauritius, Nigeria, Mozambique and Lesotho).

391. Each review leads to a National Programme of Action whose implementation is diligently monitored by the APRM Panel, which keeps the HSGIC duly informed through the submission of annual progress reports. The Peer Review Mechanism is also engineering intra-African technical cooperation for development; identifying best practices during each country's review and building inter-country cooperation around them. This could be an incentive for non-members to join the Mechanism.

Sectoral priorities

392. For the sectoral priorities, NEPAD Secretariat has prepared a Strategic Action Plan for the period 2004 – 2007. The components of the Plan include the Comprehensive African Agriculture Development Programme (CAADP), the Short-Term Action Plan (STAP) for infrastructure Development, the Science and Technology Consolidated Action Plan, the Environment Plan, the AU NEPAD Health Strategy, the Education Action and the Tourism Action Plan. These plans are being implemented through national governments and RECs.
393. According to NEPAD progress reports, several projects were identified for support in the field of infrastructure, particularly in the fields of interconnection of power systems in most regions of the continent, and promotion of transport corridors. A number of studies were carried out which are awaiting implementation.
394. In the field of agriculture and food security, NEPAD has initiated the Sustainable Land Management in the framework of CAADP. Several countries have joined the initiative. A similar initiative known as e- Business schools was taken with respect to Science and Technology. For other priority sectors such as Health and Education, NEPAD concentrated its activities essentially through building partnerships (e.g. Global Health Workforce Alliance, Global Funds to fight Aids, Earth Institute, etc.). This has been done, at the initial stage, through the organisation of joint meetings.
395. Overall, while expressing its appreciation for NEPAD Secretariat efforts in building external partnerships, the Panel is of the view that the spread of its activities has represented a major

impediment that needs to be addressed. The main objective of NEPAD is to contribute in accelerating the continental economic integration and transformation process.

Resource Mobilisation

- 396.** NEPAD's focus being mainly at national and regional (RECs) levels, its resource mobilisation activities consisted mainly in providing them with the necessary support in this respect. Thus, information made available to the Panel includes only financial support expected from development partners, including the support of the Summit of the Group of Eight most industrialized countries (G8) in 2003 to market access, agriculture and infrastructure, and in 2004 in Gleneagles (increase of Official Development Assistance to Africa by US\$ 25 billion per year and doubling this by 2010, and multilateral debt cancellation for 14 African countries).
- 397.** The Panel recognizes the active role played by NEPAD in facilitating the provision of external support. It is, however, of the view that NEPAD could play a pro-active role in domestic resource mobilisation, particularly from the African Private sector. This would greatly contribute to the financing of projects, particularly in the areas of transport infrastructures and energy.
- 398.** Overall, the Panel recognizes the role played by NEPAD in engaging the RECs in the implementation of its Strategic Action Plan and its various sectoral components. This role would be essential when the NEPAD would be fully integrated in the programmes and processes of the African Union, as discussed in the next section.

Integration of NEPAD into the African Union structures and processes

- 399.** The issue of the relations between NEPAD and the Organs of the Union, particularly the Commission, has occupied the central stage since 2003. During its second meeting, the HSGIC specifically "emphasized that NEPAD is a mandated initiative of the African Union (AU). Therefore, there should be greater cooperation and coordination between the AU and NEPAD Secretariats, as well as with the NEPAD Steering Committee." It also "reiterated that one of the goals of NEPAD is the promotion of regional integration. They, therefore, called on the Regional

Economic Communities (RECs) as the building blocks, to speed up the implementation of their integration programmes.”

400. Subsequently, as a follow-up, the Assembly of the Union adopted, at its second ordinary Session in Maputo, Mozambique, in July 2003, Declaration Assembly / AU/ Decl.5 (II), in which NEPAD was recognized as an AU Programme. The Declaration specifically called for specific actions with a view to integrating NEPAD into African Union’s structures and processes, including, inter-alia:
- (i) Establishing“ appropriate linkages between the NEPAD Steering Committee with the relevant Organs of the African Union including the Permanent Representatives Committee and the Executive Council”;
 - (ii) Formalising “the working relations between the AU Commission and the NEPAD Secretariat, especially for programme co-ordination and harmonisation;” and,
 - (iii) Developing “a sustainable funding mechanism for NEPAD after its complete integration into the AU structures and processes”.
401. In order to speed up the implementation of the Maputo Declaration, the AU Commission and the NEPAD Secretariat prepared a joint proposal submitted to the HSGIC in Algiers, Algeria in March 2007. The thrust of the Algiers Decision of the HSGIC was that:
- (i) NEPAD should remain a program of the AU;
 - (ii) A Planning and Coordinating Mechanism should be created after a study to be commissioned;
 - (iii) HSGIC would be strengthened and would retain its present role
 - (iv) The operations of the NEPAD Coordinating mechanism should continue in South Africa (so as) to provide continuity and an excellent atmosphere to carry out its new roles;
 - (v) A transitional period of one year is needed for a smooth streamlining of NEPAD activities and processes with those of the African Union Commission; and,
 - (vi) A Coordinating Unit should be created within the AUC to elaborate a detailed roadmap on integration of NEPAD

and creation of the NEPAD Planning and Coordinating Authority.

402. The HSGIC Decision was submitted to the Assembly of Heads of State at its Ninth Ordinary Session in Accra, Ghana. The consideration of the decision by the Assembly was postponed until a review meeting, which was scheduled for Dakar, Senegal in November 2007. Since the meeting has been postponed to a later date, the Panel is of the view that the Decision of the HSGIC should be endorsed by the Assembly, and that the proposed study for setting up the NEPAD Planning and Coordinating mechanism (Authority or Agency) be undertaken urgently. Furthermore, the Panel noted that the Government of South Africa currently bears the bulk of the burden of the operational cost of NEPAD.

Recommendations

403. **The Panel recommends that:**

- **Member States should meet their commitments towards the operational costs of NEPAD;**
- **NEPAD should be proactive in its support of fast-tracking the continental integration of Africa by supporting Pan-African and interregional projects and programmes; and,**
- **With respect to the APRM, the Panel recommends that countries that have not yet should join and support the process and that the process should be accelerated to cover all African Countries. Furthermore, in order to maintain the credibility of the mechanism, all countries concerned should ensure that the national follow process is conducted with the required full autonomy.**

CHAPTER ELEVEN: FINANCING THE AFRICAN UNION AND MANAGING ITS RESOURCES

Financial Resources of the African Union

- 404.** This chapter examines the finances and resources of the African Union, the management of these resources, and possible alternative sources of financing for the African Union.

Analysis of Income and Expenditure

- 405.** The budget of the Union is drawn up by the Chairperson of the Commission, who is the Accounting Officer, and adopted by the Assembly after consideration by the Executive Council upon recommendation of the PRC. The financial year of the Union runs from January 1 to December 31. There have been three main sources of revenue for the African Union; namely, contributions by Member States according to a scale of assessment approved by the Executive Council; additional voluntary contributions also by Member States to the Solidarity Fund; and, thirdly, funds made available by external partners. Since 2005, budgetary expenditure is divided into two main categories: the operating costs; and, capital expenditure and programmes.
- 406.** Table 15 gives an indication of the evolution of the budget from 2004 to 2007. The figures provided do not include the resources raised under the Peace Fund. In the year 2005, the structure of the budget changed by the inclusion of the programme costs. The contributions assessed to Member States from that year onwards is arrived at, based on the total budget estimates minus the projected contributions to be received from external partners, part of arrears of contributions, and other miscellaneous receipts.

Table 15: Summary of the AU Approved Budget of the African Union

Year	AU Approved Budget (in US\$ '000s)					
	Approved Budget	Assessed Budget to Member States	Budget requested from External Partners	Income receipt		Total Annual Income
				Income received from Member States	Income received from External Partners	
2004	43,000	40,422	2,578	25,632	10,560	36,192
2005	158,384	60,228	88,995	48,822	25,542	74,364
2006	136,004	69,389	66,615	73,890	15,003	88,893
2007	132,988	96,449	36,539	63,773	10,101	73,874
TOTAL 2004-7	470,376					273,323

Table 16 Summary of the Peace Fund (Off-Budget)

Year	Off-Budget Peace Fund (in US\$ '000s)					
	Contributions from Member States	Donors' Contributions	Total income received	Member States' Contributions as a percentage of income received	Actual Expenditure	Expenditure as a percentage of Income
2004	1,794	107,652	109,446	1.6	80,541	73.6
2005	2,737	122,892	125,629	2.2	104,796	83.4
2006	2,786	179,622	182,408	1.5	169,888	93.1
2007	2,940	142,350	145,290	2.0	109,082	75.1

407. From Table 15, it is clear that the Commission has begun to attract some amounts of bilateral and multilateral funding. The Peace and Security Department, in particular, has managed to secure large grants from external partners. Table 16 captures off-budget income and expenditure within the Peace Fund. It does not capture unanticipated income such as that raised and spent on peacekeeping missions.

Budget Management and Procurement Procedures

408. Alongside the Peace and Security Department, AU Organs such as the pan-African Parliament, the Court of Justice and various departments as well as RECs have received significant volumes of assistance in the form of grants from external partners. However, the Panel has learnt that the majority of these grants are currently experiencing delays in their spending and consequently, in programme implementation. For this reason, a large number of contributions have had to have their deadlines extended.

409. It should be noted that before 2006, there were no centralised controls on the funds raised by AU Organs and departments. This enabled the introduction of unapproved activities by Commission departments and Organs funded by external partners in the course of the year. Whereas the overall variance between income and expenditure appears to be fairly close in Table 17, it is important to note that this does not reflect the level of implementation of the approved activities. For example, in 2006, for an expenditure of about 88 percent, only 50 percent of all approved activities were delivered. The mid-year review carried out in 2007 revealed that if the establishment costs, namely; salaries and office overheads were excluded from the analysis, most Directorates would have under-spent by 70-90 percent.

Table 17: AU Income Realisation (in US\$ '000s)

Year	Total Annual Income	End of Year Expenditure
2004	36,192	39,354
2005	74,364	51,258
2006	88,893	78,863
<u>2007</u>	73,874	71,185

410. The reasons for budget under-performance are both structural and managerial. The Panel notes that the current annual cycle of budgeting presents a considerable challenge for the Commission. The annual approval process consumes over a month each year on the part of the PRC and the Commission's departments, whereas budget preparation itself within the Commission starts six months before the end of the financial year. Furthermore, attention is not sufficiently paid to the need for programme budget implications when proposing programmes. The current annual budget approval cycle of the Commission is inconsistent with the relevant article of the Statutes of the Commission that provides for the preparation of the Programme and Budget of the Union every two years.
411. While budgets are approved in the beginning of every year, Member States' contributions trickle in throughout the year and some at the end of the calendar year before the January Summit. This practice has affected the ability of the AU Commission to implement its programmes, particularly, in the beginning of the financial year, due to unavailability of funds.
412. The recent decision allowing for five Member States to contribute 75 percent of the budget has helped to resolve some of the issues arising from this problem. However, the payment of these contributions is not made in time, thus affecting the Commission's capacity to implement fully its approved activities.
413. The procurement system is a long, cumbersome, and notoriously predictable one. The Panel learnt with concern that it could take up to five months before equipment essential for the proper running of the Commission is delivered. Each transaction is accompanied by the need to secure at least eight signatures. Professional staff proceeding on official missions spend too much time chasing and processing their tickets and daily subsistence allowances.
414. The Panel further noted that rigour is not sufficiently exercised in the procurement of air tickets and given the number of missions/travels undertaken by staff per year, the strain on the personnel in the relevant department dealing with such issues can lead to over-expenditure and waste of funds. The Panel also noted that the recommendation in the Ernst and Young 2006

Report to separate the Travel Unit from the Procurement Unit has not been carried out. As Table 18 shows, the volume of travel is a major cost to the African Union. Consequently, the procurement of tickets is an area that deserves closer consideration by the Management.

Table 18: Expenditures on Travel within the AUC

YEAR	No. of Travels	Cost of Travel	Expenditure of Official Missions
2004	2,646	5,361,013.24	4,425,481.61
2005	4,500	8,780,550.81	7,295,530.16
2006	5,241	8,940,141.59	7,428,917.49

415. The Ernst and Young Institutional Assessment Report of June 2006 has addressed a number of issues related to the budget. They have made recommendations to address the shortcomings. The area of procurement has been addressed in detail and a number of recommendations made. The Panel supports these recommendations and is satisfied that some steps have been taken by the Department of Finance to implement those recommendations with the support of the Crown Agents firm, which have been contracted to assist in that domain. However, no internal action has been taken to adopt the new international standards and procedures developed. The Panel has further been informed of instances where management has flouted established financial and procurement procedures.
416. These lapses are of concern to the Panel. Whereas the Member States have been seized with the issues that surround the management of the Conference of Intellectuals in the Diaspora held in Dakar, the Panel has found a similar incident in the launch of the African Union passport in May 25, 2007. While the introduction of an African Union passport is within the objectives of continental integration, the way it was handled leaves much to be desired. The Panel has learned that over 40,000 passports were produced without budget approval, appropriate tendering and prior to a Decision by Member States to recognise the passport for wider circulation than just the staff of the African Union. As this audit was being concluded, the Panel further

learned that Management might be considering paying the supplier from extra-budgetary funds.

417. Another recent issue that has been brought to the attention of the Panel is the signing of an agreement between the Commission and MIDROC Ethiopia on November 19, 2007. The agreement provides for the construction and management of a five star hotel on land bequeathed to the African Union by the government of the Federal Democratic Republic of Ethiopia (FDRE). The legal basis for the donation by the government of the FDRE is governed by Article 24(1) of the Financial Rules and Regulations which states that “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.”
418. According to documents with the Panel, a request for proposals was prepared in July and circulated to interested parties to submit their respective proposals for consideration. The request for proposals was posted in one language only on the website for two weeks after which MIDROC Ethiopia was awarded the contract. The Panel understands that the Commission has allocated between 15-20,000 square metres of adjoining land to the current site of the African Union Commission free of charge to the private developer.
419. The Panel is unaware that any serious feasibility analysis has been done to ascertain its current and future benefits to the African Union. The current and projected value of the land was not monetised. Yet, according to the request for proposal, “the land will be given free of charge to a private developer...(and) the AU Commission will not have any claim of interest or share on the hotel project.”
420. It is clear that appropriate procedures have not been followed in two respects. Firstly, the AU Tender Board was not consulted in accordance with the Financial Rules and Regulations. It is, therefore, evident that in the preparation of documents, approval of the contractor and legal interpretation of the implications of offering land free of charge, procedures and processes within the Commission have been flouted.

421. Secondly, the Panel is concerned that the Commission did not consult the Council of Ministers through the Permanent Representatives Committee before signing the agreement.
422. Due to the limited time available to the Panel, it was not possible to exhaust all avenues of enquiry and work out in full their implications. Consequently, the Panel urges further investigation into the handling of the passports and hotel projects.
423. Both staff within the Commission and external partners also agree that the fund management capacity within the AUC has been weak. For the first few years of the Commission, there was no focal point for external partners. These earlier problems of poor partner coordination and inadequate and irregular funding sources have since improved with the establishment of a focal point for external partners.
424. The 2005 Monitoring and Evaluation report further called for capacity-building of the Commission to effectively manage strategic planning and reporting cycles, harness new information and communications technologies and comprehensively, accurately and timely report both to Member States and external partners.
425. The 2006 report has also highlighted the consequences of over ambitious activity planning coupled with over-estimation of expected costs. These had resulted in under-expenditure, unnecessary drain of finances to the detriment of more deserving projects.
426. It is clear that management accounts are not readily available for use by Directors to monitor and forecast expenditure for planning purposes. Furthermore, the repeated mention of weaknesses at the departmental level to be able to secure fast, accurate and acceptable procurement of staff, goods and services suggests that assigning financial and administrative assistants to the departments would strengthen their capacity to follow up finance and administrative matters within the appropriate departments.
427. The Ernst and Young audit recommended in 2006 the need for maintenance of an updated set of central financial store records and a maintained and updated fixed asset registry. These critical recommendations have not been implemented. There is currently no reliable asset tagging or comprehensive list of equipment,

furniture both in the Commission and in the households of the elected officials, leaving assets worth millions of dollars at risk. The Panel urges immediate action to regularise this situation.

428. The internal audit reports for 2005 and 2006 also cite critical shortcomings in budget execution, expenditure controls, and cash management at the headquarters as well as in AMIS, the Inter-African Phyto-sanitary Council in Yaounde and the AU Representational office in Washington.
429. Of twenty-seven recommendations made by the Internal Auditors, subsequent checks show that twelve have not been implemented and three only partially . Key among them include the neglect by the Directors to review their expenditures against their budgets quarterly, the absence of an integrated financial information system and the preparation of budgets against available resources rather than purely on the ambitions of the departments.
430. The Panel notes the concern by the Internal Auditors with respect to the lack of monitoring of variances in the number of staff from month to month. This ties in with the Ernst and Young warning that there is a lack of reconciliation between the staff list and payroll. The Panel notes that the Commission has taken action to greatly reduce the number of floating staff with their redeployment to vacant posts or severance. In this context, and on the basis of the above findings, strengthening of the external audit capacity across all the Organs of the African Union is an imperative.

Recommendations

431. The Panel recommends that:

- **The practice of buying open tickets should be further audited to ensure that the Commission is receiving value for money and that expenditure is not being unnecessarily incurred;**
- **The Travel Unit should be separated from the Procurement Unit, it being understood that, international procurement procedures and standards are followed;**
- **The Ernst and Young recommendation to the effect that all other “procurement issues be managed centrally and any exceptions such as decentralising some**

procurement operations be duly documented and approved in Council” should be implemented;

- **In recognition of the large volume of tickets bought, the limited number of staff in the Travel Unit, and in the interests of best governance practice, a travel agency be appointed following a transparent tendering process;**
- **All Member States should pay their dues in time. In that respect, attention should be given for a deadline to be set for payment of assessed contributions. A decision needs to be taken by the Assembly for Member States to pay their contributions not later than two months after the adoption of the AU budgets;**
- **The urgent adoption of the procurement manual and the implementation of related recommendations made in the Ernst and Young 2006 report should be carried out without delay;**
- **The Commission should indicate invariably the Programme Budget Implications while presenting programmes for approval;**
- **Further investigation into the handling of the production of African Union passports and the construction of a hotel on African Union land should be carried out;**
- **Posts of financial and administrative assistants should be established in all departments;**
- **Directors must be held accountable for reporting promptly and accurately on the level of budget variances;**
- **The PRC and the Commission should adhere to the stated provision in the Statutes of the Commission of developing a two-year programme budget rather than the current practice of annual budgeting;**
- **The PRC and the Commission should hold annual mid-term reviews;**

- **The Commission should take necessary measures to comply, without delay, with the recommendations of internal and external auditors; and,**
- **An African firm of international repute should be appointed for a period of four years, on the basis of an open tender, by the Council to audit the accounts of all AU Organs and report to the Council.**

Alternative sources of financing

- 432.** The mandate and the structure of the AU make it clear that substantial financial resources are required to enable its Institutions to deliver on the targets determined and desired. If the AU is to succeed with its ambitious agenda and contribute effectively to claiming the 21st Century for Africa, the Commission must then be able to mobilise financial resources on a scale much higher than its present budgetary provisions. It is of critical importance that the AU disposes of an adequate, predictable and sustainable level of financing.
- 433.** The resources generated through internal sources, that is, from assessed contributions, is hardly sufficient to cover administrative costs, thus leaving little or no surplus for the financing of programmes and projects of the AU. Of late, the AU has managed to mobilise external resources to meet part of its budgetary requirements. However, the African Union must put in place and develop appropriate self-financing mechanisms. Member States must continue to make contributions to the funding of Union even after the Union has attained a high degree of financial autonomy. This will ensure the collective ownership of the institution and its programmes and would serve as a demonstration of their commitment to the achievement of the laudable objectives of the AU. Member States cannot expect Africa's development partners to make significant contributions to the financing of AU activities, if they do not demonstrate their own commitment to the Union through funding.
- 434.** There is, however, a need for the implementation of the AU's development agenda to acquire a momentum of its own and free it from too much dependence on the ability of Member States to make assessed contributions on the one hand, and the

willingness of its development partners to fund its programme and projects, on the other hand.

435. With a view to addressing this concern, the OAU first and now the AU have tried to give attention to the issue of additional sources of funding. In this respect, the Panel notes that the commissioning of many studies and their presentation to policy Organs of the African Union has not resulted in the required decisions.
436. A number of these studies have made practical suggestions, including a Union Community Levy, Value Added Tax and taxes on air travel. For instance, a study carried out by the AU Commission indicates that a levy at a rate of 0.5 percent on 88 percent of cif value of imports from third countries would have generated as much as US\$600 million in 2002. This is ten times the current budget of the AU. Similarly another recent study by the AU based on air passenger surveys on air travel to and from Africa, shows the high potential of such a source. Collection of revenue from this source will not require complex administrative machinery.
437. There is need to expedite decisions in this respect and it behoves Member States to take the process forward. The Panel urges the Council to discharge its responsibilities by acting decisively to approve a common mechanism for raising alternative sources of fundraising.

Recommendation

438. The Panel recommends that:

- **A tax on airline tickets within Africa should be levied without further delay.**

CHAPTER TWELVE: THE IMPERATIVE OF INSTITUTIONAL DEVELOPMENT AND MULTIPLIER EFFECT OF THE AUDIT THE NEED FOR ROADMAPS AT NATIONAL, REGIONAL AND CONTINENTAL LEVELS

439. Eight chapters of this report (Chapters 4-11) have focused on the audit of all the Organs and financing of the African Union and managing its resources. On the whole, 159 recommendations have emerged from the audit findings of the Panel. Not surprisingly, about 40 percent of these are on the AU Commission alone.
440. This audit of the organs of the African Union is historic. It has never been done before, not to talk of its being undertaken in such a comprehensive manner as the Panel's Terms of Reference indicate. No less significant is the fact that all the organs audited have been involved in the process. It is thus a kind of self-assessment for them. Finally, it should be underscored that the Panel has not perceived the audit as an end in itself. Rather, it is conceived as the launching pad for rendering the African Union more dynamic so that it can provide a higher level of service that would pave the way for the achievement of the political and economic integration of Africa in the shortest time possible. The recommendations of the Panel, if approved and implemented, would help to achieve this objective. The audit, it must be emphasized, is not judgmental nor is it a scoring game. Its purpose is to inject new vigour into the Organs by addressing their weaknesses and consolidating their strengths to ensure that all the players at the national, regional and continental levels work in tandem.
441. The audit must also not be seen as a one-shot-in-the-arm affair. Organisations and institutions that regularly look back in order to look forward are invariably well-focused, resourced, achievement-oriented and sustainable. It is, therefore, essential that the recommendations are taken as a package and are fully implemented. In addition, the AU must internalise the audit culture so that progress towards achieving Africa's political and economic integration can be advanced. The price of economic and political solidarity and progress is eternal vigilance.

442. To ensure that this happens, it is important to clarify who does what; to provide a timeframe for different actions; and, to keep the process of implementation under close monitoring and scrutiny. It is, therefore, imperative that all the Organs and Institutions of the AU should be involved. Each of them, or, clusters of them (where the implementation of the recommendation involves more than one organ or institution) should prepare, during the next 4 to 6 weeks after the approval of this report by the Assembly, roadmaps and plans of action and submit them for scrutiny and audit to ascertain that they constitute adequate responses to the challenges posed by the recommendations.

Roadmaps for Institutional Development

443. As Table 19 indicates, the actors that would be responsible for the implementation would be at all levels: continental, regional and national levels. To assist in the preparation of the roadmaps, Table Y has summarised the recommendations and identified the organs/institutions that should be involved in implementation and should therefore take the lead in the preparatory work in putting together the roadmap. However, there are recommendations that can and should be implemented immediately and without delay once a Decision is made by the Assembly. The remaining requires the preparation of roadmaps by the identified actors within the timeframe of 4 to 6 weeks as suggested above.
444. In paragraphs 449-456, an attempt has been made to identify these recommendations requiring immediate decisions in order to kick-start the process which the Assembly might wish to consider and approve for immediate implementation. This table is far from being comprehensive, but it provides a useful start.
445. Finally, the cost implications would need to be worked out and information provided as to whether the costs are to be met from existing resources or whether additional resources would be required.
446. It would be necessary to set up an ad hoc mechanism to which the various roadmaps would be sent for analysis and authentication. In addition, it would provide an overall picture of the progress made in kick-starting the implementation of all the recommendations to the governments and peoples of Africa. Thereafter, the Commission would include it in the annual

progress report on the implementation of the Decisions of the Assembly, which, the Panel has recommended, should be the first item on the agenda of every ordinary session of the Assembly.

447. The roadmaps that should emerge from the recommendations must, as is argued in the Report, address the tightening of the functions of the various organs of the AU and streamlining their operations for the achievement of greater synergies and effectiveness. Because of this, it is essential that those who are in charge of these organs should prepare the roadmaps in the first instance rather than having them prepared from outside and for them. It is by so doing that the ownership of the roadmaps will belong to the organs themselves and sustainable institutional building will become a reality. It must always be remembered that it is institutions that primarily fix the destiny of nations and organisations.
448. Finally, the highest priority must be accorded to the implementation of the recommendations and the roadmaps. The Panel is of the view that the year 2011 should be the year by which all the recommendations will have been fully implemented. The Assembly should receive a final report thereon at its Ordinary Session of 2012, which is the year of the tenth anniversary of the African Union. The Panel would also like to propose that an audit review should be undertaken every five years, beginning 2012.

Table 19: Panel Recommendations for the Elaboration of Roadmaps and Plans of Action

AU Organ/African Entity /Institution	Recommendations	Actors at various levels
Assembly	<ol style="list-style-type: none"> 1. The Assembly should revert to one ordinary annual session. If necessary, an Extraordinary Session can be convened as appropriate. 2. The Assembly should endeavour to adopt a thematic approach to its annual meetings and in each meeting announce the theme of the subsequent meeting 3. The first substantive item of each Summit should be dedicated to the consideration and review of the implementation of previous decisions. 4. In order to ensure policy continuity, the Chairperson of the Assembly should, henceforth, serve for two years. 5. The Heads of State and Government should, after each Summit, endeavour to report on the decisions reached at summits to their populace, Assemblies and National Commissions for Integration. 6. A mechanism should be put in place for monitoring the implementation of the Assembly's 	<ol style="list-style-type: none"> 1. Assembly 2. Council, PRC, Commission with inputs from AU organs and RECs 3. Assembly, Council 4. Assembly 5. Heads of States and Government, Ministries in charge of Integration 6. Commission, Council, RECs, Heads of States and Governments

	decisions at various levels.	
Executive Council	<p>7. The Executive Council should be redesignated as a Counsel of Ministers.</p> <p>8. Different ministers according to the agenda will attend meetings of the Council of Ministers.</p> <p>9. The Ministers of Foreign Affairs will constitute one of the Councils of Ministers and in the event that the agenda of a Council of Foreign Affairs Ministers involves elements pertinent to other sectors, relevant Ministers will be invited to join</p> <p>10. The brief for each Council will flow from the powers and functions of the Executive Council stipulated in Rule 5 of the Rules of Procedure.</p>	<p>7. Assembly to make decision, Commission to prepare the legal documents in consultation with PRC</p> <p>8. Assembly to decide</p> <p>9. Assembly to decide</p> <p>10. Assembly to decide</p>
Specialised Technical Committees	<p>11. The sectoral Council of Ministers will substitute the STCs as provided for under Article 14 (3).</p>	<p>11. Assembly, Council</p>

Pan African Parliament	<p>12. The PAP should comply with Decision 98 of the Council which was confirmed by Assembly Decision 39(III);</p> <p>13. The Clerks of National Parliaments should immediately inform PAP of the cessation of the membership of their Parliamentarians whose tenure expires;</p> <p>14. PAP should put in place policy guidelines on its relations with other organs of the Union subject to the concurrence of the other organs of the Union and the approval of the Assembly.</p> <p>15. The Code of Conduct for PAP members identified, as a deliverable for 2005 should be finalized.</p> <p>16. The PAP President should present reports to the Assembly and report to the PAP on AU Summit outcomes.</p> <p>17. PAP should work closely with regional Assemblies to streamline their activities</p>	<p>12. Assembly, Commission, Council</p> <p>13. Member States, National and regional parliaments</p> <p>14. PAP, Commission, Assembly, AU organs</p> <p>15. PAP</p> <p>16. PAP</p> <p>17. PAP, regional Assemblies</p>
African Court of Justice and Human rights	<p>18. The process of merging the African Court of Justice with the African Court on Human and Peoples' Rights should be accelerated.</p> <p>19. The African Court of Justice should be established with the competence to function as African Court of Appeal</p>	<p>18. Assembly, Council,</p> <p>19. Assembly, Executive Council</p> <p>20. Member States</p>

	<p>20. The competence of the Court should be accepted by all Member States of the AU</p> <p>21. The Assembly and the Executive Council should ensure that decisions of the Court are complied by Member States</p> <p>22. Member States should accept the oversight role of the ACHPR</p> <p>23. The ACHPR should review its partnership arrangements with non-African actors with the view to correcting the perception of being overly donor-dependent</p> <p>24. The ACHPR should review its budget proposal to the AUC with a view to allocating more of its resources for the delivery of its mandate</p> <p>25. It would be important for ACHPR to establish links with other Organs of the AU</p> <p>26. Consideration should be given to the adoption of a non-renewable mandate for the Commissioners for one term of office for six years only.</p> <p>27. Article 19 of the Protocol establishing the Peace and Security Council should be used to ensure enforcement of the recommendations of the ACHPR</p> <p>28. The Union should ensure that its judicial Organs are provided with the necessary qualified and experienced human resources as well as other material and financial resources to enable them discharge their mandate effectively</p> <p>29. State Parties should be reminded of their obligation to grant authorization to staff members of the ACHPR to visit their countries</p> <p>30. The ACHPR and the AfCHPR should ensure that they work closely together in order to avoid duplication of efforts.</p>	<p>21. Assembly, Council, Member States</p> <p>22. Member States</p> <p>23. ACHPR</p> <p>24. AUC, ACHPR</p> <p>25. ACHPR</p> <p>26. AUC, ACHPR</p> <p>27. ACHPR</p> <p>28. AUC, PRC and Council</p> <p>29. Member States</p> <p>30. ACHPR and AfCHPR</p>
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The Financial Institutions	<p>31. The setting up of an ad hoc Committee of Experts, comprising representatives of three countries selected to host the three financial institutions (Cameroon, Libya and Nigeria), AACB, the AU Commission, UNECA, AfDB and the RECs. The Committee, which should be presided by an independent person who is committed to pan-Africanism, will prepare a roadmap for the establishment of the three financial institutions.</p> <p>32. The ad hoc Committee should submit a roadmap within a timeframe of two to three months. The roadmap will be submitted to the mechanism proposed in Chapter 12.</p>	<p>31. Assembly, AUC, AACB, UNECA, AfDB, host countries</p> <p>32. The ad hoc Committee</p>
AU Commission	<p>33. The Chairperson should exercise full authority within the Commission as the Chief Executive and Accounting Officer</p> <p>34. There should be a compulsory induction for all Members and Staff of the Commission that clearly states the <i>modus operandi</i> and code of conduct of the Commission</p> <p>35. All staff members of the Commission should be required to acquaint themselves with the Statutes of the Commission and the relevant Rules of Procedure of other Organs</p> <p>36. The Chairperson and Deputy Chairperson should be men and/or women with known vision and a commitment to pan-Africanism and continental integration. They must have experience in governance. Their election should be unrelated to their regions</p> <p>37. The election of the Commissioners should focus on core competencies. Each regions will provide at least two, but preferably more candidates for election</p> <p>38. The election of the Commissioners should be de-linked from the portfolios that they will occupy. The responsibility for assigning portfolios, monitoring and managing the performance of the Commissioners should be assumed by the Chairperson in his capacity as Chief Executive Officer of the Commission</p>	<p>33. AUC Chairperson</p> <p>34. AUC</p> <p>35. AUC</p> <p>36. Member States, Council</p> <p>37. Member States, Council</p> <p>38. Assembly, Council</p>

	<p>39. The portfolios of the Departments of the AU Commission should be rationalised by the Chairperson of the Commission in consultation with the Chairperson of the Assembly and in accordance with agreed strategies and priorities of the Union</p> <p>40. The tenure for the elected posts should remain four years. For the purpose of the impending election, and in order to avoid the problem of simultaneous elections of the members of the Commission, the elections of the Chairperson and Deputy Chairperson should take place six months prior to the election of the Commissioners.</p> <p>41. For subsequent elections, the Chairperson and the Deputy Chairperson should be elected one year before the Commissioners</p> <p>42. In the light of the above recommendations and in view of the special circumstances prevailing, it is imperative that the Assembly adopt modalities for the election of the next Commissioners.</p> <p>43. The Secretary to the Commission should be the head of the African Union Commission staff and be responsible for inter-departmental and directorate coordination;</p> <p>44. Mandatory monthly meetings of the Commissioners to be chaired by the Chairperson and serviced by the Secretary to the Commission should be held. The Secretary to the Commission should prepare and circulate the minutes of the meetings in the working languages of the Union;</p> <p>45. A schedule of monthly meetings of Directors should be adopted. These meetings should be held before that of the Commissioners, convened and serviced by the Secretary to the Commission. The Directors' report should be submitted for consideration at the monthly meetings of the Commissioners;</p> <p>46. Prior to the budgeting and reporting process, there should be an annual inter-departmental planning, reporting and learning retreat of Commissioners, Directors and other relevant staff;</p> <p>47. The Secretary to the Commission should monitor the submission of mission reports and ensure that the Chairperson is regularly briefed;</p>	<p>39. AU and AUC Chairpersons, PRC and Council</p> <p>40. Assembly, Council</p> <p>41. Assembly, Council</p> <p>42. Assembly</p> <p>43. Assembly</p> <p>44. AUC</p> <p>45. AUC</p> <p>46. AUC</p>
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	<p>48. A shared intranet system should be established for the exchange of non-public Commission documents and departmental folders for plans, budgets and progress reports;</p> <p>49. The minutes of the Directors' meetings should, with the appropriate sensitivity, be made available to all staff members of the Commission, thereby bridging the communication divide;</p> <p>50. The proposed e-governance project linking all AU Organs, RECs and Member States should be accelerated to facilitate greater links between departments and relevant line-ministries concerned with regional integration; and,</p> <p>51. The Office of the Secretary to the Commission should be strengthened in terms of human resources and logistics to deliver effectively and efficiently to enable it to meet the new responsibilities to be assigned to it.</p> <p>52. A Unit appropriately staffed in the office of Chairperson of the Commission should serve as the link to the Chairperson of the African Union.</p> <p>53. The Chair of the African Union should establish a corresponding focal point in the Office of the Head of State or Government.</p> <p>54. The urgent establishment of an African Union Service Commission (AUSC) to be responsible for recruitment, making appointments and promotion and enforcing discipline</p> <p>55. That the (AUSC) should comprise five members, one from each region appointed by the Assembly on the recommendation of the Council on four-year terms renewable only once. Only persons with the appropriate experience and expertise in national/international recruitment and human resources management should be appointed. They should meet at least twice a year on a fixed schedule with appropriate specialised resource-persons drawn from the departments. This body should also elaborate a code of conduct and discipline for all staff. In exceptional cases, the (AUSC) can hold extra meetings</p> <p>56. That the Council should take a decision to increase the quota proportionately across the continent in line with the formula approved in Maputo, taking in account the increased</p>	<p>47. AUC</p> <p>48. AUC</p> <p>49. AUC</p> <p>50. AUC, Member States, RECs</p> <p>51. AUC, PRC</p> <p>52. AUC</p> <p>53. Assembly</p> <p>54. Assembly, Council</p> <p>55. Assembly, Council</p>
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	<p>number of posts</p> <p>57. Further, that the Council should take a decision to the effect that in the case of the failure to recruit competent and qualified candidates from under-quota countries, the relevant Embassies be informed and the African Union Service Commission should be free to recruit the best candidates regardless of their nationality. This system should be kept under constant review</p> <p>58. That the Commission should establish a paid programme of Young Professionals and a Voluntary Internship Programme to inculcate pan-African perspectives and skills in the next cadre of professional African leadership</p> <p>59. The setting up of a system whereby conditions of service for staff are regularly reviewed and brought to international standards, as far as possible, with a view to attracting and retaining the best staff</p> <p>60. The swift adoption of the draft Staff Rules and Regulations</p> <p>61. The Commission should establish links with a network of African Universities and research Institutions. This linkage should be used to make known the work of the Commission, and to promote the vision and understanding of Pan-Africanism. The Commission should also advertise staff vacancies through this network</p> <p>62. The Gender Mainstreaming Strategic Plan should be finalised, disseminated and implemented in all Member States and the Commission;</p> <p>63. A programme to ensure gender mainstreaming in all activities of the AU should be developed;</p> <p>64. The African Union should maintain the active participation of continental women's Organisations and ECOSOCC members in all integration processes;</p> <p>65. Consultations between the Commission and Pan African Women's Organisation (PAWO)</p>	<p>56. Council</p> <p>57. AUC, PRC, Council</p> <p>58. AUC</p> <p>59. AUC</p> <p>60. AUC</p> <p>61. AUC</p>
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	<p>be speeded up to develop a common agenda to facilitate integration;</p> <p>66. The report of the women's annual pre-summit meeting should be regularly routed through ECOSOCC to the Assembly;</p> <p>67. The Assembly should consider the application of gender parity for all staff of the African Union;</p> <p>68. The Commission should develop a data base of qualified women at all levels similar to the one now established at the United Nations; and,</p> <p>69. The Commission should review its Organisational design and culture and make appropriate gender- sensitive modifications</p> <p>70. The adoption of the proposals made by the Conference Services Directorate in their review of August 2007 to restrict translation to official documents and overhaul the technological capacity of this Directorate and put in place a modern Conference Directorate of the Union;</p> <p>71. The working languages of the Commission should be English and French</p> <p>72. Member States should strengthen their capacities both quantitatively and qualitatively to play an effective role;</p> <p>73. Confidence-building measures should be developed to build the mutual trust between the Commission and the PRC which is essential for the advancement of the objectives of the Union;</p> <p>74. The Commission should be appropriately strengthened to serve as a secretariat to the PRC</p> <p>75. There should be regular structured consultations between the PRC and the Commission at the highest level</p> <p>76. A thorough cost-benefit analysis needs to be carried out on the future of existing offices and prior to the opening of new ones. The analysis should also review the competencies of the staff required to manage these offices. Such an analysis should inform on the need to maintain, relocate or close the present stations. Such a study should be undertaken without delay and encompass the overhauling of the reporting systems of these offices to</p>	<p>62. AUC</p> <p>63. AUC</p> <p>64. AUC, ECOSOCC</p> <p>65. AUC, PAWO</p> <p>66. AUC, ECOSOCC</p> <p>67. Assembly</p> <p>68. AUC</p> <p>69. AUC</p> <p>70. AUC</p> <p>71. Council</p> <p>72. Member States</p> <p>73. AUC, PRC</p>
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	<p>the Commission</p> <p>77. Urgent action needs to be taken for the filling of vacancies in such stations as Brussels and Geneva where very complex negotiations affecting Member States are ongoing with little or no input from these offices</p> <p>78.With regard to the technical offices, efforts should be undertaken to audit their performance and outreach</p> <p>79.The AUC should implement the Assembly Decision taken in 2001 in Lusaka on the Specialised Agencies so as to determine their continued relevance</p> <p>80.The contract to review the Strategic Plan and develop information management systems should be suspended forthwith and an independent evaluation be commissioned to review the performance of the three contracts. Depending on the findings, a decision should be taken to continue, cancel and/or re-negotiate the current contract;</p> <p>81.In future, management and administrative development plans should be driven internally on an inclusive and participatory basis</p> <p>82.The findings of this Audit, if accepted, should inform any future Strategic Plan</p> <p>83.All Member States should establish a National Commission on African Union Affairs (NCAUA) to be composed of representatives of Government, Parliament, Private Sector and Civil Society Organisations with the capacity to ensure domestication and popularisation of the decisions of the Union, monitor compliance with Assembly decisions and produce gap analysis reports between AU instruments and national laws. The NCAUA will act as the focal point and provide guidance to their respective missions in Addis Ababa;</p> <p>84.Ministries of Foreign Affairs should ensure that all relevant ministries and other branches of the executive as well as NCAUA in each country, are informed about and are invited to contribute to the agenda items that concern them at forthcoming summits</p> <p>85.The PRC should ensure that the reports of the NCAUA are submitted periodically to the Secretary of the Commission</p> <p>86.The Office of the Secretary to the Commission, through the PRC, should obtain regular</p>	<p>74. AUC</p> <p>75. AUC, PRC</p> <p>76. AUC</p> <p>77. AUC</p> <p>78. AUC</p> <p>79. AUC</p> <p>80. AUC</p> <p>81. AUC</p>
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	<p>reports from the NCAUA, for their compilation, analysis and submission to the Council and Assembly for further action thus ensuring the promotion of best practises among Member States</p> <p>87.The AUC in collaboration with the network of universities and research institutes as recommended in paragraph 144, should exercise its functions to undertake research in developing building the Union and on the integration process. It should also institute an in-country analysis of implementation progress to present recommendations of how to accelerate Treaty ratification and implementation</p> <p>88.The Assembly should mandate the Commission to develop a comprehensive list of actions, including a sanctions regime, to ensure compliance with Assembly decisions and treaties</p> <p>89.The Communications Unit regularly and proactively should reach out to the African and international media and broadcast Union priorities and achievements by anticipating the need for press briefings, holding conferences and monitoring the press by keeping a media file;</p> <p>90. The Communications Unit should undertake learning opportunities to build the confidence and skills of Commissioners, and provide them with comprehensive media support</p> <p>91. The Preparation of a policy on information disclosure and access for adoption by the PRC, modelled on international best practices should be undertaken. This policy should provide for automatic publication of most documents, as well as the right for African citizens to request and obtain access to all official documents, except where explicitly categorised as confidential according to published, restrictive criteria. Denial of access should be subject to an appeal procedure</p> <p>92. The exploration of new media technologies that could allow for papers to be downloaded directly by state officials in their capital cities, thus circumventing the need for their missions in Addis Ababa to manually pass on the documentation;</p> <p>93. The publication on the AU website of the draft agendas for summit meetings and supporting documents (including the AU Commission Chairperson's report on activities, and documents submitted on agenda items by Member States) as soon as they are</p>	<p>82. AUC</p> <p>83. Member States</p> <p>84. Member States</p> <p>85. PRC</p> <p>86. AUC</p> <p>87. AUC, Universities</p> <p>88. Assembly, AUC</p> <p>89. AUC</p>
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	<p>distributed to Member States;</p> <p>94. Resourcing and improving of the AU website, in particular, to keep all details up-to-date, provide a search function and archive system and complete those sections that are currently empty;</p> <p>95. The Women, Gender and Development Directorate should establish a steering committee to draw up the programmes for their respective pre-summit forums, publicly announce the meetings, invite papers and presentations on the summit themes and solicit interest in participation</p> <p>96. Since CIDO will continue to play the role of the secretariat to the ECOSOCC, it is important to strengthen the department particularly in the areas of staffing and budget;</p> <p>97. Initiate consultations on revised criteria for observer status for civil society Organisations at the AU that would increase the number of qualifying Organisations;</p> <p>98. Adopt clear criteria to govern and advertise the process by which civil society Organisations may obtain support from the AU Commission for their accreditation to attend AU summits</p> <p>99. ECOSOCC should explore in collaboration with the Commission creative ways of generating interest in the AU across the continent by use of events such as AU Games, re-branding of national passports to also state the African Union, popularisation of the anthem and symbols of the AU as well as the propagation of the history of Pan-Africanism and the African identity</p> <p>100. The Commission, after consulting appropriately, should fully exercise its mandate contained in its Statutes to play a more assertive coordinating and representational role in the global policy arena</p> <p>101. Member States who are leading African group at negotiations should work within the Decisions of the Assembly and thereby promote and uphold the collective interest of Africa.</p>	<p>90. AUC</p> <p>91. AUC, PRC</p> <p>92. AUC</p> <p>93. AUC</p> <p>94. AUC</p> <p>95. AUC</p>
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	<p>102. The Assembly needs to respect its own decision with regard to the integration of NEPAD into the AU and set clear timeframes and benchmarks with a completion point by the end of 2008.</p>	<p>96. AUC</p> <p>97. AUC</p> <p>98. AUC</p> <p>99. ECOSOCC, AUC</p> <p>100. AUC</p> <p>101. Member States</p> <p>102. Assembly</p>
<p>Permanent Represent atives</p>	<p>103. The powers and functions of the PRC as listed in Rule 4 of its Rules of Procedure be reviewed in such a manner that its oversight functions will be carried out by the Advisory Sub-Committee on Administrative, Budgetary and Financial Matters whose members</p>	<p>103. PRC</p>

Committee	<p>should preferably come from the Ministries of Finance;</p> <p>104. Experienced Ambassadors from Member States should be posted to head their missions. Permanent Representatives should assume full control and personal responsibility for AU matters rather than delegate official responsibilities to subordinates. Whenever meetings of the PRC are convened, Permanent representatives should attend personally;</p> <p>105. African permanent missions to the AU should be staffed with competent personnel to handle issues of strategic importance to the union, such as finance, trade, the environment and economic development among others</p> <p>106. The current Sub-Committee system should be streamlined to focus on substantive and strategic issues. <i>Ad hoc</i> Committees should only be set up where absolutely essential, with clear terms of reference and time frames</p> <p>107. The Commission should issue a calendar of meetings to the PRC for the following year, three months before the end of each year. Both the Commission and the PRC should adhere to that calendar, unless there are unforeseen circumstances;</p> <p>108. The PRC should ensure that its Sub Committees meet regularly in order to support the work of the PRC, interaction with the AU Commission and preparation of the work of the Council.</p>	<p>104. Member States</p> <p>105. Member States</p> <p>106. PRC</p> <p>107. AUC, PRC</p> <p>108. PRC</p>
The Economic, Social and Cultural Council	<p>109. A register should be opened at the Commission for the registration of CSOs and professional associations based on criteria laid down in the ECOSOCC Statute. This list must be updated from time to time and serve as the database for the Organisation of ECOSOCC processes;</p> <p>110. ECOSOCC should be fully and effectively operationalised without further delay;</p> <p>111. ECOSOCC Cluster Committees should make regular inputs into the different Organs of the AU;</p> <p>112. The Statutes of ECOSOCC should be reviewed after the forthcoming elections with</p>	<p>109. AUC, ECOSOCC</p> <p>110. ECOSOCC</p> <p>111. ECOSOCC, AUC</p> <p>112. ECOSOCC</p>

	<p>respect to the eligibility of CSOs and the Organisation of elections;</p> <p>113. Member States should provide enabling financial support for deserving civil society Organisations to assist them to become less reliant on external partners. By so doing, this will enable them to become eligible to join ECOSOCC</p> <p>114. The ECOSOCC should fully organise the pre-Summit fora with CIDO serving as its secretariat. In this regard CIDO should be strengthened adequately to cope with this responsibility. The panel does not recommend the establishment of a separate secretariat for ECOSOCC; and,</p> <p>115. The ECOSOCC report should be submitted to the Council for onward transmission to the Assembly. The ECOSOCC should be given an opportunity to substantively address the Assembly on this report.</p> <p>116. The pre-Summit Civil Society meeting should be organised by ECOSOCC supported by CIDO.</p>	<p>113. Member States</p> <p>114. AUC, ECOSOCC</p> <p>115. AUC, PRC, Council</p> <p>116. AUC, ECOSOCC</p>
<p>The Peace and Security Council</p>	<p>117. The PSC should continue to streamline and enhance its working methods;</p> <p>118. The PSC should broaden the scope of issues to be considered in order to discharge its diverse responsibilities efficiently and effectively. This should include the setting up of mechanisms to ensure compliance;</p> <p>119. The PSC will do well to borrow ideas from the UNSC and use the Arria type of meeting, a format that enables the members of the Security Council to interact on informal basis with Civil Society Organisations on issues before the Council;</p> <p>120. The PSC should give serious consideration to the establishment of subsidiary bodies to facilitate its access to information, knowledge and technical expertise on the various</p>	<p>117. PSC</p> <p>118. PSC</p> <p>119. PSC</p> <p>120. PSC</p>

	<p>subject matters pertaining to peace and security;</p> <p>121. The Peace and Security Department (PSD) should be strengthened in respect of personnel and operational equipment to enable it support the PSC more effectively;</p> <p>122. The other bodies or components of the peace and security architecture - the Panel of the Wise, the CEWS and the AFS - should be effectively and optimally operationalised to enable them play the roles envisaged for them in the system;</p> <p>123. The Policy Framework for Post Conflict Reconstruction and Development, including the establishment of the Standing Committee, should be implemented expeditiously to ensure a smooth transition from conflict to peace of African countries emerging from conflict. In this connection, there should be stronger cooperation between the PSC and the UN Peace building Commission, using the African members serving on the latter body;</p> <p>124. The PSC should intensify its efforts to strengthen its cooperation and collaboration with the RECs, the PAP and the ACHPR as envisaged in its Protocol;</p> <p>125. The PSC, in concert with the AU Commission, should endeavour to ensure speedy implementation of the AU-UN Ten-Year Capacity Building Programme authorized by the 2005 World Summit. Within this framework, the PSC should strengthen its collaboration with the three non-permanent African Members of the UN Security Council and submit periodic reports to the Assembly; and,</p> <p>126. African countries should endeavour to contribute substantially to AU peace operations. The assessed contributions of Member States to peacekeeping operations should be paid regularly. The percentage of regular budget allocated to the Peace Fund should be increased and the AU Commission Chairperson should also intensify his efforts at mobilizing funds and resources for AU peacekeeping operations from within the Continent and the Diaspora</p>	<p>121. PSC, AUC, PRC</p> <p>122. PSC, PRC, Council</p> <p>123. PSC</p> <p>124. PSC, PAP, RECS, ACHPR</p> <p>125. PSC, AUC</p> <p>126. PSC</p>
Regional		

Economic Communities	<p>127. Member States should live up to their commitment to integration by faithfully implementing decisions at national, regional and continental levels. National mechanisms such as the proposed NCAUA should be set up with necessary linkages to all national Institutions and stakeholders which should accelerate integrations;</p> <p>128. Member States should incorporate at country level the decisions taken at the RECs levels and in the Continental Summits into their national legal systems, policy frameworks, and development plans;</p> <p>129. The Assembly should regularly review the progress of harmonisation in line with agreed plans, and the Chairperson of the Assembly should submit the report of the Assembly to each of the Assemblies of the RECs;</p> <p>130. The Assembly should adhere to its Decision AU/Dec.112 (VII) recognizing only 8 RECs;</p> <p>131. The RECs should focus on those activities that would fast track the objective of creating an African Common Market and establishing an Economic Community as contained in the Abuja Treaty;</p> <p>132. IGAD, whose membership is entirely included in COMESA, should entrust the latter with integration programmes and projects along the stages laid down in the Abuja Treaty while it focuses on issues of drought and desertification, peace and security;</p> <p>133. CEN-SAD should provide full support to the AUC in mobilisation of resources for financing continental and inter-regional programmes and projects, and should also play a supporting role in the acceleration of the integration process; (See Chapter 13)</p> <p>134. It should be made mandatory for the Coordinating Committee to present annual reports to the assembly of the AU on the activities of the RECs in relation to the economic integration of the continent.</p> <p>135. The existing Coordination Committee should be made more strategic and hold regular meetings focused on RECs policies and, strategies geared towards the implementation of the stages contained in the Abuja Treaty. It is imperative that the Chief Executive should personally attend these meetings;</p>	<p>127. Member States</p> <p>128. Member States</p> <p>129. AUC, Assembly</p> <p>130. Assembly</p> <p>131. RECs,</p> <p>132. IGAD, COMESA</p> <p>133. CEN-SAD</p> <p>134. AUC, RECs,</p> <p>135. RECs, AUC</p>
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	<p>136. Member States may need to consider reviewing their multiple memberships to RECs with a view to maximising their inputs to continental integration through the RECs as building blocks.</p> <p>137. The AUC should be pro-active role in the harmonisation and coordination of the RECs towards accelerating the process of creating an African Common Market and the African Economic Community. In this regard, the Panel urges the immediate signature of the Protocol by the Chief Executives of the AUC and the RECs; and,</p> <p>138. The AUC should develop the necessary internal mechanisms to strengthen its coordinating and harmonising role among the RECs and its leadership responsibility viz a viz external actors. To that end, the AUC should put greater emphasis on promoting inter-RECs cooperation, particularly the exchange of experiences based on their respective comparative advantages. The Continental Summits into their national legal systems, policy frameworks, and development plans;</p> <p>139. The Assembly should regularly review the progress of harmonisation in line with agreed plans, and the Chairperson of the Assembly should submit the report of the Assembly to each of the Assemblies of the RECs;</p> <p>140. The Assembly should adhere to its Decision AU/Dec.112 (VII) recognizing only 8 RECs;</p> <p>141. The RECs should focus on those activities that would fast track the objective of creating an African Common Market and establishing an Economic Community as contained in the Abuja Treaty;</p>	<p>136. Member States</p> <p>137. AUC</p> <p>138. AUC</p> <p>139. Assembly</p> <p>140. Assembly</p> <p>141. RECs</p>
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UNECA and AfDB	<p>142. The Joint AU-UNECA-AfDB Secretariat should be reinvigorated to make it more effective in accelerating the integration process. This should include the publication of a joint annual report to the Assembly on progress towards continental integration. Such a report should focus on cross border trade and investment, the degree of free movement of persons across national and regional borders, the implementation of regional and continental projects, the level of effective supranational authority entrusted by Member States to RECs, resource mobilisation efforts at continental, regional and national levels and lastly, including progress in operationalising the continental financial Institutions;</p> <p>143. AfDB should play a more prominent role in resource mobilisation in implementing integration programmes and projects at national, regional and continental levels particularly in the acceleration of integration and transformation process. To that effect, efforts should be made to ensure that the present level of funding regional programmes be</p> <p>144. Member States at the United Nations should support UNECA in reconstituting and further strengthening its capacity so as to be able to fully play its role as main implementing agency of the UN economic development programmes in the continent.</p>	<p>142. AUC, UNECA, AfDB</p> <p>143. AfDB</p> <p>144. Member States</p>
Financial Resources of the AU	<p>145. The practice of buying open tickets should be further audited to ensure that the Commission is receiving value for money and that expenditure is not being unnecessarily incurred;</p> <p>146. The Travel Unit should be separated from the Procurement Unit, it being understood that,</p>	145. AUC

	international procurement procedures and standards are followed;	146. AUC
147.	The Ernst and Young recommendation to the effect that all other “procurement issues be managed centrally and any exceptions such as decentralising some procurement operations be duly documented and approved in Council should be implemented”;	147. AUC, Council
148.	In recognition of the large volume of tickets bought, the limited number of staff in the Travel Unit, and in the interests of best governance practice, a travel agency be appointed following a transparent tendering process;	148. AUC
149.	All Member States should pay their dues in time. In that respect attention should be given for a deadline to be set for payment of assessed contributions. A decision needs to be taken by the Assembly for Member States to pay their contributions not later than two months after the adoption of the AU budgets;	149. Member States
150.	The urgent adoption of the procurement manual and the implementation of related recommendations made in the Ernst and Young 2006 report without delay;	150. AUC
151.	The Commission should indicate invariably the Programme Budget Implications while presenting programmes for approval;	151. AUC
152.	Further investigation into the handling of the production of African Union passports and the construction of a hotel on African Union land should be carried out;	152. AUC
153.	Posts of financial and administrative assistants should be established in all departments;	153. AUC
154.	Directors must be held accountable for reporting promptly and accurately on the level of budget variances;	154. AUC
155.	The PRC and the Commission should adhere to the stated practice in the Statutes of the Commission of developing a two-year programme budget rather than the current practice of annual budgeting;	155. AUC, PRC
156.	The PRC and the Commission should hold annual mid-term reviews;	156. AUC, PRC
157.	The PRC and the Commission should hold annual mid-term reviews;	157. AUC
157.	The Commission should take necessary measures to comply, without delay, with the recommendations of internal and external auditors; and,	158. AUC

	<p>158. An African firm of international repute should be appointed for a period of four years on the basis of an open tender by the Council to audit the accounts of all AU Organs and report to the Council.</p> <p>159. A tax on air tickets within Africa should be levied without further delay.</p>	<p>159. Member States</p>
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Recommendations Requiring Immediate Decision

449. The Assembly:

- a) The Assembly should revert to one annual ordinary session at the Headquarters of the Union.
- b) The first substantive item of each Summit should be dedicated to the consideration and review of the implementation of previous decisions.
- c) The Chairperson of the Assembly should serve for a two-year period in order to allow for pro-active leadership, policy continuity and full implementation of decisions.

450. The Executive Council:

The Executive Council should be re-designated as a Council of Ministers and its composition aligned to Article 10 (1) and Article 14 of the Constitutive Act.

451. The Pan-African Parliament:

- a) The Code of Conduct for PAP members identified as a deliverable for 2005 should be finalised without further delay.
- b) The PAP should comply with Dec.98 of the Council, which was confirmed by the Assembly as Decision 39(iii) in the light of the report of the External Auditors.

452. The African Commission on Human and Peoples' Rights:

Consideration should be given to the adoption of a non-renewable mandate for the Commissioners for one term of office for six years only.

453. Financial institutions:

- a) The Assembly should set up an *ad hoc* committee that would include the representatives of the three

countries selected to host the institutions which should be presided over by an independent personality who is committed to pan-Africanism. The *ad hoc* committee should also include representatives of the Association of African Central Banks (AACB), the AUC, the RECs, UNECA and the AfDB. It should submit a roadmap on the establishment of these institutions within the timeframe of three months to the *ad hoc* mechanism proposed in Chapter 12.

- b) The three committees envisaged for fast tracking the process of establishing the three financial institutions should be established without delay in the countries already selected, namely Cameroon for the AMF, Libya for the AIB and Nigeria for the ACB.

454. The AU Commission:

- a. The portfolios of the Departments should be rationalised and based on the agreed priorities of the Union set by the Assembly.
- b. The tenure of office for the elected posts should remain four years.
- c. For the purpose of the impending elections, and in order to avoid the problems of simultaneous elections of all members of the Commission, the elections of the Chairperson and the Deputy Chairperson should take place six months prior to the election of the Commissioners. Thereafter, the Chairperson and the Deputy Chairperson, who should not be of the same gender, should be elected one year before the election of the Commissioners. It is imperative that the Assembly adopt these modalities before the next round of elections into the Commission.
- d. The election of the Commissioners should focus on their core competencies.
- e. The election of the Deputy Chairperson and the Commissioners should be de-linked from the portfolios that they will occupy. In addition, responsibility should be given to the Chairperson, as the Chief Executive Officer to assign portfolios.

- f. Serving Embassy staff accredited to the AU, and their relatives, should no longer be appointed by the Commission while they are still in the service of their countries in order to avoid conflict of interest.
- g. There should be an African Union Service Commission to be responsible for recruitment, appointment, promotion and discipline.
- h. The Secretary to the Commission should be the head of the African Union Commission Staff and be responsible for inter-departmental and directorate coordination;

455. The Economic, Social and Cultural Council:

The Assembly should agree to the ECOSOCC presenting its annual report to it.

456. The Peace and Security Council:

The percentage of regular budget allocated to the Peace Fund should be increased and the AU Commission Chairperson should also intensify his efforts at mobilising funds and resources for AU peacekeeping operations from within the Continent and the Diaspora.

457. Roadmaps and Plans of Action at the National, Regional and Continental Levels:

The Assembly should direct that all Organs and Institutions of the AU undertake immediately, the preparation of roadmaps and plans of action for the implementation of all the recommendations in Table 19 (other than those that have been identified in Paragraphs 480-487 as requiring immediate Decision by the Assembly). An *ad hoc* mechanism should be set up for the analysis and authentication of such roadmaps and plans of action including the cost implications – indicating whether such costs are to be met from existing resources or additional resources would be required.

The Organs and Institutions should submit their roadmaps and plans of action to the *ad hoc* mechanism within four to six weeks of the Assembly decision, and implementation should commence

immediately they have been cleared by the *ad hoc* mechanism as being in fulfilment of the recommendations.

An annual report on progress of implementation should be submitted to the Assembly through the Council.

CHAPTER THIRTEEN: THE IMPERATIVE OF INJECTING ACCELERATORS TO THE INTEGRATION AND TRANSFORMATION PROCESS

458. The roadmaps that would result in institutional development at all levels are essential in accelerating the continental integration and transformation process. When simultaneously developed in a coherent manner, they will provide the various organs of the Union with the necessary dynamism commensurate with the objectives set out in the Sirte Declaration and the Constitutive Act calling for the acceleration of the political and economic integration of the continent.
459. Similarly, the analysis and assessment of the structures and activities of the RECs, carried out in Chapter Nine, have also made clear the need for their strengthening. Thus, the range of the recommendations made, including the role of Member States, inter-RECs cooperation, the need for greater harmonisation and rationalisation and the relations between the African Union and the RECs, is essentially aimed at making the latter true building blocks of African integration.
460. It should be stressed that the institutional revamping that would result from both the roadmaps and the strengthening of the RECs, which are two essential accelerators of the integration process, should be carried out simultaneously in order to bring about the necessary synergy that is required to frog-leap that process. Furthermore, the Panel is of view that the following four additional accelerators, if also injected simultaneously with the previous ones, will put, without delay, the transformation process on the fast track – indeed, the fastest track possible. They are:
- The free movement of peoples across borders as contained in both the Abuja Treaty and the Constitutive Act;
 - The development of transcontinental and inter-regional infrastructures;

- The multinational African firms as accelerators of Africa's integration; and,
- The early establishment of the continental financial institutions identified in Article 19 of the Constitutive Act (i.e. the African Central Bank, the African Monetary Fund, and the African Investment Bank).

Free Movement of Peoples Across Borders

- 461.** Free movement of peoples is a sine qua non for political and economic integration. Africa, in its quest for integration, must make free movement of people a top priority. This will create the necessary environment for fostering the spirit of shared values, common interests and destiny and opening up new opportunities. Additionally, non- state actors such as the private sector and other African trans-national entities will not undertake crucial investments required for economic development unless there is factor mobility, including labour mobility. This crucial sector can facilitate cross-border factor mobility given enabling macro economic environments and free movement and rights of establishment.
- 462.** African countries have always recognised the imperative of factor mobility in the economic and political transformation process. What has been missing, however, is the operationalisation of this imperative. For example, instruments such as the Abuja Treaty recognise the centrality of free movement and rights of establishment of African peoples as a precondition to creating an African Common Market and establishing an African Economic Community.
- 463.** However, there has been very little movement in that direction because African governments have sought to explain away this lack of progress on the poor socio-economic conditions in their respective countries. External factors such as globalisation and the direction of international trade have been put forward as arguments in support of lack of progress in the free movement of people. What movement has taken place has invariably been out of Africa to the North rather than intra-African. There are, however, exceptions in the case of West and East Africa, where under the aegis of ECOWAS and EAC there is limited free movement of people. In West Africa, a citizen of any of its Member States can travel within the region without a visa and remain in any of the countries for three months. However limited this practice may be, it is yet to assume a

pan-African dimension. The Panel suspects a large element of ambivalence of Member States on the issue of free movement of people in the continent. But, until this issue is addressed by the entire membership of the AU and free movement of people becomes a reality, political and economic integration will remain but an illusion.

464. From the perspective of the African peoples- which has been given expression to in many a conference- they believe that they have become the unfortunate victims of discrimination internationally and within their own continent. Little wonder then, that there has been a lot of scepticism about the renewed debate and interest about pan-Africanism. As the Panel has stated at the beginning of this report, the choice before the peoples of Africa is not so much to unite or not to unite, but to forge ahead in the journey towards African integration. The longer the delay in making this hard decision, the more Africa remains underdeveloped.
465. The Panel argues strongly for a people-centered pan-African Union. Indeed, the concluding remarks of the report focus on this dire necessity. Accordingly, the Panel would like to propose that the AU should give free movement of people highest priority so that when the AU enters into its tenth year of existence in 2012, the celebration thereof will be one of significant movement in Africa's quest for integration and the people's scepticism will begin to wane.

The development of transcontinental and inter-regional infrastructure

466. There is no doubt that individual Member States of the African Union have made tremendous progress in infrastructure development since independence. Even if the supply is still lagging behind, demand has increased in view of the rapid growth of population and its urbanisation. However, where Africa has not made any significant break through is in the domain of trans-African and inter-regional infrastructure development. Given the importance of infrastructure for both production and service sectors, this development is critical not only for the economy as a whole but also for trans-African political transformation. Investment in this domain is highly capital intensive and because of this, African countries believe that they

are powerless to embark on pan-African infrastructure development.

467. This capital shortage illusion must give way to the realisation that Africa has tremendous capabilities in mobilising resources for infrastructure development on a trans-African basis. How to mobilise these capabilities is the subject of the next section of this Chapter. In terms of priorities of transcontinental infrastructure development, the Panel proposes to focus on energy, telecommunications, roads and railways and maritime and waterways transport.
468. Energy is a major accelerator of the integration process. The current shortage of energy will continue to be a serious impediment to pan-African development unless immediate actions are taken to remedy this at continental level. It is believed that many African rivers like the Congo, the Benue, the Nile, the Niger, the Limpopo and the Zambezi, between and among them, can provide the basis for collective pan-African energy development.
469. Moreover, Africa is becoming a rapidly emerging gas and oil producer. Therefore, the potential for pan-African energy development and energy pool is virtually limitless and will mostly accelerate African transformation faster. If solar energy is added, a solid foundation would have been laid down for Africa's self-reliance in the domain of energy and renewable energy at that.
470. Telecommunications infrastructure is at the heart of the information and communication technology. It has become the main engine for increasing productivity and fostering national cohesion. While substantial progress has been made in several countries, it has remained limited for the continent as a whole. With respect to access to internet services, Africa lags behind the rest of the world, although they are the fastest growing activities in most African countries.
471. Africa has failed in its effort to develop a functional road and railways network system on a transcontinental basis despite the adoption of two United Nations Transport and Communications Decades for Africa (UNTACDA), covering the periods 1978-1988, and 1991-2000, respectively. This lack of development can be attributed to many factors, particularly the heavy dependence on

the public sector for funding which, in turn, depends on external sources for assistance. The Panel recommends a paradigm shift which is developed in the next section of this Chapter.

472. Maritime and waterways transport is also constrained in the continent by the poor quality of port facilities and services. Given the large number of landlocked and island countries, the coordinated development of these facilities is essential for the acceleration of the integration process. In this context, there is also need to develop an efficient system of trans-African maritime and waterways transport.

Multinational African firms as accelerators of Africa's integration

473. The Panel believes that the development of the above-mentioned sectors can be fast-tracked through private sector activity with the public sector playing a facilitating role. This requires actions at the national level aimed at the development of an enabling environment in each Member State of the African Union. Such an environment will result from the liberalisation of capital movements across African countries. It will also necessitate the existence of formal linkages between and among equity and debt securities markets in Africa. Therefore, it is necessary to give high priority to the establishment of such linkages where they do not yet exist.
474. There is also an urgent need to work out a mechanism that can bring potential African investors together and provide them with information about existing investment opportunities in the continent. In such gatherings, potential investors from different African countries should be encouraged to consider the formation of multinational firms and receive information on the various sources of financing that can be used for that purpose. In that context, they could be assisted with the preparation of feasibility studies for multinational investment projects. In this regard, the possibility of setting up a continental Investment Promotion Commission should be considered.
475. While the promotion of multinational firms should be left to the private sector, it could also require the involvement of the public sector. Such an involvement could take the form of a partnership between the public and the private sectors. African governments can also explore the possibility of mobilising resources from the capital market. This would necessitate the development of government bond markets. However, it should be noted that the development of a market for long-term government bonds requires

active participation by financial intermediaries and an efficient market infrastructure, including well-designed securities settlement arrangements, which do not presently exist in Africa. Therefore, it is necessary to ensure, on an urgent basis, the efficient operations of market intermediaries such as securities houses, investment banks, brokers and commercial banks.

476. African governments could also use institutional investors for the financing of continental projects. Such institutional investors include mutual and investment funds and contractual savings institutions like pension funds and insurance companies. The advantage of these funds is that, unlike commercial banks, they provide resources for long-term investment projects. The Panel is pleased to note that a pan-African Infrastructure Development Fund (PAIDF) was launched at the African Union Summit in Accra in July 2007. That fund has initial seed money of US\$625 million raised from eight investors within the continent.
477. The initial investors include Ghana's Social Security and National Insurance Trust (SSNIT), South Africa's Public Investment Corporation, the African Development Bank (AfDB), the Development Bank of South Africa and the Barclays Bank/ABSA Group. The rest of the investors to join are Metropolitan Life, Old Mutual Group and Standard Bank Group, all based in South Africa. The fund is the first of its kind of a public/private partnership, which sets a good example to be followed by other groups of investors in Africa.

Financial institutions as accelerators of Africa's integration

478. The first call for Africa's monetary integration came from Dr Kwame Nkrumah. In his historical address at the first conference of African Heads of State and Government in Addis Ababa, when the Organisation of African Unity was launched in 1963, he proposed the creation of an "African monetary zone" and the adoption of a single "African currency" to be issued by a common central bank. This call did not receive the support of the majority of African Heads of State and Government who, instead, recommended the creation of an Association of African Central Banks (AACB).
479. When the Abuja Treaty was adopted, the AACB, which had been in existence for nearly 30 years, had not considered

implementing Africa's monetary integration as one of its objectives. Even now, the AACB has not gone beyond the pre-feasibility stage. However, the Panel has been informed that the AACB and the African Union Commission will shortly meet to strategise on the future course of action with respect to the setting up of the financial institutions.

480. Article 44 of the Abuja Treaty renewed Nkrumah's call for the formation of a Monetary Union in Africa through the "harmonisation of regional monetary zones". To that end, it recommended that "in accordance with the relevant Protocol, Member States shall within a timetable to be determined by the OAU, harmonise their monetary, financial and payment policies, and boost intra-community trade in goods and services as well as enhance monetary cooperation among Member States".
481. The same Article 44 recommends, among other things, the use of national currencies in the settlement of commercial and financial transactions, the establishment of appropriate mechanisms for setting up multilateral payment systems; the creation of national, regional and sub-regional money markets; through the coordinated establishment of stock exchanges and harmonisation of legal texts regulating existing stock exchanges with a view to making them more effective; the integration of all existing payments and clearing mechanisms among the different regions into an African Clearing and Payments House; and the establishment of an African Monetary Union through the harmonisation of regional monetary zones.
482. The Sirte Declaration also calls for an acceleration of "the process of implementing the treaty establishing the African Economic Community, in particular: ensure the speedy establishment of all the institutions provided for in the Abuja Treaty, such as the African Central Bank, the African Monetary Union, etc. The Constitutive Act of the African Union, in its Article 19 simply states that "the union shall have the following financial institutions whose rules and regulations shall be defined in Protocols relating thereto: the African Central Bank; the African Monetary Fund; and the African Investment Bank."
483. However, the image that emerges is that 44 years after Nkrumah's call for the creation of an African monetary zone and

the introduction of a common currency, 13 years after the adoption of the Abuja Treaty and almost 8 years after the adoption of the Constitutive Act of the African Union, the stage reached in monetary integration is still at study level. The Panel deeply regrets this lackadaisical attitude to a matter of vital importance to Africa's political and economic integration.

484. The Panel has been informed that a decision has been taken by the Assembly on the location of the three financial institutions. This is the only positive development on this issue in the past forty four years. It is a development that must be acted upon immediately.

Recommendation

485. The Panel recommends:

- **The setting up of an *ad hoc* Committee of Experts by this Assembly that would include the representatives of the three countries selected to host the institutions and be presided over by an independent person who is committed to pan-Africanism. It should also include representatives of AACB, the Commission, the RECs, UNECA and ADB. It should submit a roadmap on the establishment of these institutions within a timeframe of two to three months upon the adoption of this recommendation and that the roadmap should also be submitted to the mechanism proposed in Chapter 12.**

CHAPTER FOURTEEN: BENCHMARKS TOWARDS AFRICAN UNITY AND INTEGRATION

Benchmarking the African Unity and Integration Project

486. This audit report has been produced by the members of the Panel with a conscious determination to avail the Assembly and other Organs of the Union with concrete recommendations that could serve as a basis for action in the collective quest for accelerated unity and integration in Africa. To this end, a total of 159 recommendations have been made touching on all aspects of the work of the Union. It has also been suggested that each of the Organs of the Union should develop roadmaps that would guide their specific areas of work over the next few years. Furthermore, a number of accelerators that would help to give speed and traction to the unification and integration process have been proposed. In this chapter, the Panel is putting forward a set of measurable benchmarks that would serve as the platform against which progress could be measured in a regular and systematic manner.
487. Although the individual recommendations that have been made in this report stand on their own merit, their overall impact will, as emphasised earlier, reside in their implementation as parts of a coherent and integrated whole. As constituent elements of a comprehensive package of policy and political measures that need to be implemented in order to advance the frontiers of African unity and integration, the recommendations add up to offer the peoples and leaders of Africa some of the most critical benchmarks that will, at one level, serve to signal progress in the march towards unification and integration, and, at another level, provide a yardstick against which the advances made can be assessed. In this sense, benchmarks serve both as a radar of hope and a barometer of progress. They comprise elements of a plan of action that could be carried out within specified time-frames; measures that require to be undertaken nationally, regionally and continentally; and steps that call for the mobilisation of the best technocratic and/or political energies available behind the vision of unity and integration that is being pursued.

Principal Benchmarks

- 488.** Taking cognisance of the range of recommendations included in this report, it is possible to identify eight broad benchmarks on the basis of which, arguably, the project of African unity and integration will stand or fall over the long-run. These benchmarks include the:
- a) Coherence, effectiveness and efficiency of institutional frameworks;
 - b) Popularisation and internalisation of the core values underpinning the Constitutive Act;
 - c) Engagement and mobilisation of the peoples of Africa for the unity and integration project;
 - d) Free Movement of the peoples of Africa;
 - e) Rationalisation of the RECs;
 - f) Fast tracking of the move towards an African Common Market and the African Economic Community;
 - g) Acceleration of steps towards the establishment of continental financial and monetary institutions; and,
 - h) Orientation of the African entrepreneurial elite towards regional and continental investment projects that advance unity and integration.

The rest of this chapter is devoted to a brief consideration of each of these benchmarks.

Institutional Revamping

- 489.** One of the findings of the audit is the state of internal institutional incoherence and disarray that has been in evidence for some time in the AU itself and between the AU and other institutional mechanisms such as the RECs, and which would require to be sorted out speedily if the vision of a united and integrated Africa that has been an abiding part of Africa's recent history, is to be realised. As a benchmark for the unity and integration project, this is a domain that can and should be addressed both speedily and as a matter of priority. The recommendations that have been made in the report offer pointers to steps that could be taken towards this end by the Assembly, the Executive Council, the PRC, the PAP, and the leadership of the AU Commission itself. They are recommendations that are designed to strengthen and

improve coordination among the Organs and Institutions of the Union, and the effectiveness and efficiency of the structures and processes that have been put in place. As a priority field of action, they can already begin to be addressed as soon as the Assembly at its January 2008 summit has adopted this report. Indeed, it is the view of the Panel that a time-frame of 12 months would be sufficient and should be observed for the revamping of the relevant institutions. To this end, each of the Organs covered by the recommendations made should develop an implementational time-table that will serve as a starting point for the operationalisation of the goal of revamping the Union.

Internalising the Values of Pan-Africanism

- 490.** As has been underscored in the report, Pan-Africanism has a long historical pedigree that has also been enriched by a set of values that have come to constitute a key element in the imperatives for the unity and integration of Africa, as well as the enduring bonds of solidarity among its peoples. As further noted in the report, these values have been manifested in different forms over time, and the very existence of pan-African institutions is part of the continuing effort to give institutional vent to them. In terms of the AU and the Constitutive Act that gave birth to it, the values are enshrined in Article 3. Both historically and contemporaneously, in spite of the vigorous debates and disputes that have enlivened the pan-African movement and contributed to its development, the basic values underpinning the quest for the unity and integration of Africa have never been in question. What has been lacking is the internalisation of the values both in the actions of governments and the conduct of the leadership. This politico-ideological deficit has been compounded by a failure to popularise the values of pan-Africanism among the generality of the people.
- 491.** It is little wonder then that in matters of African unification and integration, the gulf between avowed objectives freely espoused by succeeding generations of leaders and the concrete steps taken to arrive at the objectives has been a very wide one indeed. There is growing consensus that the time has come to redress this situation, and governments and non-governmental organisations can act in tandem in the shortest time possible to begin actively to promote a new pan-African consciousness that takes as its point of departure, the values that are enshrined in

Article 3 of the Constitutive Act. From the structuring and orientation of the institutions of government to the processes of the political socialisation of the citizenry and the thrust of the educational curriculum, it is within the grasp of this generation of Africans to begin the process of making the pan-African ideal a truly living experience at the local and continental levels. The role of the media in this task cannot also be overemphasised. All the concrete steps taken at the national level – and where necessary at the regional and continental levels – in accordance with the recommendations from this report will need to be assessed regularly for their breadth and depth as part of the measurement of progress that is called for. The methodology for doing this locally and continentally exists already and should be exploited maximally.

A Union of the People

- 492.** If there has been one lesson that has emerged from the history of efforts at promoting African unity and integration, it is that the engagement of the people, male and female, in the project and their full mobilisation always has been and always will be indispensable. The audit has noted that central to the construction of the AU as a successor to the OAU was a conscious effort to move away from a project of unification and integration that is exclusively driven from above by political leaders to one that is also infused with energies from below provided by the generality of the people. The audit has also commented on the extent to which the AU has carried the people along in the period since it was launched, pointing to the ground that has been covered and the road that remains to be travelled.
- 493.** Without doubt, some progress has been registered in building popular engagement with and participation in the contemporary processes of unification. But, at the same time, this is as yet an unfinished business and a considerable amount of work remains to be done. Also, in seeking both to deepen and scale up the engagement of the people with the unification and integration processes, there is, as indicated in the report, plenty of room for the deployment of creative imagination. In this connection, in addition to the organisations of civil society and the framework offered by ECOSOCC, the African private sector and the entrepreneurial class need also to be further mobilised to play a role in the construction of a united and integrated Africa.

494. The report has made concrete recommendations that mostly devolve on the AU Commission and national governments to implement. For the actions that need to be taken by the Commission, including the organisation of the African private sector on a continental scale and the institutionalisation of a forum for regular consultation between it and the organised African private sector, these can be pursued immediately along the lines suggested in the preceding chapter and they are realisable within the four-year tenure of the Chair of the Commission. As to the measures that require to be pursued at the national level, governments should feel encouraged to begin immediately to implement the recommendations that have been made in this report. Of utmost urgency is the creation of national-level institutional mechanisms that could serve as a focal point in each country for Union affairs. The creation of such mechanisms should rank among the most important priorities and the progress made in this direction from country to country should be assessed regularly.

Free Movement of Peoples

495. Africa's quest for unity and integration has been stymied by the restrictions placed on factor mobility on the continent. None of the restrictions has been more costly to the continent than the one pertaining to the movement of peoples. From the point of view of the construction of a pan-African identity, the restoration and protection of the dignity of the African, the strengthening of people-to-people solidarity and cultural exchanges, and the spread of economic benefits through cross-border investment facilitation the case for the free movement of Africans within their own continent has always been impeccable. It has, additionally, now become imperative. Given that 2010 marks the golden jubilee of the independence of many of the countries of Africa, it would be the symbolic occasion to commemorate the dismantling of restrictions on the free movement of African citizens on the continent and, in so doing, erasing some of the more odious legacies of the Berlin Conference of 1884/85. A timetable for the stage-by-stage removal of restrictions on the free movement of peoples should be introduced immediately so as to culminate in the complete removal of all restrictions by 2010 and, possibly, the introduction of a Union passport.

Rationalisation of the RECs

- 496.** The rationalisation of the RECs has been on the agenda of the African continent over the last few years, including most recently at the Banjul Summit of 2006. The extent of attention that this issue has generated is a clear indicator of the necessity and urgency of the rationalisation exercise; the slow progress registered to date suggests that sufficient and concerted energies are not being devoted to the task. The Panel has recommended that the existing eight RECs recognised by the Union should be maintained with a rationalisation of mandates along the lines detailed in this report. Benchmarking the rationalisation of the RECs has, therefore, become an issue of the elimination of unnecessary overlaps and duplication that have proved to be as diversionary as they have been energy-sapping.
- 497.** The acceleration of the rationalisation exercise should be pursued on the understanding that progress in this domain will be critical to Africa's quest for a deepened integration in the shortest time possible. Concrete steps in this direction would include the serious, operationalisation of the mechanism for regular consultation and dialogue between the AU Commission and the existing RECs, as well as the immediate signing of the 2007 Accra Protocol on relations between the AU and the RECs, both with a view to ensuring a greater streamlining of their work and the achievement of synergies among them towards the ultimate goal of an economically integrated Africa. Immediate action in this area will allow for a consciously structured process of interaction and exchange among the RECs themselves with a view to overcoming existing problems of competence and achieving a greater focus. The steps that are required are measurable too and should allow for the registering of incremental progress in a coherent and cohesive manner.

Towards the African Common Market and the African Economic Community

- 498.** The African Common Market and the African Economic Community have been long-standing items on the African integration and unity agenda, dating back to the 1980 Lagos Plan of Action and the Final Act of Lagos. A detailed blueprint, complete with a timetable was set out; regrettably, it was observed in the breach. But as noted in this report, the plethora of challenges flowing from the contemporary processes of

globalisation provide the African continent with yet another opportunity to revamp its commitment to the creation of a Common Market and the establishment of a continental Economic Community. Given the central importance of these projects to the progress of Africa and the welfare of its peoples, the report has pointed to a set of multi-prong accelerators that include major cross-border infrastructure investments and the formation of African multinational investment companies. The AU Commission, working with all other key players, should pilot the task of producing a comprehensive framework document. It is a task that can be completed in the shortest time possible – nine to 12 months. It should be followed with a phased pursuit of the different accelerators suggested in ways that interface the national with the regional and the continental. It is imperative that Africa should fast track the achievement of both the Common Market and the African Economic Community, and the RECs should be invited to provide a roadmap towards this end in accordance with the recommendations made in chapter 12.

Establishing Continental Financial and Monetary Institutions

- 499.** There is also a standing commitment to create common financial and monetary institutions on the African continent. The case for such institutions is not in dispute and although initial steps have been taken towards their establishment, these have so far been too slow and tentative. The report has argued the position that much bolder steps should be taken to accelerate the process of the creation of these much-needed continental financial and monetary institutions. The Panel suggests that the Assembly set a target date for the launching of the institutions, particularly as their locations have already been settled. The establishment of an ad hoc committee to move the process forward should be decided by the Assembly at its January 2008 summit. As recommended in chapter 13, the ad hoc committee should complete its assignment in three months.

Mobilising the African Entrepreneurial Elite for Unity and Integration

- 500.** If there has been one area where the pan-African project has been lacking, it is with regard to the mobilisation of the private entrepreneurial class to play a role in the attainment of the desired ends of unity and integration. And yet, both in its own right as an actor, and in collaboration with public institutions, the

entrepreneurial elite could be mobilised to invest in pan-African infrastructure and development projects that would underpin and advance the political goals of unity, the economic dynamics of integration, and the social ideals of full citizenship. In line with the recommendations already made in this report, it is deemed feasible for the AU Commission to take immediate steps to launch the different measures recommended.

Monitoring Mechanism

- 501.** The history of African unity and integration efforts is littered with too many unrealised dreams, broken promises, and unimplemented blueprints that sceptics may be forgiven when they point to a vicious cycle of under-performance. But it is a cycle that must be broken – and this can be done through the empanelling of a monitoring mechanism that will report independently every two years to the Assembly on the progress registered with the implementation of the eight benchmarks spelt out in this chapter. Most of these benchmarks are easily measurable for the progress registered and it should be a primary task of the proposed monitoring mechanism to undertake the measurement.

CONCLUDING REMARKS

- 502.** There is no gainsaying the fact that Africa is in dire need of accelerated continental transformation and integration. But unless it is aided and guided by common transformational ethical values, it will be unachievable and unsustainable. The search for the realisation of pan-Africanism will continue to elude the peoples of Africa. As repeatedly stated in this report, it will remain no more than a mere dream.
- 503.** In a continent where the establishment of strong ethical and moral values in the conduct of public affairs at the national level is proving extremely difficult, establishing it on a pan-African basis looks like a mission impossible. Yet, establishing strong ethical moral values in pursuit of pan-African transformational goals is the only way of promoting solidarity and the acceptance of the oneness of the African humanity. Instead of the pursuit of hegemonistic policies, no part of Africa and no group of African societies or individuals should be marginalised or rendered incapable of effective participation.
- 504.** This is not to deny the reality that the African society is diverse and is made of many different groups and layers. But such diversity and multiple layers will need to be harnessed as a whole towards the common good in conformity with the principle of subsidiarity. Unless and until ethical and moral values constitute the foundation of political, economic, social and cultural activities at the national, regional and continental levels, the common good of Africa will remain compromised and jeopardised.
- 505.** It must, however, be emphasised that solidarity is not just the profession of good intentions. Accordingly, no society in Africa will be absolved from bearing its share of the burden and responsibility of the political and economic transformation of the continent. Through the democratisation of the development process, all peoples in society will, in accordance with the principle of subsidiarity, take charge of promoting their own development, empowering their own people and pursuing their own democratic paths in accordance with universal norms and standards. The AU will take off their shoulders all international and continental impediments and burdens, and by so doing, the process will be accelerated.

506. If this becomes the consensus goal among all African leaders, there will be no problem in mobilising the people. Without doubt, Africa's major resource is its peoples. Africans need no education about self-reliance. It will, therefore, not be too difficult to base pan-Africanism on the fulcrum of collective self-reliance and self-sustainment. This will motivate the people to participate actively in all the efforts aimed at achieving Africa's political and economic transformation. And most importantly, self-reliant processes of political and economic development will inevitably result in the transformation of the people themselves – their culture, their attitudes to work, their skills and their social systems, during the course of which shared values will be more broad-based as the self-transformation of the people becomes deep and widespread. And most important of all, the long-desired psychological paradigm shift needed to deliver the peoples of Africa from the naïve belief that somehow deliverance will come from outside the continent, will begin to happen.
507. The African Union must, therefore, be a Union of the peoples of Africa and not only a Union of African States and Government.

Appendices

A. Representatives of Missions, Organs, Institutions and other Organisations Interviewed by the Panel.

HEARINGS OF THE PANEL

Organs of the African Union

African Permanent Representatives to the African Union, Members of the AU Commission: H.E. Alpha Oumar Konare; H.E. Patrick Mazimhaka; Amb. Said Djinnit; Adv. Bience Gawanas; Ms. Rosebud Kurwijila; Ms. Julia Joiner; Dr. Maxwell Mkwezalamba; and Ms. Elizabeth Tankeu. The pan- African Parliament: Hon Gertrude Mongella, Presiden, accompanied by Members of the Bureau; and, President of the African Court of Human and Peoples Rights, Mr Gerald Nuyingeko.

Other Continental bodies and Regional Economic Communities

United Nations Economic Commission for Africa; African Development Bank; Common Market for East and Southern Africa (COMESA); Economic Community for West African States (ECOWAS); East African Community (EAC); and, Community of Sahel-Saharan States (CEN-SAD).

African Civil Society Organisations

Fahamu (Egypt); Afroflag, Eyob Balcha (Ethiopia); RADDHO (Senegal); and Equality Now

INDIVIDUAL INTERVIEWS

African Union Commission

Prof. C.A.L Johnson, Secretary to the Commission, Amb. John Shinkaiye, Chief of Staff, Ms. Habiba Mejri-Cheikh, Spokesperson/Head of Information and Communication, Ms. Christiane Yanrou-Kabran, Senior Website Administrator and Mr. Asmaran, Website Administrator, Mr. Mandla Madonsela, Head of International Cooperation and Resource Mobilisation Division, Mr. Ben Kioko, Director of the Office of the Legal Counsel, Dr. Salif Sall, Director of the Strategic Policy, Planning, Monitoring and Evaluation Directorate, Ms. Yetunde Teriba, Acting Director of the Women, Gender and Development Directorate, Dr. Abdel Dirar, Project Coordinator, UNOPS/AU in the Office of the

Chairperson, Ms. Fiona Lortan, Political Officer and Mr. El-Ghassim Wane, Head of Conflict Management Centre in the Department of Peace and Security, Ms. Macrine Mayanja, Acting Director and Mr. Tshimanga Mukadi-Mutoke, Political Affairs Officer in the Department for Political Affairs, Dr. Grace Kalimugogo, Acting Director, Mr. Thomas Bisika, Head of Division, Health, HIV-AIDS, Nutrition and other Infectious Diseases, Mr. Kebede Tsegaye, Consultant Coordinator Sexual and Reproductive Health and Rights in the Department of Social Affairs, Ms. Soanirenela Tsilimbiaza, Director in the Department of Trade and Industry, Ms. Vera Ngosi, Director of the Administration and Human Resource Development Division, Amb. Jean Mfasoni, Former Director, Conference Services Directorate and Ms. Wolansa Mekuria, Director, Internal Audit in the Office of the Deputy Chairperson, Mr Sam Onek, Acting Director of Finance.

AFRICAN UNION MISSIONS

Amb. Amina S. Ali, Ambassador, African Union Mission, Washington, Amb. Analif, Ambassador, African Union Mission, Brussels.

African Embassies

Mr. John-Thomas Dipowe, Chair, Sub-committee, Administrative, budgetary and financial matters and Minister Counsellor, Boipelo Paakane, First Secretary, Edgar Sisa, First Secretary, Maphoi Komanyane, First Secretary, Seno Mpuchane, First Secretary and Julian Mokgath, Counsellor in the Embassy of Botswana, Dr. Paul Dong, Chair, Sub-committee, Programmes and Conferences and Minister Counsellor, Embassy of Cameroon, Amb. John Aggrey, Chair of the PRC and Ambassador, Embassy of Ghana, Amb. Saleh Sahboun, Chair, Sub-committee, Contributions and Minister Plenipotentiary, Embassy of Libya, Chair, Sub-committee, Structural Reforms and Ambassador, Embassy of Mozambique, Amb. Obioma Oparah, Ambassador, Embassy of Nigeria, Mr. Papa Diop, Counsellor, Embassy of Senegal, Mr. Sandile Schalk, Deputy Ambassador, Embassy of South Africa

African and European Policy Analysts

Mr. Mehari Maru, Researcher in conflict studies, Harvard Law School (Ethiopia), Mr. Tim Murithi, Senior Researcher, Institute for Security Studies (Kenya), Mr. James Mackie, Senior Officer, ECPDM.

Written submissions to the Panel by citizens via the internet

Mr. Ozias Tungwarara, Director, Afri-Map Open Society Institute (Zimbabwe), Mr. Evens Jeune, Teacher (North America), Mr. Paul Henri Sedogo, Mr. Ben Hadj Abdellaziz (Tunisia), Dr. Emmanuel Akwetey, Director, Institute for Democratic Governance (Ghana), Mr. Henry Ekwuruke, Executive Director, Development Generation Africa (Nigeria), Chief Charles O. Okereke (Nigeria), Mr. Mahmoud Abdel-Aziz (Egypt), Ms. Carmelle T. Norice, Student (Diaspora in North America), Ms. Rachel Reap and Mr. Shernard Mazengera, Country Programme Manager, Oxfam Malawi, Mr John Tesha, Director, Africa former Heads of State and Government Forum

External Partners

Amb. Yves Boulanger Ambassador and Ms. Catherine Berard, Head of AU and Regional Cooperation Section, CIDA – Canada, Ms. Bridget Dillon, Head of AU and Regional Cooperation Section, DFID – Great Britain, Ms. Alfreda Meyers, Political Economic Counsellor, United States Embassy, Ms. Valentina Auricchio, Head of AU and Regional Cooperation Section, European Union, Mr. Per Knutsson, Head of AU and Regional Cooperation Section, SIDA – Sweden, Ms Aide Gingnard, Junior Expert on Politics at the EU Delegation in Namibia.

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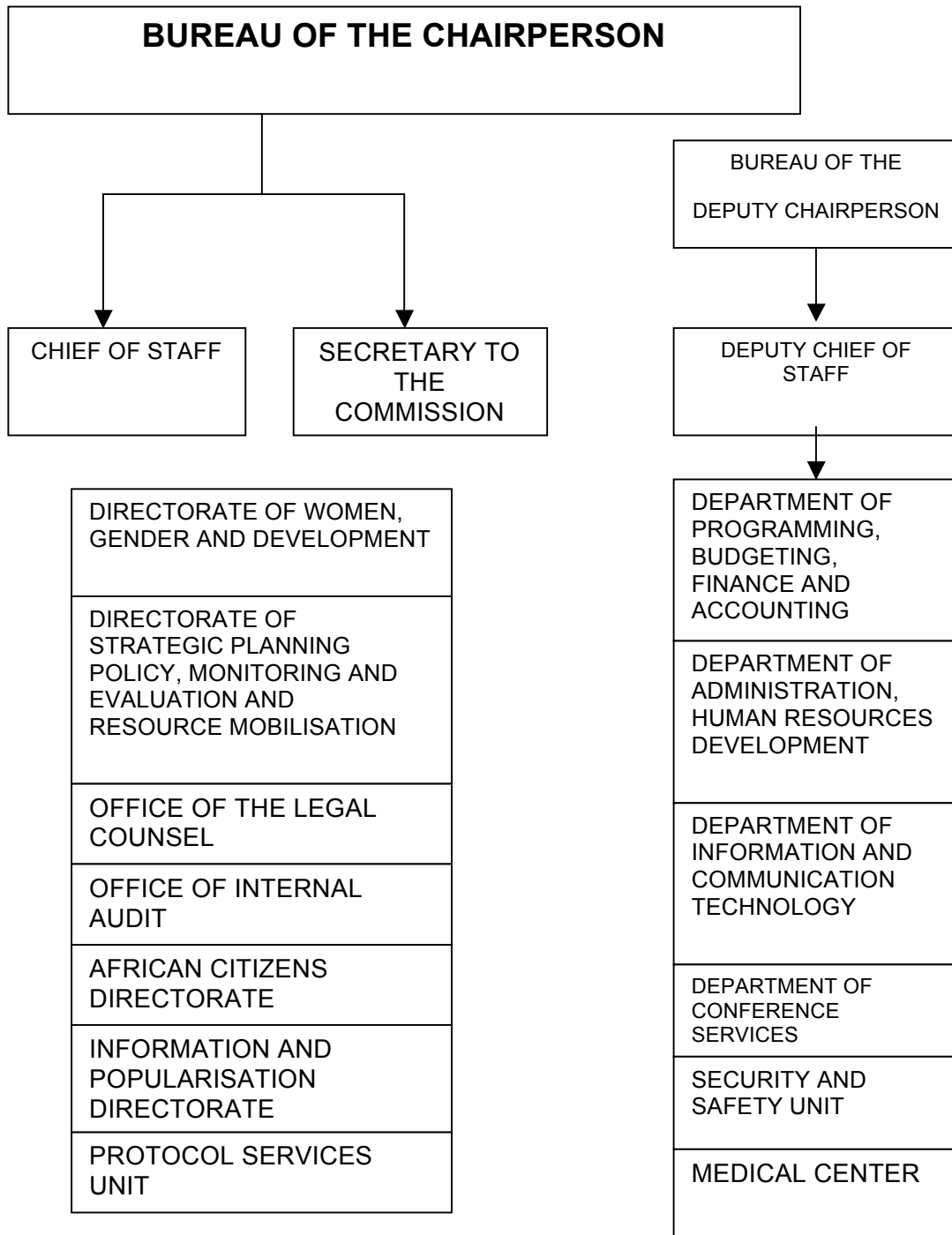
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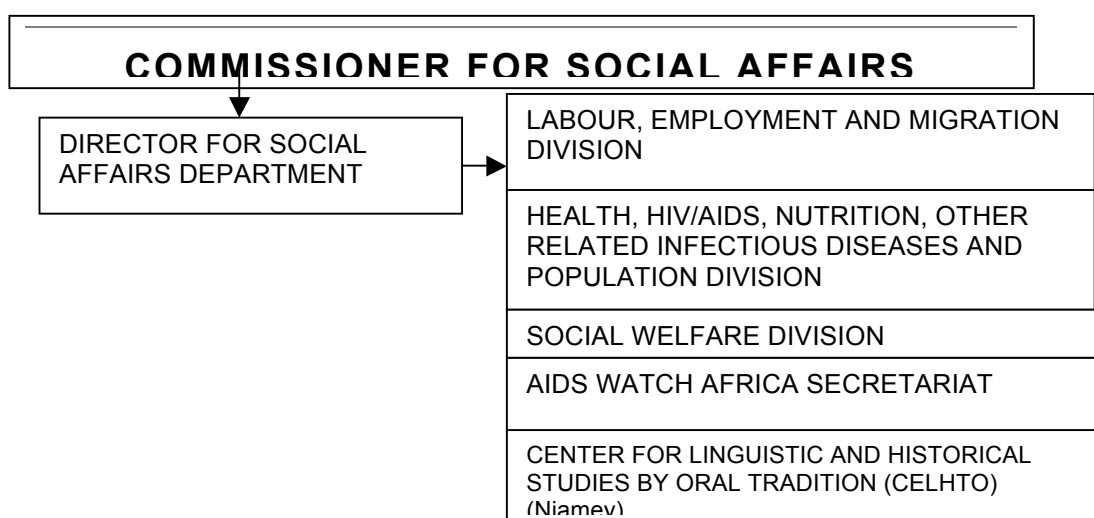
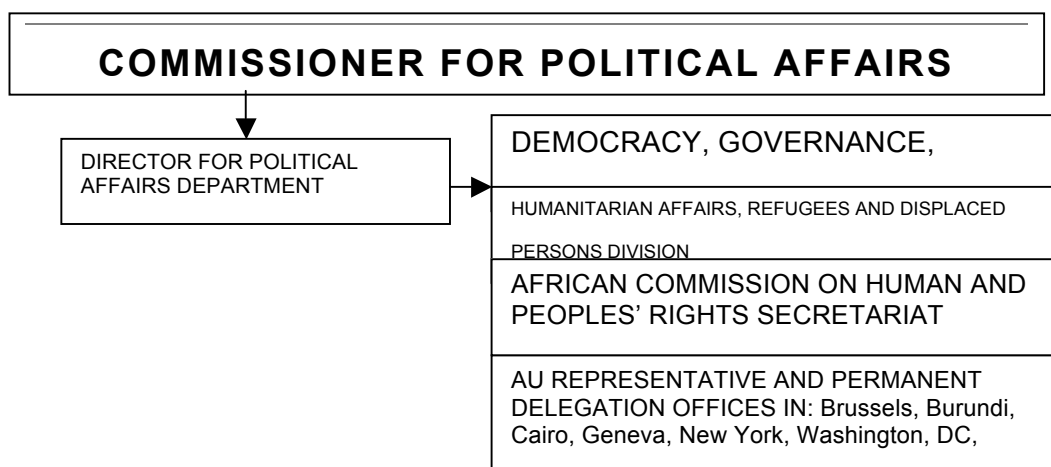
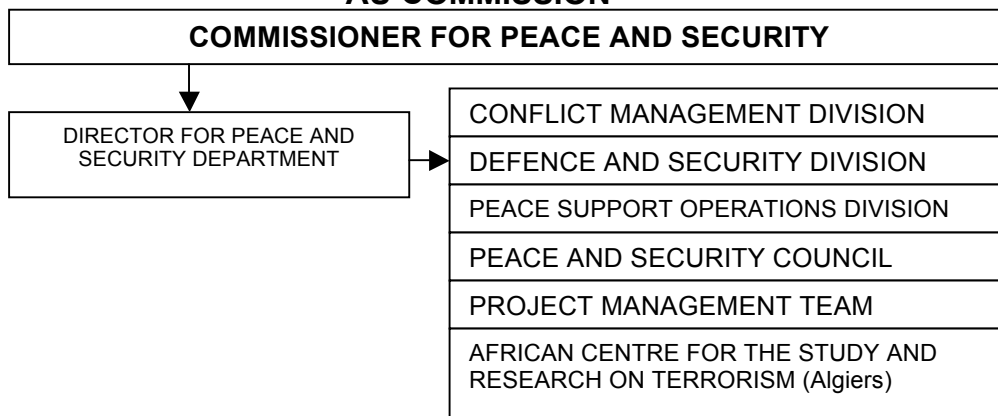
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C. ORGANIGRAMME OF THE AU COMMISSION



AU COMMISSION



AU COMMISSION CONTINUED

