

PROTOCOL ON RELATIONS BETWEEN THE AFRICAN ECONOMIC COMMUNITY AND THE REGIONAL ECONOMIC COMMUNITIES

PREAMBLE

THE PARTIES

INSPIRED by the provisions of the Treaty Establishing the African Economic Community which provides as the first priority of the African Economic Community, the strengthening of existing regional economic communities, the foundation on which the African Economic Community is established;

AWARE that most of the regional economic communities were already established each by a regional treaty and were thus in existence and functioning prior to the entry into force of the Treaty Establishing the African Economic Community;

CONSCIOUS of the need for the co-ordination and the harmonization of the policies, measures, programmes and activities of the regional economic communities and the progressive integration of the activities of the regional economic communities into the African Common Market, as a prelude to the African Economic Community;

AWARE of the responsibility placed on both the African Economic Community and the regional economic communities by the provisions of paragraph 2 (a) through (d) of Article 6 of the Treaty Establishing the African Economic Community to ensure that the latter are strengthened and are progressively integrated in the most economic and effective manner;

TAKING into account the role of the African Economic Community, in terms of the provisions of paragraphs 1 and 3 of Article 88 of the Treaty Establishing the African Economic Community of promoting closer cooperation among the regional economic communities, in particular, through the coordination and harmonization of their policies, measures, programmes and activities in all fields and sectors;

CONVINCED of the need to establish an institutional framework that shall govern relations between the African Economic Community and the regional economic communities, the harmonization and coordination of policies, measures, programmes and activities of the latter, implementation of the provisions of paragraph 2 (a) through (d) of Article 6 of the Treaty Establishing the African Economic Community and cooperation among the regional economic communities:

NOW THEREFORE

IT IS HEREBY AGREED as follows:

CHAPTER ONE PRELIMINARY PROVISIONS

ARTICLE 1

Definitions

In this protocol, unless the text otherwise requires:

“Protocol” means this Protocol;

“Parties” means the Parties to this protocol which are the Community and the regional economic communities;

“Treaty” means the Treaty Establishing the African Economic Community;

“Treaties” means the treaties establishing the regional economic communities;

“Regional Economic Community” means a corporate legal entity established by its Treaty as defined in Article 1(d) of the Treaty and whose objective is to promote economic integration as a step towards the establishment of the Community;

“Community” means the African Economic Community established by Article 2 of the Treaty;

“Committee” means the Committee on Co-ordination established by Article 6 of this Protocol;

“Committee of Secretariat Officials” means the Committee of Secretariat Officials as set out in Article 9 of this Protocol;

“Secretary-General” means the Secretary-General of the OAU provided for in Article 21 of the Treaty;

“Chief Executive” means the Chief Executive of a regional economic community;

“Policy Organs” means the organs established by the legal instruments of the Parties forming the process of decision-making;

“OAU” means the Organization of African Unity;

“Bureau of the Assembly” means the Chairman and Vice-Chairmen of the Assembly;

“Commission” means the Economic and Social Commission of the Community established by Article 7 of the Treaty;

“Council” means the Council of Ministers of the Community established by Article 7 of the Treaty;

“Assembly” means the Assembly of Heads of State or Government of the Community established by Article 7 of the Treaty; and

“Court of Justice” means the Court of Justice established by Article 18 of the Treaty.

ARTICLE 2 **Scope of Application**

The provisions of this Protocol shall apply to relations between the Parties and measures that the Parties shall implement in order to fulfil the responsibilities placed on them by Articles 6 and 88 of the Treaty.

ARTICLE 3 **Objectives**

The objectives of this protocol shall be:

- a) to strengthen the existing regional economic communities in accordance with the provisions of the Treaty, treaties and this Protocol;
- b) to promote the coordination and harmonization of the policies, measures, programmes and activities of regional economic communities to ensure that the provisions of paragraph 2 (a) through (d) of Article 6 of the Treaty are implemented in a harmonious manner to facilitate, at stage five set out in Article 6 of the Treaty, an efficient integration of the regional economic communities into the African Common Market;
- c) to promote closer co-operation among the regional economic communities; and
- d) to provide an institutional structure for the coordination of relations between the Community and the regional economic Communities on the implementation of the stages 1 through 4 set out in Article 6 of the Treaty.

ARTICLE 4
General Undertaking

The Parties undertake to promote the coordination of their policies, measures, programmes and activities with a view to avoiding duplication thereof. To this end, the Parties agree:

- a) to ensure that their policies, measures, programmes, and activities do not duplicate efforts or jeopardize the achievement of the objectives of the Community;
- b) that the Community shall refer decisions and directives relating to the implementation of the provisions of paragraph 3 of Article 6 of the Treaty to the Committee which shall advise on modalities for implementation;
- c) to abide by the provisions of paragraph 1 of Article 88 of the Treaty which states that the Community shall be established mainly through the coordination and harmonization of the activities of the regional economic communities and their eventual integration into the African Common Market, thus, envisioning a Community that shall commence operating at harmonized continental framework at stage five set-out in Article 6 of the Treaty; and
- d) to provide for the exchange of information among their respective Secretariats for the implementation of the Treaty and treaties.

ARTICLE 5
Specific Undertakings

1. The Regional Economic Communities shall take steps to review their treaties to provide an umbilical link to the Community and in particular provide:
 - a) in the treaties as their final objective, the establishment of the Community;
 - b) legal links to this Protocol, the Treaty and the treaties of the Regional Economic Communities; and
 - c) for the eventual absorption, at stage 5 set-out in paragraph 2 (f) of Article 6 of the Treaty, of the Regional Economic Communities into the African Common Market as a prelude to the Community.
2. The Community undertakes to discharge fully, and as the first priority, its responsibility of strengthening the existing Regional Economic Communities and establishing new ones where none exist, within the time framework set-out in Article 6 of the Treaty as well as of coordinating and harmonizing the activities of the regional economic communities.

CHAPTER TWO

COORDINATION FRAMEWORK

ARTICLE 6
Coordination Organs
Establishment

There shall be established as organs for coordinating policies, measures, programmes and activities of Regional Economic Communities and ensuring the implementation of activities arising from the provisions of this Protocol:

- a) the Committee on Coordination; and
- b) the Committee of Secretariat Officials.

ARTICLE 7
The Committee on Coordination
Composition and Functions

1. The Committee shall consist of:
 - a) the Secretary-General;
 - b) the Chief Executives of the Regional Economic Communities;
 - c) the Executive Secretary of the Economic Commission for Africa; and
 - d) the President of the African Development Bank.
2. Members of the Committee may be accompanied to meetings by experts and advisers.
3. The Committee shall be responsible for:
 - a) providing policy orientation pertaining to implementation of the Protocol;
 - b) coordinating and harmonizing the macro-economic policies, other policies and activities of the Regional Economic Communities, including the priority sectors of agriculture, industry, transport and communication, energy and environment, trade and customs, monetary and financial matters, integration legislation, human resources, development, housing, health and water, tourism, science and technology including information technology, cultural and social affairs;
 - c) monitoring and keeping under constant review, progress made by each regional economic community towards the implementation of stages 1 through 4 set out in Article 6 of the Treaty;
 - d) preparing the budget referred to in Article 24 of this Protocol;
 - e) determining the modalities of implementing decisions and directives of the Assembly and the Council on the implementation of the Treaty;
 - f) mobilizing resources for the implementation of the Treaty; and
 - g) considering recommendations of the Committee of Secretariat Officials covering (a) through (c) above.
4. In order to facilitate the harmonious and speedy implementation of the provisions of the Treaty, treaties and this Protocol, the Committee shall have the power to implement the provisions of this Protocol and submit regular progress reports to their respective policy organs including issues requiring their approval.

ARTICLE 8
Meeting of the Committee

1. The Committee shall meet at least once a year and shall be chaired by the Secretary-General.
2. The decisions of the Committee shall be taken by consensus failing which by a simple majority.

Subject to the provisions of the Treaty and the treaties, the Committee shall determine its own rules of procedure for the conduct of its meetings.

ARTICLE 9
The Committee of Secretariat Officials
Composition and Functions

1. The Committee of Secretariat Officials shall consist of:

- a) OAU senior officials responsible for community affairs;
 - b) designated senior officials of the regional economic communities; and
 - c) designated senior officials of the Economic Commission for Africa and the African Development Bank.
2. The Committee of Secretariat Officials whose main function shall be to prepare for the meeting of the Committee, shall, in particular, be responsible for:
- a) monitoring and keeping under constant review the coordination and harmonization of policies and activities of regional economic communities and ensuring the proper development of the communities towards the establishment of the African Common Market provided for in paragraph 2(f) of Article 6 of the Treaty and in this regard, making recommendations to the Committee.
- In particular, coordination and harmonization shall be in the priority sectors set-out in paragraph 3 (b) of Article 7 of this Protocol;
- b) evaluating progress made by each Regional Economic Community towards the implementation of the provisions of paragraph 2 (a) through (d) of Article 6 of the Treaty and making recommendations to the Committee;
 - c) recommending the budget referred to in Article 24 of this Protocol;
 - d) promoting inter-regional cooperation and coordination as well as inter-regional mutual assistance; and
 - e) submitting, from time to time, on its own initiative or upon the request of the Committee, reports and recommendations that would facilitate the attainment of the objectives of the Treaty and this Protocol.
3. Members of the Committee of Secretariat Officials may be accompanied to meetings by experts.
4. The Committee of Secretariat Officials may establish Ad-hoc Committees and working groups of experts to assist it in the discharge of its responsibilities.

ARTICLE 10
Meeting of the Committee of Secretariat Officials

- 1. The Committee of the Secretariat officials shall meet at least once a year prior to the meetings of the Committee.
- 2. The decisions of the Committee of Secretariat Officials shall be by consensus failing which the matter may be referred to the Committee on Coordination for decision.
- 3. The rules of procedure for the conduct of the meetings of the Committee, subject to necessary modifications, shall apply to the Committee of Secretariat Officials.

CHAPTER THREE
IMPLEMENTATION

ARTICLE 11
Immediate Priority Activities by the Community

- 1. In terms of the provisions of paragraph I of I Article 88 and paragraph 2 (a) through (d) of Article 6 of the Treaty, the Community's role at stages 1 through 4 is primarily to strengthen existing Regional Economic Communities, establishing new ones where none exist and harmonizing and coordinating the policies and measures adopted by the Regional Economic Communities and eventually integrating the Regional Economic Communities into the envisaged African Common Market. To this and the Community shall:

- a) Within the limit set out in Article 6 of the Treaty, identify regions where no regional economic community exists in order to establish regional economic communities there;
 - b) Evaluate the policies, measures, programmes and activities of the Regional Economic Communities and their implementation thereof in order to determine the stage at which each Regional Economic Community shall be placed in terms of the stages set out in paragraph 2(a) through (d) of Article 6 of the Treaty;
 - c) Through the Regional Economic Communities, identify areas with respect to each Regional Economic Community which require the assistance of the Community with a view to strengthening each Regional Economic Community and facilitating the achievement of the objectives of each treaty and the Treaty; and
 - d) Monitor the implementation of harmonized and rationalized, policies, measures and programmes agreed upon at the levels of the Regional Economic Communities and the Community member states.
2. The implementation by the Community of measures, programmes and activities envisaged under the provisions of paragraph 3 of Article 6 of the Treaty concurrently within the time limits set but in paragraph 2 of Article 6 of the Treaty shall be done jointly with the Regional Economic Communities and shall take into account similar measures, programmes and activities being implemented by the latter.

ARTICLE 12
Financial and Technical Support

1. The parties recognize that the main obstacles to the full implementation of the policies, measures and programmes of Regional Economic Communities include resource constraints, at the level of the Community, Regional Economic Communities and the member states to plan, manage, in up and monitor the implementation of agreed decisions, policies, measures, programmes and activities. In this regard, the Community shall strengthen the Regional Economic Communities as follows:
 - a) Provide financial resources to assist regional economic communities implement, in particular, policies, measures and programmes which shall facilitate the development of respective regional economic communities from one stage to the next as set out in paragraph 2 (a) through (d) of Article 6 of the Treaty;
 - b) Promote human resource capacity development of the regional economic communities;
 - c) Strengthen institutions created by or affiliated to the regional economic communities;
 - d) Provide technical assistance to regional economic communities according to expressed needs; and
 - e) Urge its member states to expedite implementation of programmes agreed upon at the level of the regional economic communities and monitor their compliance thereof so as to expedite the implementation of the Treaty.

CHAPTER FOUR
IMPLEMENTATION BENCHMARKS FOR THE REGIONAL ECONOMIC COMMUNITIES

ARTICLE 13
The General Benchmarks

The provisions of Articles 4 and 6 of the Treaty envisage, at stages 1 through 4 set out in paragraph 2 (a) though (d) of Article 6 of the Treaty, the following outputs:

- a) trade liberalization, facilitation, promotion and development with a view to creating a free trade area and a customs union through the eventual adoption of a common external tariff; and

- b) sectoral integration based on harmonized macro-economic policies, enabling free market policies, factor movement and measures that aim to reduce transaction costs of doing business across the borders and thus promote increased domestic production in the Parities' Member States.

ARTICLE 14
Specific Benchmark

1. The Committee shall decide, from time to time, the specific benchmark to be attained at each stage.
2. Notwithstanding the provisions of paragraph 1, all policies, measures and programmes which shall be implemented in order to achieve a free trade area, a customs union and a common market for each Regional Economic Community shall be implemented by the end of the period provided for in paragraph 2 (a) through (d) of Article 6 of the Treaty of 25 years from the date of entry into force of the Treaty.
3. Notwithstanding the provisions of paragraph 1, the coordination and harmonization of tariff and non-tariff systems among the Regional Economic Communities with a view to establishing, at continental level, a customs union by means of adopting a common external tariff, shall be achieved within the period provided for in paragraph (d) of Article 6 of the Treaty.
4. Any Regional Economic Community may accelerate the process of integration and achieve the objectives set for each stage well in advance of the time limits set-out in Article 6 of the Treaty.
5. Subject to the provisions of the Treaty, Regional Economic Communities may, jointly with the Community, implement measures, programmes and activities envisaged under the provisions of paragraph 3 of Article 6 of the Treaty concurrently within the time limits specified in paragraph 2 of Article 6 of the Treaty taking into account existing similar measures, programmes and activities.
6. The Community shall, immediately after the entry into force of this Protocol and in consultation with the regional economic communities, evaluate, existing regional economic communities to determine the stage at which each shall be placed in terms of the stages set out in paragraph 2 (a) through (d) of Article 6 of the Treaty.

CHAPTER FIVE

CO-OPERATION AMONG REGIONAL ECONOMIC COMMUNITIES

ARTICLE 15
Co-ordination of Activities

The Chief Executives may, prior to a meeting of the Committee, meet either formally or informally to discuss the co-ordination of their activities.

ARTICLE 16
Joint Programmes and Closer Co-ordination

Regional Economic Communities, inters, may enter into cooperation arrangements under which they undertake joint programmes or activities or more closely co-ordinate their policies, measures and programmes.

ARTICLE 17
Participation at each others' Meetings and Exchange of Information

1. Each Regional Economic Community shall invite the others to participate at meetings convened by it in which matters of mutual interest, in the context of this Protocol to the others, are to be discussed. The costs for attending such meetings shall be borne by the Community.
2. A Regional Economic Community may, in line with modalities to be mutually agreed upon, avail another of its experience by putting at its disposal the services of its personnel. The costs for such exchange of expertise shall be borne by the Community.

ARTICLE 18
Exchange of Information

The Regional Economic Communities shall exchange information and documents and keep each other informed of their policies, measures, programmes and activities relating to the implementation of this Protocol with a view to fostering closer coordination and cooperation among them for the achievement of the objectives of the Community. To this end, data banks shall be established within the Secretariats of the OAU/AEC and the Regional Economic Communities.

CHAPTER SIX
PARTICIPATION AT MEETING AND THE NATURE OF DECISIONS

ARTICLE 19
Participation at Community Meetings

1. The Regional Economic Communities shall participate fully in meetings of the Community on the implementation of the provisions of stages 1 through 4 set out in paragraph 2(a) through (d) of Article 6 of the Treaty and the provisions of this Protocol.
2. Each Regional Economic Community shall submit a report to the Commission, the Council and the Assembly on progress made in the implementation of the provisions of this Protocol.

ARTICLE 20
Participating at Meetings of Regional Economic Communities

1. The Secretary-General shall participate fully in meetings of the regional economic communities.
2. The Secretary-General shall submit a report to the meetings of the policy organs of the regional economic communities on the implementation of the provisions of the Treaty and this Protocol.

ARTICLE 21
Community Decisions to Regional Economic Communities

1. The Assembly and the Council shall give directives to any regional economic community whose policies, measures and programmes are at odds with the objectives of the Treaty or whose implementation of its policies, measures, programmes and activities lags behind the time limit set out in Article 6 of the Treaty.
2. Where it is established that the delay in the implementation of the policies, measures, programmes and activities arising from the provisions of Article 6 of the Treaty rests on action or omission by Member States of regional economic communities, the Assembly or the Council shall address its directives to the relevant Community member states.
3. The decisions of the Assembly and the Council may include any sanctions deemed appropriate.

ARTICLE 22
Status of the Regional Economic Communities at Community Meetings

1. Chief Executives of the Regional Economic Communities shall be accorded the same status as that of the Chief Executive of the other Party to this protocol and shall in this regard participate fully in the deliberations of the Community.
2. Decisions of the Community on regional integration shall take into account the views of the regional economic communities.

ARTICLE 23
Status of the Community at Meetings of Regional Economic Communities

The Secretary-General shall be accorded due respect and status at meetings of the regional economic communities and participate fully in the deliberations of the regional economic communities.

CHAPTER SEVEN FINANCIAL PROVISIONS

ARTICLE 24 Budget

1. The Community shall allocate in its regular budget resources for the implementation of this Protocol and related provisions of the Treaty including the financing of all meetings held in relation thereto and the costs for the participation of the regional economic communities.
2. A draft budget, for the implementation of this Protocol, for which financial year shall be prepared by the Secretary-General in consultation with the Chief Executives.
3. Notwithstanding the provisions of paragraph 1, the resources of the budget may be derived from extra-budgetary sources.

ARTICLE 25 Accounts and Financial Regulations

The regional economic communities shall account for any financial resources provided by the Community in accordance with the provisions of Article 85 of the Treaty.

CHAPTER EIGHT GENERAL AND FINAL PROVISIONS

ARTICLE 26 Working Languages

For the purposes of this Protocol, the working languages of the Committee shall be the same as those of the Community.

ARTICLE 27 Administrative Arrangements

1. The Community shall be responsible for all secretariat, administrative and conference arrangements for all meetings held at the Community Headquarters relating to the implementation of this Protocol.
2. Where the meetings are held at the invitation of one of the regional economic communities, the concerned regional economic community shall be responsible for all secretariat, administrative and conference arrangements.
3. The Community shall facilitate the participation of regional economic communities at all Community meetings.

ARTICLE 28 External Relations

1. In the context of realizing their regional integration objectives, regional economic communities may enter into cooperation agreements, interse, or with other international organizations or with third countries provided that such agreements do not conflict with the objectives of the Treaty and the treaties.
2. Copies of the agreements referred to in paragraph 1 shall be transmitted to the Secretary-General by the regional economic communities parties to them.

ARTICLE 29
Harmonization of Coordinating Ministries/Authorities

1. For the purposes of the implementation of the provisions of paragraph 2 of Article 88 of the Treaty and of Article 4 of this Protocol, the Parties agree to designate, through their Member States, the same coordinating ministry/authority for the implementation of the Treaty and the treaties.
2. Notwithstanding the provisions of paragraph 1, the regional economic communities may maintain country or regional offices in their Member States to promote the implementation, by Member States, of the provisions of the treaties and the Treaty.

ARTICLE 30
Dispute Resolution

Any dispute arising from or in connection with this Protocol shall be settled amicably between the Parties within the Committee, failing which it shall be referred to the Bureau of the Assembly. As a last resort, the Assembly may refer the disputants the Court of Justice.

ARTICLE 31
Entry into Force and Accession

1. This Protocol shall enter into force when signed by the Secretary-General on behalf of the Community and by at least three Chief Executives of the regional economic communities on behalf thereof.
2. Any Regional Economic Community which is not Party to this Protocol on the date of its entry into force shall accede to this Protocol.
3. This Protocol shall enter into force in relation to an acceding regional economic community on the date its instrument of accession shall be deposited.

ARTICLE 32
Amendments

1. Either party may propose amendments to this Protocol.
2. Proposals for amendment shall be submitted to the Secretary-General who shall transmit the same to all the regional economic communities within thirty (30) days of receipt of the proposal.
3. The Committee shall examine the proposals and make recommendations to the parties.
4. Amendments shall enter into force thirty (30) days after approval by the Community and at least three of the regional economic communities.

ARTICLE 33
Depository

This Protocol and all instruments of accession shall be deposited with the Secretary-General who shall transmit certified copies to the Parties and their Member States.

Done at Addis Ababa in the Republic of Ethiopia on the 25th day of February in the year one thousand nine hundred and ninety-eight in the English, French, Arabic and Portuguese languages, the four texts being equally authentic.

IN FAITH WHEREOF the undersigned have placed their Signatures to this Protocol.

1. **AFRICAN ECONOMIC COMMUNITY**

H.E. Mr. Salim Ahmed Salim
Secretary-General
25 FEB 1998
(signed)

2. **REGIONAL ECONOMIC COMMUNITIES**

i) **Common Market of East and Southern Africa (COMESA)**

H.E. J.E.O. MWENCHA
Ag. Secretary-General
25 FEB 1998
(signed)

ii) **Southern African Development Community (SADC)**

H.E. Dr. Kaïre MBUENDE
Executive Secretary
25 FEB 1998
(signed)

iii) **Inter-Governmental Authority for Development (IGAD)**

H.E. Dr. Tekeste GHEBRAY
Executive Secretary
25 FEB 1998
(signed)

iv) **Economic Community of West African States (ECOWAS)**

H.E. Mr. Lansana KOUYATE
Executive Secretary
25 FEB 1998
(signed)

v) **Economic Community of Central African States (ECCAS)**

H.E
Secretary-General
(not signed)

vi) **Arab Maghreb Union (AMU)**

H.E
Secretary-General
(not signed)

Science and Technology Protocol of the African Economic Community

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ECONOMIC COMMISSION FOR AFRICA

First Meeting of the African Regional Conference on
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SCIENCE AND TECHNOLOGY PROTOCOL OF THE AFRICAN ECONOMIC COMMUNITY

ARCST/1/5.f

SCIENCE AND TECHNOLOGY PROTOCOL OF THE AFRICAN
ECONOMIC COMMUNITY

1. In the past fifteen years, a number of resolutions and documents have been adopted by African States to strengthen the role of science and technology in development. In 1991 the African Heads of State adopted the Abuja Treaty establishing the African Economic Community and in 1992 and 1993, in the framework of the Treaty, a draft Protocol on Science and Technology was formulated. In 1994 ECA organized a Round Table to discuss this draft Protocol and suggest ways to improve it. The aim of this Protocol, according to the draft, is to :

(a) Strengthen scientific and technological capabilities of member States through programs aiming at the proper application of science and technology for development in the different sectors. The programs should contain ways and means to :

(i) improve existing facilities and develop institutional capabilities in member countries, for the development, management, utilization and popularization of new and traditional technologies;

(ii) ensure the proper application of science and technology to the development of the socioeconomic sectors, in particular agriculture, transport and communications, industry, health and hygiene, energy, education and manpower, utilizing nuclear techniques and biotechnology wherever possible;

(b) Promote cooperation among Member States in all aspects of fostering the application of science and technology for the development of African societies, the acquisition and assimilation of technology and its adaptation to local conditions;

(c) Strengthen national, subregional and regional scientific and technological institutions, including those concerned with intellectual property laws and practices, as well as patent information services.

2. Under this draft Protocol, member States shall :

(a) Strengthen national, regional and continental institutions and centers concerned with science and technology with a view to enhancing their capability for research on science and technology, and the application of research results to solving Africa's economic and social problems;

(b) Strengthen scientific and technological capabilities in order to bring about the socioeconomic transformation required to improve the quality of life of their population, particularly that of the rural populations;

(c) Promote mechanisms for the exchange of science and technology information and documentation and for the establishment of community data networks and data banks;

(d) Develop common programs for training scientific and technological cadres, including the training and further training of skilled manpower.

3. The following areas have been identified as priorities:

(a) Setting up of national policies for the development and application of science and technology with a view to facilitating their integration into national economic and social development plans;

(b) Preparation and implementation of national strategies for scientific research and technological development programs to fulfil the needs of the continent;

(c) Reform of educational systems, keeping in mind local and cultural factors, in order to adopt better educational approach for the development of scientific and technical skills to meet the specific needs of the African communities;

(d) Development of programs for training scientific and technological cadres, including the training of trainers and further training of skilled manpower with a view to establishing socioeconomic climate conducive to the development and utilization of science and technology;

(e) Harmonization and adoption of laws and practices for the acquisition of technology inter alia by way of common regulations on intellectual property, foreign direct investment, joint ventures licensing and the transfer of technologies, considering its adaptation to local conditions.

(f) Adoption and harmonization of immigration, investment and trade policies which are supportive of science and technology and endogenous capacity building.

4. Furthermore, member States shall develop mechanisms for the popularization of appropriate technologies (new and traditional) for promoting the application of science and technology to development and give necessary attention to women, recognizing the role that they can play in the diffusion of technologies within their communities. It is in this context that member States have to take actions, individually and collectively, to implement the provisions of the Protocol.

5. As regard to the role of ECA, it has formally joined OAU and ADB in the implementation of the Treaty establishing the African Economic Community and it is expected to play an important role in many areas, including economics and science and technology.

6. The Treaty establishing the African Economic Community is part of a global trend towards the building of larger economic zones and the realization of the Community will undoubtedly reduce the fragmentation of the continent and contribute to its prosperity. However, Africa lags many years behind other continents in terms of economic, scientific and technological integration and the process of integration must be accelerated. The Treaty and its Protocols offer an instrument and a political commitment to achieve this objective.

7. Articles 51 and 52 of the Treaty deal specifically with science and technology issues and are in force since May 1993. These articles should be used as starting points for promoting cooperation and coordination in the field of science and technology, for harmonization and integration of science and technology policies and programmes on the continent, and for regional capacity building in science and technology in general. Areas of cooperation that should be strengthened include policy institutions building, policy formulation, information and documentation, training and harmonization of laws and regulations that affect the contribution and performance of science and technology. Coordination should be strengthened in the field of R & D effort and international negotiation related to science and technology. Regional integration can also be supported by revitalizing professional and intergovernmental institutions in science and technology.

8. The draft Protocol, in its present form, is not much different in its spirit from other regional policy documents in science and technology adopted by the highest political authorities, such as the science and technology chapter of the Lagos Plan of Action, CASTAFRICA 1 and 11 and the declarations of the PanAfrican Union of Scientists and Technologists. The draft document displays the same strengths: it calls for cooperation, coordination, establishment or strengthening of infrastructure, institutions and programs, harmonization of laws and policies and political commitment to science and technology. It also displays the same weaknesses: it is rather silent on the economic reforms that are necessary for science and technology to play its full and strategic role in development. These concern supportive or conducive trade, investment, licensing, joint venture, credit, venture capital, immigration, intellectual property protection and

technology transfer laws and regulations within the context of a stable, private, liberal, market-oriented and open economy.

9. It is hoped that the draft Protocol, once approved, will provide a roadmap for African countries to guide their policy reforms.

10. Issues to be discussed include:

PROTOCOL ON TREATY ESTABLISHING THE AFRICAN ECONOMIC COMMUNITY RELATING TO PAN AFRICAN PARLIAMENT; FOURTH REPORT OF WORKING GROUP

Chairperson: Dr F Ginwala (ANC)

Documents handed out:

Fourth Report of the Working Group (Appendix 1)

Synopsis of AU Developments - presented by Amb JNK Mamabolo -1 June 2002 (Appendix 2)

SUMMARY

The Working Group discussed issues arising from the Fourth Report of the Working Group relating to the summit meeting on the 27 and 28 June, when delegates from across the continent would arrive in Cape Town to discuss the Pan-African Parliament. It was decided to invite interested members of civil society, the heads of regional groups throughout Africa and members of South Africa's provincial legislatures. The possibility of South Africa hosting the Pan-African Parliament was raised.

The Working Group agreed to subdivide into three groups to discuss the socio-economic, political and constitutional issues relating to the Protocol, with the intention of submitting a report that Parliament could ratify the Protocol, together with a second report detailing considerations that should be taken into account.

MINUTES

The Chair noted that the South African Parliament could ratify but not unilaterally amend the Protocol on the treaty establishing the African Economic Community relating to the Pan African Parliament (The Protocol). A recommendation had been made to the National Assembly that the Protocol be adopted and that had been done. She said that issues concerning the Fourth Report needed to be prioritised.

Mr Eglin (DP) commented that he was not aware that the Protocol had been "usurped" from the Foreign Affairs Portfolio Committee. He cautioned against the changing of parliamentary procedures concerning the Portfolio Committees.

The Chair responded that the Protocol had not been usurped as all matters relating to the AU came to the Working Group. The Working Group had been established in terms of a Resolution of the House and was therefore a properly constructed Working Group.

On matters relating to the Fourth Report, the Chair noted that she had called on all African parliaments to send five delegates to the summit meeting on the 27 and 28 of June, when delegates from across the continent would arrive in Cape Town to discuss the Pan-African Parliament. She was in the process of determining if the meeting could be held in the National Assembly Chamber because no outside meetings had ever been held there before. In those countries where there was no evidence of the existence of a parliament she had written to the Ambassador and requested him/her to send the letter to the appropriate organ. Morocco had not been invited due to the fact that it had left the OAU over a dispute concerning the inclusion of the Sahrawi Republic and it was unclear whether or not they would be joining the AU. An invitation would be extended to

Morocco once it was clarified that it would be joining the AU. However, if the region group, of which Morocco is the head, were to be invited then the Speaker would be invited in his capacity.

The Chair noted to other issues: the programme of the meeting and South Africa's participation in it. It had been agreed to invite the heads of the regional groups. She noted that an important objective of the meeting was to familiarise African parliaments with the concept of the AU and to arrive at a common understanding so that South Africa would not give the appearance of taking the lead. On the issue of South Africa's participation, she said that not more than five delegates could be invited to participate but recommended that a larger number be drawn up as surplus. She suggested that 25 members be listed who could then be used as chairperson for the sub-committees or elsewhere in the process. The amount of 25, she felt, would allow every party to include at least one member.

Mr Eglin pointed out that the Parliamentary Committees used a formula based on the number 27.

The Chair responded that that formula could be followed. She raised the question of who else could be invited and suggested extending invitations to regional institutions.

Ms Mbeti (ANC) felt that those bodies that have African Chapters should be invited.

Dr Geldenhuys (NNP) asked if South Africa was a member of the Union of African Parliaments.

The Chair answered that South Africa was not but indicated that that should not affect it.

Ms Mbeti added that it was important not to give the impression that South Africa was hostile to them.

The Chair continued that the OAU would obviously be invited. She felt that there was a need to look at non-parliamentary bodies and noted that the three main bodies in South Africa - including the Institute for Global Dialogue and the Africa Institute - would have to be invited.

Ms Mbeti suggested considering organisations outside of South Africa.

The Chair suggested inviting the African Leadership Forum and added that there would be no cost implications in that respect. She felt that there was no harm in informing people where there were no cost implications as it could only strengthen the network. She asked for suggestions concerning institutions in South Africa and members suggested universities and Idasa. The Chair believed it important to be as inclusive as possible.

Mr Eglin asked if they would be active participants or observers.

The Chair replied that they would be observers and explained that the normal practice was that if a person wanted to speak, he could request to do so, but this was subject to the decision taken by the House.

Mr Eglin inquired if provincial legislatures would be invited.

The Chair replied that they would be invited as this would be an empowering exercise but that the invitation would only extend to those in South Africa and for a limit of up to three delegates. Concerning Cabinet members, she said that the President needed to address the delegates but this was subject to his return from the G8 meeting in Canada. She asked if there were any other members of the Executive who should be invited.

Dr Geldenhuys suggested the Minister of Foreign Affairs.

The Chair replied that she would be invited but that she was also in Canada.

Ms Mbeti noted administrative concerns regarding venues, budgeting and logistics.

The Chair felt that it was difficult to deal with until the secretary tabled a report.

Mr Eglin inquired if a budget report would be received.

The Chair replied that a report would be made available and added that delegates would be paying for their own travel expenses while South Africa would be responsible for their accommodation and costs while in the country. She said that the matter could not be taken further without a report detailing the costs.

On the issue of civil society and MP interaction, she said that she did not see it ending with the Summit but viewed it rather as part of a long-term engagement.

She introduced Prof Haysom, an advisor to the Speakers Office, and explained that he had been asked to look at the AU documentation and assist in the management of working groups

Four bodies were being set up at the beginning of the Summit: the Senate, Executive Council and so on and she indicated that there were political issues parliament might want to consider making recommendations. She emphasised a need to be familiar with the NEPAD documentation and the Protocol on Good Governance and suggested that the Protocol on economic governance be referred to the Trade Portfolio Committee for input.

Answering a member's query, the Chair clarified that the Secretariat of the OAU would be taken over by the AU and recommended that Ambassador Mamabolo's presentation at the workshop be read as it explains most of the mechanisms. She said that in some systems, a Grand Committee was established before whom every item on the agenda of a multi-lateral agreement was tabled and discussed. A mandate was then given to representatives to take to the negotiations, after which a report had to be made to the Committee. She felt that that was the most comprehensive system.

The Chair explained the background to the Protocol. She said that the first draft had been done by a group of consultants who had felt that the AU was a version of the EU in

Africa and had made provision for the election of seven people across the continent who would be accountable to the population at large. A common position had been taken within the SADC region not to go that route. Thereafter, 46 African parliaments had met in Pretoria under the auspices of the OAU and drafted the Draft Protocol. It had been agreed that a law-making body would not be created because that would have resulted in the ceding of sovereignty. However it had been agreed that laws could be made to the extent that they related to matters concerning Africa as a whole. Representation in terms of population had been considered however the smaller countries had argued for one voter per country as is the principle of every international organisation. At a subsequent summit meeting, Nigeria had argued that the system would have to be reviewed, however the summit did not accept or reject Nigeria's view. Other issues debated were how the parliament should be convened. She explained that the possibility of putting a self-perpetuating rule in the Rules was being explored so that the Parliament would not have to rely on the Senate to be convened. Another aspect that needed consideration was whether South Africa should host the Pan-African Parliament, although ultimately the decision would lie with the Executive.

Dr Geldenhuys suggested ratifying the Protocol since it had already been signed.

The Chair suggested that a report be drafted recommending that the Protocol be ratified by Parliament. She further suggested that a second report be drafted, detailing considerations that needed to be looked at, section by section in the Protocol, concerning problems, potential problems and solutions.

Dr Geldenhuys proposed that the Committee divide into different groups to consider the implications.

The Chair agreed that the Committee be divided in three groups: socio-economic, political and Constitution.

The Chair continued that negotiations would take place as to who would host each of the organs of the AU.

Ms Mbeti said that there were some indications that South Africa should host the Parliament and she supported that view.

The Chair noted that although the Parliament could sit in one particular country, it could be convened anywhere on the continent.

Meeting adjourned.

Appendix 1

Fourth Report of the Working Group on the African Union

A. Introduction

The Working Group was established on 16 November 2001 by a resolution of the National Assembly. The primary focus of the Working Group was to consider the implementation of the Constitutive Act of the African Union.

B. Objectives of the Working Group

The brief of the Working Group is to:

- Consider Parliament's participation in the implementation of the Constitutive Act of the African Union and suggest appropriate procedural mechanisms for this.
- Determine the involvement of Parliament in assisting the South African government in its role as chair of the African Union.

C. Meetings of the Working Group

The Working Group met on 15 January 2002, 14 February 2002, 27 February 2002 and 7 March 2002. The Working Group established a Planning Team to address detailed planning and technical matters. The Planning Team held its first meeting on 19 February 2002. The Working Group met with members of the Inter-Ministerial Committee on the African Union on 28 February 2002 to discuss the African Union.

D. Seminar on the African Union

A seminar on the African Union was held on 1 and 2 March 2002, in cooperation with the Africa Institute of South Africa and the Institute for Global Dialogue. Members of Parliament and representatives from the Departments of Foreign Affairs and Trade and Industry attended the seminar. The objectives of the seminar were to:

- Acquaint Members with the African Union (AU).
- Allow Members to engage with the challenges posed by the implementation of the Constitutive Act.
- Encourage Members to consider the participation of Parliament in the process of shaping the evolution of the AU.
- Discuss the role of South Africa in the implementation of the Constitutive Act.
- Share knowledge and insight with the research institutes and Government Departments present.

E. Working Group Discussions

Following its reports to the National Assembly on 27 February 2002 and 12 March 2002, interaction with the members of the Inter-Ministerial Committee, deliberations during the aforementioned meetings including the seminar on the African Union and the debate on the African Union on 12 March 2002 in the National Assembly, the Working Group wishes to highlight the following considerations regarding the establishment of the African Union and the implementation of the Constitutive Act of the African Union.

1. Political Considerations

Consideration should be given to such issues as what constitutes a conducive political environment, political integration, ceding sovereignty, and human rights.

(a) Political Environment

- In the transition from the OAU to the AU, membership to the AU is open to all Member States of the OAU (Article 27). In the future, consideration should be given to whether to maintain this principle of inclusivity for Member States whose political environments are not conducive to the attainment of the objectives of the AU.
- Mechanisms need to be developed to encourage Member States to create and maintain political environments that promote democracy and good governance.

(b) Political Integration

-Political integration may be seen as a means through which African States are empowered to face their respective challenges. The AU can be perceived as an evolving structure responding to the challenges facing Africa.

-There is a need to bridge historical and linguistic divisions in Africa in order to promote unity, solidarity, cohesion and cooperation among the peoples of Africa and African States.

(c) Ceding Sovereignty

-The Constitutive Act provides for political and socio-economic integration and a common defence policy, which could impact on the sovereignty of States. Thus, the Constitutionality of ceding sovereignty with regard to these issues raises some concern.

-South Africa should consider the principles and terms of ceding its sovereignty in a way that does not impact negatively on the human rights of its citizens. A phased and strategic approach would be necessary.

(d) Human Rights

-In respect of human rights, it is necessary to consider an appropriate role for the Commission on Human and Peoples' Rights in relation to the AU.

-With regard to the Charter on Peoples' and Human Rights, it is noted that there have been many developments in International Human Rights law, since the adoption of the Charter in 1987. South Africa should initiate a review of the Charter to establish congruence with current human rights law thereby ensuring the effective promotion and protection of human rights as envisaged under Article 3 of the Act.

2. Legislative Considerations

Some of the key legal considerations include the following:

- Legal implications
- Drafting and interpretation
- The Court of Justice
- The Central Organ
- International Intervention
- Organs of the AU

(a) Legal implications

-Legal opinion received from the South African State Law Advisers indicates that the Constitutive Act of the AU does not conflict with domestic law. Further consideration should however be given to whether the Act is consistent with International law and South Africa's international obligations.

Whilst the Constitutive Act does not have any self-executing provisions, Member States may be obliged to harmonise existing; or enact new domestic laws in order to give legal effect to the provisions of the Constitutive Act.

-South Africa may need to consider amending its Constitution to accommodate its obligations under the Constitutive Act.

(b) Drafting and interpretation

- Attention must be paid to inconsistencies in the drafting of the Constitutive Act. The 'soft' legal drafting in Article 3(c), (l) and (n) compared to the definitive legal drafting in Article 9(a), for example creates some ambiguity and vagueness in the Act.
- There appear to be no contradictions or ambiguity among Articles 4 (a), (g), and (h). Article 4(h) dealing with grounds for intervention by the Union in the affairs of Member States should take into account Article 3 (h) in respect of reference to the promotion and protection of human rights. The grounds for intervention should also be expanded to include violations of human and peoples' rights.
- To facilitate democratic decision making, it is suggested that checks and balances be built into the Constitutive Act. In this light, the quorum for Assembly decisions should be re-examined particularly with regard to policy decisions and issues relating to ceding sovereignty.
- The Act must be revised to reflect gender sensitive language.

(c) Court of Justice

- It is suggested that the Protocol makes the Court of Justice the supreme institution for the protection of peoples and human rights. In terms of the South African Constitution however, the Constitutional Court is the supreme court protecting basic human rights. The consequences of deferring or referring matters to the Court of Justice will need to be considered.
 - With reference to Article 3(h), it is likely that the Court of Justice will make decisions based on the African Charter which may have become outdated in terms of human rights. The South African Constitution, being more recent, is more in line with international best practice in this regard. Also, the equality clauses in the African Charter and the South African Constitution are different. The Court of Justice will therefore function from a different legal basis. This may cause some tension. Mechanisms may be required to regulate issues that can be brought before the Court of Justice. Further discussion is required regarding the jurisdiction of the Court of Justice.
- While South Africa has extended the right to class actions to organs of civil society in the interest of the public, many countries do not make a similar provision. Thus, if the Constitutive Act provides for class actions, some Member States would need to pass domestic laws to comply with their obligations in terms of this Act. Concerns were raised about the possibility of foreign NGO's funding class actions in different Member States to advance non-African agendas.

(d) Central Organ

- It is envisaged that the Central Organ will be established through Article 9(1)(d). Since this represents an important organ, it should be established by the principal Act under Article 5 and not by the Assembly under Article 9. The relationship between the Central Organ and the Assembly of the AU should therefore be redefined.
- The intended focus of the Central Organ is safety and security. This should be extended to include all matters of human security.

(e) International Intervention

- Whilst the need for intervention as envisaged by the Act is acknowledged, it must be ensured that any form of intervention occurs within the parameters of public international law.
- South African representatives to the AU should ensure that the AU does not adopt any

provisions that will impact negatively on South Africa's international obligations. An audit of South Africa's international obligations is envisaged.

(f) Organs of the AU

-Whilst the Act provides for the establishment of various organs, time frames for their establishment are not set. The lack of defined timeframes may impact negatively on the implementation of the Act.

-The Act is also unclear regarding the separate powers and functions of the different organs. There is overlap in authority of some organs thus making it unclear which organs would have jurisdiction over what matters.

3. Economic Considerations

(a) General

-The AU envisages accelerating efforts to promote economic integration in Africa. This raises the central issue of the appropriate strategy for promoting economic integration. The conventional trade integration approach focuses on removal of tariff and regulatory barriers and moving from Free Trade Area to Customs Union, common market and economic union. This approach has been criticised as inappropriate to developing countries and regions where major trade barriers often derive from underdeveloped production structures and inadequate infrastructure. Premature moves to "high" levels of trade integration e.g. a continent-wide customs union will therefore not necessarily contribute to addressing key challenges facing the continent.

-Economic regeneration of Africa requires that priority be given to development integration, which is not solely focused on conventional trade integration. This implies combining efforts to promote trade integration with sectoral cooperation in key infrastructural and productive sectors. Addressing developmental backlogs therefore serves as the basis for promoting effective trade integration. This will also emphasise political cooperation at an earlier stage than in conventional trade integration programmes.

-Tensions exist between these two paradigms, both in existing sub-regional programmes and in the Constitutive Act.

-The terms of reference regarding the Economic, Social and Cultural Council (ECOSOC) in the African Union, its relationship with sub-regional economic bodies and the specialised technical committees needs to be clarified.

Economic integration, infrastructural development and sectoral Cooperation

-The case for a developmental approach to promoting economic integration in Africa arises from the reality that many of the major barriers to promoting intra-regional trade arise not from tariff and regulatory barriers but from underdeveloped production structures and inadequate infrastructure.

-The integration strategy needs to build on what exists in sub-regions and should strive to improve sectoral cooperation as well as capacity building in sub-regional organisations. Developments such as the forthcoming Cotonou Economic Partnership negotiations will underscore the need to develop strategies for trade relations between sub-regions: options include a continental FTA or preferential agreements between sub-regions.

-Infrastructural development like transport, telecommunications and information

technology should be a priority. NEPAD can be considered an appropriate programme in this regard.

-African countries have similar trade patterns based on exports of primary products to the North. Intra-African trade is therefore very limited. The European Union envisages reciprocal trade agreements between African regions and Northern trading blocs. These could lead to a situation where South Africa finds itself trading with African countries outside the SADC region on worse terms than e.g. the European Union. Hence, integration in Africa is not happening in a vacuum, there are developments at global level that are re-shaping the terrain.

-It is also important to define the economic partnerships that will benefit Africa. Engaging institutions like the G7 in order to maximise the benefits of globalisation also needs to be addressed. It is therefore necessary to think strategically in order to face the challenge of globalisation.

c) Monetary Union

-The establishment of an African Central Bank should not attempt to prematurely promote monetary union.

-While continent-wide monetary union is considered a legitimate long-term objective, this should not be seen as feasible in the short-term.

-There must be co-operation with existing monetary union arrangements, such as that in West Africa and the common monetary area between South Africa, Lesotho, Swaziland and Namibia.

-A focus on promoting cooperation between central banks similar to the Finance and Investment Sector Coordinating Unit of SADC could be a model for early activity.

4. Pan African Parliament

To give effect to the provisions under Article 3(g) and 4(c) of the Constitutive Act, the establishment of the Pan-African Parliament should be prioritised. To this end, the Presiding Officers should engage the Executive to establish a role for African Parliaments in the African Summit in July 2002. Parliaments must determine the appropriate approaches and mechanisms to foster public awareness and engagement with issues concerning the establishment of the African Union and the implementation of the Constitutive Act.

In terms of the Protocol, the following should be considered:

-Article 2 of the Protocol states that the Pan African Parliament is established by Member States. This may conflict with the provisions under Article 5 of the Constitutive Act and Article 7 of the Abuja Treaty, which establish the Pan African Parliament as one of the organs of the AU and of the OAU respectively. Article 5 of the Constitutive Act should be seen as the legal basis for the establishment of the Pan African Parliament.

-In terms of Article 4, 5 Members at least 1 of who must be a woman shall represent each Member State in the Pan African Parliament. Compliance with this provision must be monitored since many African Parliaments are male dominated.

-Under Article 5(2), the Assembly shall determine the beginning of the first term of office of the Pan African Parliament. This may impact on the independence of the Pan African Parliament since the Assembly may delay the first sitting if it is not in the best interest of the Assembly.

-Notwithstanding the provisions under Article 33(2), consideration must be given to

whether the Pan African Parliament Protocol should be ratified in terms of Article 7 of the Abuja Treaty or Article 17 of the Constitutive Act.

The following consideration is raised in terms of the Draft Rules of Procedure of the Assembly of the Union with regards to the Pan African Parliament:

-Rule 19 refers to amongst others, attendance of the President of the Pan African Parliament at the sittings of the Assembly. The nature of participation of the President at such sittings must be clarified.

F. Recommendations

It is recommended that:

-Parliament should request that the Minister of Foreign Affairs table the Protocol on the Pan African Parliament for ratification as soon as possible.

-The Presiding Officers should interact with other African Parliaments and Parliamentary formations, in particular the Southern African Development Community Parliamentary Forum in order to expedite the ratification of the Protocol in the region.

-Since the Constitutive Act of the AU provides for the participation of the African peoples and the Pan African Parliament in the activities of the Union, Parliament should engage the Executive to establish a role for African Parliaments in the Inaugural Summit of the African Union in July 2002.

-South Africa should initiate a review of the Charter on Human and Peoples' Rights.

-South Africa should develop proposals on the role of the Commission on Peoples' and Human Rights relative to the AU.

-Parliament conducts an audit of South Africa's international obligations in terms of public international law, through the relevant parliamentary committee(s).

-Parliament proposes specific amendments and revisions to the Act for consideration by the Inter-Ministerial Committee on the AU and submission to the Commission under Article 32 of the Act.

-South Africa supports and encourages a developmental approach to the political and socio-economic integration of Africa envisaged under Article 3 of the Constitutive Act of the AU.

Appendix 2

A SYNOPSIS/UPDATE OF THE AFRICAN UNION DEVELOPMENTS SECOND SEMINAR:
THE AFRICAN UNION PARLIAMENT,

1 JUNE 2002

Presented by Amb JNK Mamabolo

Preparations for the Inaugural Summit in July 2002

In preparation for the Summit, South Africa is involved in a number of processes at national, regional and continental level. SADC is working together to promote Southern African interests at continental level. As such, all the issues that we are engaged in at national level, are then taken forward to SADC, and is then introduced to OAU meetings on aspects of the AU. We have, for example, and at tie request of SADC ambassadors to the OAU, asked the current chair of SADC, Malawi, to allow the forthcoming SADC Council of Ministers meeting to be extended by a day, to devote time to SADC's approach to the launch of the AU. It is gratifying to see such close co-operation on important issues for the region, and to be aware of the tremendous support that South

Africa's hosting of the AU is enjoying in SADC.

At national level, we are running three processes concurrently. The first has to do with our logistical arrangements for the Summit, the second relates to our Substance preparations, and the third to issues which are not being dictated by the Agenda of the Inaugural Summit, but which South Africa would like to introduce as part of the culture of the African Union.

On the logistical side, we are preparing to accommodate and transport 53 Heads of State and Government and their delegations. We are dealing with issues such as who will be our invited guests, how to get the invitations to the Heads of State in view of OAU traditions such as special envoys. We are developing cultural programmes to showcase South Africa and to welcome our guests. We have also adopted a specific logo which will be involved in the branding of the Summit on South African soil, as well as an overall theme for the Summit which will be: "Peace, Stability, Prosperity: the African Century". You will soon spot this logo on billboards, stamps, commemorative items, media ads and even a collectable Coca-Cola bottle.

On the substance side our focus is the Agenda for the Summit. At this stage the Agenda for the Summit is in two parts. The first part determines the proceedings for 8 July 2002. On this day the Thirty-eighth and last Ordinary Session of the Organisation of the OAU will take place. The most prominent items on this Agenda are the consideration of the Draft Rules of the core organs of the African Union, namely the Assembly of Heads of State, the Executive Council of Ministers, the Permanent Representatives Committee and the Statutes of the Commission. Followed by this will be the Consideration of the Draft Protocol on the African Union Mechanism for Conflict Prevention, Management and

Resolution. Once these issues are dealt with in addition to one or two last reports, the meeting will close.

On 9-10 July 2002 the First Ordinary Session of the Assembly of the African Union will take place. The Assembly's first task will be to adopt the Rules of Procedure for the core organs of the AU. This will officially launch the core organs, namely the Assembly, the Executive Council and the Permanent Representatives Committee. Though the Commission's statutes will also be adopted, a period of time will have to be allowed for staff of the Commission to be appointed. The Statutes makes provision for a three-month notice period in which the posts for the senior positions of the Commission, that of the Chairperson of the Commission, his or her Deputy and eight Commissioners, must be advertised and vetted. However, it is more likely that this process will take up to six months. In addition, a job evaluation study will have to be undertaken to determine the nature and functions of all other Commission posts, as well as to appoint staff to these posts, so a full year may be required for all these processes to run its course. The Constitutive Act makes provision for the current Secretariat to act as an Interim Secretariat while these processes are concluded.

Remarkable progress has been made on the Rules of Procedure. It has been approved by an OAU Council of Ministers Meeting, and has now also been reviewed by the legal experts in Addis Ababa, Ethiopia from 6 - 10 May 2002. Very few and minor issues

remain outstanding.

Another interesting aspect of the first session of the Assembly will be Theme papers presented by selected Heads of State. At this stage, though it is still subject to change, the themes are broadly arranged around NEPAD, the International Environment relating to the strengthening of Multilateralism, and the Empowerment of Women. These presentations will be followed by roundtable discussions intended to stimulate debate.

As I have mentioned, the OAU is currently also rushing to produce a Draft Protocol on the institution that will replace the Central Organ of the Mechanism for Conflict Prevention, Management and Resolution. This institution will be called the Peace and Security Council and will be responsible for all activities on the continent relating to peacekeeping.

A meeting of Permanent Representatives and Experts took place in Addis Ababa from 27 to 29 May 2002, to discuss a first Draft Protocol for the Peace and Security Council. It will be similar to the United Nations Security Council, with which it will work closely. Its functions will include early warning and preventative diplomacy, peace-making, peace support operations. Its mandate according to the Constitutive Act will include the right of the AU to intervene in member states in respect of grave circumstances, war crimes, genocide and crimes against humanity. It may also respond to requests by member states to intervene in restoring peace and security and its primary function will be peace building and post-conflict reconstruction. It will ensure the implementation of the OAU/AU, UN and other relevant international Conventions and Treaties on arms control and disarmament. It may take action where the national independence and security member state may be threatened by acts of foreign aggression, including mercenaries. It will coordinate and facilitate humanitarian action in situations of armed conflict and natural disaster and take decisions on issues relating to peace on the continent.

The Peace and Security Council will not have permanent membership as originally envisaged. Instead it will consist of five member states which could be considered to be "locomotives" on the continent in terms of economic power and good governance. A set of criteria requires that these states will have to conform to standards of good governance in terms of political, economic and corporate governance. Membership will be for a five-year period, with the opportunity to be re-elected based on performance. Membership will be subject to periodic review.

Member states will also have to contribute to a type of Peace Fund, which will partly be used to maintain national contingents, in member states' national defence forces, which together will form the continent's peacekeeping force. The equipping of these forces have to be considered

It was noted that membership will be an issue of responsibility and not benefit.

We are also preparing South Africa's positions for the period immediately after the Summit, and on issues which we know or anticipate to be raised very soon, if not during the Summit itself. These issues include:

- The establishment and operationalisation of other institutions of the African Union,

most notably the Pan-African Parliament, the Central Organ, etc.

- The staffing of the Commission and the recruitment of senior and influential staff for this institution immediately after the Summit.
- The development of the Rules of Procedure on the Pan African Parliament, the Court of Justice, the Economic, Social and Cultural Council (ECOSOCC);
- The review of OAU Agreements, Treaties, Protocols and their relevance under the AU;
- The operationalisation of the relationship between the Regional Economic Communities and the AU;
- The review of the Scale of Assessment of the AU as a source of funding for the programmes and projects of the AU and the Central Organ's successor institutions;
- The possible review of the African Charter on Human and Peoples' Rights;
- The finalisation and adoption of criteria for the hosting of AU Institutions

In addition to the above, South Africa may want to add value to the African Union by introducing one or two programmes during its term as chair, to benefit and enrich the AU. Though we have not yet identified a specific programme, we will be guided by the goals of NEPAD. We have the opportunity to introduce programmes that are crosscutting in nature, involving social, economic and political development. In order to provide the basis for introducing such programmes, South Africa have suggested that three or four Heads of State be invited to deliver papers on specific broad themes, which may include gender empowerment, the international environment post 11 September, and the African Union and NEPAD. It will be conducive to the proceedings if discussions on these papers could then proceed in a roundtable format, in order to stimulate debate and encourage open and frank discussions.

The issues we are engaged with in the margins of the Summit are that the African Union's common vision of a strong and united Africa also entails partnership with civil society, particularly women, youth and the private sector. The partnership would also strengthen Africa's cohesiveness and solidarity (Preamble of the Constitutive Act of the Union, Paragraph 7). The participation of civil society is therefore an integral part of a fully functional African Union.

In this regard, civil society would popularise and advance the objectives of the NEPAD. Whilst governments have specific responsibilities in this context, civil society is key to. Civil society in all its formations will also add dynamism to government programmes and inject a different perspective to the standard NEPAD programmes and strengthen the participatory democracy component of NEPAD at a practical level.

The role of the business community or corporate sector in having part-ownership of the African Union and NEPAD programmes, sponsoring specific programmes in a spirit of partnership is important.

Community organisations, the religious community and Non-Governmental Organisations should also play a key role in the ownership, popularisation and advancement of the African Union and its programme of action, NEPAD.

In supporting the African Union, civil society should also interact with its partners outside the African continent.

Civil Society Meetings and Issues.

- The OAU Secretariat has organised a continental civil society meeting for the 11-14 June 2002 in Addis Ababa to deliberate on the role of civil society in general and its role through ECOSOCC, amongst other topics. This is a follow-up of the first ever, civil society meeting under the auspices of the OAU in June 2001
- Renaissance South Africa Outreach Programme Continental Experts' Meeting, Pretoria, 17-19 June 2002

The topics to be considered include: the AU and NEPAD, an update thereof from the Lagos Plan of Action to NEPAD/AU, NEPAD's political dimensions NEPAD and 'alternatives", NEPAD/AU on regional integration, NEPAD on land and environment, Peace, Security and Stability, Democracy and Governance, Africa and International Relations, Democracy and Governance, Role of Civil Society (AU/NEPAD) and Social Movement

- Civil Society Continental Representatives' Meeting, Durban, 1-2 July 2002

For the latter meeting, Non -Governmental Organisations (NGOs), business organisations, the youth and professional organisations have been invited to participate in the deliberations. It is proposed that they should focus on the ECOSOCC membership, its rules of procedure, processes and how it would interact with the AU on a continuous basis.

In order to establish a link between the civil society forum's outcome and the inter-governmental process, it is proposed that the civil society's outcome document be formally submitted to the Secretary General who would then formally present it to the Summit for consideration and adoption.

Government Priorities vis-à-vis establishment of AU

Government's priority regarding the African Union is simple to articulate. In general, the AU objectives are far more comprehensive than those of the OAU. The OAU has served its mission and was due for replacement by a structure geared towards addressing the current needs of the continent, in particular regarding social and economic development. In addition, a structure is needed that will be able to deal effectively with the political challenges of peace, stability and security issues. The AU has come at the ideal time as the perfect instrument for implementing NEPAD and bringing about an age of prosperity and progress.

The AU has a vastly expanded mandate from that of the OAU. It includes the principles contained in the Charter of the OAU, as well as the goals entrenched in the Abuja Treaty regarding social and economic development. In addition, it reflects a greater openness and willingness to be mutually scrutinised and assisted in areas such as human rights. Added to this is the need to establish a structure that can deliver on the expanded mandate.

Our priority is therefore first and foremost to ensure that the basic institutions we are putting in place, will be able to deliver on all of these hopes and aspirations.

As such, we also have a particular need to look at the development and establishment, or operationalisation of some of the other institutions of the African Union such as the

the Economic, Social and Cultural Council (ECOSOCC), the Court of Justice and the Pan-African Parliament.

Regarding ECOSOCC, the Union identifies as a vision of a united and strong Africa the need to build a partnership between governments and all segments of civil society, in particular women, youth, the disabled and the private sector, in order to strengthen solidarity and cohesion amongst its peoples. Apart from the Pan-African Parliament, the Economic, Social and Cultural Council will act as the principal civil society interface organ of the Union.

In view of the Union's wish to promote and protect human and peoples' rights, to consolidate democratic institutions and culture, and to ensure good governance and the rule of law, the Court of Justice will be key and the Pan-African Parliament will advance the Union's objective to promote democratic principles and institutions, popular participation and good governance.

Interface between NEPAD and AU

NEPAD and the OAU has already come along way , and this partnership will be concretised under the AU. The mandate for the New African Partnership for Africa's Development (NEPAD) had its genesis at the OAU Extraordinary Summit held in Sirte, Libya during September 1999. The Summit mandated President Mbeki of South Africa and President Bouteflika of Algeria to engage Africa's creditors on the total cancellation of Africa's external debt. Following this, the South Summit of the Non-Aligned government and the G-77, held in Havana, Cuba during April 2000, mandated President Mbeki and President Obasanjo of Nigeria to convey the concerns of the South to the G-8 and the Bretton Woods institutions.

Realising the correlation between the two mandates and the fact that debt relief forms but one critical aspect of the overall development agenda for Africa, the OAU Summit held in Togo in July 2000 mandated the three Presidents to engage the developed North with a view to developing a constructive partnership for the regeneration of the Continent. Following from this, the three Presidents raised the issue of a partnership with the leaders of the C-8 at their Summit in Japan during July 2000. The work on developing NEPAD then began in earnest and a process of engagement on a bilateral and multilateral level was pursued.

An integration process of the various initiatives followed, and on 11 July 2001, NEPAD (or the New African Initiative (NAI) as it was temporarily known at the time), was presented to the OAU Summit of Heads of State and Government in Lusaka, Zambia, providing the vision for Africa, a statement of the problems facing the continent and a Programme of Action to resolve these problems in order to reach the vision. NEPAD was enthusiastically received and unanimously adopted in the form of Declaration 1 (XXXVII) as Africa's principal agenda for development, providing a holistic, comprehensive integrated strategic framework for the socio-economic development of the continent, within the institutional framework of the African Union.

Description

This adoption of NEPAD is considered as one of the most important developments of

recent times for its conception of a development programme placing Africa at the apex of the global agenda, by:

- Creating an instrument for advancing a people-centred sustainable development in Africa based on democratic values;
- Being premised on recognition that Africa has an abundance of natural resources and people who have the capacity to be agents for change and so holds the key to her own development; and
- Providing the common African platform from which to engage the rest of the international community in a dynamic partnership that holds real prospects for creating a better life for all.

Objective

The primary objective of NEPAD is to eradicate poverty in Africa and to place African countries both individually and collectively on a path of sustainable growth and development to thus halt the marginalisation of Africa in the globalisation process. At the core of the NEPAD process is its African ownership, which must be retained and strongly promoted, so as to meet the legitimate aspirations of the African peoples. While the principle of partnership with the rest of the world is equally vital to this process, such partnership must be based on mutual respect, dignity, shared responsibility and mutual accountability. The expected outcomes are:

- Economic growth and development and increased employment;
- Reduction in poverty and inequality;
- Diversification of productive activities;
- Enhanced international competitiveness and increased exports; and
- Increased African integration.

Structure

NEPAD is structured into three components:

- The first component provides the preconditions for sustainable development, which are the Peace, Security, Democracy and Political Governance Initiatives; the Economic and Corporate Governance Initiative; and the sub-regional and regional approaches to development.
- The second component provides the sectoral priorities, which include bridging the infrastructure gap; the Human Resource Development Initiative; the Agriculture Initiative; the Environment Initiative; the Cultural Initiative and Science and Technology Platforms.
- The third component concerns the mobilisation of resources, referring to the Capital Flows Initiative and the Market Access Initiative.

Relationship between NEPAD and OAU/African Union

NEPAD is a mandated initiative of the OUA/ African Union. The NEPAD Heads of State and Government Implementation Committee has to report annually to the OAU/Union Summit. The Chair of the OAU/Union as well as the OAU Secretary General/Chair of the Commission of the Union are ex-officio members of the Implementation Committee. The OAU Secretariat/Commission of the Union is expected to participate in Steering Committee meetings.

Other linkages

NEPAD has not been constructed and come into existence in a vacuum. Therefore, it is important that it be linked to existing initiatives and programmes for Africa. In providing the focal point and the overall strategic framework for engagement NEPAD does not seek to replace or compete with these initiatives and programmes, but rather to consciously establish linkage and synergies between NEPAD and existing initiative .In this way, all activities focuses on Africa can be pursued in an integrated and coordinated fashion within the framework of priorities and needs identified by Africans for themselves.

A major effort is also ongoing to continuously factor NEPAD imperatives into the outcomes of international conferences such as the Conference on Financing for Development (FID), the World Summit for Sustainable Development (WSSD) and the World Trade Organisation (WTO), to ensure the integration of NEPAD into the multilateral system. In a wider context, countries of the South subscribe to the priorities outlined in NEPAD and have generally welcomed it with words of solidarity and moral support, as well as an appreciation for South Africa's positive role in NEPAD. However, NEPAD does not have a mechanism for South-South cooperation. To this end improved coordination with partners in the South should be pursued, possibly within the context of the 'South Coordinating Commission" suggested by President Mbeki during the South Summit in Havana.

Implementation of NE PAD

At the inaugural Heads of State and Government Implementation Committee meeting held in Abuja on 23 October 2001, the Heads of State and Government established a 15-member Task Force for the implementation of NEPAD. A three tier governing structure was accepted for NEPAD:

Heads of State and Government Implementation Committee

Chaired by President Obasanjo, with Presidents Wade and Bouteflika as Vice-chairpersons, the Implementation Committee is comprised of fifteen states (three per OAU geographic region), including the five initiating states, South Africa, Nigeria, Algeria, Senegal and Egypt. The composition is as follows:

- North Africa: Algeria, Egypt, Tunisia
- West Africa: Nigeria, Senegal, Mali
- Central Africa: Cameroon, Gabon, Sao Tome & Principe
- East Africa: Ethiopia, Mauritius and Rwanda
- Southern Africa: South Africa, Botswana and Mozambique

The main function of the Implementation Committee is to set policies and priorities and the Programme of Action. The Implementation Committee is expected to meet three times per year. It reports annually to the OAU/African Union Summit.

Steering Committee

The Steering Committee is composed of the personal representatives of the five

initiating Presidents, and is tasked with the development of the Terms of Reference for identified programmes and projects, as well as overseeing the Secretariat.

Secretariat

The full-time, small core staff of the Secretariat located at the Development Bank of Southern Africa in Midrand provides the liaison, coordination, and administrative and logistical function for NEPAD. It is also responsible for outsourcing of work on technical detail to lead agencies and/or continental experts.

Five task teams were established to urgently identify and prepare specific implementable projects and programmes. In terms of working arrangements, South Africa is to coordinate the Peace, Security, Democracy and Political Governance Initiative; Nigeria the Economic and Corporate Governance/Banking and Financial Standards/Capital Flows Initiatives; Egypt the Market Access and Agriculture Initiatives; Algeria the Human Resources Development Initiative; and Senegal the Infrastructure Initiative.