



**INDUCTION CERTIFICATE COURSE
FOR NEW LEGISLATORS
(NATIONAL ASSEMBLY)**

AT THE INTERNATIONAL CONFERENCE CENTRE,

ABUJA, APRIL, 2015

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UNIVERSAL DECLARATION ON DEMOCRACY



THE NATIONAL ASSEMBLY

There shall be a National Assembly for the Federation which shall consist of a Senate and a House of Representatives.

The Senate shall consist of three Senators from each State and one from the Federal Capital Territory, Abuja.

Subject to the provisions of this Constitution, the House of Representatives shall consist of three hundred and sixty members representing constituencies of nearly equal population as far as possible, provided that no constituency shall fall within more than one State.

*The Nigerian Constitution, 1999
Chapter V: The Legislature*

THE NATIONAL ASSEMBLY

The highest law-making body of the Federation is the National Assembly. The Nigerian parliament (National Assembly) is a bi-cameral legislature with two (2) equal legislative powers in terms of law making. Protocol wise, we call the Senate the 'upper' chamber, and the House of Representatives, the 'lower' chamber. Ours is a 'presidential system' of democracy as against the 'parliamentary system'.

The National Assembly of the Federal Republic of Nigeria is established under section 4 of the Nigerian Constitution and comprises a 109-member Senate and a 360-member House of Representatives. The body, modelled after the federal Congress of the United States, is meant to guarantee equal representation of the states irrespective of size in the Senate and proportional representation of population in the House. The National Assembly is located in the federal capital, Abuja.

Bills introduced to any parliament must get a concurrent approval from both chambers before the President could sign them into law.

Bicameral Sitzings

The Senate and the House of Representatives sit separately. The Senate is presided over by the Senate President who is assisted by the Deputy Senate President. Members of the Senate elect them separately. The Senate sits separately. The House of Representatives on the other hand is presided over by the Speaker of the House. He is assisted of the Deputy Speaker. The two Houses hold joint sittings when need arises.

The Senate

The Senate is the upper chamber of the National Assembly which is the supreme law making body of the land. The Constitution has vested in it, the power to make laws for the peace, order and good governance of the Federation. The Senate is led by the President of Senate, Deputy President of Senate, Majority Leader, Minority Leader, Chief Whip, Whips and Committee Chairmen. There are 109 Senators in the Senate.

Principal Officers

The Presiding Officer of the Senate of the Federal Republic of Nigeria is called "The President of the Senate". He is elected at the same time with others basically as a Senator. He is subsequently elected President by his colleagues by a simple majority of votes in the Chambers.

Functions of the Presiding Officers

- [i] Chairing the plenary sessions of the Chamber and the committees of the whole Senate
- [ii] Ruling on Points of Order.
- [iii] Final interpretation of the Chambers rules
- [iv] Appointment of Chairs and members of the committees in consultation with the committee of selection, which he chairs
- [v] He is the Chairman of joint sessions of the two Chambers
- [vi] He represents the National Assembly at ceremonial occasions. The constitution of Nigeria makes him number 3 on the National Order of Precedence.

Other Principal Officers of Senate

1. Deputy Senate President
2. Senate Leader
3. Senate Minority Leader
4. Deputy Senate Leader
5. Deputy Minority Leader
6. Senate Majority Whip
7. Senate Minority Whip
8. Deputy Majority Whip
9. Deputy Minority Whip

Functions of the principal officers

- [i] The Senate Leader leads debates on all Government bills and measures
- [ii] The Deputy Senate President act with full powers in the absence of the President
- [iii] The Minority Leader seconds all formal motions by Senate Leader
- [iv] The Deputy Senate Leader acts in the absence of the Leader
- [v] The Deputy Minority Leader acts in the absence of the Minority Leader
- [vi] The Majority Whip organizes his Party for major debates and ensures discipline in the Chamber
- [vii] The Minority Whip organizes his Parties for major debates and ensures discipline among his members.

Committees of the Senate

The Senate of the Federal Republic of Nigeria has a total of 54 committees. The number of members in each committee ranges from 9 – 13. The committees have the role of studying and researching on bills and motions referred to them and report their findings to the Chamber. The committees are classified into Special Committees and Standing Committees. The President of the Senate in consultation with the committee of selection appoints the Chairmen of the Committees. The Committee Chair presides over the meetings of the Committee. He rules on points of order, interprets the rules, signs and presents committee reports to the Chamber.

The House of Representatives

The House of Representatives is the lower chamber of the National Assembly which is the supreme law making body of the land. The House of Representatives is led by the Speaker, Deputy Speaker, Majority and Minority Leaders, Chief Whips and Committee Chairmen. There are 360 Members in the House of Representation.

Principal Officers

The Presiding Officer of the House of Representatives is called "The Speaker". He is elected at the same time with others basically as a Member of the House. He is subsequently elected Speaker by his colleagues by a simple majority of votes in the Chambers.

Functions of the Presiding Officers

- [i] Chairing the plenary sessions of the Chamber and the committees of the whole House
- [ii] Ruling on Points of Order
- [iii] Final interpretation of the Chambers rules
- [iv] Appointment of Chairs and members of committees in consultation with the committee of selection, which he chairs
- [v] He is the Chairman of joint sessions of the two Chambers
- [vi] He represents the National Assembly at ceremonial occasions. The constitution of Nigeria makes him number 4 on the National Order of Precedence.

Other Principal Officers of the House

1. Deputy Speaker
2. House Leader
3. Majority Whip
4. Deputy House Leader
5. Deputy Chief Whip
6. Minority Leader
7. Minority Whip
8. Deputy Minority Leader
9. Deputy Minority Whip

Functions of the principal officers

- [i] The Deputy Speaker act with full powers in the absence of the Speaker of the House
- [ii] The House Leader leads debates on all Government bills and measures
- [iii] The Minority Leader seconds all formal motions by Senate Leader
- [iv] The Deputy House Leader acts in the absence of the Leader
- [v] The Deputy Minority Leader acts in the absence of the Minority Leader
- [vi] The Majority Whip organizes his Party for major debates and ensures discipline in the Chamber
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Committees of the House

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Leadership

The Senate is chaired by the President of the Nigerian Senate, while the House is chaired by the Speaker of the House of Representatives. At any joint session of the Assembly, the President of the Senate presides and in his absence the Speaker of the House presides. Powers and functions of the National Assembly The National Assembly has broad oversight functions and is empowered to establish committees of its members to scrutinise bills and the conduct of government officials.

The Senate has the unique power of impeachment of judges and other high officials of the executive including the Federal Auditor-General and the members of the electoral and revenue commissions, the power is subject however to prior request by the President. The senate also confirms the President's nomination of senior diplomats, members of the federal cabinet, federal judicial appointments and independent federal commissions. The House and Senate must agree before any bill is passed as law, which in turn must receive the President's assent. Should the President delay or refuse assent (veto) the bill, the National Assembly may pass the law by two-thirds of both chambers and overrule the veto and the President's consent will not be required.

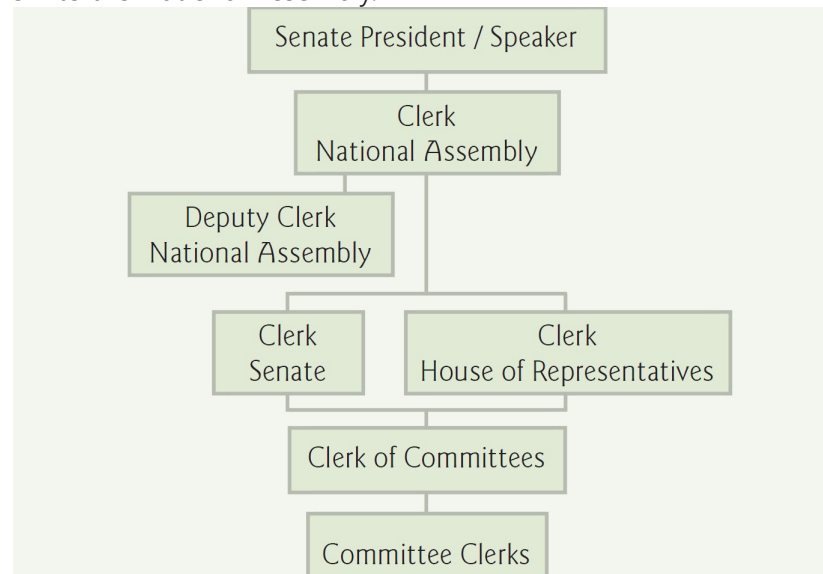
ADMINISTRATION OF THE NATIONAL ASSEMBLY

CLERK TO THE NATIONAL ASSEMBLY

“ There shall be a Clerk to the National Assembly and such other staff as may be prescribed by an Act of the National Assembly, and the method of appointment of the Clerk and other staff of the National Assembly shall beas prescribed by that tab ”

The Clerk of the National Assembly is the senior-most serving officer in the National Assembly. The Office of the Clerk of the National Assembly is the highest administrative office of the Assembly. The Clerk is the Chief Accounting Officer of the Assembly, and is supported by a Deputy Clerk of the National Assembly. The current serving Clerk of the National Assembly is Alhaji Salisu Maikasuwa. He reports to the President of the Senate and the Speaker, House of Representatives.

The Clerks of the House of Representatives and the Senate both report to the Clerk to the National Assembly. The Clerk to the National Assembly has a Deputy Clerk who sits in his absence and who is assigned to specific responsibilities by the Clerk to the National Assembly.



Functions of Clerk of the National Assembly

- Principal adviser to the President of the Senate and Speaker, House of Representatives and members of the National Assembly on rules, practices and procedures of Parliament
- Chief Accounting Officer of the National Assembly - the accounting officer has responsibility for ensuring that money is spent in accordance with the principles of "regularity" and "propriety"
- Administering the Oath or Affirmation of Allegiance
- Receives and registers new members
- Allocates offices and ensures their maintenance

- Provides advice to Members on the operation of proceedings
- Keeping and circulating minutes of the proceedings of the Assembly and its committees
- Preparing and circulating the daily agenda (Order Paper) of the business of the Assembly
- Maintaining a record of votes, records, bills and other documents of the Assembly
- Production of the official report of all speeches made in the Assembly (Hansard)
- Providing clerks for other committees of the Assembly Chamber Role
- Assisting the President or the Speaker to run chamber proceedings, including having a thorough knowledge of the rules of the chamber and tabling (recording) all documents presented to the chamber
- Helping the President, the Speaker and members of parliament to organize the order of business each day, including providing advice on chamber procedure
- Certifying the passage of bills (proposed laws) through the Parliament
- Recording the actions and decisions of the chamber in a daily publication (this is called Votes and Proceedings)
- Assisting with ceremonial occasions, such as the opening of Parliament and the swearing-in of new members of parliament.

Departments in the office of the Clerk

S/No	Department	Head
1	Medical	Director
2	Internal Audit	Director
3	Information Communication Technology	Director
4	Information and Publication	Director
5	Sergeant at Arms	Sergeant at Arms
6	Protocol	Director
	i. Senate Protocol	Deputy Director
	ii. House or Representatives Protocol	Deputy Director
7	National Secretariat of Nigerian Legislatures	Director
8	General Services and Liaison Office	Director
9	Official Report	Director

Deputy Clerks

Each chamber also has a Deputy Clerk and several Committee Clerks who support the Clerk in their duties. Like the Clerk, the Deputy Clerk provides advice to Members on the operation of proceedings. The Deputy

Clerk also keeps a detailed record of proceedings, which, along with the record kept by the Clerk, form the basis of the official minutes of the Senate/House—the Votes and Proceedings. The Deputy Clerk is responsible for advising and assisting Members, their staff and officers on matters of parliamentary practice and law, and drafting private members bills and amendments. The Deputy Clerk assists the Clerk in the management of the department and during the Clerk’s absence performs the duties of Clerk.

Department role

When the Clerks are not in the chamber, they work from an office either in the Senate or the House of Representatives. They have several responsibilities, including:

running the department, which organizes the daily operations of the Parliament and assists members of parliament in their work

advising members of parliament on chamber rules, parliamentary practice and procedure, the requirements of the Nigeria Constitution and laws that affect the Parliament.

Committee Clerk:

Some of the key tasks and responsibilities of a Committee Clerk are to:

- Maintain all committee records;
- Advise the committee Chair on the procedure during meetings of the committee;
- Follow up on actions on decisions/resolutions of the committee;
- Prepare in consultation with the Chairman, Committee Budget;
- Administer, monitor and account for Committee expenditure;
- ensure proper management and maintenance of office equipment and facilities;
- ensure that Committee Meetings are convened, duly notify Members and prepare all modalities of meetings;
- coordinate the administrative work of experts, consultants and support staff;
- assist Members in drafting Bills and Motions;
- conduct research on measures/policies/bills assigned to the committee;
- handle general administration and control on the properties of the committee;
- liaise with government bodies, civil society organizations and the general public on behalf of the Committee;
- prepare the Minutes of Committee Meetings;
- arrange travel and logistics for Members in consultation with the Chairman and other relevant departments;
- draft official correspondences in consultation with the Chairman and, where

necessary, other Members;

- arrange for the attendance of witnesses and the payment of their expenses when authorized by the committee;
- administer oaths to witnesses testifying before the Committee;
- manage the Committee Secretariat and allocate functions to support staff; .
- prepare the quarterly/mid-session/sessional Committee Reports and ensure that they are submitted to the Office of the Clerk of Committees;
- write procedural rulings for use by the Chairman;
- Draft agenda of meetings and other functions of the committee in consultation with the Chairman
- brief the Chairman and Members from time-to-time, on the status of Bills referred to the Committee;
- arrange Committee Hearings in consultation with the Chairman and Members;
-

SERGEANT-AT-ARMS

The Sergeant-at-Arms is a parliamentary officer in the National Assembly. They are one of the few people, other than members of parliament, who work in the chamber.

CHAMBER ROLE

- The Sergeant-at-Arms has several responsibilities within the chamber, including:
- escorting the Presiding Officers into and out of the chamber, while carrying the Mace
- assisting the Presiding Officers to maintain order in the chamber and the public galleries of the National Assembly
- recording the attendance of members
- standing guard during a division vote when all chamber doors are locked
- delivering formal messages from the House of Representatives to the Senate
- playing an important role in ceremonial occasions, such as the opening of Parliament.
- The Sergeant-at-Arms is required to be in the chamber at the beginning of each sitting day.

DEPARTMENT ROLE

When not in the chamber, the Sergeant-at-Arms works from an office in the Office of the Clerk of the National Assembly and has several responsibilities, including:

- organizing office accommodation and supplies for members and staff
- maintaining security in the National Assembly
- advising the Presiding Officers on broadcasting Parliamentary proceedings
- Organizing bookings for visitors to the National Assembly

HISTORY

The role of the Sergeant-at-Arms dates back to early British history. Originally, sergeants-at-arms were members of the British royal bodyguard. In the fourteenth century, a royal Sergeant-at-Arms was appointed to serve in the British House of Commons. From its beginning, the Australian Parliament adopted the practice of appointing a Sergeant-at-Arms to serve in the House of Representatives.

DRESS

Traditionally, the Sergeant-at-Arms wore silver-buckled shoes, stockings, knee-breeches, black coat with a large rosette on the back, waistcoat, stiff shirt front, white lace around the neck (called a jabot) and cuffs, white gloves and a ceremonial sword. In the Nigerian Parliament, the Sergeant-at-Arms usually wears a modified version of this costume.

COMMITTEES IN THE NATIONAL ASSEMBLY

Establishment

Section 62(1) of the Constitution of the Federal Republic of Nigeria (1999) empowers each House of the National Assembly to appoint Committees for both special and general purpose as may be considered expedient. Senate Standing Order 96 provides for the establishment of Special Committees within the first fourteen legislative days of its first sitting. Similarly, House Standing Order XIV provides for the establishment of same within the first thirty legislative days.

Also, Section 62(3) of the Constitution provides for the appointment of a Joint Finance Committee by the Senate and House of Representatives, while Section 85(5) makes the establishment of a Public Accounts Committee in each House mandatory. Section 62(4) empowers each House of the National Assembly to make its internal regulations for conduct of legislative business.

DEFINITION

Committees are small groups or sub-divisions of Legislators assigned on temporary or permanent basis during the life-span of a Parliament to examine matters more closely than could be done in the Plenary.

POWER OF COMMITTEES

The Standing Orders of the Houses empower the committees to initiate any studies/investigations in the exercise of their mandate and may conduct their proceedings as they deem fit provided they do not exceed the authority vested in them by the House.

Specifically, the committees can do the following:

- Examine and inquire into all matters within their jurisdiction and those the House may refer to them.

- Report to the House from time to time.
- Attach dissenting or supplementary opinions to Reports
- Require the attendance of persons and/or the production of documents or witnesses.
- Sit during House Plenary Sessions or when its stands adjourned.
- Sit jointly with other House Committees.
- Have any documents/evidence published from day to day as required.
- Delegate powers to sub-committees except the power to report directly to the House.
- Broadcast and televise their meetings and, Retain the services of experts and professional staff.

Importance of Committees

The committees of the National Assembly are the engine room of the legislature, the pivot upon which the oversight, law-making and confirmatory processes rest upon. All members of the Senate and House of Representative are members of at least a number of Committees. Most of the detailed work of legislation is undertaken by the Committees, which embark on investigative or fact finding tours, public hearings among others. Presently, the Senate has 57 committees while the House of Representatives has 91 committees.

Functions of parliamentary Committees

General functions:

Parliamentary committees can range over all the functions that the legislature itself performs, with the exception of determining the formation of the Government. They perform functions which Houses of Parliament are not as well-fitted to perform, such as finding out facts of a case or issue, examining witnesses, sifting evidence and drawing up reasoned conclusions.

Accountability:

Committees provide an increased ability for the Parliament to scrutinise government policy and expenditure. Committees are frequently appointed to parallel the ministerial or departmental structure adopted by the Executive. Each committee has a responsibility to provide oversight of government agencies within specific portfolios. The accountability functions of parliamentary committees include their ability: to conduct inquiries;

- to compel the attendance of persons and presentation of documents; and
- to make reports and recommendations to Parliament.

Duties of a Committee Chairman

Some of the key tasks and responsibilities of a Committee Chairman are to:

- convene Committee Meeting;
- preside over all Committee Meetings;
- sign all Committee documents (that is; Reports, Minutes of Meetings, Budget, etc.)
- recommend payment of Members and staff expenses claims relating to Com-

mittee business.

Committee Clerks

The Committee Clerk sees to the general administration of the Committee – s/he coordinates the various support staff of the Committee, like the Research officers of the Committee, the consultants of the Committee, etc. The committee Secretary draws up the ‘agenda’ and ‘calendar’ for the Committee, etc.

Types of Committees

The following are the types of Committees in the National Assembly.

Special Committees:

Special Committees are established in accordance with the provisions of the Standing Orders of either Chamber and operate throughout the life of the Assembly that appoints them.

They include:

- *Committee of Selection*
- *Committee on Rules and Business*
- *Committee on Senate/House Services*
- *Committee on Public Petitions*
- *Committee on Public Accounts*
- *Committee on Ethics and Privileges*
- *Committee on Security and Intelligence*
- *Committee on Media and Publicity*

Standing Committees:

These Committees exist throughout the life of an Assembly. They are set up along policy lines to deal with subject matters or special areas of their jurisdictions.

Joint Committee:

The Joint Committee of the Senate and the House of Representatives consists of selected Legislators of both Chambers who are empowered to meet and approve legislative decisions for and on behalf of both Houses at a Joint Sitting. An example of a Joint Committee is the Joint Finance Committee.

Conference Committee:

Conference Committees stand out among the Joint Committees in a bicameral Legislature. They are constituted to harmonize differences arising from legislation or other measures passed in both Chambers of a Legislature.

Ad-Hoc Committees:

Ad-Hoc Committees are established by Resolutions of the Houses for, the purpose of undertaking particular assignments such as investigations or studies. At the conclusion of these assignments, they cease to exist.

Committee of the Whole:

A Committee of the Whole consists of the entire Membership of a Legislative Assembly. In the Senate, it is chaired by the President of the Senate and in the House by the Deputy Speaker.

Committee of Supply

The Report of the Committee on Appropriations on an Appropriation Bill or any Money Bill is considered in the Committee of Supply.

Committee Finances

The Committee Clerk prepares, in consultation with the Chairman, the budget of the Committee; administers and monitors the expenditure of the Committee and advises the Committee on the level of expenditure vis-à-vis the budget on any assignment. Also, signs for all releases of funds to the Committee and ensures that all advances are retired in accordance with financial regulations and extant laws.

Parliamentary committees and peacebuilding

The important role of parliamentary committees in assisting Parliament to perform a role in the peace building process is increasingly being recognised. Parliamentary oversight of the security sector (military, police & intelligence services) is desirable as part of the legislature fulfilling a peace-keeping role. Frequently this oversight occurs under a legislative framework, and is often conducted by parliamentary committees

Legislation:

Committees can be an important part of the legislative process. Examination by a committee can allow public input into the legislative process.

Representation/Education of Members:

Committees enable the Parliament to be taken to the people, and enable evidence to be gathered from expert groups or individuals. They enable direct contact between the public and representative groups of Members of Parliament and a flow of information to Members. They facilitate an increased level of collegiality between members from different political parties who may not otherwise have the opportunity to work with one another.

MAKING LAWS

The legislative powers of the Federal Republic of Nigeria shall be vested in a National Assembly for the Federation which shall consist of a Senate and a House of Representatives. The National Assembly shall have power to make laws for the peace, order and good government of the Federation.

*Nigerian Constitution, Part II: Power of the Federal Republic of Nigeria
Nigerian Constitution, Section 4: Legislative powers*

Powers and Functions of the National Assembly

The National Assembly is the highest elective law making body of Nigeria. The Constitution has vested in it the power to make laws. The National Assembly has broad oversight functions and is empowered to establish committees of its members to scrutinise bills and the conduct of government officials.

The Senate has the unique power of impeachment of judges and other high officials of the executive including the Federal Auditor-General and the members of the electoral and revenue commissions, the power is subject however to prior request by the President. The senate also confirms the President's nomination of senior diplomats, members of the federal cabinet, federal judicial appointments and independent federal commissions.

A Bill and Law

A bill is a proposal for a new law, or a proposal to change an existing law. A law is a rule or set of rules made by the Parliament (Proposals for new legislation, or amendments to legislation, can come from many different sources, including the Cabinet of the government, members of opposition parties, or through suggested amendments to existing laws received from bodies like the Federal Executive Council or the Federal Civil Service Commission.

Where do these bills come from?

Executive Bills: These bills deal with public policy. They originate from the Executive Branches of Government.

Members' Bills: These are Bills originating from Members of the Legislature. A member can initiate legislation in pursuance of his electoral promises or upon request by private citizens and organizations.

Judiciary Bills: Such Bills emanate from the Judicial arm of Government.

Bills from Organizations and other bodies: These are Bills originating from individuals, professional bodies and the general public. However, the rules of the Legislature do not permit members of the general public to sponsor Bills in the House. To that extent, private Bills can only be sponsored by elected Members.

Bills Affecting Private Rights: These are bills of public interest emanating from particular persons and associations for their own benefit.

How bills are considered by the National Assembly

The processes of law making generally requires a long period of deliberation and consideration of the many interests and implications of the bill. Each bill is assigned a number, read by title only and sponsor. All bills are numbered or marked according to their chamber of origin. For example, a bill from the House of Representatives is marked HB (House Bill) while the one from the senate is marked SB (Senate Bill). An executive bill is marked with "Executive" printed on the title page of the bill. It is printed tiny and to the right hand side of

Stages of a Bill

A Bill goes through several stages before it is passed into Law.

Summarily the processes can be as follows;

- Gazette/Journal Publication
- First Reading
- Second Reading
- Referral to relevant Standing Committee(s)
- Public Hearing (Where applicable)
- Reported out and considered in the Committee of Whole.
- Third Reading/Passage
- Transmitted to the other Chamber for concurrence or otherwise
- Joint Committee made up of Members of both Chambers to harmonize any identified difference.
- Agreed final clean copy sent to Mr. President for assent.
- Becomes an "Act of Parliament"/Law

the page.

Stage 1: Identification of the Need for a Bill, Proposal Stage

The first stage is the identification of the need for a bill. This bill can be a new one, introducing a new idea not yet covered by an existing law. It can also be an amendment to an existing law, which is thought to be inadequate either because of some changes in the policies of the government or changes in the society. It can also be that the existing law is considered to be infringing on another fundamental human right, that is, it goes against provisions of the constitution that guarantees a rights of Nigerian citizens.

Stage 2: First Reading

The member who wishes to propose the new law or legislative amendment introduces the bill to the House. This is known as the first reading. Only the title of the bill is read at the first reading, and copies are distributed for members of parliament to read. The Clerk of the House/Senate usually does the reading of bills scheduled on the House/Senate Calendar. The reading simply informs the members that a particular bill has been introduced and received.

Second Reading

At this stage, members of the House/Senate may ask for further explanation as to the effect of the bill, its costs and the administrative arrangements for the proposed law. Amendments to the bill can also be proposed at this stage. This period is when debate occurs on the bill. It commences with a motion by the Senate

or House Leader that the bill be read the second time, if it is an Executive Bill. The motion must be seconded (supported) by any of the other parties' leaders. When it is not seconded, the bill cannot be debated but in most cases, Executive bills are allowed, as a matter of courtesy to proceed to a second reading. The bill may receive the support of the majority of the House/Senate and be allowed to move to the next stage. Once it gets the needed support, it moves to the committee stage.

Committee Consideration

This is the period when the committee assigned to deliberate on a bill examines it more critically. The House and the Senate have two types of committees. The first one is the committee of the whole House and second, is the Standing Committees. The House and Senate have many of standing committees. Committees examine all aspects of the bill clause-by-clause and point-by-point. They also organize public hearings on the bill. Committee of the Whole House After the committee has concluded its work, it will report to the whole House/Senate. It must ask the House Rules and Business Committee/Senate Committee on rules and Procedures to put the bill on the House/Senate calendar (i.e. fix a date and time for the hearing of the committee's report). The House/Senate reviews the report of the committee. When all issues have been discussed and concluded, the bill can go to the next stage: the third reading.

Third Reading

During the third reading the house is asked to vote on the bill. Once the bill is passed by the house in which it was introduced, it moves to the other house for consideration. Any amendments which have been made appear in the new version of the bill. After the report of the committee and the deliberation of the committee for the Whole House, a motion may be moved that the bill be read the third time. Generally, no amendment can be entertained after the third reading stage.

Stage 3: The Clerk and the Clean Copy of the Bill

When a bill has been read the third time, a clean printed copy of it, incorporating all amendments will be produced, signed by the Clerk and endorsed by the Speaker/Senate President. Both chambers must agree on the final form of each bill.

Conference Committee

If either house fails to concur in amendments made by the other, a conference committee of senators and Representatives must reconcile the difference. Compromises agreed to by conference committees are then subject to approval by both houses.

Stage 4: Presidential Assent

Once the bill has been passed by both houses it is presented to the President. It is the responsibility of the President to assent to the new law, which means giving the President's seal of approval. The bill becomes law on the date of the President's assent unless it has a specific clause stating it will only start on a specified date. Once it is law, the bill becomes an act or a statute. The President has 30 days to act on a bill after it has been received. If he disagrees with the provision of the bill or some aspects of it, he can veto by withholding his/her signature. However, the National Assembly is empowered by the Constitution to overrule the veto of the President. If, after 30 days, the president refuses to sign the bill and the National Assembly is not in support of the President's amendments, the two Chambers can recall the bill and re-pass it. If the bill is passed in the form it was sent to the President by two thirds (2/3), majorities in both chambers, the bill automatically becomes law even without the signature of the president.

Gazetting of a Law

Gazetting is the official publicising of law or other material by the state in its government gazette. A Government Gazette is the official publication of the government for this and other purposes of disseminating information. Gazetting means that the law has been passed. It is possible that the law does not come into effect on the day it is so published in the Government Gazette because the law itself states a date on which it will come into effect. However, the gazetting is a way of officially informing the general public that the state has passed a law and its contents.

Resolutions

Besides bills the Legislature may express its feelings in simple, concurrent, or joint resolutions. Simple resolutions require action by only one house. They are used to handle procedure, organization, or to express the sense of the chamber on a particular matter. Frequently, the House or Senate pass a simple resolution to adjourn in honour or memory of an individual.

Public Hearings

Definition: A public hearing is a mechanism by which Legislative Committees obtain information, expert opinions, and alternative perspectives on a proposed or pending piece of Legislation and other matters within their jurisdiction. Public Hearings inform Legislators, other arms of government and the general public of the measures under consideration.

Public Hearings are intended to:

- stimulate public discussions within and outside the Legislature on measures under consideration;
- advertise, inform and educate the public on the activities of the Legislature to stimulate interest in the process of law-making;
- enhance the working relationship between the Legislature and other arms of government, particularly Ministries, Departments and Agencies;
- enable Legislators to perform their oversight functions.

Types of Hearings

Legislative Hearings: Committees may conduct Hearings on existing statutes or draft laws, or to promote policies. Such Hearings may be intended to develop positions on future legislative activities.

Oversight Hearing: Oversight Hearing is a supervisory public Hearing to consider a measure, issue or problem. It examines the quality of government programmes and the level of performance of government officials. Oversight Hearing also ensures that the implementation of a law by the Executive is in accordance with the intentment of the relevant Act and budgeted resources.

a. Investigative Hearing: Investigative Hearing is subject to the provisions of Section 88 of the 1999 Constitution.

b. Quasi-Judicial Hearing: Quasi-Judicial Hearing is more formal than Legislative Hearings. However, a Quasi-Judicial

Hearing is not as formal as judicial court proceedings. An example of a Quasi-Judicial Hearing is Impeachment Proceedings of a Legislative House. A Legislative Assembly also conducts Quasi-Judicial Hearing on Public Petitions. Such decisions even if correct may be over turned by a court of law if proper procedures were not followed.

THE BUDGET

“ The President shall cause to be prepared and laid before each House of the National Assembly at any time in each financial year estimates of the revenues and expenditure of the Federation for the next following financial year

Section 81 of the Constitution of the Federal Republic of Nigeria, 1999

What is the Budget?

A national budget is a financial document prepared at the end of each fiscal year with the expected expenditures of the entire nation. It mainly includes the sources of revenue and expected expenditure on employees of the national governments as well as the projects initiated by the national government. Budgeting is one of the most important areas of policymaking.

Through budgets, governments indicate how much it is willing to spend on public purposes, set substantive policy priorities within overall spending levels, determine the amount that must be borrowed in order to finance approved spending levels, and thus influence the economy.

The Budget Process

In Nigeria, the preparation of the budget is a shared responsibility of the Executive and Legislative arm of the Federal Government. The budget, which is officially referred to as the Appropriation Act, is introduced by the Executive, approved by the Legislature and signed into law by the President.

Budget Planning/Formulation

The Budget Office of the Ministry of Finance develops the budget in accordance with the Federal Government’s fiscal policy. The Budget Office meets early in the fiscal year with key revenue generating agencies as well as key economic agencies to assess and determine trends in revenue performance and macroeconomic indicators and the implication of such trends for the next three fiscal years. This discussion leads to the preparation of a Medium-Term Expenditure Framework Report, which includes the Fiscal Strategy Paper and MDAs expenditure ceilings, which is presented by the Minister of Finance first to the Federal Executive Council and then to the National Assembly for consideration and approval.

The Fiscal Responsibility Act of 2007 is an act that provides for prudent management of the nation’s resources, ensures long term macroeconomic stability of the national economy and secures greater accountability and transparency in fiscal operations within a medium term fiscal policy framework and the establishment of the Fiscal Responsibility Commission to ensure the promotion and enforcement of the nation’s economic objective; and other related matters.

Budget Call Circular and Preparation of the Executive Budget Proposal

Once the Nigeria’s Medium Term Expenditure Framework (MTEF), Fiscal Strategy Paper and MDAs’ expenditure ceilings have been approved by the Federal Executive Council, the Budget Office, under the supervision of the Minister of Finance, issues a “Call Circular”. The Call Circular instructs the MDAs to allocate their allotted capital expenditure ceilings across their existing and new projects, programmes and other initiatives. MDAs are also required to submit estimates of their recurrent expenditure requirements for personnel costs and overhead. The Budget Office evaluates and consolidates the submissions of the various MDAs and prepares the draft budget. This process

most times, takes place in August.

Presidential Submission to the National Assembly

The draft budget is presented by the Minister of Finance to the President for approval. The approved budget, together with supporting documents, is formally presented by the President to the National Assembly for consideration and appropriation, typically at a joint session of the Senate and the House of Representatives.

Legislative Scrutiny and Approval

The budget is considered separately by the House and Senate of the National Assembly in accordance with the legislative practice and procedures. The two houses harmonize their drafts and the recommendations of the various committees are considered and collated with the oversight of the MDAs. The harmonized budget is approved separately by each chamber of the National Assembly, after which it is presented as the Appropriation Bill to the President for assent. Once the President assents to the Appropriation Bill, it becomes an Act of parliament passed into law.

Budget Implementation

The implementation of the budget is carried out by the various Ministries, Department, and Agencies (MDAs) of the federal government. Funds for capital projects are released on a quarterly basis to the relevant spending MDAs in line with what is allocated to them in the budget. Recurrent expenditure refers mainly to expenditure on operations, wages and salaries, purchases of goods and services, and current grants and subsidies. Capital expenditure is primarily expenditure on the creation of fixed assets and on the acquisition of land, buildings and intangible assets.

Monitoring and Evaluation of the Federal Budget

The oversight of budget implementation is the final stage of the budget process. The monitoring is done by the Ministry of Finance, the National Planning Commission (NPC), the National Assembly, the National Economic Intelligence Agency (NEIA), the Presidential Monitoring Committee (PBMC), the Office of the Auditor General of the Federation and the Accountant General of the Federation. Actual inspection of the capital projects are carried by these agencies in various capacities, predominant among them is the Ministry of Finance; the National Planning Commission and National Assembly through its think-tank – the National Institute for Legislative Studies (NILS). While copies of the budget Implementation reports are on the website of the Federal Ministry of Finance, such reports from NILS are made available to the National Assembly presiding officers and relevant Committees.

Budget and the Oversight Functions of the Legislature

Oversight is an important and constitutional part of lawmaking. Legislators are required to monitor the implementation of budget by the executive arm of government. By Section 88 of the Constitution, the National Assembly is empowered to conduct investigations into any matter or thing with respect to which it has power to make laws. It also has power to conduct investigations into the conduct or affairs of any person, authority, ministry or government department charged, or intended to be charged with the duty or responsibility of executing or administering laws enacted by it and the disbursement or administration of funds appropriated or to be appropriated by the lawmakers.

...“each House of the National Assembly shall have power by resolution published in its journal or in the Official Gazette of the Government of the Federation to direct or cause to be directed an investigation into (a) any matter or thing with respect to which it has power to make laws; and (b) the conduct of affairs of any person, authority, ministry or government department charged, or intended to be charged, with the duty of or responsibility for (i) executing or administering laws enacted by the National Assembly, and (ii) disbursing or administering moneys appropriated or to be appropriated by the National Assembly”. Section 88, Sub sections 1(a) (b) and 2(a) (b) of the 1999 Constitution of the Federal Republic of Nigeria

...“the powers conferred on the National Assembly under the provisions of the section are

exercisable only for the purpose of enabling it to (a) make laws with respect to any matter within its legislative competence and correct any defects in existing laws; and (b) expose corruption, inefficiency or waste in the execution or administration of laws within its legislative competence and in the disbursement or administration of funds appropriated by it". Sub-section 2(a)-(b)

The legislature uses investigating committees – appropriation committee, standing committees, ad hoc committees and various other committees – to collect and analyse information concerning the administration of state programs and implementation of governmental policies, as almost any aspect of government's activities may come under legislative examination. And the possibility of legislative investigation doubtless contributes to administrative responsibility and rectitude.

Purpose

The general purpose of legislative oversight has been adequately summarized to include, but not limited to, the attainment of the following objectives:

To detect and prevent abuse, arbitrary behaviour, or illegal and unconstitutional conduct on the part of the government and public agencies. At the core of this function is the protection of the rights and liberties of citizens;

To hold the government accountable in respect of how the taxpayers' money is used. It detects waste within the machinery of government and public agencies. Thus it can improve the efficiency, economy and effectiveness of government operations.

To ensure that policies announced by the government and authorized by parliament are actually delivered. This function includes monitoring the achievement of goals set by legislation and the government's own programmes; and

To improve the transparency of government operations and enhance public trust in the government, which is itself a condition for effective policy delivery.

Oversight Tools

To undertake oversight functions, parliaments use various mechanisms or tools to obtain the information they require concerning any matter over which they are conducting oversight. The tools are used either singly or in combination in dealing with a particular issue. The commonly used tools are;

Committee (Public) Hearing – A public hearing is a mechanism by which Legislative Committees obtain information, expert opinions, and alternative perspectives on a proposed or pending piece of Legislation and other matters within their jurisdiction

Hearing in Plenary Session - this usually takes the form of subjecting agents of the executive to appear before the plenary session of either house of the legislature or joint houses or the discussion of thorny national issues that are eventually backed by a resolution.

Creation of Commission of Inquiry and Special Investigative Committees - these are usually investigative oversight that arise out of the need to investigate a suspected misnomer or abuse.

Auditor –General – This is a creation of section 85 of the Constitution. Section 86 of the Constitution specifies that "the Auditor – General of the Federation shall be appointed by the President on the recommendation of the Federal Civil Service Commission subject to confirmation by the Senate". Section 85 (2) states "the public accounts of the Federation and of all offices and courts of the Federation shall be audited and reported on by the Auditor – General who shall submit his/her report to the National Assembly and for that purpose, the Auditor – General or any person authorized by him/her in that behalf shall have access to all the books, records, returns and other documents relating to those accounts".

Public Accounts Committee - this is usually a special committee of both houses of the legislature whose responsibility includes but not limited to;

- a. examining the accounts showing the appropriation of the sums granted by the Legislature to meet Public expenditure, together with the auditor's reports thereon*
- b. examining any accounts or reports of statutory corporations and Board etc.*
- c. Warrant of Arrest/Power to Arrest – this is granted to the legislature by the Legislative Houses (Powers and Privileges) Act (The Laws of the Federation of Nigeria 2004) to enable it force appearance before it and to protect it from ridicule.*
- d. Oversight Visit – often members of the legislature and their staff undertake visit to government agencies and project site to verify claims made and to experience first-hand the operations of government and its programs.*
- e. Reporting Requirement – departments and agencies of government are required to submit annual reports to the legislature. The legislature also requires its committees to submit reports that include information on their oversight activities.*



EFCC

**ECONOMIC AND FINANCIAL
CRIMES COMMISSION
(EFCC)**

(ESTABLISHMENT) ACT 2004

ARRANGEMENT OF SECTIONS

1. Establishment of the Economic and Financial Crimes Commission.
2. Composition of the Commission.
3. Tenure of office.
4. Vacancy in Membership
5. Standing Orders
6. Functions of the Commission.
7. Special powers of the Commission.
8. Appointment of the Secretary and other staff of the Commission.
9. Staff Regulations.
10. Pensions Act Cap 346 Laws of the Federation.
11. Training Programme.
12. Establishment of special units, etc.
13. Special duties of the Units.
14. Offences relating to financial malpractices.
15. Offences in relation to terrorism.
16. Offences relating to false information
17. Retention of proceeds of a criminal conduct.
18. Offences in relation to economic and financial crimes and penalties.
19. Jurisdiction and Special Powers of the Court.
20. Forfeiture after conviction in certain cases.
21. Forfeited property.
22. Foreign Assets.
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24. Property subject to forfeiture.
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27. Disclosure of assets and properties by an arrested person, etc.
28. Investigation of Assets and Property Of A Person Arrested of an offence under this act
29. Interim forfeiture order.
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31. Final disposal of forfeited property.
32. Offences in relation to forfeiture orders.
33. Consequences of an acquittal in respect of assets and properties.
34. Freezing order on bank or other financial institutions
35. Funds of the Commission.
36. Accounts and Audits.
37. Annual Report.
38. Power to receive information without hindrance etc
39. Protecting informants and information, etc and penalty for false information
40. Appeals against interlocutory rulings
41. Immunities
42. General Savings
43. Regulations
44. Repeal of Act No. 5 2002
45. Savings
46. Interpretation
47. Short Title. Schedule.

**ECONOMIC AND FINANCIAL CRIMES COMMISSION
(ESTABLISHMENT) ACT 2004**

**A BILL FOR
AN ACT TO REPEAL THE FINANCIAL CRIMES COMMISSION (ESTABLISHMENT)
ACT, 2002 AND ENACT THE FINANCIAL CRIMES COMMISSION (ESTABLISHMENT)
ACT, 2004; AND FOR MATTER CONNECTED THEREWITH**

ENACTED by the National Assembly of the Federal Republic of Nigeria –

PART I - ESTABLISHMENT OF THE ECONOMIC AND FINANCIAL CRIMES COMMISSION, ETC

1: (1) There is established a body to be known as the Economic and Financial Crimes Commission (in this Act referred to as "the Commission") which shall be constituted in accordance with and shall have such functions as are conferred on it by this Act.

(2) The Commission -

- a. shall be a body with perpetual succession and a common seal
- b. may sue or be sued in its corporate name and may, for the purpose of its function Commission acquire, hold or dispose of property (whether movable or immovable);
- c. is the designated Financial Intelligence Unit (FIU) in Nigeria, which is charged with the responsibility of co-ordinating the various institutions involved in the fight against money laundering and enforcement of all laws dealing with economic and financial crimes in Nigeria

2: (1) The Commission shall consist of the following members –

- (a) a chairman, who shall -
 - (i) be the Chief Executive and Accounting Officer of the Commission.
 - (ii) be a serving or retired member of any government security or law enforcement agency not below the rank of Assistant Commissioner of Police or equivalent; and
 - (iii) Possess not less than 15 years cognate experience
- (b) the Governor of the Central Bank or his representative; and
- (c) a representative each of the following Federal Ministries
 - (i) Foreign Affairs,
 - (ii) Finance,
 - (iii) Justice,
- (d) the Chairman National Drug Law Enforcement Agency or his representative;

- (e) the Director General of –
- (i) the National Intelligence Agency,
- (ii) the Department of State Security Services or his representative;
- (f) the Registrar-General of the Corporate Affairs Commission or his Representative;
- (g) the Director-General, Securities and Exchange Commission or his representative;
- (h) the Managing- Director, Nigeria- Deposit Insurance Corporation or his representative
- (i) the Commissioner for Insurance or his representative;
- (j) the Postmaster-General of the Nigerian Postal Services or his representative;
- (k) the Chairman, Nigerian Communications Commission or his representative;
- (l) the Comptroller-General, Nigeria Customs Services or his representative;
- (m) the Comptroller-General Nigeria Immigration Services or his representative;
- (n) a Inspector General of Police or his representative
- (o) four eminent Nigerians with cognate experience in any of the following, that is finance, banking or accounting; and
- (p) the Secretary to the commission who shall be the head of administration

(2) The members of the Commission, other than the Chairman and the Secretary shall be part time members

(3) The Chairman and members of the Commission other than ex-officio members shall be appointed by the President and appointment shall be subject to the confirmation of the Senate.

Tenure of Office

3: (1) The Chairman and members of the Commission other than ex-officio members shall hold office for a period of four years and may be re-appointed for a further term of four years and no more

(2) A member of the Commission may at any time be removed by the President for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misconduct or if the President

is satisfied that it is not in the interest of the Commission or the interest of the public that the member should continue in office.

(3) A member of the Commission may resign his membership by notice in writing addressed to the President and that member shall, on the date of the receipt of the notice by the President, cease to be member

Vacancy in membership

4: Where a vacancy occurs in the membership of the Commission, it shall be filled by the appointment of a successor to hold office for the remainder of the term of office of his predecessor, so however that the successor shall represent the same interest as his predecessor.

Standing Orders

5: The Commission may take standing orders from regulating its proceedings or those of any of its committees

PART II – FUNCTIONS OF THE COMMISSION

6: The Commission shall be responsible for -

(a) the enforcement and the due administration of the provisions of this Act;

(b) the investigation of all financial crimes including advance fee fraud, money laundering, counterfeiting, illegal charge transfers, futures market fraud, fraudulent encashment of negotiable instruments, computer credit card fraud, contract scam, etc.;

(c) the co-ordination and enforcement of all economic and financial crimes laws and enforcement functions conferred on any other person or authority;

(d) the adoption of measures to identify, trace, freeze, confiscate or seize proceeds derived from terrorist activities, economic and financial crimes related offences or the properties the value of which corresponds to such proceeds;

(e) the adoption of measures to eradicate the commission of economic and financial crimes;

(f) the adoption of measures which includes coordinated preventive and regulatory actions, introduction and maintenance of investigative and control techniques on the prevention of economic and financial related crimes;

(g) the facilitation of rapid exchange of scientific and technical information and the conduct of joint operations geared towards the eradi-

cation of economic and financial crimes;

(h) the examination and investigation of all reported cases of economic and financial crimes with a view to identifying individuals, corporate bodies or groups involved;

(i) the determination of the extent of financial loss and such other losses by government, private individuals or organizations;

(j) collaborating with government bodies both within and outside Nigeria carrying on functions wholly or in part analogous with those of the Commission concerning -

(i) the identification, determination, of the whereabouts and activities of persons suspected of being involved in economic and financial crimes,

(ii) the movement of proceeds or properties derived from the commission of economic and financial and other related crimes;

(iii) the exchange of personnel or other experts,

(iv) the establishment and maintenance of a system for monitoring international economic and financial crimes in order to identify suspicious transactions and persons involved,

(v) maintaining data, statistics, records and reports on person, organizations, proceeds, properties, documents or other items or assets involved in economic and financial crimes;

(vi) undertaking research and similar works with a view to determining the manifestation, extent, magnitude, and effects of economic and financial crimes and advising government on appropriate intervention measures for combating same

(k) dealing with matters connected with the extradition, deportation and mutual legal or other assistance between Nigeria and any other country involving Economic and Financial Crimes;

(l) The collection of all reports relating suspicious financial transactions, analyse and disseminate to all relevant Government agencies;

(m) taking charge of, supervising, controlling, coordinating all the responsibilities, functions and activities relating to the current investigation and prosecution of all offenses connected with or relating to economic and financial crimes;

(n) the coordination of all existing economic and financial crimes, investigating units in Nigeria;

(o) maintaining a liaison with office of the Attorney-General of the Federation, the Nigerian Customs Service, the Immigration and Prison Service Board, the Central Bank of Nigeria, the Nigeria Deposit Insurance

Corporation, the National Drug Law Enforcement Agency, all government security and law enforcement agencies and such other financial supervisory institutions in the eradication of economic and financial crimes;

(p) carrying out and sustaining rigorous public and enlightenment campaign against economic and financial crimes within and outside Nigeria and;

(q) carrying out such other activities as are necessary or expedient for the full discharge of all or any of the functions conferred on it under this Act.

Special powers of the Commission

7: (1) The Commission has power to –

(a) cause investigations to be conducted as to whether any person, corporate body or organization has committed any offence under this Act or other law relating to economic and financial crimes

(b) cause investigations to be conducted into the properties of any person if it appears to the commission that the person's lifestyle and extent of the properties are not justified by his source of income;

(2) The Commission is charged with the responsibility of enforcing the provisions of –

(a) the Money Laundering Act 2004; 2003 No.7 1995 N0. 13

(b) the Advance Fee Fraud and Other Fraud Related Offences Act 1995;

(c) the Failed Banks (Recovery of Debts) and Financial Malpractices in Banks Act 1994, as amended;

(d) The Banks and other Financial Institutions Act 1991, as amended; and

(e) Miscellaneous Offences Act

(f) Any other law or regulations relating to economic and financial crimes, including the Criminal code of penal code

PART III – STAFF OF THE COMMISSION

Appointment of the Secretary and other staff of the Commission

8: (1) There shall be established for the Commission a Secretariat that shall be headed by

(2) secretary who shall be appointed by the President.

The secretary shall be–

- (a) the head of the Secretariat of the Commission;
- (b) responsible for the administration of the Secretariat and the keeping of the books and records of the Commission;
- (c) appointed for a term of five years in the first instance and may be re-appointed for a further term of five years subject to satisfactory performance; and
- (d) subject to the supervision and control of the Chairman and the Commission

(3) The Commission may, from time to time, appoint such other staff or second officers from government security or law enforcement agencies or such other private or public services as it may deem necessary, to assist the Commission in the performance of its functions under this Act.

(4) The staff of the Commission appointed under subsection (3) of this section, shall be appointed upon such terms and conditions as the Commission may, after consultation with the Federal Civil Commission, determine.

(5) For the purpose of carrying out or enforcing the provisions of this act, all officers of the Commission involved in the enforcement of the provisions of this act shall have the same powers, authorities, privileges (including power to bear arms) as are given by law to members of the Nigerian Police.

Staff regulations

9: (1) The Commission may, subject to the provision of this Act, make staff regulations relating generally to the conditions of service of the employees of the Commission and without prejudice to the generality of the foregoing, the regulations may provide for –

- (a) the appointment, promotion and disciplinary control (including dismissal) of employees of the Commission; and
- (b) appeals by such employees against dismissal or other disciplinary measures, and until the regulations are made, any instrument relating to the conditions of services of officers in the Civil Service of the Federation shall be applicable, with such modifications as may be necessary, to the employees of the Commission.

(2) Staff regulations made under subsection (1) of this section shall not have effect until approved by the Commission, and when so approved the regulations may not be published in the Gazette but the Commission shall cause them to be brought to the notice of all affected persons in such manner as it may, from time to time, determine.

Pensions, Cap 346 LFN 1990

10: (1) Service in the commission shall be public service for the purpose of Pensions Act and, accordingly, officers and other persons employed in the commission, shall in respect of their service in the Commission, be entitled to pension, gratuities and other retirement benefits as are prescribed thereunder, so however that nothing in this act shall prevent the appointment of a person to any office on terms which preclude the grant of pension or gratuity in respect of that office.

(2) For the purpose of the application of the provisions of the Pensions Act, any power exercisable under the Act by a Minister or other authority of the Government of the Federation (not being the power to make regulations under Section 23 thereof) is hereby vested in and shall be exercisable by the Commission and not by any other person or authority.

Training Programme

11: The Commission shall initiate, develop or improve specific training programmes for its law enforcement and other personnel charged with responsibility for the eradication of offences created by this Act and such programmes shall include –

- (a) methods used in the detection of offences created under the this Act;
- (b) techniques used by persons involved in offences created under this Act and appropriate counter-measures;
- (c) detection and monitoring of the movement of proceeds and property derived from economic and financial malpractices intended to be used in the commission of offences under this Act;
- (d) methods used for the transfer, concealment or disguise of such proceeds, property and instrumentalities;
- (e) collection of evidence;
- (f) law enforcement techniques;
- (g) Legal prosecution and defence;
- (h) Dissemination of information on economic and financial crimes and related offences.

Establishment of Special Units

12: (1) For the effective conduct of the functions of the Commission, there may be established for the Commission the following units–

- (a) the General And Assets Investigation Unit;
- (b) the Legal And Prosecution Unit;
- (c) the Research Unit;
- (d) the Administration Unit; and

(e) the Training Unit.

Special duties of the units

(2) Notwithstanding the provisions of subsection (1) of this section, the Commission has power to set up any committee as may be necessary to assist the Commission in the performance of its duties and functions under this Act.

13: (1) The General and Assets Investigation Units shall be charged with responsibilities for –

(a) The prevention and detection of offences in violation of the provisions of this Act;

(b) The arrest and apprehension of economic and financial crime perpetrators;

(c) The investigation of assets and properties of persons arrested for committing any offence under this Act;

(d) The identification and tracing of proceeds and properties involved in any offence under this Act and the forfeiture of such proceeds and properties to the Federal Government; and

(e) Dealing with matters connected with extradition and mutual assistance in criminal matters involving economic and financial offences.

(2) The Legal and Prosecution Unit shall be charged with responsibility for -

(a) Prosecuting offenders under this Act;

(b) Supporting the general and assets investigation unit by providing the unit with legal advice and assistance whenever it is required;

(c) Conducting such proceedings as may be necessary towards the recovery of any assets or property forfeited under this Act;

(d) Performing such other legal duties as the Commission may refer to it from time to time.

(3) There shall be appointed for each of the Units a principal officer who shall be known by such designation as the Commission may determine.

PART IV – OFFENCES

Offences relating to financial malpractices

14: (1) A person who, being an officer of a bank or other financial institution or designated non-financial institution -

(a) fails or neglects to secure compliance with the provisions of this Act;

or

(b) fails or neglects to secure the authenticity of any statement submitted pursuant to the provisions of this act, commits an offence and is liable on conviction to imprisonment for a term not exceeding 5 years or to a fine of Five Hundred Thousand Naira (N500,000) or to both such imprisonment and fine.

(2) Subject to the provision of Section 174 of the Constitution of the Federal Republic of Nigeria 1999 (which relates to the power of the Attorney-General of the Federation to institute, continue or discontinue criminal proceedings against any persons in any court of law), the Commission may compound any offence punishable under this Act by accepting such sums of money as it thinks fit, not exceeding the amount of the maximum fine to which that person would have been liable if he had been convicted of that offence.

(3) All moneys received by the Commission under the provisions of subsection (2) of this section shall be paid into the Consolidated Revenue Fund of the Federation.

Offences relating to terrorism

15: (1) A person who willfully provides or collects by any means, directly or indirectly, any money by any other person with intent that the money shall be used for any act of terrorism commits an offence under this Act and is liable on conviction to imprisonment for life.

(2) Any person who commits or attempts to commit a terrorist act or participates in or facilitates the commission of a terrorist act, commits an offence under this Act and is liable on conviction to imprisonment for life.

(3) Any person who makes funds, financial assets or economic resources or financial or other related services available for use of any other person to commit or attempt to commit, facilitate or participate in the commission of a terrorist act is liable on conviction to imprisonment for life.

Offences relating to false information

16: (1) Any person who, in the discharge of his duty under this Act, gives information which is false in any material particular, commits an offence under this Act and the onus shall lie on him to prove that such information was supplied to him by another person and that he exercised all diligence to prevent the commission of the offence having regard to the nature of his functions in that capacity and in all the circumstances.

(2) The penalty for offences under subsection (1) of this section shall be imprisonment for a term not less than 2 years and not exceeding 3 years provided that where the offender is a public officer the penalty shall be imprisonment for a term not less than 3 years and not more than 5 years

(3) Without prejudice to the provisions of any other enactment, any regulatory agency or body in the financial sector shall in the exercise of its functions, liaise with the Commission to investigate and monitor the commission of economic and financial crimes.

Retention of Proceeds of a criminal conduct

17: A person who –

(a) whether by concealment, removal from jurisdiction, transfer to nominees or otherwise or otherwise retains the control of the proceeds of a criminal conduct or an illegal act on behalf of another person knowing that the proceeds is as a result of criminal conduct by the principal; or

(b) knowing that any property is in whole or in part directly or indirectly represents another person's proceeds of a criminal conduct, acquires or uses that property or has possession of it, commits an offence and is liable on conviction to imprisonment for a term not less than 5 years or to a fine equivalent to 5 times the value of the proceeds of the criminal conduct or to both such imprisonment and fine.

Offences in relation to economic and financial crimes and petitions

18: (1) A person who, without lawful authority –

(a) engages in the acquisition, possession or use of property knowing at the time of its acquisition, possession or use that such property was derived from any offence under this Act; or

(b) engages in the management, organisation or financing of any of the offences under this Act; or

(c) engages in the conversion or transfer of property knowing that such property is derived from any offence under this Act; or

(d) engages in the concealment or disguise of the true nature, source, location, disposition, movement, rights, with respect to or ownership of property knowing such property is derived from any offence referred under this Act

commits an offence under this Act and is liable on conviction to the penalties provided in Subsection (2) of this section.

(2) The penalties provided for offences under subsection (1) of this section shall be imprisonment for a term not less than two years and not exceeding three years.

Jurisdiction and special powers of the court

19: (1) The Federal High Court or High Court of a state of the Federal Capital Territory has jurisdiction to try offenders under this Act.

(2) The Court shall have power, notwithstanding anything to the contrary in any other enactment,

(a) to impose the penalties provided for in this Act.

(b) To ensure that all matters brought before the court by the Commission against any person, body or authority shall be conducted with dispatch and given accelerated hearing

(c) To adopt all legal measures necessary to avoid unnecessary delays and abuse in the conduct of matters brought by the Commission before it or against any person, body or authority.

(3) The Chief Judge of the Federal High Court or a High Court of a State or the High Court of The Federal Capital Territory Abuja, as the case may be shall by order under his hand, designate a court or judge he shall deem appropriate to hear and determine all cases under this act or other related offences under this Act.

(4) A court or judge so designated shall give such matters priority over other matter pending before it.

(5) In any trial for an offence under this act, the fact that an accused person is in possession of pecuniary resources or property for which he cannot satisfactorily account and which is disproportionate to his known sources of income, of that he had at or about the time of the alleged offence obtained an accreditation to his pecuniary resources or property for which he cannot satisfactorily account, may be proved and taken into consideration by the Court as corroborating the testimony of any witness in the trial.

Forfeiture after conviction in certain cases

20: (1) A person convicted of an offence under this Act shall forfeit to the Federal Government -

(a) all the assets and properties which may or are the subject of an interim order of the Court after an attachment by the Commission as specified in section 26 of this Act;

(b) any asset or property confiscated, or derived from any proceeds, the person obtained directly or indirectly, as a result of such offences not already disclosed in the Assets Declaration Form specified in Form A of the Schedule to this Act or not falling under paragraph (a) of this subsection;

(c) any of the person's property or instrumentalities used in any manner to commit or to facilitate the commission of such offence not already disclosed in the Declaration of Assets Form or not falling under paragraph (a) of this subsection.

(2) The Court in imposing a sentence on any person under this section, shall order, in addition to any other sentence imposed pursuant to Section 11 of this Act, that the person forfeit to the Federal Government all properties described in subsection (1) of this section.

(3) In this section, "proceeds" means any property derived or obtained, directly, through the commission of an offence under this Act.

Forfeiture in property

21: For the avoidance of doubt and without any further assurance than this Act; all the properties of a person convicted of an offence under this Act and shown to be derived or acquired from such illegal act and already the subject of an interim order shall be forfeited to the Federal Government.

Foreign Assets

22: (1) Where it is established that any convicted person has assets or properties in a foreign country, acquired as a result of such criminal activity, such assets or properties, subject to any treaty or arrangement with such foreign country, shall be forfeited to the Federal Government.

(2) The Commission shall, through the office of the Attorney-General of the Federation, ensure that the forfeited assets or properties are efficiently transferred and vested in the Federal Government.

Forfeiture of Passports

23: The passport of any person convicted of an offence under this Act shall be forfeited to the Federal Government and shall not be returned to that person till he has served any sentence imposed or unless or until the President directs otherwise after the grant of pardon or on the exercise of the prerogative of mercy under the constitution of the Federal Republic of Nigeria 1999

Property subject to forfeiture

24: Any property-

- (a) Whether real or personal, which represents the gross receipts a person obtains directly as a result of the violation of this Act or which is traceable to such gross receipts;
- (b) Within Nigeria which represents the proceeds of an offence under the laws of a foreign country within whose jurisdiction such offense of activity would be punishable by imprisonment for a term exceeding one year and which would be punishable by imprisonment under this Act if such act or activity had occurred within Nigeria, is subject to forfeiture to the Federal Government and no other property rights shall exist on it

Further Provisions as to the forfeiture of Property

25: Without prejudice to the provision of any other law permitting the forfeiture of property, the following shall also be subject to forfeiture under this Act and no proprietary right shall exist in them -

- (a) all means of conveyance, including aircraft, vehicles, or vessels which are used or are intended for use to transport or in any manner, to facilitate the transportation, sale, receipt, possession or concealment of economic or financial crime except that-
 - (i) in the transaction of business as a common carrier shall be forfeited under this section unless it shall appear that the owner or other person in the charge of such means of conveyance was a consenting party or privy to a violation of this Act;
 - (ii) No means of conveyance shall be forfeited under this section by reason of any act established by the owner thereof to have been committed by any person other than such owner while such means of conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of Nigeria or any part thereof, and

- (iii) No means of conveyance shall be forfeited under this section to the extent of an interest of an owner, by reason of any act established by that owner to have been committed without the knowledge, consent or willful connivance of that owner;
- (b) all books, records, research and data used or intended to be used in violation of any provision of this Act;
- (c) all monies, negotiable instruments, securities or other things of value furnished or intended to be furnished by any person in exchange for any illegal act or in violation of this Act or all proceeds traceable to such an exchange, and all monies, negotiable instruments and securities used or intended to be used to facilitate any violation of this Act;
- (d) all real property, including any right, title and interest (including any leasehold interest) in the whole or any piece or parcel of land and any improvements or appurtenances which is used or intended to be used, in any manner or part to commit, or facilitate the commission of an offence under this Act.

Seizure of Property

26: (1) Any property subject to forfeiture under this Act may be seized by the Commission in the following circumstances –

- (a) the seizure incidental to an arrest or search; or
 - (b) in the case of property liable to forfeiture upon process issued by the Court following an application made by the Commission in accordance with the prescribed rules.
- (2) Whenever property is seized under any of the provisions of this Act, the Commission may –
- (a) place the property under seal; or
 - (b) remove the property to a place designed by the Commission.
- (3) Properties taken or detained under this section shall be deemed to be in the custody of the Commission, subject only to an order of a Court.

PART V – FORFEITURE OF ASSETS OF PERSONS ARRESTED FOR OFFENCES UNDER THIS ACT

Disclosure of Assets and Properties by an arrested person etc

27: (1) Where a person is arrested for committing an offence under this Act, such a person shall make full disclosure of all his assets and properties by completing the declaration of Assets Form as specified in form A of the Schedule to this Act.

- (2) The completed Declaration of Assets Form shall be investigated by the Commission

(3) Any Person who –

(a) knowingly fails to make full disclosure of his assets and liabilities ;or

(b) knowingly makes a declaration that is false; or

(c) fails, neglects or refuses to make a declaration or furnishes any information required, in the Declaration of Assets Form; commits an offence under this Act and is liable on conviction to imprisonment for a term of five years.

(4) Subject to the provisions of section 24 of this Act, whenever the assets and properties of any person arrested under this Act are attached, the General and Assets Investigation Unit shall apply to the Court for an interim forfeiture order under the provision of this Act.

(5) The Chairman of the Commission shall have powers to make changes or modifications to the Declaration of Assets Form specified in Form A of the Schedule to this Act as may become necessary in order to give effect to the provisions of this Act

Investigation of assets and properties of a person arrested of an offence under this Act etc

28: Where a person is arrested for an offence under this Act, the Commission shall immediately trace and attach all the assets and properties of the person acquired as a result of such economic and financial crime and shall thereafter cause to be obtained an interim attachment order from the Court.

Investigation of assets and properties of a person arrested of an offence under this Act etc

29: Where:

(a) the assets or properties of any person arrested for an offence under this Act has been seized; or

(b) any assets or property has been seized by the Commission under this Act, the Commission shall cause an application to be made to the Court for an interim order forfeiting the property concerned to the Federal Government and the Court shall, if satisfied that there is Prima Facie evidence that the property concerned is liable to forfeiture, make an interim order forfeiting the property to the Federal Government.

Interim forfeiture order

30: Where a person is convicted of an offence under this Act, the Commission or any authorized officer shall apply to the Court for the order of confiscation and forfeiture of the convicted person's assets and properties acquired or obtained as a result of the crime already subject to an interim under this Act.

Final Order

31: (1) A copy of every final order forfeiting the asset and property of a person convicted under this Act shall be forwarded to the Commission.

(2) Upon receipt of a final order pursuant to this section, the Secretary to the Commission shall take steps to dispose of the property concerned by sale or otherwise and where the property is sold, the proceeds thereof shall be paid into the Consolidated Revenue Fund of the Federation.

(3) Where any part of the property included in a final order is money in a bank account or in the possession of any person, the Commission shall cause a copy of the order to be produced and served on the manager or any person in control of the head office or branch of the bank concerned and that manager or person shall forthwith pay over the money to the Commission without any further assurance than this Act and the Federation

(4) The Attorney General of the Federation may make rules or regulations for the disposal or sale of any property or assets forfeited pursuant to this Act.

Final Disposal of forfeited property

32: (1) Any person who, without due authorization by the Commission, deals with, sells or otherwise disposes of any property or assets which is the subject of an attachment, interim order or final order commits an offence and is liable on conviction to imprisonment for a term of five years without the option of a fine.

(2) Any manager or person in control of the head office or branch of a bank or other financial institution who fails to pay over to the Commission upon the production to him of a final order commits an offence under this Act and is liable on conviction to imprisonment for a term of not less than one year and not more than three years, without the option of a fine.

Offences in relation to forfeiture orders

33: (1) Where a person is discharged or acquitted by a Court of an offence under this Act, the Court may make an order of revocation or confirmation as the case may be, of an interim order made pursuant to this Act whichever order is considered just, appropriate or reasonable within the circumstances.

(2) The property may be attached where a discharge is merely given on technical grounds.

(3) Where an interim order is revoked by a Court under subsection (1) of this section, all assets and properties of the person concerned shall be released to him by the Commission.

Consequences of an acquittal in respect of assets and properties **Freezing order on banks or other financial institutions**

34: (1) Notwithstanding anything contained in any other enactment or law, the Chairman of the Commission or any officer authorized by him may, if satisfied that the money in the account of a person is made through the commission of an offence under this Act or any enactments specified under section 6 (2) (a)-(f) of this Act, apply to the Court ex- parte for power to issue or instruct a bank examiner or such other appropriate regulatory authority to issue an order as specified in Form B of the Schedule to this Act, addressed to the manager of the bank or any person in control of the financial institution where the account is or believed by him to be or the head office of the bank or other financial institution to freeze the account.

(2) The Chairman of the Commission, or any officer authorized by him may by an order issued under subsection (1) of this section, or by any subsequent order, direct the bank or other financial institution to supply any information and produce books and documents relating to the account and to stop all outward payments, operations or transactions (including any bill of exchange) in respect of the account of the arrested person.

(3) The manager or any other person in control of the financial institution shall take necessary steps to comply with the requirements of the order made pursuant to subsection (2) of this section.

(4) In this section –

a. “bank” has the meaning given to it in the Banks and other Financial Institutions Act 1999 as amended; 1991 No. 25 requirement addressed to the manager of a bank or any other officer of a bank which directs the manager or such officer to stop all outward payments, operations or transactions in respect of any account with that bank.

PART VI – FINANCIAL PROVISIONS

Funds of the Commission

35: (1) The Commission shall establish and maintain a fund from which shall be defrayed all expenditure reasonably incurred by the Commission for the execution of its functions under this Act.

(2) There shall be paid and credited to the fund established pursuant to subsection (1) of this section, such monies as may in each year be approved by the Federal Government for the purpose of the Commission.

(3) The Commission may accept gifts of land, money or other property (whether within or outside Nigeria) upon such terms and conditions, if any, as may be specified by the person or organization making the gift provided that the terms and conditions are not contrary to the objectives and functions of the Commission under this Act.

Accounts and Audit

36: (1) The Commission shall keep proper accounts, in a form, which conforms to accepted commercial standards of its receipts, payments, assets and liabilities and shall submit the accounts annually, for auditing by a qualified auditor appointed from the list of auditors and in accordance with the guidelines supplied by the Auditor-General of the Federation.

Annual Report

37: The Commission shall, not later than 30th September in each year, submit to the National Assembly, a report of its activities during the immediately preceding year and shall include in such report the audited accounts of the Commission.

PART VII – MISCELLANEOUS PROVISIONS

Power to receive information without hindrance

38: (1) The Commission shall seek and receive information from any person, authority, corporation or company without let or hindrance in respect of offences it is empowered to enforce under this Act.

(2) A person who –

(a) willfully obstructs the Commission or any authorized officer of the Commission in exercise of any of the powers conferred on the Commission by this Act; or

(b) fails to comply with any lawful enquiry or requirements made by any authorized officer in accordance with the provision of this Act, commits an offence under this Act and is liable on conviction to imprisonment for a term not exceeding five years or to a fine of twenty thousand naira or to both such imprisonment and fine.

Protecting informants and information, etc and Penalty for false information

39: (1) Officers of the Commission cannot be compelled to disclose the source of information or identity of their informants except by the order of the court

(2) Any person who makes or causes any other person to make to an officer of the Commission or to any other Public Officer, in the course of the exercise by such Public officer of the duties of his office, any statement which to the knowledge of the person making the statement, or causing the statement to be made

(a) is false, or intended to mislead or is untrue in any material particular; or

(b) is not consistent with any other statement previously made by such person to any other person having authority or power under any law to receive, or require to be made such other statement notwithstanding that the person making the statement is not under any legal or other obligation to tell the truth, shall be guilty of an offence and shall on conviction be liable to a fine not exceeding one hundred thousand naira or to imprisonment for a term not exceeding two (2) years or to both such fine and imprisonment.

(c) Where any person who has made a statement to an officer of the Commission or to the Attorney-General, in the course of such officer or Attorney-General exercising any power conferred by this Act, subsequently thereto makes any other statement to any person having authority or power under any law to receive or require to be made such other statement regardless of whether or not the person making the statement is under a legal or other obligation to tell the truth, he shall, if such other statement is inconsistent with any statement previously made to an officer of the Commission or such other Public Officer, be guilty of an offence and shall on conviction be liable to a fine not exceeding ten thousand Naira or to an imprisonment for a term not exceeding two years or both.

(d) For the purpose of sub-section (1) and (2), any statement made in the course of any legal proceedings before any court, whether civil or criminal, or any statement made by any person in the course of any disciplinary pro-

ceedings, whether such legal proceedings or disciplinary proceedings are against the person making the statement or against any other person, shall be deemed to be a statement made to a person having authority or power under the law to receive the statement so made.

Appeals against interlocutory ruling, etc

40: Subject to the provisions of the constitution of the Federal Republic of Nigeria 1999, an application for stay of proceedings, in respect of any criminal matter brought by the commission before the High Court shall not be entertained until judgment is delivered by the High Court.

Immunities

41: Subject to the provisions of this Act, an officer of the Commission when investigating or prosecuting a case under this Act, shall have all the powers and immunities of a Police Officer under the Police Act and any other law conferring power on the police or empowering and protecting law enforcement agencies.

General Savings

42: Any offence committed or proceedings instituted before the commencement of this Act under the provisions of the –

- (a) Miscellaneous Offences Act;
- (b) the Banks and Other Financial Institutions Act 1991 as amended;
- (c) Failed Banks (Recovery of Debt and Financial Malpractices in Banks) Act; as amended;
- (d) the Advance Fee Fraud and Other Related Offences Act
- (e) the Money Laundering Act; and
- (f) any other law or regulation relating to Economic and Financial Crimes shall as the case may require be enforced or continue to be enforced by the Economic and Financial Crimes Commission Established under this Act

Regulations

43: The Attorney General of the Federation may make rules or regulations with respect to the exercise of any of the duties, functions or powers of the Commission under this Act

Repeal of No.5, 2002

44: The Economic and Financial Crimes Commission (Establishment Act) No 5 2002 is repealed.

45: The repeal of the Act specified in section 43 of this Act shall not affect anything done or purported to be done under or pursuant to the Act.

Interpretation

46: In this Act -

“Commission” means the Economic and Financial Crimes Commission established by Section 1 of this Act;

“Court” means the Federal High Court or the High court of the Federal Capital Territory or the High Court of a State;

“Designated non-financial institutions means dealers in “jewellery, cars and luxury goods, chartered accountants, audit firms, tax consultants, clearing and settlement companies, legal practitioners, hotels, casinos, supermarkets or such other business as the Federal Ministry of Commerce or appropriate regulatory authorities may from time to time designate”

“Economic and Financial Crimes” means the non-violent criminal and illicit activity committed with the objectives of earning wealth illegally either individually or in a group or organized manner thereby violating existing legislation governing the economic activities of government and its administration and includes any form of fraud, narcotic drug trafficking, money laundering, embezzlement, bribery, looting and any form of corrupt malpractices, illegal arms deal, smuggling, human trafficking and child labour, illegal oil bunkering and illegal mining, tax evasion, foreign exchange malpractices including counterfeiting of currency, theft of intellectual property and piracy, open market abuse, dumping of toxic wastes and prohibited goods, etc.;

“Financial Institution” means banks, body, association or group of persons whether corporate or incorporate which carries the business of investments and securities, a discount house, insurance institutions, debt factorization and conversion firms, bureau de Change, finance Company, Money brokerage firms whose principal business includes factoring, project financing equipment leasing, debt administration, fund management, private ledger services, investment services, local purchase order financing, export finance, project consultancy, pension funds management and other business as the Central Bank or other appropriate regulatory authorities may from time to time designate.

“other appropriate regulatory authorities” includes the Securities and Exchange Commission, National Insurance Commission and the Federal ministry of Commerce;

“Terrorism” means

- (a) any act which is a violation of the Criminal Code or the Penal Code and which may endanger the life, physical integrity or freedom of, or cause serious injury or death to, any person, any number or group of persons or causes or may cause damage to public property, natural resources, environmental or cultural heritage and is calculated or intended to
- (i) intimidate, put in fear, force, coerce, or induce any government, body, institution, the general public or any segment thereof, to do or abstain from doing any act or to adopt or abandon a particular standpoint, or to act according to certain principles, or

(ii) disrupt any public service, the delivery of any essential service to the public or to create a public emergency, or

(iii) create general insurrection in a state;

(b) any promotion, sponsorship of, contribution to, command, aid incitement, encouragement, attempt threat, conspiracy, organization or procurement of any person, with the intent to commit any act referred to in paragraph (a) (i), (ii) and (iii).

47: This Act may be cited as the Economic and Financial Crimes Commission (Establishment, Etc) Act, 2004.

SCHEDULE

CONFIDENTIAL FORM A

Section 20 and 27

ECONOMIC AND FINANCIAL CRIMES COMMISSION ACT 2004

DECLARATION OF ASSETS FORM

To be completed in TRIPLICATE and in BLOCK LETTERS or typed.

All available information should be included

Important: It is an offence punishable by up to a maximum of 5 years imprisonment under the Act to

(A) (i) Knowingly fail to make full disclosure of your assets and liabilities

(ii) Knowingly make a declaration that is false

(iii) Fail, neglect or refuse to make a declaration or furnish any information required

(B) (i) Each item is to be completed. If it does not apply, the person affected must write 'nil' or 'none' in the space. Where necessary, an extra sheet or sheets may be used and attached to this form by the person affected.

(ii) The Form shall be addressed to the Executive Chairman or any other officer of the Commission authorized by him

I....., being accused of an offence..... under the Economic And Financial Crimes Commission Act, 2001 to declare my assets as follows

12. Amount held in own account

- i. Cash in hand
- ii. Cash at bank
- iii. Outside Nigeria (Countries/Banks to be named)

13. Amount held on behalf of or as trustee for any person other than your wife/husband

- i. Cash in hand
- ii. Cash at bank
- iii. Outside Nigeria (Countries/Banks to be named)

14. Loans or advances made

15. Loans or advances received

16. Amount held on behalf of or as trustee of wife/husband

- i. Cash in hand
- ii. Cash at bank
- iii. Outside Nigeria (Countries/Banks to be named)

17. Wife’s/husband’s/children’s account held (beneficial or otherwise)

- i. Cash in hand
- ii. Cash at bank
- iii. Outside Nigeria (Countries /Banks to be named)

18. Government securities including premium bonds and other interests held in companies, firms or partnerships (giving names of companies, firms and partnerships)-

- (a) By you (here state the bonds, etc)
- (b) By wife (wives)/husband(here state the bonds, etc) (c) By children (here state the bonds, etc)

19. Property in Nigeria in which you are interested in giving date when acquired

- i. Land:
- ii. Buildings:
- iii. Other property, (if any).

20. Membership, ownership, directorship, shareholding, or other related interest in

- i. A Company incorporated in Nigeria
- ii. A Company incorporated outside Nigeria
- iii. A Partnership or sole proprietorship

21. Property outside Nigeria in which you are interested in giving date when acquired

- i. Land:
- ii. Buildings:
- iii. Other property, (if any)

22. Property outside Nigeria in which any wife/husband* is interested in giving date when acquired-

- i. Land:
- ii. Buildings:
- iii. Other property, (if any):

23. Property in Nigeria in which any wife/husband* is interested in giving a date when acquired

- i. Land
- ii. Buildings
- iii. Other Property, (if any):

24. Property in Nigeria in which any child of yours is interested in giving date when acquired-

- i. Land:
- ii. Buildings:
- iii. Other property, (if any).

25. Property outside Nigeria in which any child of yours is interested in giving date when acquired-

- i. Land:
- ii. Buildings
- iii. Other property, (if any).

26. Names of other dependent relatives:

27. Estate in which you are interested as trustee or beneficially interested (Name of deceased or trustee).

28. Property held by any person on your behalf- (in or outside Nigeria)

- i. Cash in hand; ii. Cash at bank; iii. Land:
- iv. Buildings
- v. Other Properties

If outside Nigeria, insert names of countries and banks.....

.....
Signature of Accused Person

..... Signature and Address of Witness

FORM B
Section 33 (1)
FREZZING ORDER
(This form may be amended according to circumstances)

1. To the Manger

..... (Here insert name and branch of bank)

Under the authority conferred on me by section 33 of the Economic and Financial Crimes Commission Act, you are hereby ordered

(a) to supply the following information relating to the under mentioned accounts, that is to say

..... (Here set out the information required in respect of named accounts)

(b) to produce the books and documents relating to the under mentioned accounts, that is to say

..... (Here set out the books and documents to be produced in respect of the named accounts)

(c) To stop all Outward payments, operations or transactions (including bills of exchange) as far as possible in the ordinary cause of banking in respect of the following accounts:

..... (Here indicate the accounts)

2. This order shall remain in force until revoked

DATED atthis..... day of 20.....

.....
Chairman/Authorized Officer

**I, CERTIFY IN ACCORDANCE WITH SECTION 2(1) OF THE ACTS AUTHENTICATION ACT, CAP.4,
LAWS OF THE FEDERATION OF NIGERIA 1990
THAT THIS IS A TRUE COPY OF THE BILL
PASSED BY BOTH HOUSE OF THE NATIONAL ASSEMBLY.**

**IBRAHIM SALIM, CON
CLERK TO THE NATIONAL ASSEMBLY
3RD DAY OF JUNE, 2004**

**SCHEDULE TO THE ECONOMIC AND FINANCIAL CRIMES COMMISSION
(ESTABLISHMENT) ACT 2002**

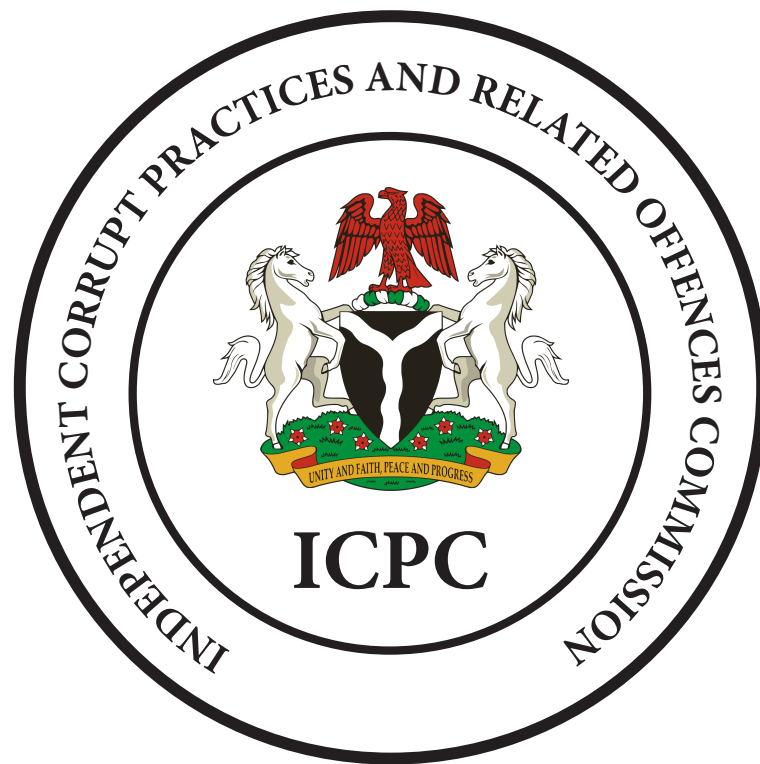
(1) SHORT TITLE OF THE BILL	(2) LONG TITLE OF THE BILL	(3) SUMMARY OF THE CONTENT OF THE BILL	(4) DATE PASSED BY SENATE	(5) DATE PASSED BY HOUSE OF REP- RESENTATIVES
Economic and Financial Crimes Commission (Establishment) Bill 2002	An Act to repeal the Financial Crimes Commission (Establishment) Act, 2002 and enact the Financial Crimes Commission (Establishment Etc) Act 2004; and for matters connected therewith.	The Bill seeks to provide for the establishment of the Economic and Financial Crimes Commission charged with the responsibility for the enforcement of all economic and financial crimes laws, among other things.	23rd March 2004	23rd March 2004

I certify that this Bill has been carefully compared by me with the decision reached by the National Assembly and found by me to be true and correct decisions of the Houses and is in accordance with the provisions of the Acts Authentication Act Cap 4, Laws of the Federation of Nigeria 1990

IBRAHIM SALIM, CON Clerk to the National Assembly
3RD Day of June 2004

I ASSENT

**CHIEF OLUSEGUN OBASANJO
President of the Federal Republic of Nigeria.
4th Day of June 2004**



**FREQUENTLY ASKED QUESTION
ABOUT ICPC**

MEANING, DUTIES, AND CONSTITUTIONALITY OF ICPC

What is ICPC?

ICPC stands for Independent Corrupt Practices and Other Related Offences Commission. It is the apex body vested by law with the responsibility to fight corruption and other related offences in Nigeria. It was set up and empowered by the Corrupt Practices and Other Related Offences Act 2000 (here after referred to as Act 2000) which was signed into law on June 13, 2000. The ICPC was inaugurated on the 29th of September 2000 by President Olusegun Obasanjo, GCFR, with a Chairman and 12 Members.

What is the mandate of IC PC?

The Commission's mandate rests in the investigation, prosecution and prevention of offences of corruption. It includes the following:

- Investigation,
- Prosecution,
- Prevention of corruption through the review of lax operational systems in Ministries, Agencies and Parastatals,
- Education of the public against corruption
- Enlisting public support for the fight against corruption.

What are the duties of ICPC?

The duties of the Commission are contained in Section 6 (a) (f) of the Act 2000. This section confers 3 main responsibilities on the ICPC. They are in summary:

- To receive and investigate reports of the conspiracy to commit, attempt to commit or actual commission of offences as created by the Act and, in appropriate cases prosecute the offender(s).
- To examine, review and enforce the correction of corruption-prone systems and procedures of public bodies, with a view to eliminating or minimizing corruption in public life.
- To educate and enlighten the public on and against corruption and related offences with a view to enlisting and fostering public support for the fight against corruption.

What are the Vision and Mission Statements of the ICPC?

Vision: To be the foremost agent of change in the war against corruption and corrupt practices in the polity and thereby restore Nigeria to the enviable standard of respectability, dignity and honour within the comity of nations.

Mission: To employ all available legal means to rid Nigeria of greed, avarice and all vestiges of corruption and thus promote transparency, probity, accountability, and integrity in the public and private lives of all Nigerians.

What brought about the establishment of ICPC?

Before the establishment of the Commission, Nigeria had been stigmatized by the international community as being very corrupt. This was because there had been several failed campaigns in the past to wipe out corruption or reduce it to a tolerable level. These attempts include the Jaji Declaration in 1977 by General Olusegun Obasanjo; the Ethical Revolution of President Shehu Shagari in 1981 1983; the War Against Indiscipline by General Muhammadu Buhari in 1984; the National Orientation Movement by General Ibrahim Badamasi Babangida in 1986; the Mass Mobilization for Social Justice and Economic Reconstruction by General Babangida in 1987 and the

War Against Indiscipline and Corruption in 1996 by General Sani Abacha. The Penal & Criminal Codes contain provisions which are meant to prohibit and punish corruption; however, the Corrupt Practices and Other Related Offences Act 2000 by President Olusegun Obasanjo, which set up the Anti-Corruption Commission, is the first time the effort to fight corruption is actually getting people sanctioned.

What is the operational structure of the ICPC?

- ICPC is operationally structured into a committee system, with 3 committees overseeing all the operational activities of the Commission. The 3 Committees are: Investigation and Prosecution; Systems Studies and Review; Public Enlightenment and Education. The Committees supervise the activities of Departments which are designated by the above functional areas.
- Operational duties and execution of policies are carried out by 5 departments and 2 units namely: Investigation; Prosecution; Planning, Research and Review (PRR); Education; Public Enlightenment; Special Duties Unit and Chairman's Special Unit.
- There are 2 support Departments and 1 Unit. These are: Administration; Finance &Accounts; and Audit Unit.

What is significant about the commencement date of the Act 2000?

The Corrupt Practices & Other Related Offences Act 2000 commenced on 13th June, 2000 and it is not retroactive. Due to this fact, the significant thing about the date is that the provisions of the Act cannot apply to offences of corruption committed before this date, rather such are provided for by other laws of the land and handled by other law enforcement agencies.

Why has the ICPC not taken past corrupt leaders to court over their despicable acts?

The Commission can only investigate and prosecute acts of corruption committed from 13th June, 2000 when the Act 2000 came into existence. The Act is not retroactive.

What are the major provisions of the Act 2000?

- Interpretation of Terms S.2
- Establishment of the ICPC S.3 (1)-(14)
- Independence of the Commission S.3 (14)
- Powers of Officers of the Commission S.5(1), S.28, S.36
- Duties of the Commission S.6 (a)-(f)
- Offences and Penalties S.8-S.26, S.64
- Independent Counsel To Investigate Public Officers With Constitutional Immunity S.52
- Presumption of Guilt In Certain Offences S.53
- Public Evidence of Corroboration S.54
- Evidence of Custom Inadmissible S.60
- Designated Courts/Judges S.6 1 (3)
- Protection of Informers and Information S. 64

Was the bill on Corrupt Practices debated on the floor of the National Assembly or was it a presidential fiat?

The anti-corruption bill was sent to the National Assembly as the first Executive Bill in June 1999. It was not passed into law until June 2000. It was therefore under consideration for a period of one year and was extensively debated by the National Assembly during the period.

In operating the law, has the Commission found reasons to seek its amendment; if so, in what areas and how will such affect the Commission?

The Commission has proposed certain amendments to the Act 2000 to make its operation more efficient. The National Assembly has been considering the submission for a while now. One of the proposed amendments is to dualise jurisdiction in corruption cases to both the State High Court and the Federal High Court, thus breaking the constraints imposed on ICPC by the requirement of territorial jurisdiction at the State High Court. Other proposed amendments are:

- Proactive investigation to allow the Commission to investigate allegations of corruption without necessarily waiting for written reports from members of the public.
- Structural changes in the membership of the Commission
- For public officers indicted and facing trial on corruption cases to be suspended pending the disposal of cases.
- Creation of some new offences to accommodate changes in and dynamism of the public service.
- Establishment and improvement of strategic partnerships and coalitions.
- Accelerated hearing of ICPC cases.
- Summary trial of certain offences with punishments not above 3 years imprisonment
- And redrafting of certain sections of the Act to make them clearer.

A major advantage of the review of the Act 2000 will be the speedy determination of cases and the correction of drafting errors in some sections.

What are the current impediments to the activities of the Commission?

Lack of adequate funds.

Lack of adequate cooperation from the public in the area of reporting acts of corruption.

High societal tolerance for unethical behaviour.

Lack of understanding of the Commission's work. Impediments to speedy trials due to the slow criminal justice system which accommodates interlocutory appeals, frequent and frivolous adjournments etc.

How is the ICPC financed?

ICPC is financed by the Federal Government of Nigeria through appropriation in the annual budget like other Federal Government Agencies. It can also receive funding for particular projects from development partners and donor agencies such as the World Bank, USAID, DFID etc.

Can the Commission still be independent if it gets its funding from the government?

Section 3(14) of the Act 2000 ensures the independence of the Commission as not being subject to the direction or control of any person or authority in the exercise of its mandate. Further to the guarantee provided by the law, the independence of the Commission is assured by the impeccable integrity of those at its helm who would not bow to pressures, if any. So far, the experience has been that though the Federal Government funds the Commission, it does not influence the operational work of the Commission. Nevertheless, ICPC should be financed from the first line charge of the Consolidated Revenue Fund, which is an indication of independence from the Executive Arm of Government.

What guarantees the Commission's continuity after the founding regime?

The Corrupt Practices and Other Related Offences Act 2000 which establishes the Commission is a piece of legislation constitutionally enacted by the National Assembly. It outlives every government except it is repealed. Perhaps the most potent guarantee is that the fight against corruption should be owned by the people through mobilization and participatory action, which will make it people-driven. Thus, it will outlive any government or action by a group or an individual. In addition, Nigeria is a party to International treaties against corruption. Therefore it cannot just abrogate the law.

FORMS, CAUSES AND EFFECTS OF CORRUPTION**What is Corruption?**

Etymologically, Corruption is derived from a Latin word "corruptus" which means to break or destroy. Literally, Corruption means to break away or depart from morality, ethics, tradition, law and civic virtues. Several other definitions include:

"Dishonest or illegal behavior, especially of people in authority" Oxford Advanced Learner's Dictionary.

"All those improper actions or transactions aimed at changing the normal course of events, judgment and position of trust" -Vision 2010 Committee

Corruption is "an act done with an intent to give some advantages inconsistent with official duty and the rights of others" - ICPC Pioneer Chairman, Hon. Justice Mustapha Akanbi, CFR, March 14TH 2002.

"The abuse of public office for private gains. Public office is abused for private gain when an official accepts, solicits or extorts a bribe. It is also abused when private agents actively offer bribes to circumvent public policies and processes for competitive advantage and profit. Public offices can also be abused for personal benefit even if no bribery occurs through patronage and nepotism, the theft of state assets or the diversion of state revenue." The World Bank



ECOWAS

REVISED TREATY OF THE ECONOMIC COMMUNITY
OF WEST AFRICAN STATES (ECOWAS)

PREAMBLE

We, the Heads of State and Government of the Member States of the Economic Community of West African States (ECOWAS):

The President of the Republic of BENIN
The President of BURKINA FASO
The Prime Minister of the Republic of CAPE VERDE
The President of the Republic of COTE D'IVOIRE
The President of the Republic of The GAMBIA
The President of the Republic of GHANA
The President of the Republic of GUINEA
The President of the Republic of GUINEA BISSAU
The President of the Interim Government of
National Unity of the Republic of LIBERIA
The President of the Republic of MALI
The President of the Islamic Republic of MAURITANIA
The President of the Republic of NIGER
The President of the Federal Republic of NIGERIA
The President of the Republic of SENEGAL
The Head of State and Chairman of the
National Provisional Ruling Council of the Republic of SIERRA LEONE
The President of the TOGOLESE Republic

Reaffirming the Treaty establishing the Economic Community of West African States signed in Lagos on 28 May, 1975 and considering its achievements:

Conscious of the over-riding need to encourage, foster and accelerate the economic and social development of our States in order to improve the living standards of our peoples;

Convinced that the promotion of harmonious economic development of our States calls for effective economic co-operation and integration largely through a determined and concerted policy of self-reliance;

Bearing in mind the African Charter on Human and People's Rights and the Declaration of Political Principles of the Economic Community of West African States adopted in Abuja by the Fourteenth Ordinary Session of the Authority of Heads of State and Government on 6 July 1991;

Convinced that the integration of the Member States into a viable regional Community may demand the partial and gradual pooling of national sovereignties to the Community within the context of a collective political will;

Accepting the need to establish Community Institutions vested with relevant and adequate powers; Noting that the present bilateral and multilateral forms of economic co-operation within the region open up perspectives for more extensive co-operation;

Accepting the need to face together the political, economic and socio-cultural challenges of the present and the future, and to pool together the resources of our peoples while respecting our diversities for the most rapid and optimum expansion of the region's productive capacity;

Bearing in mind also the Lagos Plan of Action and the Final Act of Lagos of April 1980 stipulating the establishment, by the year 2000, of an African Economic Community based on existing and future regional economic communities;

Mindful of the Treaty establishing the African Economic Community signed in Abuja on 3 June, 1991;

Affirming that our final goal is the accelerated and sustained economic development of Member States, culminating in the economic union of West Africa;

Bearing in mind our Decision A/DEC 10/5/90 of 30 May, 1990 relating to the establishment of a Committee of Eminent Persons to submit proposals for the review of the Treaty: Aware that the review of the Treaty arises, inter alia, from the need for the Community to adapt to the changes on the international scene in order to derive greater benefits from those changes;

Considering also the need to modify the Community's strategies in order to accelerate the economic integration process in the region; Accepting the need to share the benefits of economic co-operation and integration among Member States in a just and equitable manner;

Have decided to revise the Treaty of 28 May, 1975 establishing the Economic Community of West African States (ECOWAS) and have accordingly agreed as follows:

CHAPTER 1.

DEFINITIONS

Article 1

For the purpose of this Treaty,

“Arbitration Tribunal” means the Arbitration Tribunal of the Community established under Article 16 of this Treaty;

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

“Chairman of the Authority” means the current Chairman of the Authority of Heads of State and Government of the Community, elected in accordance with the provisions of Article 2 of this Treaty;

“Council” means the Council of Ministers of the Community established under Article 10 of this Treaty;

“Commission” means the Specialised Technical Commission established under Article 22 of this Treaty;

“Community” means the Economic Community of West African States referred to under Article 2 of this Treaty;

“Community citizen or citizens” means any national (s) of Member States who satisfy the conditions stipulated in the Protocol defining Community citizenship;

“Court of Justice” means the Court of Justice of the Community established under Article 15 of this Treaty;

“Import Duties” means customs duties and taxes of equivalent effect, levied on goods by virtue of their importation;

“Executive Secretary” means the Executive Secretary appointed in accordance with the provisions of Article 18 of this Treaty;

“Economic and Social Council” means the Economic and Social Council established under Article 14 of this Treaty;

“Executive Secretariat” means the Executive Secretariat established under Article 17 of this Treaty;

“Export Duties” means all customs duties and taxes of equivalent effect levied on goods by virtue of their exportation;

“Fund” means the Fund for Co-operation, Compensation and Development established under Article 21 of this Treaty;

“Member State” of “Member States” means a Member State or Member States of the Community as defined in paragraph 2 of Article 2 of this Treaty;

“Non-Tariff Barriers” means barriers which hamper trade and which are caused by obstacles other than fiscal obstacles;

“Parliament of the Community” means the Parliament established under Article 13 of this Treaty;

“Protocol” means an instrument of implementation of the Treaty having the same legal force as the latter;

“Region” means the geographical zone known as West Africa as defined by Resolution CM/Res.464 (XXVI) of the OAU Council of Ministers;

“Statutory Appointees” includes the Executive Secretary, Deputy Executive Secretaries, Managing Director of the Fund, Deputy Managing Director of the Fund, Financial Controller and any other senior officer of the Community designated as such by the Authority or Council;

“Third Country” means any State other than a Member State;

“Treaty” means this revised Treaty.

CHAPTER II.

ESTABLISHMENT, COMPOSITION, AIMS AND OBJECTIVES AND FUNDAMENTAL PRINCIPLES OF THE COMMUNITY

Article 2. Establishment and composition

1. The high contracting parties, by this Treaty, hereby re-affirm the establishment of the Economic Community of West African States (ECOWAS) and decide that it shall ultimately be the sole economic community in the region for the purpose of economic integration and the realisation of the objectives of the African Economic Community.
2. The members of the Community, hereinafter referred to as “the Member States,” shall be the States that ratify this Treaty.

Article 3. Aims and Objectives

1. The aims of the Community are to promote co-operation and integration, leading to the establishment of an economic union in West Africa in order to raise the living standards of its peoples, and to maintain and enhance economic stability, foster relations among Member States and contribute to the progress and development of the African Continent.
2. In order to achieve the aims set out in the paragraph above, and in accordance with the relevant provisions of this Treaty, the Community shall, by stages, ensure;
 - a) the harmonisation and co-ordination of national policies and the promotion of integration programmes, projects and activities, particularly in food, agriculture and natural resources, industry, transport and communications, energy, trade, money and finance, taxation, economic reform policies, human resources, education, information, culture, science, technology, services, health, tourism, legal matters;
 - b) the harmonisation and co-ordination of policies for the protection of the environment;

- c) the promotion of the establishment of joint production enterprises;
- d) the establishment of a common market through:
 - i) the liberalisation of trade by the abolition, among Member States, of customs duties levied on imports and exports, and the abolition, among Member States, of non-tariff barriers in order to establish a free trade area at the Community level;
 - ii) the adoption of a common external tariff and a common trade policy vis-à-vis third countries;
 - iii) the removal between Member States, of obstacles to the free movement of persons, goods, services and capital, and to the right of residence and establishment;
- e) the establishment of an economic union through the adoption of common policies in the economic, financial, social and cultural sectors, and the creation of a monetary union.
- f) the promotion of joint ventures by private sector companies and other economic operators, in particular through the adoption of a regional agreement on cross-border investments;
- g) the adoption of measures for the integration of the private sectors, particularly the creation of an enabling environment to promote small and medium scale enterprises;
- h) the establishment of an enabling legal
- i) the harmonisation of national investment codes leading to the adoption of a single Community investment code;
- j) the harmonisation of standards and measures;
- k) the promotion of balanced development of the region, paying attention to the special problems of each Member State particularly those of landlocked and small island Member States;
- l) the encouragement and strengthening of relations and the promotion of the flow of information particularly among rural populations, women and youth organisations and socio-professional organisations such as associations of the media, business men and women, workers, and trade unions;
- m) the adoption of a Community population policy which takes into account the need for a balance between demographic factors and socio-economic development;
- n) the establishment of a fund for co-operation, compensation and development; and
- o) any other activity that Member States may decide to undertake jointly with a view to attaining Community objectives.

Article 4. Fundamental principles

The high contracting parties, in pursuit of the objectives stated in Article 3 of this Treaty, solemnly affirm and declare their adherence to the following principles:

- a) equality and inter-dependence of Member States;
- b) solidarity and collective self-reliance;
- c) inter-State co-operation, harmonisation of policies and integration of programmes;
- d) non-aggression between Member States;
- e) maintenance of regional peace, stability and security through the promotion and strengthening of good neighbourliness;
- f) peaceful settlement of disputes among Member States, active co-operation between neighbouring countries and promotion of a peaceful environment as a prerequisite for economic development,
- g) recognition, promotion and protection of human-and peoples rights in accordance with the provisions of the African Charter on Human and Peoples Rights;
- h) accountability, economic and social justice and popular participation in development; i) recognition and observance of the rules and principles of the Community;
- j) promotion and consolidation of a democratic system of governance in each Member State as envisaged by, the Declaration of Political Principles adopted in Abuja on 6 July, 1991; and k) equitable and distribution of the costs and benefits of economic co-operation and integration.

Article 5. General undertakings

1. Member States undertake to create favourable conditions for the attainment of objectives of the Community, and particularly to take all necessary measures to harmonise their strategies and policies, and to refrain from any action that may hinder the attainment of the said objectives.
2. Each Member State shall, in accordance with its constitutional procedures, take all necessary measures to ensure the enactment and dissemination of such legislative and statutory texts as may be necessary for the implementation of the provisions of this Treaty.
3. Each Member State undertakes to honour its obligations under this Treaty and to abide by the decisions and regulation of the Community.

CHAPTER III.

INSTITUTIONS OF THE COMMUNITY - ESTABLISHMENT - COMPOSITION AND FUNCTIONS

Article 6. Institutions

1. The Institutions of the Community shall be:

- a) the Authority of Heads of State and Government;
- b) the Council of Ministers;
- c) the Community Parliament;
- d) the Economic and Social Council;
- e) the Community Court of Justice;
- f) the Executive Secretariat;
- g) the Fund for Co-operation, Compensation and Development
- h) Specialised Technical Commissions; and
- i) Any other institutions that may be established by the Authority.

2. The Institutions of the Community shall perform their functions and act within the limits of the powers conferred on them by this Treaty and by the Protocols relating thereto. Article 7. Authority of heads of state and government establishment, composition and functions

1. There is hereby established the Authority of Heads of State and Government of Member States which shall be the supreme institution of the Community and shall be composed of Heads of State and/or Government of Member States.

2. The Authority shall be responsible for the general direction and control of the Community and shall take all measures to ensure its progressive development and the realisation of its objectives.

3. Pursuant to the provisions of Paragraph 2 of this Article, the Authority shall:

- a) determine the general policy and major guidelines of the Community, give directives, harmonise and co-ordinate the economic, scientific, technical, cultural and social policies of Member States;
- b) oversee the functioning of Community institutions and follow-up implementation of Community objectives;
- c) prepare and adopt its Roles of Procedure;
- d) appoint the Executive Secretary in accordance with the provisions of Article 18 of this Treaty;
- e) appoint, on the recommendation of Council, the External Auditors;

f) delegate to the Council where necessary, the authority to take such decisions as are stipulated in Article 9 of this treaty;

g) refer where it deems necessary any matter to the Community Court of Justice when it confirms, that a Member State or institution of the Community has failed to honour any of its obligations or an institution of the Community has acted beyond the limits of its authority or has abused the powers conferred on it by the provisions of this Treaty, by a decision of the Authority or a regulation of the Council;

h) request the Community Court of Justice, as and when necessary, to give advisory opinion on any legal questions; and

i) exercise any other powers conferred on it under this Treaty.

Article 8. Sessions

1. The Authority shall meet at least once a year in ordinary session. An extraordinary session may be convened by the Chairman of the Authority or at the request of a Member State provided that such a request is supported by a simple majority of the Member States.
2. The office of the Chairman shall be held every year by a Member State elected by the Authority.

Article 9. Decisions

1. The Authority shall act by decisions.
2. Unless otherwise provided in this Treaty or in a Protocol decisions of the Authority shall be adopted, depending on the subject matter under consideration by unanimity consensus or, by a two-thirds majority of the Member States.
3. Matters referred to in paragraph 2 above shall be defined in a Protocol. Until the entry into force of the said Protocol, the Authority shall continue to adopt its decisions by consensus.
4. Decisions of the Authority shall be binding on the Member States and institutions of the Community, without prejudice to the provisions of paragraph (3) of Article 15 of this Treaty.
5. The Executive Secretary shall publish the decisions thirty (30) days after the date of their signature by the Chairman of Authority.
6. Such decisions shall automatically enter into force sixty (60) days after the date of their publication in the Official Journal of the Community.
7. Decisions shall be published in the National Gazette of each Member State within the period stipulated in paragraph 6 of this Article.

Article 10.

The Council of Ministers, Establishment, Composition and Functions

1. There is hereby established a Council of Ministers of the Community.
2. The Council shall compose the Minister in charge of ECOWAS Affairs and any other Minister of each Member State.

3. Council shall be responsible for the functioning and development of the Community. To this end, unless otherwise provided in this Treaty or a Protocol, Council shall:

- a) make recommendations to the Authority on any action aimed at attaining the objectives of the Community;
- b) appoint all statutory appointees other than the Executive Secretary;
- c) by the powers delegated to it by the Authority, issue directives on matters concerning co-ordination and harmonisation of economic integration policies;
- d) make recommendations to the Authority on the appointment of the External Auditors;
- e) prepare and adopt its rules of procedure;
- f) adopt the Staff Regulations and approve the organisational structure of the institutions of the Community;
- g) approve the work programmes and budgets of the Community and its institutions; h) request the Community Court of Justice, where necessary, to give advisory opinion on any legal questions;
- i) carry out all other functions assigned to it under this Treaty and exercise all powers delegated to it by the Authority.

Article 11. Meetings

1. The Council shall meet at least twice a year in ordinary session. One of such sessions shall immediately precede ordinary session of the Authority. An extraordinary session may be convened by the Chairman of Council or at the request of a Member State provided that such request is supported by a simple majority of the Member States.
2. The office of Chairman of Council shall be held by the Minister responsible for ECOWAS Affairs of the Member State elected as Chairman of the Authority.

Article 12. Regulations

1. The Council shall act by regulations.
2. Unless otherwise provided in this Treaty regulations of the Council shall be adopted, depending on the subject matter under consideration, by unanimity, consensus or by a two-thirds majority of Member States, in accordance with the Protocol referred to in Article 9 paragraph 3 of this Treaty. Until the entry into force of the said Protocol, the Council shall continue to adopt its regulations by consensus.
3. Regulations of the Council shall be binding on institutions under its authority. They shall be binding on Member States after their approval by the Authority. However, in the case of regulations made pursuant to a delegation of powers by the Authority in accordance with paragraph 3(f) of Article 7 of this Treaty, they shall be binding forthwith.
4. Regulations shall be published and shall enter into force within the same period and under the same conditions stipulated in paragraphs 5, 6 and 7 of Article 9 of this Treaty.

Article 13. The Community Parliament

1. There is hereby established a Parliament of the Community.
2. The method of election of the Members of the Community Parliament, its composition, functions, powers and organisation shall be defined in a Protocol relating thereto.

Article 14. The economic and social council

1. There is hereby established an Economic and Social Council which shall have an advisory role and whose composition shall include representatives of the various categories of economic and social activity.
2. The composition, functions and organisation of the Economic and Social Council shall be defined in a Protocol relating thereto.

Article 15. The Court of Justice establishment and functions

1. There is hereby established a Court of Justice of the Community.
2. The status, composition, powers, procedure and other issues concerning the Court of Justice shall be as set out in a Protocol relating thereto.
3. The Court of Justice shall carry out the functions assigned to it independently of the Member States and the institutions of the Community.
4. Judgements of the Court of Justice shall be binding on the Member States, the Institutions of the Community and on individuals and corporate bodies.

Article 16. Arbitration tribunal establishment and functions

1. There is hereby established an Arbitration Tribunal of the Community.
2. The status, composition, powers, procedure and other issues concerning the Arbitration Tribunal shall be as set out in a Protocol relating thereto.

Article 17. The executive secretariat establishment and composition

1. There is hereby established an Executive Secretariat of the Community.
2. The Secretariat shall be headed by the Executive Secretary assisted by Deputy Executive Secretaries and such other staff as may be required for the smooth functioning of the Community.

Article 18. Appointments

1. The Executive Secretary, shall be appointed by the Authority for a 4-year term renewable only once for another 4-year period. He can only be removed from office by the Authority upon its own initiative or on the recommendation of the Council of Ministers.
2. The Ministerial Committee on the Selection and Evaluation of the Performance of Statutory Appointees shall evaluate the three (3) candidates nominated by the Member State to which the statutory post has been allocated and make recommendations to the Council of Ministers. Council shall propose to the Authority the appointment of the candidate adjudged the best.
3. The Executive Secretary shall be a person of proven competence and integrity, with a global vision of political and economic problems and regional integration.
4. a) The Deputy Executive Secretaries and other Statutory Appointees shall be appointed by the Council of Ministers on the proposal of the Ministerial Committee on the Selection and Evaluation of the Performance of Statutory Appointees following the evaluation of the three (3) candidates nominated by their respective Member States to whom the posts have been allocated. They shall be appointed for a period

of 4 years renewable only once for a further 4-year term.

b) Vacancies shall be advertised in all Member States to which statutory posts have been allocated

5. In appointing professional staff of the Community, due regard shall be had, subject to ensuring the highest standards of efficiency and technical competence, to maintaining equitable geographical distribution of posts among nationals of all Member States.

Article 19. Functions

1. Unless otherwise provided in the Treaty or in a Protocol, the Executive Secretary shall be the chief executive officer of the Community and all its institutions.

2. The Executive Secretary shall direct the activities of the Executive Secretariat and shall unless otherwise provided in a Protocol, be the legal representative of the Institutions of the Community in their totality,

3. Without prejudice to the general scope of his responsibilities, the duties of the Executive Secretary shall include:

a) execution of decisions taken by the Authority and application of the regulations of the Council;

b) promotion of Community development programmes and projects as well as multinational enterprises of the region;

c) convening as and when necessary meetings of sectoral Ministers to examine sectoral issues which promote the achievement of the objectives of the Community;

d) preparation of draft budgets and programmes of activity of the Community and supervision of their execution upon their approval by Council;

e) submission of reports on Community activities to all meetings of the Authority and Council;

f) preparation of meetings of the Authority and Council as well as meetings of experts and technical commissions and provision of necessary technical services;

g) recruitment of staff of the Community and appointment to posts other than statutory appointees in accordance with the Staff Rules and Regulations;

h) submission of proposals and preparation of such studies as may assist in the efficient and harmonious functioning and development of the Community;

i) initiation of draft texts for adoption by the Authority or Council.

Article 20. Relations between the staff of the community and member states

1. In the performance of their duties, the Executive Secretary, the Deputy Executive Secretaries, and other staff of the Community shall owe their loyalty entirely and be accountable only to the Community. In this regard, they shall neither seek nor accept instructions from any government or any national or interna-

tional authority external to the Community. They shall refrain from any activity or any conduct incompatible with their status as international civil servants.

2. Every Member State undertakes to respect the international character of the office of the Executive Secretary, the Deputy Executive Secretaries, and other staff of the Community and undertakes not to seek to influence them in the performance of their duties.

3. Member States undertake to co-operate with the Executive Secretariat and other institutions of the Community and to assist them in the discharge of the duties assigned to them under this Treaty.

Article 21.

Fund for co-operation, compensation and development establishment, status and functions

1. There is hereby established a Fund for Co-operation, Compensation and Development of the Community.

2. The status, objectives and functions of the Fund are defined in the Protocol relating thereto.

Article 22. Technical commissions establishment and composition

1. There is hereby established the following Technical Commissions:

- a) Food and Agriculture;
- b) Industry, Science and Technology and Energy;
- c) Environment and Natural Resources;
- d) Transport, Communications and Tourism;
- e) Trade, Customs, Taxation, Statistics, Money and Payments
- f) Political, Judicial and Legal Affairs, Regional Security and Immigration;
- g) Human Resources, Information, Social and Cultural Affairs; and
- h) Administration and Finance Commission.

2. The Authority may, whenever it deems appropriate, restructure the existing Commissions or establish new Commissions.

3. Each commission shall comprise representatives of each Member State.

4. Each Commission may, as it deems necessary, set up subsidiary commissions to assist it in carrying out its work. It shall determine the composition of any such subsidiary commission.

Article 23. Functions

Each Commission shall, within its field of competence:

- a) prepare Community projects and programmes and submit them for the consideration of Council through the Executive Secretary, either on its own initiative or at the request of Council or the Executive Secretary;
- b) ensure the harmonisation and co-ordination of projects and programmes

of the Community;

c) monitor and facilitate the application of the provisions of this Treaty and related Protocols pertaining to its area of responsibility;

d) carry out any other functions assigned to it for the purpose of ensuring the implementation of the provisions of this Treaty.

Article 24. Meetings

Subject to any directives given by the Council, each Commission shall meet as often as necessary. It shall prepare its rules of procedure and submit them to the Council for approval.

**CHAPTER IV
CO-OPERATION IN FOOD AND AGRICULTURE**

Article 25. Agricultural development and food security

1. Member States shall co-operate in the development of agriculture, forestry, livestock and fisheries in order to:

a) ensure food security;

b) increase production and productivity in agriculture, livestock, fisheries and forestry, and improve conditions of work and generate employment opportunities in rural areas;

c) enhance agricultural production through processing locally, animal and plant products; and

d) protect the prices of export commodities on the international market

2. To this end, and in order to promote the integration of production structures. Member States shall co-operate in the following fields:

a) the production of agricultural inputs fertilizers, pesticides, selected seeds, agricultural machinery and equipment and veterinary products;

b) the development of river and lake basins;

c) the development and protection of marine and fishery resources;

d) plant and animal protection;

e) the harmonisation of agricultural development strategies and policies particularly pricing and price support policies on the production, trade and marketing of major agricultural products and inputs; and

f) the harmonisation of food security policies paying particular attention to:

i) the reduction of losses in food production;

ii) the strengthening of existing institutions for the management of natural calamities, agricultural diseases and pest control;

- iii) the conclusion of agreements on food security at the regional level; and
- iv) the provision of food aid to Member States in the event of serious food shortage.
- g) the establishment of an early warning system; and
- h) the adoption of a common agricultural policy especially in the fields of research, training, production, preservation, processing and marketing of the products of agriculture, forestry, livestock and fisheries.

CHAPTER V

CO-OPERATION IN INDUSTRY, SCIENCE AND TECHNOLOGY AND ENERGY

Article 26. Industry

1. For the purpose of promoting industrial development of Member States and integrating their economies. Member States shall, harmonise their industrialisation policies.
2. In this connection, Member States shall:
 - a) strengthen the industrial base of the Community/modernise the priority sectors and foster self-sustained and self-reliant development;
 - b) Promote joint industrial development projects as well as the creation of multilateral enterprises in priority industrial sub-sectors likely to contribute to the development of agriculture, transport and communications, natural resources and energy.
3. In order to create a solid basic for industrialisation and promote collective self-reliance, Member States shall:
 - a) ensure, on the one hand, the development of industries essential for collective self-reliance and, on the other, the modernisation of priority sectors of the economy especially:
 - i) food and agro-based industries;
 - ii) building and construction industries;
 - iii) metallurgical industries;
 - iv) mechanical industries;
 - v) electrical, electronics and computer industries;
 - vi) pharmaceutical, chemical and petrochemical industries;
 - vii) forestry industries;
 - viii) energy industries;
 - ix) textile and leather industries;

- x) transport and communications industries;
 - xi) bio-technology industries;
 - xii) tourist and cultural industries.
- b) give priority and encouragement to the establishment and strengthening of private and public multinational industrial projects likely to promote integration;
 - c) ensure the promotion of medium and small-scale industries;
 - d) promote intermediate industries that have strong linkages to the economy in order to increase the local component of industrial output within the Community;
 - e) prepare a regional master plan for the establishment of industries particularly those whose construction cost and volume of production exceed national, financial, and absorptive capacities;
 - f) encourage the establishment of specialised institutions for the financing of West African multinational industrial projects;
 - g) facilitate the establishment of West African multinational enterprises and encourage the participation of West African entrepreneurs in the regional industrialisation process.
 - h) promote the sale and consumption of strategic industrial products manufactured in Member States;
 - i) promote technical co-operation and the exchange of experience in the field of industrial technology and implement technical training programmes among Member States;
 - j) establish a regional data and statistical information base to support industrial development at the regional and continental levels;
 - k) promote, on the basis of natural resource endowments, industrial specialisation in order to enhance complementarity and expand the intra-Community trade base; and
 - l) adopt common standards and appropriate quality control systems.

Article 27. Science and Technology

1. Member States shall:

- a) strengthen their national scientific and technological capabilities in order to bring about the socio-economic transformation required to improve the quality of life of their population;
- b) ensure the proper application of science and technology to the development of agriculture, transport and communications, industry, health and hygiene, energy, education and manpower and the conservation of the environment;

- c) reduce their dependence on foreign technology and promote their individual and collective technological self-reliance;
- d) co-operate in the development, acquisition and dissemination of appropriate technologies; and
- e) strengthen existing scientific research institutions and take all necessary measures to prepare and implement joint scientific research and technological development programmes.

2. In their co-operation in this field, Member States shall:

- a) harmonise, at the Community level, their national policies on scientific and technological research with a view to facilitating their integration into the national economic and social development plans;
- b) co-ordinate their programmes in applied research, research for development, scientific and technological services;
- c) harmonise their national technological development plans by placing special emphasis on indigenous and adapted technologies as well as their regulations on industrial property and transfer of technology;
- d) co-ordinate their positions on all scientific and technical questions forming the subject of international negotiations;
- e) carry out a permanent exchange of information and documentation and establish Community data networks and data banks;
- f) develop joint programmes for training scientific and technological cadres, including the training and further training of skilled manpower;
- g) promote exchanges of researchers and specialists among Member States in order to make full use of the technical skills available within the Community; and
- h) harmonise the educational systems in order to adapt better educational, scientific and technical training to the specific development needs of the West African environment.

Article 28. Energy

1. Member States shall co-ordinate and harmonise their policies and programmes in the field of energy.

2. To this end, they shall:

- a) ensure the effective development of the energy resources of the region;
- b) establish appropriate co-operation mechanisms with a view to ensuring a regular supply of hydrocarbons;
- c) promote the development of new and renewable energy particularly solar energy in the framework of the policy of diversification of sources of energy; d) harmonise their national energy development plans by ensuring particularly, the inter-connection of electricity distribution networks;

e) articulate a common energy policy, particularly, in the field of research, exploitation, production and distribution;

f) establish an adequate mechanism for the collective solution of the energy development problems within the Community, particularly those relating to energy transmission, the shortage of skilled technicians and financial resources for the implementation of energy projects of Member States.

CHAPTER VI.

CO-OPERATION IN ENVIRONMENT AND NATURAL RESOURCES

Article 29. Environment

1. Member States undertake to protect, preserve and enhance the natural environment of the region and co-operate in the event of natural disasters.

2. To this end, they shall adopt policies, strategies and programmes at national and regional levels and establish appropriate institutions to protect, preserve and enhance the environment, control erosion, deforestation, desertification, locusts and other pests.

Article 30. Hazardous and toxic wastes

1. Member States undertake, individually and collectively, to take every appropriate step to prohibit the importation, transiting, dumping and burying of hazardous and toxic wastes in their respective territories.

2. They further undertake to adopt all necessary measures to establish a regional dump-watch to prevent the importation, transiting, dumping and burying of hazardous and toxic wastes in the region.

Article 31. Natural resources

1. Member States shall harmonise and co-ordinate their policies and programmes in the field of natural resources.

2. To this end, they shall:

a) seek better knowledge and undertake an assessment of their natural resources potential;

b) improve methods of pricing and marketing of raw materials through a concerted policy;

c) exchange information on the prospection, mapping, production and processing of mineral resources, as well as on the prospection, exploitation and distribution of water resources;

d) co-ordinate their programmes for development and utilisation of mineral and water resources;

e) promote vertical and horizontal inter-industrial relationships which may be established among Member States in the course of developing such resources;

f) promote the continuous training of skilled manpower and prepare and implement

joint training and further training programmes for cadres in order to develop the human resources and the appropriate technological capabilities required for the exploration, exploitation and processing of mineral and water resources;

g) co-ordinate their positions in all international negotiations on raw materials; and

h) develop a system of transfer of expertise and exchange of scientific, technical and economic remote sensing data among Member States.

CHAPTER VII

CO-OPERATION IN TRANSPORT, COMMUNICATIONS AND TOURISM

Article 32. Transport and communications

1. For the purpose of ensuring the harmonious integration of the physical infrastructures of Member States and the promotion and facilitation of the movement of persons, goods and services within the Community, Member States undertake to:

a) evolve common transport and communications policies, laws and regulations;

b) develop an extensive network of all-weather highways within the Community, priority being given to the inter-State highways;

c) formulate plans for the improvement and integration of railway and road networks in the region;

d) formulate programmes for the improvement of coastal shipping services and inter-state inland waterways and the harmonisation of policies on maritime transport and services;

e) co-ordinate their positions in international negotiations in the area of maritime transport;

f) encourage co-operation in flight-scheduling, leasing of aircraft and granting and joint use of fifth freedom rights to airlines of the region;

g) promote the development of regional air transportation services and endeavour to bring about the merger of national airlines in order to promote their efficiency and profitability;

h) facilitate the development of human resources through the harmonisation and coordination of their national training programmes and policies in the area of transportation in general and air transport in particular, i) endeavour to standardise equipment used in transport and communications and establish common facilities for production, maintenance and repair.

2. Member States also undertake to encourage the establishment and promotion of joint ventures and Community enterprises and the participation of the private sector in the areas of transport and nominations.

Article 33. Posts and telecommunications

1. In the area of postal services, Member States undertake to:
 - a) foster closer co-operation between their postal administrations;
 - b) ensure, within the Community, efficient, speedier and more frequent postal services;
 - c) harmonise mail routing;
2. In the area of telecommunications, Member States shall:
 - a) develop, modernise, co-ordinate and standardise their national telecommunications networks in order to provide reliable interconnection among Member States;
 - b) complete, with despatch, the section of the pan-African telecommunications network situated in West Africa;
 - c) co-ordinate their efforts with regard to the operation and maintenance of the West African portion of the pan-African telecommunications network and in the mobilisation of national and international financial resources.
3. Member States also undertake to encourage the participation of the private sector in offering postal and telecommunications services, as a means of attaining the objectives set out in this Article.

Article 34. Tourism

For the purposes of ensuring the harmonious and viable development of tourism within the Community, Member States undertake to:

- a) strengthen regional co-operation in tourism, particularly through:
 - i) the promotion of intra-Community tourism by facilitating movement of travellers and tourists;
 - ii) the harmonisation and co-ordination of tourism development policies, plans and programmes;
 - iii) the harmonisation of regulations governing tourism and hotel management activities;
 - iv) the institution of a Community reference framework for tourism statistics; and
 - v) the joint promotion of tourism products portraying the natural and socio-cultural values of the region.
- b) promote the establishment of efficient tourism enterprises to cater for the needs of the peoples of the region and foreign tourists through:
 - i) the adoption of measures aimed at promoting investment in tourism and hotel management;
 - ii) the promotion of the establishment in Member States of professional

tourism and hotel management associations;

iii) the development and optimum utilisation of human resources for tourism in the region; and

iv) the strengthening or establishment of regional tourism training institutions where necessary.

c) eliminate all discriminating measures and practices against Community citizens in the area of tourist and hotel services.

CHAPTER VIII

CO-OPERATION IN TRADE, CUSTOMS, TAXATION, STATISTICS, MONEY AND PAYMENTS

Article 35. Liberalisation of trade

There shall be progressively established in the course of a period of ten (10) years effective from 1 January, 1990 as stipulated in Article 54, a Customs Union among the Member States. Within this union, Customs duties or other charges with equivalent effect on Community originating imports shall be eliminated. Quota, quantitative or like restrictions or prohibitions and administrative obstacles to trade among the Member States shall also be removed. Furthermore, a common external tariff in respect of all goods imported into the Member States from third countries shall be established and maintained.

Article 36. Customs duties

1. Member States shall reduce and ultimately eliminate Customs duties and any other charges with equivalent effect except duties notified in accordance with Article 40 and other charges which fall within that Article, imposed on or in connection with the importation of goods which are eligible to Community tariff treatment in accordance with Article 38 of this Treaty. Any such duties or other charges are hereinafter referred to as "import duties."

2. Community-originating unprocessed goods and traditional handicraft products shall circulate within the region free of all import duties and quantitative restrictions. There shall be no compensation to loss of revenue resulting from the importation of these products.

3. Member States undertake to eliminate import duties on industrial goods which are eligible for preferential Community tariff treatment in accordance with the decisions of the Authority and Council relating to the liberalisation of intra-Community trade in industrial products.

4. The Authority may at any time, on the recommendation of the Council, decide that any import duties shall be reduced more rapidly or eliminated earlier than stipulated in any previous instrument or decision. However, the Council shall, not later than one calendar year preceding the date in which such reductions or eliminations come into effect, examine whether such reductions or eliminations shall apply to some or all goods and in respect of some or all the Member States and shall report the result of such examination for the decision of the Authority.

Article 37. Common external tariff

1. Member States agree to the gradual establishment of a common external tariff in respect of all goods imported into the Member States from third countries in accordance with a schedule to be recommended by the Trade, Customs, Taxation, Statistics, Money and Payments Commission.

2. Member States shall, in accordance with a schedule to be recommended by the Trade, Customs, Taxation, Statistics, Money and Payments Commission, abolish existing differences in their external Customs

tariffs.

3. Member States undertake to apply the common Customs nomenclature and Customs statistical nomenclature adopted by Council.

Article 38. Community tariff treatment

1. For the purposes of this Treaty, goods shall be accepted as eligible for Community tariff treatment if they have been consigned to the territory of the importing Member States from the territory of another Member State and originate from the Community.

2. The rules governing products originating from the Community shall be as contained in the relevant Protocols and Decisions of the Community.

3. The Trade, Customs, Taxation, Statistics, Money and Payments Commission shall from time to time examine whether the rules referred to in paragraph 2 of this Article can be amended to make them simpler and more liberal. In order to ensure their smooth and equitable operation, the Council may from time to time amend them.

Article 39. Trade deflection

1. For the purposes of this Article, trade is said to be deflected if,

(a) imports of any particular product by a Member State from another Member State increase.

(i) as a result to the reduction or elimination of duties and charges on that product, and

(ii) because duties and charges levied by the exporting Member States on imports of raw materials used for manufacture of the products in question are lower than the corresponding duties and charges levied by the importing Member State; and

(b) this increase in imports causes or could cause serious injury to production which is carried on in the territory of the importing Member State.

2. The Council shall keep under review the question of trade deflection and its causes. It shall take such decisions as are necessary, in order to deal with the causes of this deflection.

3. In case of trade deflection to the detriment of a Member State resulting from the abusive reduction or elimination of duties and charges levied by another Member State, the Council shall study the question in order to arrive at a just solution.

Article 40. Fiscal charges and internal taxation

1. Member States shall not apply directly or indirectly to imported goods from any Member State fiscal charges in excess of those applied to like domestic goods or otherwise impose such charges for the effective protection of domestic goods.

2. Member States shall eliminate all effective internal taxes or other internal charges that are made for the protection of domestic goods not later than four (4) years after the commencement of the trade liberalisation scheme referred to in Article 54 of this Treaty. Where by virtue of obligations under an existing contract entered into by a Member State such a Member State is unable to comply with the provisions of this Article, the Member State shall duly notify the Council of this fact and shall not extend or renew such contract at its expiry.

3. Member States shall eliminate progressively all revenue duties designed to protect domestic goods not later than the end of the period for the application of the trade liberalisation scheme referred to in Article

54 of this Treaty.

4. Member States undertake to be bound by the consolidated import duties contained in the ECOWAS Customs Tariff for the purposes of trade liberalisation within the Community.

5. Member States undertake to avoid double taxation of Community citizens and grant assistance to one another in combating international tax evasion. The conditions and modalities for granting such assistance shall be as contained in a Double Taxation and Assistance Convention.

Article 41. Quantitative restrictions on community goods

1. Except as may be provided for or permitted by this Treaty, Member States undertake to relax gradually and to remove over a maximum period of four (4) years after the launching of the trade liberalisation scheme referred to in Article 54, all the then existing quota, quantitative or like restrictions or prohibitions which apply to the import into that State of goods originating in the other Member States and thereafter refrain from imposing any further restrictions or prohibitions.

Whereby virtue of obligations under an existing contract entered into by a Member State such a Member State is unable to comply with the provisions of this Article, the Member State shall duly notify Council of this fact and shall not extend or renew such contract at its expiry.

2. The Authority may at any time, on the recommendation of the Council decide that any quota, quantitative or like restrictions or prohibitions shall be relaxed more rapidly or removed earlier than agreed upon under paragraph 1 of this Article.

3. A Member State may, after having given notice to the Executive Secretary and the other Member States of its intention to do so, introduce or continue to execute restrictions or prohibitions affecting:

- (a) the application of security laws and regulations;
- (b) the control of arms, ammunition and other war equipment and military items;
- (c) the protection of human, animal or plant health or life, or the protection of public morality;
- (d) the transfer of gold, silver and precious and semi-precious stones;
- (e) the protection of national artistic and cultural property;
- (f) the control of narcotics, hazardous and toxic wastes, nuclear materials, radioactive products or any other material used in the development or exploitation of nuclear energy.

5. Member States shall not so exercise the right to introduce or continue to execute the restrictions or prohibitions referred to in paragraph 3 of this Article as to stultify the free movement of goods envisaged in paragraph 1 of this Article.

Article 42. Dumping

1. Member States undertake to prohibit the practice of dumping goods within the Community.

2. For the purposes of this Article, "dumping" means the transfer of goods originating in a Member State to another Member State for sale:

- (a) at a price lower than the comparable price charged for similar goods in the Member States where such goods originate (due allowance being made

for the differences in the conditions of sale or in taxation or for any other factors affecting the comparability of prices); and

(b) under circumstances likely to prejudice the production of similar goods in that Member State.

3. In the event of alleged dumping the importing Member State shall appeal to Council to resolve the matter.

4. Council shall consider the issue and take appropriate measures to determine the causes of the dumping.

Article 43. Most favoured nation treatment

1. Member States shall accord to one another in relation to trade between them the most favoured nation treatment. In no case shall tariff concessions granted to a third country by a Member State be more favourable than those applicable under this Treaty.

2. Any agreement between a Member State and a third country under which tariff concessions are granted, shall not derogate from the obligations of that Member State under this Treaty.

3. Copies of such agreements referred to in paragraph 2 of this Article shall be transmitted by the Member States which are parties to them, to the Executive Secretariat of the Community.

Member States undertake not to enact legislation and/or make regulations which directly or indirectly discriminate against the same or like products of another Member State.

Article 45. Re-exportation of goods and transit facilities

1. Where Customs duty has been charged and collected on any goods imported from a third country into a Member State the re-exportation of such goods into another Member State shall be subject to the provisions of the Protocol relating to the reexportation of goods within the Community.

2. Each Member State, in accordance with international regulations and the ECOWAS Convention relating to Inter-State Road Transit of Goods, shall grant full and unrestricted freedom of transit through its territory for goods proceeding to or from a third country indirectly through that territory to or from other Member States; and such transit shall not be subject to any discrimination, quantitative restrictions, duties or other charges.

3. Notwithstanding paragraph 2 of this Article,

(a) goods in transit shall be subject to the Customs law; and

(b) goods in transit shall be liable to the charges usually made for carriage and for any services which may be rendered, provided such charges are not discriminatory and are in conformity with international transit regulations.

4. Where goods are imported from a third country into one Member State, each of the other Member States shall be free to regulate the transfer to it of such goods whether by a system of licensing and controlling importers or by other means.

5. The provisions of paragraph 4 of this Article shall apply to goods which, under the provisions of Article 38 of this Treaty, fail to be accepted as originating in a Member State.

Article 46. Customs co-operation and administration

Member States shall in accordance with the advice of the Trade, Customs Taxation, Statistics, Money and

Payments Commission and the provisions of the Convention for Mutual Administrative Assistance in Customs Matters, take appropriate measures to harmonise and standardise their Customs regulations and procedures to ensure the effective application of the provisions of this Chapter and to facilitate the movement of goods and services across their frontiers.

Article 47. Drawback

1. The procedure to determine the eligibility for Community tariff treatment of goods in relation to which drawback is claimed or made use of in connection with their exportation from the Member States in the territory of which the goods have undergone the last process of production, shall be the subject of an additional Protocol.

2. For the purposes of this Article:

(a) "drawback" means any arrangement, including temporary duty-free admission, for the refund of all or part of the duties applicable to united raw materials, provided that the arrangement, expressly or in effect, allows such refund or remission, if goods are exported but not if they are retained for home use;

(b) "remission" includes exemption from duties for goods imported into freeports, free zones or other places which have similar Customs privileges; and

(c) "duties" means Customs duties and any other charge with equivalent effect imposed on imported goods, except the non-protective element in such duties or charges.

Article 48. Compensation for loss of revenue

1. The Council shall, on the report of the Executive Secretary and the recommendation of the Trade Customs, Taxation, Statistics, Money and Payments Commission, determine the compensation to be paid to a Member State which has suffered loss of import duties as a result of the application of this Chapter.

2. The Council shall, in addition to compensation to be paid to Member States which suffer loss of revenue as a result of the application of this Chapter, recommend measures for promoting productive and export capacities of these countries so as to enable them to take full advantage of the benefits of trade liberalisation.

3. The method of assessment of the loss of revenue and compensation shall be as stipulated in the Protocol on the Assessment of Loss of Revenue.

Article 49. Exceptions and safeguard clauses

1. In the event of serious disturbances occurring in the economy of a Member State following the application of the provisions of this Chapter, the Member State concerned shall, after informing the Executive Secretary and the other Member States, take the necessary safeguard measures pending the approval of the Council

2. These measures shall remain in force for a maximum period of one year. They may not be extended beyond that period except with the approval of the Council.

3. The Council shall examine the method of application of these measures while they remain in force.

Article 50. Trade promotion

1. Member States agree to undertake, through their public and private sectors, trade promotion activities such as:

- a) promotion of the use of local materials, intermediate goods and inputs, as well as finished products originating within the Community;
- b) participation in the periodic national fairs organised within the region, sectoral trade fairs, regional trade fairs and other similar activities;

2. At regional level the Community shall undertake trade promotion activities which may include: (b, c, f, g, in ENGLISH unclear)

- a) organisation, on a regular basis of an ECOWAS Trade Fair;
- b) harmonisation of the programming of national trade fairs and similar events;
- c) Establishment of an intra-community trade information network
- d) study of supply and demand patterns in Member States and dissemination of the findings thereon within the Community;
- e) promotion of the diversification of West African markets, and the marketing of Community products;
- f) promotion of better terms of trade for West African commodities and improvement of access of international markets for community products; and
- g) participation, where appropriate, in international negotiations within the framework of GATT and UNCTAD and other trade-related negotiating fora.

Article 51. Money, finance and payments

1. In order to promote monetary and financial integration, and facilitate intra-Community trade in goods and services and the realisation of the Community's objective of establishing a monetary union, Member States undertake to:

- a) study monetary and financial developments in the region;
- b) harmonise their monetary, financial and payments policies;
- c) facilitate the liberalisation of intra-regional payments transactions and, as an interim measure, ensure limited convertibility of currencies;
- d) promote the role of commercial banks in intra-community trade financing;
- e) improve the multilateral system for clearing of payments transactions between Member States, and introduce a credit and guarantee fund mechanism;
- f) take necessary measures to promote the activities of the West Africa Monetary Agency in order to ensure convertibility of currencies and creation of a single currency zone; g) establish a Community Central Bank and a common currency zone.

Article 52. Commuted of West African Central Banks

1. There is hereby established a Committee of West African Central banks comprising the Governors of Central Banks of Member States. This Committee shall, in accordance with the provisions of this Treaty, prepare its own rules of procedure.
2. The Committee shall, from time to time, make recommendations to the Council on the operation of the clearing system of payments and other monetary issues within the Community.

Article 53. Movement of capital and capital issues committee

1. For the purpose of ensuring the free movement of capital between Member States in accordance with the objectives of this Treaty, there is hereby established a Capital Issues Committee which shall comprise one representative of each of the Member States and which shall, subject to the provisions of this Treaty, prepare its own rules of procedure.
2. Member States shall, in appointing their representatives referred to in paragraph 1 of this Article, designate persons with financial, commercial or banking experience and qualifications.
3. The Capital Issues Committee, in the performance of the duties assigned to it under paragraph 1 of this Article, shall:
 - a) ensure the unimpeded flow of capital within the Community through:
 - i) the removal of controls on the transfer of capital among the Member States in accordance with a time-table determined by Council;
 - ii) the encouragement of the establishment of national and regional stock exchanges; and
 - iii) the interlocking of capital markets and stock exchanges.
 - b) ensure that nationals of a Member State are given the opportunity of acquiring stocks, shares and other securities or otherwise of investing in enterprises in the territories of other Member States;
 - c) establish a machinery for the wide dissemination in the Member States of stock exchange quotations of each Member State;
 - d) establish appropriate machinery for the regulation of the capital issues market to ensure its proper functioning and the protection of the investors therein.

CHAPTER IX**ESTABLISHMENT AND COMPLETION OF AN ECONOMIC AND MONETARY UNION****Article 54. Establishment of an economic union**

1. Member States undertake to achieve- the status of an economic union within a maximum period of fifteen (15) years following the commencement of the regional trade liberalisation scheme, adopted by the Authority through its Decision A/DEC./9/83 of 20 May, 1983 and launched on 1 January, 1990.
2. Member States shall give priority to the role of the private sector and joint regional multinational enterprises in the regional economic integration process. Article 55. Completion of economic and monetary union

1. Member States undertake to complete within five (5) years following the creation of a Custom: Union, the establishment of an economic and monetary union through:

i) the adoption of a common policy in all fields of socio-economic activity particularly agriculture, industry, transport, communications, energy and scientific research;

ii) the total elimination of all obstacles to the free movement of people, goods, capital and services and the right of entry, residence and establishment;

iii) the harmonisation of monetary, financial and fiscal policies, the setting up of a West African monetary union, the establishment of a single regional Central Bank and the creation of a single West African currency.

2. The Authority may at anytime, on the recommendation of the Council, decide that any single of the integration process shall be implemented more rapidly than otherwise provided for in this Treaty.

CHAPTER X

CO-OPERATION IN POLITICAL, JUDICIAL AND LEGAL AFFAIRS, REGIONAL SECURITY AND IMMIGRATION

Article 56. Political Affairs

1. In pursuit of the integration objectives of the Community, Member States undertake to co-operate on political matters, and in particular, to take appropriate measures to ensure effective-application of the provisions of this Treaty.

2. The signatory States to the Protocol on Non-Aggression, the Protocol on Mutual Assistance on Defence, the Community Declaration of Political Principles and the African Charter on Human and Peoples' Rights agree to co-operate for the purpose of realising the objectives of these instruments.

Article 57. Judicial and legal matters

1. Member States undertake to co-operate in judicial and legal matters with a view to harmonising their judicial and legal systems.

2. The modalities for the implementation of this arrangement shall be the subject matter of a Protocol.

Article 58. Regional security

1. Member States undertake to work to safeguard and consolidate relations conducive to die maintenance of peace, stability and security within the region.

2. In pursuit of these objectives, Member States undertake to co-operate with the Community in establishing and strengthening appropriate mechanisms for the timely prevention and resolution of intra-State and inter-State conflicts, paying particular regard to the need to:

a) maintain periodic and regular consultations between national border administration authorities;

b) establish local or national joint commissions to examine any problems encountered in relations between neighbouring States;

- c) encourage exchanges and co-operation between communities, townships and administrative regions;
- d) organise meetings between relevant ministries on various aspects of inter-State relations;
- e) employ where appropriate, good offices, conciliation, mediation and other methods of peaceful settlement of disputes;
- f) establish a regional peace and security observation system and peace-keeping forces where appropriate;
- g) provide, where necessary and at the request of Member States, assistance to Member States for the observation of democratic elections.

3. The detailed provisions governing political co-operation, regional peace and stability shall be defined in the relevant Protocols.

Article 59. Immigration

1. Citizens of the Community shall have the right of entry, residence and establishment and Member States undertake to recognise these rights of Community citizens in their territories in accordance with the provisions of the Protocols relating thereto.
2. Member States undertake to adopt all appropriate measures to ensure that Community citizens enjoy fully the rights referred to in paragraph 1 of this Article.
3. Member States undertake to adopt, at national level, all measures necessary for the effective implementation of the provisions of this Article.

CHAPTER XI

CO-OPERATION IN HUMAN RESOURCES, INFORMATION, SOCIAL AND CULTURAL AFFAIRS

Article 60. Human Resources

1. Member States undertake to co-operate in the full development and utilisation of their human resources.
2. To this end, they shall take measures to:
 - a) strengthen co-operation among themselves in the fields of education, training and employment; and to harmonise and co-ordinate their policies and programmes in these areas;
 - b) consolidate their existing training institutions, improve the efficacy of their educational systems, encourage exchanges between schools and universities, establish equivalences of academic, professional and technical qualifications, encourage literacy, promote the teaching and practice of the official languages of the Community and establish regional centres of excellence in various disciplines;
 - c) encourage the exchange of skilled manpower between Member States.

Article 61. Social Affairs

1. Member States undertake to co-operate with a view to mobilising the various sections of the population and ensuring their effective integration and involvement in the social development of the region.

2. For the purposes of paragraph 1 of this Article. Member States undertake to:

a) encourage the exchange of experiences and information on literacy, professional training and employment;

b) harmonise their labour laws and social security legislations;

c) promote women's and youth organisations and professional associations as a means of ensuring mass involvement in the activities of the Community;

d) encourage and strengthen co-operation amongst themselves in health matters; and

e) promote and enhance the practice of sports with a view to bringing together the youth of the region and ensuring their balanced development.

1. Member States undertake to pursue the objectives of the Community Cultural Framework Agreement.

2. To this end Member States undertake to:

a) encourage the promotion, by every means possible, of all forms of cultural exchange;

b) promote, develop and, where necessary, improve structures and mechanisms for the production, propagation and utilisation of cultural industries; and

c) promote the learning and dissemination of a West African language as a factor in Community integration.

Article 63. Women and development

1. Member States undertake to formulate, harmonise, co-ordinate and establish appropriate policies and mechanisms for the enhancement of the economic, social and cultural conditions of women.

2. To this end Member States shall take all measures necessary to:

a) identify and assess all constraints that inhibit women from maximising their contribution to regional development efforts; and

b) provide a framework within which the constraints will be addressed and for the incorporation of women's concerns and needs into the normal operations of the society;

3. At the Community level. Member States shall:

a) stimulate dialogue among themselves on the kinds of projects and programmes aimed at integrating women into the development process;

b) establish a mechanism for co-operation with bilateral, multilateral and nongovernmental organisations; and

c) promote and develop mechanisms to encourage the exchange of experiences and information between Member States.

Article 64. Population and development

1. Member States undertake to adopt, individually and collectively, national population policies and mechanisms and take all necessary measures in order to ensure a balance between demographic factors and socio-economic development.

2. To this end, Member States agree to:

a) include population issues as central components in formulating and implementing national policies and programmes for accelerated and balanced socio-economic development;

b) formulate national population policies and establish national population institutions;

c) undertake public sensitisation on population matters, particularly among the target groups; and

d) collect, analyse and exchange information and data on population issues.

Article 65. Information - Radio and television

Member States undertake to:

a) co-ordinate their efforts and pool their resources in order to promote the exchange of radio and television programmes at bilateral and regional levels;

b) encourage the establishment of programme exchange centres at regional level and strengthen existing programme exchange centres;

c) use their broadcasting and television systems to promote the attainment of the objectives of the Community.

Article 66. The Press

1. In order to involve more closely, the citizens of the Community in the regional integration process, Member States agree to co-operate in the area of information.

2. To this end they undertake as follows:

a) to maintain within their borders, and between one another, freedom of access for professionals of the communication industry and for information sources;

b) to facilitate exchange of information between their press organs; to promote and foster effective dissemination of information within the Community;

c) to ensure respect for the rights of journalists;

d) to take measures to encourage investment capital, both public and private, in the communication industries in Member States;

e) to modernise the media by introducing training facilities for new information techniques; and

f) to promote and encourage dissemination of information in indigenous languages, strengthening co-operation between national press agencies and developing linkages between them.

CHAPTER XII

CO-OPERATION IN OTHER AREAS

Article 67. Harmonisation of policies in other areas

Subject to the provisions of this Treaty, Member States undertake to consult with one another, through appropriate Community institutions, for the purpose of harmonising and co-ordinating their respective policies in all other fields not specifically covered by this Treaty for the efficient functioning and development of the Community and for the implementation of the provisions of this Treaty.

CHAPTER XIII

COOPERATION IN OTHER AREAS

Article 68. Land-locked and Island Member States

Member States, taking into consideration the economic and social difficulties that may arise in certain Member States, particularly island and land-locked States, agree to grant them where appropriate, special treatment in respect of the application of certain provisions of this Treaty and to accord them any other assistance that they may need.

CHAPTER XIV

FINANCIAL PROVISIONS

Article 69. Budget of the community

1. There shall be established a budget of the Community and, where appropriate, of any of the Institutions of the Community.
2. All income and expenditure of the Community and its institutions shall be approved by the Council or other appropriate bodies for each financial year and shall be charged to the budget of the Community or the institution concerned.
3. A draft budget shall be proposed for each financial year by the Executive Secretary or by the Head of the Institution concerned and approved by the Council or other appropriate body on the recommendation of the Administration and Finance Commission.
4. The Administration and Finance Commission shall consider the draft budget and all financial issues concerning the institutions of the Community and shall examine issues pertaining mainly to administration and personnel management in the institutions of the Community.

Article 70. Regular budgets of the Community

1. The regular budgets of the Community and its institutions shall be funded from a Community levy and such other sources as may be determined by the Council
2. Until the entry into force of the Community levy, the regular budgets of the Community and its institutions shall be funded from the annual contributions by Member States.

Article 71. Special budgets of the community

Special budgets shall be made available, where necessary, to meet the extra-budgetary expenditure of the Community. The Authority shall, on the recommendation of Council, determine the modalities for financing such special budgets of the Community.

Article 72. Community levy

1. There is hereby instituted a Community levy for the purpose of generating resources for financing Community activities.
2. The Community levy shall be a percentage of the total value of import duty derivable from goods imported into the Community from third countries.
3. The actual level of the Community levy shall be determined by the Council.
4. The conditions for the application of the Community levy, the modalities for the transfer to the Community of the revenue generated and the utilisation of the Community levy shall be defined in the relevant Protocol.
5. Member States undertake to facilitate the application of the provisions of this Article. Article 73. Contributions by member states

1. The mode by which the contributions of Member States shall be determined and the currencies in which the contributions are paid shall be as determined by Council.
2. Member States undertake to promptly transfer their assessed contributions to the Community.

Article 74. Financial regulations

The Financial Regulations and Manual of Accounting Procedures of the Community shall govern the application of the provisions of this Chapter.

Article 75. External auditors

1. The External Auditors of the Community shall be appointed for a period of two years renewable for two other terms of two years each. They can be relieved of their posts by the Authority on the recommendation of the Council.
2. Subject to the provisions of the preceding paragraph, the Council shall determine the rules governing the selection procedure and establish the responsibilities of the External Auditors.

CHAPTER XV**DISPUTES****Article 76. Settlement of disputes**

1. Any dispute regarding the interpretation of the application of the provisions of this Treaty shall be amicably settled through direct agreement without prejudice to the provisions of this Treaty and relevant Protocols.
2. Failing this, either party or any other Member States or the Authority may refer the matter to the Court of the Community whose decision shall be final and shall not be subject to appeal.

CHAPTER XVI

SANCTIONS

Article 77. Sanctions applicable for non-fulfilment of obligations

1. Where a Member State fails to fulfil its obligations to the Community, the Authority may decide to impose sanctions on that Member State.
2. These sanctions may include:
 - (i) suspension of new Community loans or assistance,
 - (ii) suspension of disbursement on on-going Community projects or assistance programmes;
 - (iii) exclusion from presenting candidates for statutory and professional posts;
 - (iv) suspension of voting rights; and
 - (v) suspension from participating in the activities of the Community.
3. Notwithstanding the provisions of paragraph 1 of this Article, the Authority may suspend the application of the provisions of the said Article if it is satisfied on the basis of a well supported and detailed report prepared by an independent body and submitted through the Executive Secretary, that the non-fulfilment of its obligations is due to causes and circumstances beyond the control of the said Member State;
4. The Authority shall decide on the modalities for the application of this Article.

CHAPTER XVII

RELATIONS BETWEEN THE COMMUNITY AND THE AFRICAN ECONOMIC COMMUNITY

Article 78. The Community and the African Economic Community

The integration of the region shall constitute an essential component of the integration of the African continent. Member States undertake to facilitate the co-ordination and harmonisation of the policies and programmes of the Community with those of the African Economic Community.

CHAPTER XVIII

RELATIONS BETWEEN THE COMMUNITY AND OTHER REGIONAL ECONOMIC COMMUNITIES

Article 79. The Community and other Regional Economic Communities

1. In the context of realising its regional integration objectives, the Community may enter into co-operation agreements with other regional Communities.
2. Such co-operation agreements entered into in accordance with the provisions of paragraph 1 of this

Article shall be subject to prior approval by the Council upon the proposal of the Executive Secretary.

CHAPTER XIX

RELATIONS BETWEEN THE EXECUTIVE SECRETARIAT AND THE SPECIALISED INSTITUTIONS OF THE COMMUNITY

Article 80. The Executive Secretariat and the Specialised Institutions

1. The Community shall determine the global integration policies and strategies to be adopted and define the integration objectives and programmes of all the institutions of the Community.
2. The Executive Secretariat shall be responsible for harmonising and co-ordinating all activities and programmes of the institutions of the Community within the context of regional integration.

Article 81. Relations between the community and regional non-governmental organisations

1. The Community, with a view to mobilising the human and material resources for the economic integration of the region, shall co-operate with regional non-governmental organisations and voluntary development organisations in order to encourage the involvement of the peoples of the region in the process of economic integration and mobilise their technical, material and financial support.
2. To this end, the Community shall set up a mechanism for consultation with such organisations.

Article 82

Relations between the community and regional socio-economic organisations and associations

1. The Community, with a view to mobilising the various actors in socio-economic life for the integration of the region, shall co-operate with socio-economic organisations and associations, in particular, producers, transport operators, workers, employers, university teachers and administrators, journalists, youth, women, artisans and other professional organisations and associations with a view to ensuring their involvement in the integration process of the region.
2. To this end, the Community shall set up a mechanism for consultation with such socio-economic organisations and associations.

CHAPTER XX

RELATIONS BETWEEN THE COMMUNITY, THIRD COUNTRIES AND INTERNATIONAL ORGANISATIONS

Article 83. Co-operation agreements

1. The Community may conclude co-operation agreements with third countries.
2. In pursuit of its objective, the Community shall also co-operate with the Organisation of African Unity, the United Nations system, and any other international organisation.
3. Co-operation agreements to be concluded in accordance with the provisions of paragraphs 1 and 2 of this Article shall be subject to prior approval by the Council upon the proposal of the Executive Secretary.

CHAPTER XXI

RELATIONS BETWEEN MEMBER STATES, NON-MEMBER STATES, REGIONAL ORGANISATIONS AND INTERNATIONAL ORGANISATIONS

Article 84. Agreements concluded by Member States

1. Member States may conclude agreements among themselves and with non-Member States, regional organisations or any other international organisation, provided that economic agreements are not incompatible with the provisions of this Treaty. They shall, at the request of the Executive Secretary, transmit copies of such economic agreements to the Executive Secretary who shall inform Council thereof.

2. In the event that agreements concluded before the entry into force of this Treaty between Member States or between Member States and non-Member States, regional organisations or any other international organisations are incompatible with the provisions of this Treaty, the Member State or Member States concerned shall take appropriate measures to eliminate such incompatibility. Member States shall, where necessary, assist each other to this end and adopt a common position.

Article 85. International negotiations

1. Member States undertake to formulate and adopt common positions within the Community on issues relating to international negotiations with third parties in order to promote and safeguard the interests of the region.

2. To this end, the Community shall prepare studies and reports designed to help Member States to harmonise better their positions on the said issues.

CHAPTER XXII

GENERAL AND FINAL PROVISIONS

Article 86. Headquarters of the Community

The Headquarters of the Community shall be situated in the capital of the Federal Republic of Nigeria.

Article 87. Official and working languages

1. The official languages of the Community shall be all West African languages so designated by the Authority as well as English, French and Portuguese.

2. The working languages of the Community shall be English, French and Portuguese.

Article 88. Status, privileges and immunities

1. The Community shall enjoy international legal personality.

2. The Community shall have in the territory of each Member State:

a) the legal powers required for the performance of the functions assigned to it under this Treaty;

b) power to enter into contracts and acquire, hold and dispose of movable and immovable property.

3. In the exercise of its legal personality under this Article, the Community shall be represented by the Executive Secretary.

4. The privileges and immunities to be recognised and granted by the Member States to the officials of the Community, its institutions and their respective headquarters shall be as provided for in the General Convention on Privileges and Immunities of the Community and the Headquarters Agreements.

Article 89. Entry into force and ratification

This Treaty and the Protocols which shall form an integral part thereof shall respectively enter into force, upon ratification by at least nine signatory States, in accordance with the constitutional procedures of each signatory State.

Article 90. Amendments and revisions

1. Any Member State may submit proposals for the amendment or revision of this Treaty. 2. Any such proposals shall be submitted to the Executive Secretary who shall notify other Member States thereof not later than thirty (30) days after the receipt of such proposals. Amendments or revisions shall not be considered by the Authority unless Member States shall have been given at least three months notice thereof.

3. Amendments or revisions shall be adopted by the Authority in accordance with the provisions of Article 9 of this Treaty and shall be submitted for ratification by all Member States in accordance with their respective constitutional procedures. They shall enter into force in accordance with Article 89 of this Treaty.

Article 91. Withdrawal

1. Any Member State wishing to withdraw from the Community shall give to the Executive Secretary one year's notice in writing who shall inform Member States thereof. At the expiration of this period, if such notice is not withdrawn, such a State shall cease to be a member of the Community.

2. During the period of one year referred to in the preceding paragraph, such a Member State shall continue to comply with the provisions of this Treaty and shall remain bound to discharge its obligations under this Treaty.

Article 92. Transitional and savings provisions

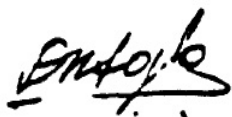
1. Upon the entry into force of this revised Treaty in accordance with the provisions of Article 89, the provisions of the United Nations Vienna Convention on the Law of Treaties adopted on 23 May, 1969 shall apply to the determination of the rights and obligations of Member States under the 1975 ECOWAS Treaty and this revised Treaty.

2. The ECOWAS Treaty of 1975 shall be deemed terminated when the Executive Secretariat has received instruments of ratification of this revised Treaty from all of Member States. The Executive Secretary shall notify the Member States in writing thereof. 3. Notwithstanding the provisions of paragraph 2 of this Article, all Community Conventions, Protocols, Decisions and Resolutions made since 1975 shall remain valid and in force, except where they are incompatible with the present Treaty.

Article 93. Depository authority

The present Treaty and all instruments of ratification shall be deposited with the Executive Secretariat which shall transmit certified true copies of this Treaty to all Member States and notify them of the dates of deposit of the instruments of ratification and shall register this Treaty with the Organisation of African Unity, the United Nations Organisation and such other organisations as the Council may determine.

In faith whereof, we, the Heads of State and Government of the member states of the Economic Community of West African States (ECOWAS), have signed this treaty. Done at Cotonou, this 24th day of July, 1993 in single original in the English, French and Portuguese languages, all texts being equally authentic.



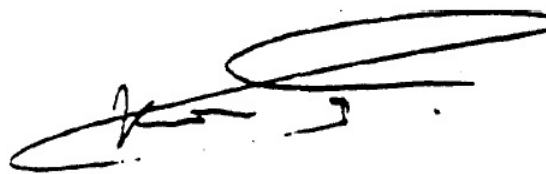
H.E. Nicéphore D. SOGLO
President of the Republic
of BENIN



H.E. Dr. Amos Claudius SAWYER
President of the Interim Government
of National Unity of the Republic of
LIBERIA



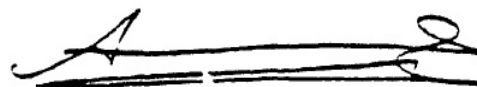
H.E. Blaise COMPAORE
President of the FASO
Head of Government



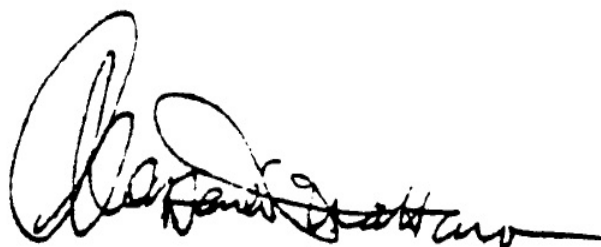
H.E. Alpha OUMAR KONARE
President of the Republic
of MALI



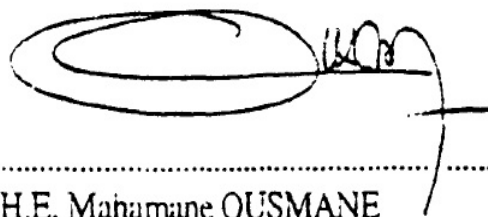
H.E. Carlos Alberto Wahnou
de Carvalho VEIGA
The Prime Minister of the
Republic of CAPE VERDE



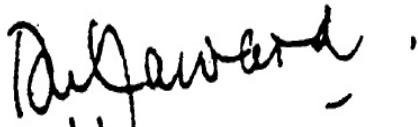
H.E. Ahmed Ould ZEIN
Minister, General Secretary of the Presidency
of the Islamic Republic of MAURITANIA
for and on behalf of the President of the
Islamic Republic of MAURITANIA



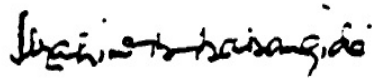
H.E. Alassane Dramane OUATTARA
Prime Minister of the
Republic of COTE D'IVOIRE
for and on behalf of the
President of the Republic of
COTE D'IVOIRE



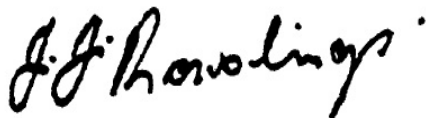
H.E. Mahamane OUSMANE
President of the Republic
of NIGER



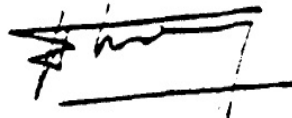
H.E. Alhaji Sir Dawda JAWARA
President of the Republic of
THE GAMBIA



H.E. General Ibrahim Badamasi BABANGIDA
President, Commander-in-Chief of the
Armed Forces of the Republic of NIGERIA



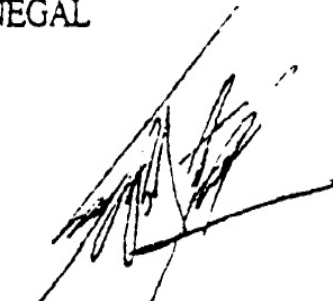
H.E. Flt.-Lt Jerry John RAWLINGS
President of the Republic
of GHANA



H.E. Habib THIAM
Prime Minister of the Republic of
SENEGAL for and on behalf of the
President of the Republic of
SENEGAL



H.E. General Lansana CONTE
President of the Republic of
GUINEE, Head of State



H.E. Captain Valentine E.M. STRASSER
Chairman, Supreme Council of State of
the National Provisional Ruling Council
and Head of State of the Republic of
SIERRA LEONE



H.E. General Joao Bernardo VIEIRA
President of the Council of State
of the Republic of GUINEE-BISSAU



H.E. Fambaré Ouattara NATCHABA
Minister of Foreign Affairs and
Cooperation of the TOGOLESE
Republic for and on behalf of the
President of the TOGOLESE Republic



AFRICAN UNION

CONSTITUTIVE ACT OF THE AFRICAN UNION

The Constitutive Act

We, Heads of State and Government of the Member States of the Organization of African Unity (OAU):

1. The President of the People's Democratic Republic of Algeria
2. The President of the Republic of Angola
3. The President of the Republic of Benin
4. The President of the Republic of Botswana
5. The President of Burkina Faso
6. The President of the Republic of Burundi
7. The President of the Republic of Cameroon
8. The President of the Republic of Cape Verde
9. The President of the Central African Republic
10. The President of the Republic of Chad
11. The President of the Islamic Federal Republic of the Comoros
12. The President of the Republic of the Congo
13. The President of the Republic of Côte d'Ivoire
14. The President of the Democratic Republic of Congo
15. The President of the Republic of Djibouti
16. The President of the Arab Republic of Egypt
17. The President of the State of Eritrea
18. The Prime Minister of the Federal Democratic Republic of Ethiopia
19. The President of the Republic of Equatorial Guinea
20. The President of the Gabonese Republic
21. The President of the Republic of The Gambia
22. The President of the Republic of Ghana
23. The President of the Republic of Guinea
24. The President of the Republic of Guinea Bissau

25. The President of the Republic of Kenya
26. The Prime Minister of Lesotho
27. The President of the Republic of Liberia
28. The Leader of the 1st of September Revolution of the Great Socialist People's Libyan Arab Jamahiriya
29. The President of the Republic of Madagascar
30. The President of the Republic of Malawi
31. The President of the Republic of Mali
32. The President of the Islamic Republic of Mauritania
33. The Prime Minister of the Republic of Mauritius
34. The President of the Republic of Mozambique
35. The President of the Republic of Namibia
36. The President of the Republic of Niger
37. The President of the Federal Republic of Nigeria
38. The President of the Republic of Rwanda
39. The President of the Sahrawi Arab Democratic Republic
40. The President of the Republic of Sao Tome and Principe
41. The President of the Republic of Senegal
42. The President of the Republic of Seychelles
43. The President of the Republic of Sierra Leone
44. The President of the Republic of Somalia
45. The President of the Republic of South Africa
46. The President of the Republic of Sudan
47. The King of Swaziland
48. The President of the United Republic of Tanzania
49. The President of the Togolese Republic
50. The President of the Republic of Tunisia
51. The President of the Republic of Uganda

52. The President of the Republic of Zambia

53. The President of the Republic of Zimbabwe

INSPIRED by the noble ideals which guided the founding fathers of our Continental Organization and generations of Pan-Africanists in their determination to promote unity, solidarity, cohesion and cooperation among the peoples of Africa and African States;

CONSIDERING the principles and objectives stated in the Charter of the Organization of African Unity and the Treaty establishing the African Economic Community;

RECALLING the heroic struggles waged by our peoples and our countries for political independence, human dignity and economic emancipation;

CONSIDERING that since its inception, the Organization of African Unity has played a determining and invaluable role in the liberation of the continent, the affirmation of a common identity and the process of attainment of the unity of our continent and has provided a unique framework for our collective action in Africa and in our relations with the rest of the world.

DETERMINED to take up the multifaceted challenges that confront our continent and peoples in the light of the social, economic and political changes taking place in the world;

CONVINCED of the need 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 globalization;

GUIDED by our common vision of a united and strong Africa and by 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;

CONSCIOUS of the fact that the scourge of conflicts in Africa constitutes a major impediment to the socio-economic development of the continent and of the need to promote peace, security and stability as a prerequisite for the implementation of our development and integration agenda;

DETERMINED to promote and protect human and peoples' rights, consolidate democratic institutions and culture, and to ensure good governance and the rule of law;

FURTHER DETERMINED to take all necessary measures to strengthen our common institutions and provide them with the necessary powers and resources to enable them discharge their respective mandates effectively;

RECALLING the Declaration which we adopted at the Fourth Extraordinary Session of our Assembly in Sirte, the Great Socialist People's Libyan Arab Jamahiriya, on 9.9. 99, in which we decided to establish an African Union, in conformity with the ultimate objectives of the Charter of our Continental Organization and the Treaty establishing the African Economic Community;

HAVE AGREED AS FOLLOWS:

Article 1

Definitions

In this Constitutive Act:

"Act" means the present Constitutive Act;

"AEC" means the African Economic Community;

"Assembly" means the Assembly of Heads of State and Government of the Union;

"Charter" means the Charter of the OAU;

"Commission" means the Secretariat of the Union;

"Committee" means a Specialized Technical Committee of the Union;

"Council" means the Economic, Social and Cultural Council of the Union;

"Court" means the Court of Justice of the Union;

"Executive Council" means the Executive Council of Ministers of the Union;

"Member State" means a Member State of the Union;

"OAU" means the Organization of African Unity;

"Parliament" means the Pan-African Parliament of the Union;

"Union" means the African Union established by the present Constitutive Act.

Article 2

Establishment

The African Union is hereby established in accordance with the provisions of this Act.

Article 3

Objectives

The objectives of the Union shall be to:

- (a) achieve greater unity and solidarity between the African countries and the peoples of Africa;
- (b) defend the sovereignty, territorial integrity and independence of its Member States;
- (c) accelerate the political and socio-economic integration of the continent;
- (d) promote and defend African common positions on issues of interest to the continent and its peoples;
- (e) encourage international cooperation, taking due account of the Charter

of the United Nations and the Universal Declaration of Human Rights;

(f) promote peace, security, and stability on the continent;

(g) promote democratic principles and institutions, popular participation and good governance;

(h) promote and protect human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights and other relevant human rights instruments;

(i) establish the necessary conditions which enable the continent to play its rightful role in the global economy and in international negotiations;

(j) promote sustainable development at the economic, social and cultural levels as well as the integration of African economies;

(k) promote co-operation in all fields of human activity to raise the living standards of African peoples;

(l) coordinate and harmonize the policies between the existing and future Regional Economic Communities for the gradual attainment of the objectives of the Union;

(m) advance the development of the continent by promoting research in all fields, in particular in science and technology;

(n) work with relevant international partners in the eradication of preventable diseases and the promotion of good health on the continent.

Article 4

Principles

The Union shall function in accordance with the following principles:

(a) sovereign equality and interdependence among Member States of the Union;

(b) respect of borders existing on achievement of independence;

(c) participation of the African peoples in the activities of the Union;

(d) establishment of a common defence policy for the African Continent;

(e) peaceful resolution of conflicts among Member States of the Union through such appropriate means as may be decided upon by the Assembly;

(f) prohibition of the use of force or threat to use force among Member States of the Union;

(g) non-interference by any Member State in the internal affairs of another;

(h) 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;

(i) peaceful co-existence of Member States and their right to live in peace and security;

(j) the right of Member States to request intervention from the Union in order to restore peace and security;

(k) promotion of self-reliance within the framework of the Union;

(l) promotion of gender equality;

(m) respect for democratic principles, human rights, the rule of law and good governance;

(n) promotion of social justice to ensure balanced economic development;

(o) respect for the sanctity of human life, condemnation and rejection of impunity and political assassination, acts of terrorism and subversive activities;

(p) condemnation and rejection of unconstitutional changes of governments.

Article 5

Organs of the Union

1. The organs of the Union shall be:

- (a) The Assembly of the Union;
- (b) The Executive Council;
- (c) The Pan-African Parliament;
- (d) The Court of Justice;
- (e) The Commission;
- (f) The Permanent Representatives Committee;
- (g) The Specialized Technical Committees;
- (h) The Economic, Social and Cultural Council;
- (i) The Financial Institutions;

2. Other organs that the Assembly may decide to establish.

Article 6

The Assembly

1. The Assembly shall be composed of Heads of States and Government or their duly accredited representatives.

2. The Assembly shall be the supreme organ of the Union.
3. The Assembly shall meet at least once a year in ordinary session. At the request of any Member State and on approval by a two-thirds majority of the Member States, the Assembly shall meet in extraordinary session.
4. The Office of the Chairman of the Assembly shall be held for a period of one year by a Head of State or Government elected after consultations among the Member States.

Article 7

Decisions of the Assembly

1. The Assembly shall take its decisions by consensus or, failing which, by a two-thirds majority of the Member States of the Union. However, procedural matters, including the question of whether a matter is one of procedure or not, shall be decided by a simple majority.
2. Two-thirds of the total membership of the Union shall form a quorum at any meeting of the Assembly.

Article 8

Rules of Procedure of the Assembly

The Assembly shall adopt its own Rules of Procedure.

Article 9

Powers and Functions of the Assembly

1. The functions of the Assembly shall be to:
 - (a) determine the common policies of the Union;
 - (b) receive, consider and take decisions on reports and recommendations from the other organs of the Union;
 - (c) consider requests for Membership of the Union;
 - (d) establish any organ of the Union;
 - (e) monitor the implementation of policies and decisions of the Union as well ensure compliance by all Member States;
 - (f) adopt the budget of the Union;
 - (g) give directives to the Executive Council on the management of conflicts, war and other emergency situations and the restoration of peace;
 - (h) appoint and terminate the appointment of the judges of the Court of Justice;
 - (i) appoint the Chairman of the Commission and his or her deputy or deputies and Commissioners of the Commission and determine their functions and terms of office.
2. The Assembly may delegate any of its powers and functions to any organ of the Union.

Article 10

The Executive Council

1. The Executive 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.
2. The Executive Council shall meet at least twice a year in ordinary session. It shall also meet in an extra-ordinary session at the request of any Member State and upon approval by two-thirds of all Member States.

Article 11

Decisions of the Executive Council

1. The Executive Council shall take its decisions by consensus or, failing which, by a two-thirds majority of the Member States. However, procedural matters, including the question of whether a matter is one of procedure or not, shall be decided by a simple majority.
2. Two-thirds of the total membership of the Union shall form a quorum at any meeting of the Executive Council.

Article 12

Rules of Procedure of the Executive Council

The Executive Council shall adopt its own Rules of Procedure.

Article 13

Functions of the Executive Council

1. The Executive Council shall coordinate and take decisions on policies in areas of common interest to the Member States, including the following:

- (a) foreign trade;
- (b) energy, industry and mineral resources;
- (c) food, agricultural and animal resources, livestock production and forestry;
- (d) water resources and irrigation;
- (e) environmental protection, humanitarian action and disaster response and relief;
- (f) transport and communications;
- (g) insurance;
- (h) education, culture, health and human resources development;
- (i) science and technology;
- (j) nationality, residency and immigration matters;
- (k) social security, including the formulation of mother and child care policies, as well as policies relating to the disabled and the handicapped;
- (l) establishment of a system of African awards, medals and prizes.

2. The Executive Council shall be responsible to the Assembly. It shall consider issues referred to it and monitor the implementation of policies formulated by the Assembly.

3. The Executive Council may delegate any of its powers and functions mentioned in paragraph 1 of this Article to the Specialized Technical Committees established under Article 14 of this Act.

Article 14

The Specialized Technical Committees

Establishment and Composition

1. There is hereby established the following Specialized Technical Committees, which shall be responsible to the Executive Council:

- (a) The Committee on Rural Economy and Agricultural Matters;
- (b) The Committee on Monetary and Financial Affairs;
- (c) The Committee on Trade, Customs and Immigration Matters;
- (d) The Committee on Industry, Science and Technology, Energy, Natural Resources and Environment;
- (e) The Committee on Transport, Communications and Tourism;
- (f) The Committee on Health, Labour and Social Affairs; and
- (g) The Committee on Education, Culture and Human Resources.

2. The Assembly shall, whenever it deems appropriate, restructure the existing Committees or establish other Committees.

3. The Specialized Technical Committees shall be composed of Ministers or senior officials responsible for sectors falling within their respective areas of competence.

Article 15

Functions of the Specialized Technical Committees

Each Committee shall within its field of competence:

- (a) prepare projects and programmes of the Union and submit it to the Executive Council;
- (b) ensure the supervision, follow-up and the evaluation of the implementation of decisions taken by the organs of the Union;
- (c) ensure the coordination and harmonization of projects and programmes of the Union;
- (d) 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 this Act; and
- (e) carry out any other functions assigned to it for the purpose of ensuring the implementation of the provisions of this Act.

Article 16

Meetings

Subject to any directives given by the Executive Council, each Committee shall meet as often as necessary and shall prepare its Rules of Procedure and submit them to the Executive Council for approval.

Article 17

The PanAfrican Parliament

1. In order to ensure the full participation of African peoples in the development and economic integration of the continent, a Pan-African Parliament shall be established.
2. The composition, powers, functions and organization of the Pan African Parliament shall be defined in a protocol relating thereto

Article 18

The Court of Justice

1. A Court of Justice of the Union shall be established;
2. The statute, composition and functions of the Court of Justice shall be defined in a protocol relating thereto.

Article 19

The Financial institutions

The Union shall have the following financial institutions whose rules and regulations shall be defined in protocols relating thereto:

- (a) The African Central Bank;
- (b) The African Monetary Fund;
- (c) The African Investment Bank.

Article 20

The Commission

1. There shall be established a Commission of the Union, which shall be the Secretariat of the Union.
2. The Commission shall be composed of the Chairman, his or her deputy or deputies and the Commissioners. They shall be assisted by the necessary staff for the smooth functioning of the Commission.
3. The structure, functions and regulations of the Commission shall be determined by the Assembly.

Article 21

The Permanent Representatives Committee

1. There shall be established a Permanent Representatives Committee. It shall be composed of Permanent Representatives to the Union and other Plenipotentiaries of Member States.
2. The Permanent Representatives Committee shall be charged with the responsibility of preparing the work of the Executive Council and acting on the Executive Council's instructions. It may set up such sub-committees or working groups as it may deem necessary.

Article 22

The Economic, Social and Cultural Council

1. The Economic, Social and Cultural Council shall be an advisory organ composed of different social and professional groups of the Member States of the Union.
2. The functions, powers, composition and organization of the Economic, Social and Cultural Council shall be determined by the Assembly.

Article 23

Imposition of Sanctions

1. The Assembly shall determine the appropriate sanctions to be imposed on any Member State that defaults in the payment of its contributions to the budget of the Union in the following manner: denial of the right to speak at meetings, to vote, to present candidates for any position or post within the Union or to benefit from any activity or commitments, therefrom;
2. Furthermore, any Member State that fails to comply with the decisions and policies of the Union may be subjected to other sanctions, such as the denial of transport and communications links with other Member States, and other measures of a political and economic nature to be determined by the Assembly.

Article 24

The Headquarters of the Union

1. The Headquarters of the Union shall be in Addis Ababa in the Federal Democratic Republic of Ethiopia.
2. There may be established such other offices of the Union as the Assembly may, on the recommendation of the Executive Council, determine.

Article 25

Working Languages

The working languages of the Union and all its institutions shall be, if possible, African languages, Arabic, English, French and Portuguese.

Article 26

Interpretation

The Court shall be seized with matters of interpretation arising from the application or implementation of this Act. Pending its establishment, such matters shall be submitted to the Assembly of the Union, which shall decide by a two-thirds majority.

Article 27

Signature, Ratification and Accession

1. This Act shall be open to signature, ratification and accession by the Member States of the OAU in accordance with their respective constitutional procedures.
2. The instruments of ratification shall be deposited with the Secretary General of the OAU.
3. Any Member State of the OAU acceding to this Act after its entry into force shall deposit the instrument of accession with the Chairman of the Commission.

Article 28

Entry into Force

This Act shall enter into force thirty (30) days after the deposit of the instruments of ratification by two-thirds of the Member States of the OAU.

Article 29

Admission to Membership

1. Any African State may, at any time after the entry into force of this Act, notify the Chairman of the Commission of its intention to accede to this Act and to be admitted as a member of the Union.
2. The Chairman of the Commission shall, upon receipt of such notification, transmit copies thereof to all Member States. Admission shall be decided by a simple majority of the Member States. The decision of

each Member State shall be transmitted to the Chairman of the Commission who shall, upon receipt of the required number of votes, communicate the decision to the State concerned.

Article 30

Suspension

Governments which shall come to power through unconstitutional means shall not be allowed to participate in the activities of the Union.

Article 31

Cessation of Membership

1. Any State which desires to renounce its membership shall forward a written notification to the Chairman of the Commission, who shall inform Member States thereof. At the end of one year from the date of such notification, if not withdrawn, the Act shall cease to apply with respect to the renouncing State, which shall thereby cease to belong to the Union.

2. During the period of one year referred to in paragraph 1 of this Article, any Member State wishing to withdraw from the Union shall comply with the provisions of this Act and shall be bound to discharge its obligations under this Act up to the date of its withdrawal.

Article 32

Amendment and Revision

1. Any Member State may submit proposals for the amendment or revision of this Act.

2. Proposals for amendment or revision shall be submitted to the Chairman of the Commission who shall transmit same to Member States within thirty (30) days of receipt thereof.

3. The Assembly, upon the advice of the Executive Council, shall examine these proposals within a period of one year following notification of Member States, in accordance with the provisions of paragraph 2 of this Article;

4. Amendments or revisions shall be adopted by the Assembly by consensus or, failing which, by a two-thirds majority and submitted for ratification by all Member States in accordance with their respective constitutional procedures. They shall enter into force thirty (30) days after the deposit of the instruments of ratification with the Chairman of the Commission by a two-thirds majority of the Member States.

Article 33

Transitional Arrangements and Final Provisions

1. This Act shall replace the Charter of the Organization of African Unity. However, the Charter shall remain operative for a transitional period of one year or such further period as may be determined by the Assembly, following the entry into force of the Act, for the purpose of enabling the OAU/AEC to undertake the necessary measures regarding the devolution of its assets and liabilities to the Union and all matters relating thereto.

2. The provisions of this Act shall take precedence over and supersede any inconsistent or contrary provisions of the Treaty establishing the African Economic Community.

3. Upon the entry into force of this Act, all necessary measures shall be undertaken to implement its provisions and to ensure the establishment of the organs provided for under the Act in accordance with any directives or decisions which may be adopted in this regard by the Parties thereto within the transitional period stipulated above.

4. Pending the establishment of the Commission, the OAU General Secretariat shall be the interim Secretariat of the Union.

5. This Act, drawn up in four (4) original texts in the Arabic, English, French and Portuguese languages, all four (4) being equally authentic, shall be deposited with the Secretary-General of the OAU and, after its entry into force, with the Chairman of the Commission who shall transmit a certified true copy of the Act to the Government of each signatory State. The Secretary-General of the OAU and the Chairman of the Commission shall notify all signatory States of the dates of the deposit of the instruments of ratification or accession and shall upon entry into force of this Act register the same with the Secretariat of the United Nations.

IN WITNESS WHEREOF,

WE have adopted this Act. Done at Lome, Togo,

this 11th day of July, 2000.

**CONSTITUTIVE ACT OF THE AFRICAN UNION
ADOPTED BY THE THIRTY-SIXTH ORDINARY SESSION OF
THE ASSEMBLY OF HEADS OF STATE AND GOVERNMENT 11 JULY, 2000 - LOME, TOGO**

- | | |
|---|---------------------------------------|
| 1. People's Democratic Republic of Algeria | 29. Republic of Madagascar |
| 2. Republic of Angola | 30. Republic of Malawi |
| 3. Republic of Benin | 31. Republic of Mali |
| 4. Republic of Botswana | 32. Islamic Republic of Mauritania |
| 5. Burkina Faso | 33. Republic of Mauritius |
| 6. Republic of Burundi | 34. Republic of Mozambique |
| 7. Republic of Cameroon | 35. Republic of Namibia |
| 8. Republic of Cape Verde | 36. Republic of Niger |
| 9. Central African Republic | 37. Federal Republic of Nigeria |
| 10. Republic of Chad | 38. Republic of Rwanda |
| 11. Islamic Federal Republic of the Comoros | 39. Sahrawi Arab Democratic Republic |
| 12. Republic of the Congo | 40. Republic of Sao Tome and Principe |
| 13. Republic of CTMte d'Ivoire | 41. Republic of Senegal |
| 14. Democratic Republic of Congo | 42. Republic of Seychelles |
| 15. Republic of Djibouti | 43. Republic of Sierra Leone |
| 16. Arab Republic of Egypt | 44. Republic of Somalia |
| 17. State of Eritrea | 45. Republic of South Africa |
| 18. Federal Democratic Republic of Ethiopia | 46. Republic of Sudan |
| 19. Republic of Equatorial Guinea | 47. Kingdom of Swaziland |
| 20. Republic of Gabon | 48. United Republic of Tanzania |
| 21. Republic of The Gambia | 49. Republic of Togo |
| 22. Republic of Ghana | 50. Republic of Tunisia |
| 23. Republic of Guinea | 51. Republic of Uganda |
| 24. Republic of Guinea Bissau | 52. Republic of Zambia |
| 25. Republic of Kenya | 53. Republic of Zimbabwe |
| 26. Kingdom of Lesotho | |
| 27. Republic of Liberia | |
| 28. Great Socialist People's Libyan Arab Jamahiriya | |

**PROTOCOL ON
AMENDMENTS TO
THE CONSTITUTIVE
ACT OF
THE AFRICAN UNION**

PROTOCOL ON AMENDMENTS TO THE CONSTITUTIVE ACT OF THE AFRICAN UNION

The Member States of the African Union States Parties to the Constitutive Act of the African Union
HAVE AGREED TO ADOPT AMENDMENTS TO THE CONSTITUTIVE ACT AS FOLLOWS:

Article 1 Definitions

In this Protocol, the following expressions shall have the meanings assigned to them hereunder unless otherwise specified:

“Act” means the Constitutive Act

“Assembly” means the Assembly of Heads of State and Government of the
African Union

“Chairperson” means chairperson of the Assembly

“Court” means the Court of Justice of the Union and Court of Justice has the
same meaning

“Union” means the African Union

Article 2 Preamble

In the first paragraph of the Preamble to the Constitutive Act, the replacement of the words “founding fathers” with “founders”

Article 3 Objectives

In Article 3 of the Act (Objectives), the insertion of three new subparagraphs (i), (p) and (q) with consequential renumbering of subparagraphs: The objectives of the Union shall be to:

(i) ensure the effective participation of women in decision-making, particularly in the political, economic and socio-cultural areas;

(p) develop and promote common policies on trade, defence and foreign relations to ensure the defence of the Continent and the strengthening of its negotiating positions;

(q) invite and encourage the full participation of the African Diaspora as an important part of our Continent, in the building of the African Union.

Article 4 Principles

In Article 4 of the Act (Principles), the expansion of subparagraph (h) and the insertion of two new subparagraphs (q) and (r):

(h) 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 as well as a serious threat

to legitimate order to restore peace and stability to the Member State of the Union upon the recommendation of the Peace and Security Council;
.....

(q) restraint by any Member State from entering into any treaty or alliance that is incompatible with the principles and objectives of the Union;

(r) prohibition of any Member State from allowing the use of its territory as a base for subversion against another Member State.

Article 5 Organs of the Union

In Article 5 of the Act (Organs of the Union), the insertion of a new subparagraph (f) with consequential renumbering of subsequent subparagraphs:

(f) The Peace and Security Council

Article 6 The Assembly

In Article 6 of the Act (The Assembly) and where-ever else it occurs in the Act, the substitution of the word "Chairman" with "Chairperson"; the deletion of the second sentence of subparagraph 3 and the insertion of new paragraphs 4, 5, 6 and 7.

3. The Assembly shall meet at least once a year in ordinary session.

4. At the initiative of the Chairperson after due consultation with all Member States, or at the request of any Member State and upon approval by two-thirds majority of Member States, the Assembly shall meet in Extraordinary Session.

5. The Assembly shall elect its Chairperson from among the Heads of State or Government at the beginning of each ordinary session and on the basis of rotation for a period of one year renewable.

6. The Chairperson shall be assisted by a Bureau chosen by the Assembly on the basis of equitable geographical representation.

7. Where the Assembly meets at the Headquarters, an election of the Chairperson shall be held taking into account the principle of rotation.

Article 7 Functions of the Chairperson of the Assembly

The insertion in the Act of a new Article 7 (bis):

1. The Chairperson shall represent the Union, during his/her tenure with a view to promoting the objectives and principles of the African Union as stipulated in Articles 3 and 4 of the Act. He/She shall also, with the collaboration of the Chairperson of the Commission, carry out the functions of the Assembly set out in Article 9(e) and (g) of the Act.

2. The Chairperson may convene the meeting of the other organs through their Chairpersons or Chief Executives and in accordance with their respective Rules of Procedure.

Article 8 The Executive Council

In Article 10 of the Act (The Executive Council), the insertion of a new paragraph 3:

3. The Chairperson of the Executive Council shall be assisted by a Bureau chosen by the Executive Council on the basis of equitable geographical representation.

Article 9
Peace and Security Council

The insertion in the Act of a new Article 20(bis):

1. There is hereby established, a Peace and Security Council (PSC) of the Union, which shall be the standing decision-making organ for the prevention, management and resolution of conflicts.
2. The functions, powers, composition and organization of the PSC shall be determined by the Assembly and set out in a protocol relating thereto.

Article 10
The Permanent Representatives Committee

In Article 21 of the Act (The Permanent Representatives Committee) the insertion of a new paragraph 3:
.....

3. The Chairperson of the Permanent Representatives Committee shall be assisted by a Bureau chosen on the basis of equitable geographical representation.

Article 11
Official Languages

In Article 25 of the Act (Working Languages), replace the title "Working Languages" by "Official Languages" and substitute the existing provision with: 1. The official languages of the Union and all its institutions shall be Arabic, English, French, Portuguese, Spanish, Kiswahili and any other African language.

2. The Executive Council shall determine the process and practical modalities for the use of official languages as working languages.

Article 12
Cessation of Membership

Article 31 of the Act (Cessation of Membership) is deleted.

Article 13
Entry into Force

This Protocol shall enter into force thirty days after the deposit of the instruments of ratification by a two-thirds majority of the Member States.

**Adopted by the 1st Extraordinary Session
of the Assembly of the Union in Addis Ababa,
Ethiopia on 3 February 2003**

and

**by the 2nd Ordinary Session of the
Assembly of the Union in Maputo,**



UNITED NATIONS

CHARTER OF THE UNITED NATIONS

WE THE PEOPLES OF THE UNITED NATIONS DETERMINED

to save succeeding generations from the scourge of war, which twice in our life time has brought untold sorrow to mankind, and

to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small, and

to establish conditions under which justice and respect for the obligations arising from treaties and other sources of international law can be maintained, and

to promote social progress and better standards of life in larger freedom,

AND FOR THESE ENDS

to practice tolerance and live together in peace with one another as good neighbors, and

to unite our strength to maintain international peace and security, and

to ensure, by the acceptance of principles and the institution of methods, that armed force shall not be used, save in the common interest, and

to employ international machinery for the promotion of the economic and social advancement of all peoples,

HAVE RESOLVED TO COMBINE OUR EFFORTS TO ACCOMPLISH THESE AIMS

Accordingly, our respective Governments, through representatives assembled in the city of San Francisco, who have exhibited their full powers found to be in good and due form, have agreed to the present Charter of the United Nations and do hereby establish an international organization to be known as the United Nations.

CHAPTER I - PURPOSES AND PRINCIPLES

Article 1

The Purposes of the United Nations are:

1. To maintain international peace and security, and to that end: to take effective collective measures for the prevention and removal of threats to the peace, and for the suppression of acts of aggression or other breaches of the peace, and to bring about by peaceful means, and in conformity with the principles of justice and international law, adjustment or settlement of international disputes or situations which might lead to a breach of the peace;
2. To develop friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, and to take other appropriate measures to strengthen universal peace;
3. To achieve international cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for funda-

mental freedoms for all without distinction as to race, sex, language, or religion; and

4. To be a center for harmonizing the actions of nations in the attainment of these common ends.

Article 2

The Organization and its Members, in pursuit of the Purposes stated in Article 1, shall act in accordance with the following Principles.

1. The Organization is based on the principle of the sovereign equality of all its Members.
2. All Members, in order to ensure to all of them the rights and benefits resulting from membership, shall fulfil in good faith the obligations assumed by them in accordance with the present Charter.
3. All Members shall settle their international disputes by peaceful means in such a manner that international peace and security, and justice, are not endangered.
4. All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations.
5. All Members shall give the United Nations every assistance in any action it takes in accordance with the present Charter, and shall refrain from giving assistance to any state against which the United Nations is taking preventive or enforcement action.
6. The Organization shall ensure that states which are not Members of the United Nations act in accordance with these Principles so far as may be necessary for the maintenance of international peace and security.
7. Nothing contained in the present Charter shall authorize the United Nations to intervene in matters which are essentially within the domestic jurisdiction of any state or shall require the Members to submit such matters to settlement under the present Charter; but this principle shall not prejudice the application of enforcement measures under Chapter VII.

CHAPTER II - MEMBERSHIP

Article 3

The original Members of the United Nations shall be the states which, having participated in the United Nations Conference on International Organization at San Francisco, or having previously signed the Declaration by United Nations of January 1, 1942, sign the present Charter and ratify it in accordance with Article 110.

Article 4

1. Membership in the United Nations is open to all other peace-loving states which accept the obligations contained in the present Charter and, in the judgment of the Organization, are able and willing to carry out these obligations.
2. The admission of any such state to membership in the United Nations will be effected by a decision of the General Assembly upon the recommendation of the Security Council.

Article 5

A Member of the United Nations against which preventive or enforcement action has been taken by the Security Council may be suspended from the exercise of the rights and privileges of membership by the General Assembly upon the recommendation of the Security Council. The exercise of these rights and privileges may be restored by the Security Council.

Article 6

A Member of the United Nations which has persistently violated the Principles contained in the present Charter may be expelled from the Organization by the General Assembly upon the recommendation of the Security Council.

CHAPTER III - ORGANS**Article 7**

1. There are established as the principal organs of the United Nations: a General Assembly, a Security Council, an Economic and Social Council, a Trusteeship Council, an International Court of Justice, and a Secretariat.

2. Such subsidiary organs as may be found necessary may be established in accordance with the present Charter.

Article 8

The United Nations shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and subsidiary organs.

CHAPTER IV - THE GENERAL ASSEMBLY**Composition****Article 9**

1. The General Assembly shall consist of all the Members of the United Nations.

2. Each Member shall have not more than five representatives in the General Assembly. Functions and Powers

Article 10

The General Assembly may discuss any questions or any matters within the scope of the present Charter or relating to the powers and functions of any organs provided for in the present Charter, and, except as provided in Article 12, may make recommendations to the Members of the United Nations or to the Security Council or to both on any such questions or matters.

Article 11

1. The General Assembly may consider the general principles of cooperation in the maintenance of international peace and security, including the principles governing disarmament and the regulation of armaments, and may make recommendations with regard to such principles to the Members or to the Security Council or to both.

2. The General Assembly may discuss any questions relating to the maintenance of international peace and security brought before it by any Member of the United Nations, or by the Security Council, or by a state which is not a member of the United Nations in accordance with Article 35, paragraph 2, and, except as provided in Article 12, may make recommendations with regard to any such questions to the state or states concerned or to the Security Council or to both. Any such question on which action is necessary shall be referred to the Security Council by the General Assembly either before or after discussion.

3. The General Assembly may call the attention of the Security Council to situations which are likely to

endanger international peace and security.

4. The powers of the General Assembly set forth in this Article shall not limit the general scope of Article 10.

Article 12

1. While the Security Council is exercising in respect of any dispute or situation the functions assigned to it in the present Charter, the General Assembly shall not make any recommendation with regard to that dispute or situation unless the Security Council so requests.

2. The Secretary-General, with the consent of the Security Council, shall notify the General Assembly at each session of any matters relative to the maintenance of international peace and security which are being dealt with by the Security Council and shall similarly notify the General Assembly, or the Members of the United Nations if the General Assembly is not in session, immediately the Security Council ceases to deal with such matters.

Article 13

1. The General Assembly shall initiate studies and make recommendations for the purpose of:

a. promoting international cooperation in the political field and encouraging the progressive development of international law and its codification;

b. promoting international cooperation in the economic, social, cultural, educational, and health fields, and assisting in the realization of human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

2. The further responsibilities, functions, and powers of the General Assembly with respect to matters mentioned in paragraph 1(b) above are set forth in Chapters IX and X.

Article 14

Subject to the provisions of Article 12, the General Assembly may recommend measures for the peaceful adjustment of any situation, regardless of origin, which it deems likely to impair the general welfare or friendly relations among nations, including situations resulting from a violation of the provisions of the present Charter setting forth the Purposes and Principles of the United Nations.

Article 15

1. The General Assembly shall receive and consider annual and special reports from the Security Council; these reports shall include an account of the measures that the Security Council has decided upon or taken to maintain international peace and security.

2. The General Assembly shall receive and consider reports from the other organs of the United Nations.

Article 16

The General Assembly shall perform such functions with respect to the international trusteeship system as are assigned to it under Chapters XII and XIII, including the approval of the trusteeship agreements for areas not designated as strategic.

Article 17

1. The General Assembly shall consider and approve the budget of the Organization.

2. The expenses of the Organization shall be borne by the Members as apportioned by the General Assembly.

3. The General Assembly shall consider and approve any financial and budgetary arrangements with specialized agencies referred to in Article 57 and shall examine the administrative budgets of such specialized agencies with a view to making recommendations to the agencies concerned.

Voting Article 18

1. Each member of the General Assembly shall have one vote.
2. Decisions of the General Assembly on important questions shall be made by a two-thirds majority of the members present and voting. These questions shall include: recommendations with respect to the maintenance of international peace and security, the election of the non-permanent members of the Security Council, the election of the members of the Economic and Social Council, the election of members of the Trusteeship Council in accordance with paragraph 1(c) of Article 86, the admission of new Members to the United Nations, the suspension of the rights and privileges of membership, the expulsion of Members, questions relating to the operation of the trusteeship system, and budgetary questions.
3. Decisions on other questions, including the determination of additional categories of questions to be decided by a two-thirds majority, shall be made by a majority of the members present and voting.

Article 19

A Member of the United Nations which is in arrears in the payment of its financial contributions to the Organization shall have no vote in the General Assembly if the amount of its arrears equals or exceeds the amount of the contributions due from it for the preceding two full years. The General Assembly may, nevertheless, permit such a Member to vote if it is satisfied that the failure to pay is due to conditions beyond the control of the Member.

PROCEDURE

Article 20

The General Assembly shall meet in regular annual sessions and in such special sessions as occasion may require. Special sessions shall be convoked by the Secretary-General at the request of the Security Council or of a majority of the Members of the United Nations.

Article 21

The General Assembly shall adopt its own rules of procedure. It shall elect its President for each session.

Article 22

The General Assembly may establish such subsidiary organs as it deems necessary for the performance of its functions.

CHAPTER V - THE SECURITY COUNCIL

COMPOSITION

Article 23

1. The Security Council shall consist of eleven Members of the United Nations. The Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America shall be permanent members of the Security Council. The General Assembly shall elect six other Members of the United Nations to be non-permanent members of the Security Council, due regard being specially paid, in the first instance to the contribution of Members of the

United Nations to the maintenance of international peace and security and to the other purposes of the Organization, and also to equitable geographical distribution.

2. The non-permanent members of the Security Council shall be elected for a term of two years. In the first election of the non-permanent members, however, three shall be chosen for a term of one year. A retiring

member shall not be eligible for immediate re-election.

3. Each member of the Security Council shall have one representative. Functions and Powers

Article 24

1. In order to ensure prompt and effective action by the United Nations, its Members confer on the Security Council primary responsibility for the maintenance of international peace and security, and agree that in carrying out its duties under this responsibility the Security Council acts on their behalf.

2. In discharging these duties the Security Council shall act in accordance with the Purposes and Principles of the United Nations. The specific powers granted to the Security Council for the discharge of these duties are laid down in Chapters VI, VII, VIII, and II

3. The Security Council shall submit annual and, when necessary, special reports to the General Assembly for its consideration.

Article 25

The Members of the United Nations agree to accept and carry out the decisions of the Security Council in accordance with the present Charter.

Article 26

In order to promote the establishment and maintenance of international peace and security with the least diversion for armaments of the world's human and economic resources, the Security Council shall be responsible for formulating, with the assistance of the Military Staff Committee referred to in Article 47, plans to be submitted to the Members of the United Nations for the establishment of a system for the regulation of armaments.

VOTING

Article 27

1. Each member of the Security Council shall have one vote.
2. Decisions of the Security Council on procedural matters shall be made by an affirmative vote of seven members.
3. Decisions of the Security Council on all other matters shall be made by an affirmative vote of seven members including the concurring votes of the permanent members; provided that, in decisions under Chapter VI, and under paragraph 3 of Article 52, a party to a dispute shall abstain from voting.

PROCEDURE

Article 28

- I. The Security Council shall be so organized as to be able to function continuously. Each member of the Security Council shall for this purpose be represented at all times at the seat of the Organization.
2. The Security Council shall hold periodic meetings at which each of its members may, if it so desires, be represented by a member of the government or by some other specially designated representative.
3. The Security Council may hold meetings at such places other than the seat of the Organization as, in its judgment will best facilitate its work.

Article 29

The Security Council may establish such subsidiary organs as it deems necessary for the performance of its functions.

Article 30

The Security Council shall adopt its own rules of procedure, including the method of selecting its President.

Article 31

Any Member of the United Nations which is not a member of the Security Council may participate, without vote, in the discussion of any question brought before the Security Council whenever the latter considers that the interests of that Member are specially affected.

Article 32

Any Member of the United Nations which is not a member of the Security Council or any state which is not a Member of the United Nations, if it is a party to a dispute under consideration by the Security Council, shall be invited to participate, without vote, in the discussion relating to the dispute. The Security Council shall lay down such conditions as it deems just for the participation of a state which is not a Member of the United Nations.

CHAPTER VI - PACIFIC SETTLEMENT OF DISPUTES**Article 33**

1. The parties to any dispute, the continuance of which is likely to endanger the maintenance of international peace and security, shall, first of all, seek a solution by negotiation, enquiry, mediation, conciliation, arbitration, judicial settlement, resort to regional agencies or arrangements, or other peaceful means of their own choice.

2. The Security Council shall, when it deems necessary, call upon the parties to settle their dispute by such means.

Article 34

The Security Council may investigate any dispute, or any situation which might lead to international friction or give rise to a dispute, in order to determine whether the continuance of the dispute or situation is likely to endanger the maintenance of international peace and security.

Article 35

1. Any Member of the United Nations may bring any dispute, or any situation of the nature referred to in Article 34, to the attention of the Security Council or of the General Assembly.

2. A state which is not a Member of the United Nations may bring to the attention of the Security Council or of the General Assembly any dispute to which it is a party if it accepts in advance, for the purposes of the dispute, the obligations of pacific settlement provided in the present Charter.

3. The proceedings of the General Assembly in respect of matters brought to its attention under this Article will be subject to the provisions of Articles 11 and 12.

Article 36

1. The Security Council may, at any stage of a dispute of the nature referred to in Article 33 or of a situation of like nature, recommend appropriate procedures or methods of adjustment.

2. The Security Council should take into consideration any procedures for the settlement of the dispute which have already been adopted by the parties.

3. In making recommendations under this Article the Security Council should also take into consideration that legal disputes should as a general rule be referred by the parties to the International Court of Justice in accordance with the provisions of the Statute of the Court.

Article 37

1. Should the parties to a dispute of the nature referred to in Article 33 fail to settle it by the means indicated in that Article, they shall refer it to the Security Council.
2. If the Security Council deems that the continuance of the dispute is in fact likely to endanger the maintenance of international peace and security, it shall decide whether to take action under Article 36 or to recommend such terms of settlement as it may consider appropriate.

Article 38

Without prejudice to the provisions of Articles 33 to 37, the Security Council may, if all the parties to any dispute so request, make recommendations to the parties with a view to a pacific settlement of the dispute.

**CHAPTER VII - ACTION WITH RESPECT TO THREATS TO THE PEACE,
BREACHES OF THE PEACE, AND ACTS OF AGGRESSION****Article 39**

The Security Council shall determine the existence of any threat to the peace, breach of the peace, or act of aggression and shall make recommendations, or decide what measures shall be taken in accordance with Articles 41 and 42, to maintain or restore international peace and security.

Article 40

In order to prevent an aggravation of the situation, the Security Council may, before making the recommendations or deciding upon the measures provided for in Article 39, call upon the parties concerned to comply with such provisional measures as it deems necessary or desirable. Such provisional measures shall be without prejudice to the rights, claims, or position of the parties concerned. The Security Council shall duly take account of failure to comply with such provisional measures.

Article 41

The Security Council may decide what measures not involving the use of armed force are to be employed to give effect to its decisions, and it may call upon the Members of the United Nations to apply such measures. These may include complete or partial interruption of economic relations and of rail, sea, air, postal, telegraphic, radio, and other means of communication, and the severance of diplomatic relations.

Article 42

Should the Security Council consider that measures provided for in Article 41 would be inadequate or have proved to be inadequate, it may take such action by air, sea, or land forces as may be necessary to maintain or restore international peace and security. Such action may include demonstrations, blockade, and other operations by air, sea, or land forces of Members of the United Nations.

Article 43

1. All Members of the United Nations, in order to contribute to the maintenance of international peace and security, undertake to make available to the Security Council, on its call and in accordance with a special agreement or agreements, armed forces, assistance, and facilities, including rights of passage, necessary for the purpose of maintaining international peace and security.
2. Such agreement or agreements shall govern the numbers and types of forces, their degree of readiness and general location, and the nature of the facilities and assistance to be provided.
3. The agreement or agreements shall be negotiated as soon as possible on the initiative of the Security Council. They shall be concluded between the Security Council and Members or between the Security Council and groups of Members and shall be subject to ratification by the signatory states in accordance with their respective constitutional processes.

Article 44

When the Security Council has decided to use force it shall, before calling upon a Member not represented on it to provide armed forces in fulfillment of the obligations assumed under Article 43, invite that Member, if the Member so desires, to participate in the decisions of the Security Council concerning the employment of contingents of that Member's armed forces.

Article 45

In order to enable the United Nations to take urgent military measures, Members shall hold immediately available national air-force contingents for combined international enforcement action. The strength and degree of readiness of these contingents and plans for their combined action shall be determined, within the limits laid down in the special agreement or agreements referred to in Article 43, by the Security Council with the assistance of the Military Staff Committee.

Article 46

Plans for the application of armed force shall be made by the Security Council with the assistance of the Military Staff Committee.

Article 47

1. There shall be established a Military Staff Committee to advise and assist the Security Council on all questions relating to the Security Council's military requirements for the maintenance of international peace and security, the employment and command of forces placed at its disposal, the regulation of armaments, and possible disarmament.

2. The Military Staff Committee shall consist of the Chiefs of Staff of the permanent members of the Security Council or their representatives. Any Member of the United Nations not permanently represented on the Committee shall be invited by the Committee to be associated with it when the efficient discharge of the Committee's responsibilities requires the participation of that Member in its work.

3. The Military Staff Committee shall be responsible under the Security Council for the strategic direction of any armed forces placed at the disposal of the Security Council. Questions relating to the command of such forces shall be worked out subsequently.

4. The Military Staff Committee, with the authorization of the Security Council and after consultation with appropriate regional agencies, may establish regional subcommittees.

Article 48

1. The action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all the Members of the United Nations or by some of them, as the Security Council may determine.

2. Such decisions shall be carried out by the Members of the United Nations directly and through their action in the appropriate international agencies of which they are members.

Article 49

The Members of the United Nations shall join in affording mutual assistance in carrying out the measures decided upon by the Security Council.

Article 50

If preventive or enforcement measures against any state are taken by the Security Council, any other state, whether a Member of the United Nations or not, which finds itself confronted with special economic problems arising from the carrying out of those measures shall have the right to consult the Security Council with regard to a solution of those problems.

Article 51

Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Mem-

represented on it to provide armed forces in fulfillment of the obligations assumed under Article 43, invite that Member, if the Member so desires, to participate in the decisions of the Security Council concerning the employment of contingents of that Member's armed forces.

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3. The Military Staff Committee shall be responsible under the Security Council for the strategic direction of any armed forces placed at the disposal of the Security Council. Questions relating to the command of such forces shall be worked out subsequently.

4. The Military Staff Committee, with the authorization of the Security Council and after consultation with appropriate regional agencies, may establish regional subcommittees.

Article 48

1. The action required to carry out the decisions of the Security Council for the maintenance of international peace and security shall be taken by all the Members of the United Nations or by some of them, as the Security Council may determine.

2. Such decisions shall be carried out by the Members of the United Nations directly and through their action in the appropriate international agencies of which they are members.

Article 49

The Members of the United Nations shall join in affording mutual assistance in carrying out the measures decided upon by the Security Council.

Article 50

If preventive or enforcement measures against any state are taken by the Security Council, any other state, whether a Member of the United Nations or not, which finds itself confronted with special economic problems arising from the carrying out of those measures shall have the right to consult the Security Council with regard to a solution of those problems.

Article 51

Nothing in the present Charter shall impair the inherent right of individual or collective self-defense if an armed attack occurs against a Member of the United Nations, until the Security Council has taken the

measures necessary to maintain international peace and security. Measures taken by Members in the exercise of this right of self-defense shall be immediately reported to the Security Council and shall not in any way affect the authority and responsibility of the Security Council under the present Charter to take at any time such action as it deems necessary in order to maintain or restore international peace and security.

CHAPTER VIII - REGIONAL ARRANGEMENTS

Article 52

1. Nothing in the present Charter precludes the existence of regional arrangements or agencies for dealing with such matters relating to the maintenance of international peace and security as are appropriate for regional action, provided that such arrangements or agencies and their activities are consistent with the Purposes and Principles of the United Nations.
2. The Members of the United Nations entering into such arrangements or constituting such agencies shall make every effort to achieve pacific settlement of local disputes through such regional arrangements or by such regional agencies before referring them to the Security Council
3. The Security Council shall encourage the development of pacific settlement of local disputes through such regional arrangements or by such regional agencies either on the initiative of the states concerned or by reference from the Security Council.
4. This Article in no way impairs the application of Articles 34 and 35.

Article 53

1. The Security Council shall, where appropriate, utilize such regional arrangements or agencies for enforcement action under its authority. But no enforcement action shall be taken under regional arrangements or by regional agencies without the authorization of the Security Council, with the exception of measures against any enemy state, as defined in paragraph 2 of this Article, provided for pursuant to Article 107 or in regional arrangements directed against renewal of aggressive policy on the part of any such state, until such time as the Organization may, on request of the Governments concerned, be charged with the responsibility for preventing further aggression by such a state.
2. The term enemy state as used in paragraph 1 of this Article applies to any state which during the Second World War has been an enemy of any signatory of the present Charter.

Article 54

The Security Council shall at all times be kept fully informed of activities undertaken or in contemplation under regional arrangements or by regional agencies for the maintenance of international peace and security.

CHAPTER IX - INTERNATIONAL ECONOMIC AND SOCIAL COOPERATION

Article 55

With a view to the creation of conditions of stability and well-being which are necessary for peaceful and friendly relations among nations based on respect for the principle of equal rights and self-determination of peoples, the United Nations shall promote:

- a. higher standards of living, full employment, and conditions of economic and social progress and development;
- b. solutions of international economic, social, health, and related problems; and international cultural and educational cooperation; and

c. universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.

Article 56

All Members pledge themselves to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in Article 55.

Article 57

1. The various specialized agencies, established by intergovernmental agreement and having wide international responsibilities, as defined in their basic instruments, in economic, social, cultural, educational, health, and related fields, shall be brought into relationship with the United Nations in accordance with the provisions of Article 63.

2. Such agencies thus brought into relationship with the United Nations are hereinafter referred to as specialized agencies.

Article 58

The Organization shall make recommendations for the coordination of the policies and activities of the specialized agencies.

Article 59

The Organization shall, where appropriate, initiate negotiations among the states concerned for the creation of any new specialized agencies required for the accomplishment of the purposes set forth in Article 55.

Article 60

Responsibility for the discharge of the functions of the Organization set forth in this Chapter shall be vested in the General Assembly and, under the authority of the General Assembly, in the Economic and Social Council, which shall have for this purpose the powers set forth in Chapter X.

CHAPTER X - THE ECONOMIC AND SOCIAL COUNCIL

COMPOSITION

Article 61

1. The Economic and Social Council shall consist of eighteen Members of the United Nations elected by the General Assembly.

2. Subject to the provisions of paragraph 3, six members of the Economic and Social Council shall be elected each year for a term of three years. A retiring member shall be eligible for immediate re-election.

3. At the first election, eighteen members of the Economic and Social Council shall be chosen. The term of office of six members so chosen shall expire at the end of one year, and of six other members at the end of two years, in accordance with arrangements made by the General Assembly.

4. Each member of the Economic and Social Council shall have one representative.

Functions and Powers

Article 62

1. The Economic and Social Council may make or initiate studies and reports with respect to international economic, social, cultural, educational, health, and related matters and may make recommendations with respect to any such matters to the General Assembly, to the Members of the United Nations, and to the specialized agencies concerned.

2. It may make recommendations for the purpose of promoting respect for, and observance of, human rights and fundamental freedoms for all.

3. It may prepare draft conventions for submission to the General Assembly, with respect to matters falling within its competence.

4. It may call, in accordance with the rules prescribed by the United Nations, international conferences on matters falling within its competence.

Article 63

1. The Economic and Social Council may enter into agreements with any of the agencies referred to in Article 57, defining the terms on which the agency concerned shall be brought into relationship with the United Nations. Such agreements shall be subject to approval by the General Assembly.

2. It may coordinate the activities of the specialized agencies through consultation with and recommendations to such agencies and through recommendations to the General Assembly and to the Members of the United Nations.

Article 64

1. The Economic and Social Council may take appropriate steps to obtain regular reports from the specialized agencies. It may make arrangements with the Members of the United Nations and with the specialized agencies to obtain reports on the steps taken to give effect to its own recommendations and to recommendations on matters falling within its competence made by the General Assembly.

2. It may communicate its observations on these reports to the General Assembly.

Article 65

The Economic and Social Council may furnish information to the Security Council and shall assist the Security Council upon its request.

Article 66

1. The Economic and Social Council shall perform such functions as fall within its competence in connection with the carrying out of the recommendations of the General Assembly.

2. It may, with the approval of the General Assembly, perform services at the request of Members of the United Nations and at the request of specialized agencies.

3. It shall perform such other functions as are specified elsewhere in the present Charter or as may be assigned to it by the General Assembly.

VOTING

Article 67

1. Each member of the Economic and Social Council shall have one vote.

2. Decisions of the Economic and Social Council shall be made by a majority of the members present and voting.

PROCEDURE

Article 68

The Economic and Social Council shall set up commissions in economic and social fields and for the promotion of human rights, and such other commissions as may be required for the performance of its functions.

Article 69

The Economic and Social Council shall invite any Member of the United Nations to participate, without vote, in its deliberations on any matter of particular concern to that Member.

Article 70

The Economic and Social Council may make arrangements for representatives of the specialized agencies to participate, without vote, in its deliberations and in those of the commissions established by it, and for its representatives to participate in the deliberations of the specialised agencies.

Article 71

The Economic and Social Council may make suitable arrangements for consultation with non-governmental organizations which are concerned with matters within its competence. Such arrangements may be made with international organizations and, where appropriate, with national organizations after consultation with the Member of the United Nations concerned.

Article 72

1. The Economic and Social Council shall adopt its own rules of procedure, including the method of selecting its President.
2. The Economic and Social Council shall meet as required in accordance with its rules, which shall include provision for the convening of meetings on the request of a majority of its members.

**CHAPTER XI - DECLARATION REGARDING
NON-SELF-GOVERNING TERRITORIES****Article 73**

Members of the United Nations which have or assume responsibilities for the administration of territories whose peoples have not yet attained a full measure of self-government recognize the principle that the interests of the inhabitants of these territories are paramount, and accept as a sacred trust the obligation to promote to the utmost, within the system of international peace and security established by the present Charter, the well-being of the inhabitants of these territories, and, to this end:

- a. to ensure, with due respect for the culture of the peoples concerned, their political, economic, social, and educational advancement, their just treatment, and their protection against abuses;
- b. to develop self-government, to take due account of the political aspirations of the peoples, and to assist them in the progressive development of their free political institutions, according to the particular circumstances of each territory and its peoples and their varying stages of advancement;
- c. to further international peace and security ;
- d. to promote constructive measures of development, to encourage research, and to cooperate with one another and, when and where appropriate, with specialized international bodies with a view to the practical achievement of the social, economic, and scientific purposes set forth in this Article; and
- e. to transmit regularly to the Secretary-General for information purposes, subject to such limitation as security and constitutional considerations may require, statistical and other information of a technical nature relating to economic, social, and educational conditions in the territories for which they are respectively responsible other than those territories to which Chapters XII and XIII apply.

Article 74

Members of the United Nations also agree that their policy in respect of the territories to which this Chapter applies, no less than in respect of their metropolitan areas, must be based on the general principle of good-neighborliness, due account being taken of the interests and well-being of the rest of the world, in social, economic, and commercial matters.

CHAPTER XII - INTERNATIONAL TRUSTEESHIP SYSTEM**Article 75**

The United Nations shall establish under its authority an international trusteeship system for the administration and supervision of such territories as may be placed thereunder by subsequent individual agreements. These territories are hereinafter referred to as trust territories.

Article 76

The basic objectives of the trusteeship system, in accordance with the Purposes of the United Nations laid down in Article 1 of the present Charter, shall be:

- a. to further international peace and security
- b. to promote the political, economic, social, and educational advancement of the inhabitants of the trust territories, and their progressive development towards self-government or independence as may be appropriate to the particular circumstances of each territory and its peoples and the freely expressed wishes of the peoples concerned, and as may be provided by the terms of each trusteeship agreement;
- c. to encourage respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion, and to encourage recognition of the interdependence of the peoples of the world; and
- d. to ensure equal treatment in social, economic, and commercial matters for all Members of the United Nations and their nationals, and also equal treatment for the latter in the administration of justice, without prejudice to the attainment of the foregoing objectives and subject to the provisions of Article 80.

Article 77

1. The trusteeship system shall apply to such territories in the following categories as may be placed thereunder by means of trusteeship agreements

- a. territories now held under mandate;
- b. territories which may be detached from enemy states as a result of the Second World War; and
- c. territories voluntarily placed under the system by states responsible for their administration.

2. It will be a matter for subsequent agreement as to which territories in the foregoing categories will be brought under the trusteeship system and upon what terms.

Article 78

The trusteeship system shall not apply to territories which have become Members of the United Nations, relationship among which shall be based on respect for the principle of sovereign equality.

Article 79

The terms of trusteeship for each territory to be placed under the trusteeship system, including any alteration or amendment, shall be agreed upon by the states directly concerned, including the mandatory power in the case of territories held under mandate by a Member of the United Nations, and shall be approved as provided for in Articles 83 and 85.

Article 80

1. Except as may be agreed upon in individual trusteeship agreements, made under Articles 77, 79, and 81, placing each territory under the trusteeship system, and until such agreements have been concluded, nothing in this Chapter shall be construed in or of itself to alter in any manner the rights whatsoever of any states or any peoples or the terms of existing international instruments to which Members of the United Nations may respectively be parties.

2. Paragraph 1 of this Article shall not be interpreted as giving grounds for delay or postponement of the negotiation and conclusion of agreements for placing mandated and other territories under the trusteeship system as provided for in Article 77.

Article 81

The trusteeship agreement shall in each case include the terms under which the trust territory will be administered and designate the authority which will exercise the administration of the trust territory. Such authority, hereinafter called the administering authority, may be one or more states or the Organization itself.

Article 82

There may be designated, in any trusteeship agreement, a strategic area or areas which may include part or all of the trust territory to which the agreement applies, without prejudice to any special agreement or agreements made under Article 43.

Article 83

1. All functions of the United Nations relating to strategic areas, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the Security Council.

2. The basic objectives set forth in Article 76 shall be applicable to the people of each strategic area.

3. The Security Council shall, subject to the provisions of the trusteeship agreements and without prejudice to security considerations, avail itself of the assistance of the Trusteeship Council to perform those functions of the United Nations under the trusteeship system relating to political, economic, social, and educational matters in the strategic areas.

Article 84

It shall be the duty of the administering authority to ensure that the trust territory shall play its part in the maintenance of international peace and security. To this end the administering authority may make use of volunteer forces, facilities, and assistance from the trust territory in carrying out the obligations towards the Security Council undertaken in this regard by the administering authority, as well as for local defense and the maintenance of law and order within the trust territory.

Article 85

1. The functions of the United Nations with regard to trusteeship agreements for all areas not designated as strategic, including the approval of the terms of the trusteeship agreements and of their alteration or amendment, shall be exercised by the General Assembly.

2. The Trusteeship Council, operating under the authority of the General Assembly, shall assist the General Assembly in carrying out these functions.

CHAPTER XIII - THE TRUSTEESHIP COUNCIL

COMPOSITION

Article 86

1. The Trusteeship Council shall consist of the following Members of the United Nations:
 - a. those Members administering trust territories;
 - b. such of those Members mentioned by name in Article 23 as are not administering trust territories; and
 - c. as many other Members elected for three-year terms by the General Assembly as may be necessary to ensure that the total number of members of the Trusteeship Council is equally divided between those Members of the United Nations which administer trust territories and those which do not.
2. Each member of the Trusteeship Council shall designate one specially qualified person to represent it therein.

FUNCTIONS AND POWERS

Article 87

The General Assembly and, under its authority, the Trusteeship Council, in carrying out their functions, may:

- a. consider reports submitted by the administering authority;
- b. accept petitions and examine them in consultation with the administering authority;
- c. provide for periodic visits to the respective trust territories at times agreed upon with the administering authority; and
- d. take these and other actions in conformity with the terms of the trusteeship agreements.

Article 88

The Trusteeship Council shall formulate a questionnaire on the political, economic, social, and educational advancement of the inhabitants of each trust territory, and the administering authority for each trust territory within the competence of the General Assembly shall make an annual report to the General Assembly upon the basis of such questionnaire.

VOTING

Article 89

1. Each member of the Trusteeship Council shall have one vote.
2. Decisions of the Trusteeship Council shall be made by a majority of the members present and voting.

PROCEDURE

Article 90

1. The Trusteeship Council shall adopt its own rules of procedure, including the method of selecting its President.
2. The Trusteeship Council shall meet as required in accordance with its rules, which shall include provision for the convening of meetings on the request of a majority of its members.

Article 91

The Trusteeship Council shall, when appropriate, avail itself of the assistance of the Economic and Social Council and of the specialized agencies in regard to matters with which they are respectively concerned.

CHAPTER XIV - THE INTERNATIONAL COURT OF JUSTICE

Article 92

The International Court of Justice shall be the principal judicial organ of the United Nations. It shall function in accordance with the annexed Statute, which is based upon the Statute of the Permanent Court of International Justice and forms an integral part of the present Charter.

Article 93

1. All Members of the United Nations are ipso facto parties to the Statute of the International Court of Justice.

2. A state which is not a Member of the United Nations may become a party to the Statute of the International Court of Justice on conditions to be determined in each case by the General Assembly upon the recommendation of the Security Council.

Article 94

1. Each Member of the United Nations undertakes to comply with the decision of the International Court of Justice in any case to which it is a party.

2. If any party to a case fails to perform the obligations incumbent upon it under a judgment rendered by the Court, the other party may have recourse to the Security Council, which may, if it deems necessary, make recommendations or decide upon measures to be taken to give effect to the judgment.

Article 95

Nothing in the present Charter shall prevent Members of the United Nations from entrusting the solution of their differences to other tribunals by virtue of agreements already in existence or which may be concluded in the future.

Article 96

1. The General Assembly or the Security Council may request the International Court of Justice to give an advisory opinion on any legal question.

2. Other organs of the United Nations and specialized agencies, which may at any time be so authorized by the General Assembly, may also request advisory opinions of the Court on legal questions arising within the scope of their activities.

CHAPTER XV - THE SECRETARIAT

Article 97

The Secretariat shall comprise a Secretary-General and such staff as the Organization may require. The Secretary-General shall be appointed by the General Assembly upon the recommendation of the Security Council. He shall be the chief administrative officer of the Organization.

Article 98

The Secretary-General shall act in that capacity in all meetings of the General Assembly, of the Security Council, of the Economic and Social Council, and of the Trusteeship Council, and shall perform such other functions as are entrusted to him by these organs. The Secretary-General shall make an annual report to the General Assembly on the work of the Organization.

Article 99

The Secretary-General may bring to the attention of the Security Council any matter which in his opinion may threaten the maintenance of international peace and security.

Article 100

1. In the performance of their duties the Secretary-General and the staff shall not seek or receive instructions from any government or from any other authority external to the Organization. They shall refrain

from any action which might reflect on their position as international officials responsible only to the Organization.

2. Each Member of the United Nations undertakes to respect the exclusively international character of the responsibilities of the Secretary-General and the staff and not to seek to influence them in the discharge of their responsibilities.

Article 101

1. The staff shall be appointed by the Secretary-General under regulations established by the General Assembly.

2. Appropriate staffs shall be permanently assigned to the Economic and Social Council, the Trusteeship Council, and, as required, to other organs of the United Nations. These staffs shall form a part of the Secretariat.

3. The paramount consideration in the employment of the staff and in the determination of the conditions of service shall be the necessity of securing the highest standards of efficiency, competence, and integrity. Due regard shall be paid to the importance of recruiting the staff on as wide a geographical basis as possible.

CHAPTER XVI - MISCELLANEOUS PROVISIONS

Article 102

1. Every treaty and every international agreement entered into by any Member of the United Nations after the present Charter comes into force shall as soon as possible be registered with the Secretariat and published by it.

2. No party to any such treaty or international agreement which has not been registered in accordance with the provisions of paragraph 1 of this Article may invoke that treaty or agreement before any organ of the United Nations.

Article 103

In the event of a conflict between the obligations of the Members of the United Nations under the present Charter and their obligations under any other international agreement, their obligations under the present Charter shall prevail.

Article 104

The Organization shall enjoy in the territory of each of its Members such legal capacity as may be necessary for the exercise of its functions and the fulfillment of its purposes.

Article 105

1. The Organization shall enjoy in the territory of each of its Members such privileges and immunities as are necessary for the fulfillment of its purposes.

2. Representatives of the Members of the United Nations and officials of the Organization shall similarly enjoy such privileges and immunities as are necessary for the independent exercise of their functions in connection with the Organization.

3. The General Assembly may make recommendations with a view to determining the details of the application of paragraphs 1 and 2 of this Article or may propose conventions to the Members of the United Nations for this purpose.

CHAPTER XVII - TRANSITIONAL SECURITY ARRANGEMENTS**Article 106**

Pending the coming into force of such special agreements referred to in Article 43 as in the opinion of the Security Council enable it to begin the exercise of its responsibilities under Article 42, the parties to the Four-Nation Declaration, signed at Moscow, October 30, 1943, and France, shall, in accordance with the provisions of paragraph 5 of that Declaration, consult with one another and as occasion requires with other Members of the United Nations with a view to such joint action on behalf of the Organization as may be necessary for the purpose of maintaining international peace and security.

Article 107

Nothing in the present Charter shall invalidate or preclude action, in relation to any state which during the Second World War has been an enemy of any signatory to the present Charter, taken or authorized as a result of that war by the Governments having responsibility for such action.

CHAPTER XVIII - AMENDMENTS**Article 108**

Amendments to the present Charter shall come into force for all Members of the United Nations when they have been adopted by a vote of two thirds of the members of the General Assembly and ratified in accordance with their respective constitutional processes by two thirds of the Members of the United Nations, including all the permanent members of the Security Council.

Article 109

1. A General Conference of the Members of the United Nations for the purpose of reviewing the present Charter may be held at a date and place to be fixed by a two-thirds vote of the members of the General Assembly and by a vote of any seven members of the Security Council. Each Member of the United Nations shall have one vote in the conference.
2. Any alteration of the present Charter recommended by a two-thirds vote of the conference shall take effect when ratified in accordance with their respective constitutional processes by two thirds of the Members of the United Nations including all the permanent members of the Security Council.
3. If such a conference has not been held before the tenth annual session of the General Assembly following the coming into force of the present Charter, the proposal to call such a conference shall be placed on the agenda of that session of the General Assembly, and the conference shall be held if so decided by a majority vote of the members of the General Assembly and by a vote of any seven members of the Security Council.

CHAPTER XIX - RATIFICATION AND SIGNATURE**Article 110**

1. The present Charter shall be ratified by the signatory states in accordance with their respective constitutional processes.
2. The ratifications shall be deposited with the Government of the United States of America, which shall notify all the signatory states of each deposit as well as the Secretary-General of the Organization when he has been appointed.
3. The present Charter shall come into force upon the deposit of ratifications by the Republic of China, France, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland, and the United States of America, and by a majority of the other signatory states. A protocol of the ratifications deposited shall thereupon be drawn up by the Government of the United States of America which shall communicate copies thereof to all the signatory states.
4. -The states signatory to the present Charter which ratify it after it has come into force will become original Members of the United Nations on the date of the deposit of their respective ratifications.

Article 111

The present Charter, of which the Chinese, French, Russian, English, and Spanish texts are equally authentic, shall remain deposited in the archives of the Government of the United States of America. Duly certified copies thereof shall be transmitted by that Government to the Governments of the other signatory states.

IN FAITH WHEREOF

the representatives of the Governments of the United Nations
have signed the present Charter.

DONE at the city of San Francisco the twenty-sixth day of June,
one thousand nine hundred and forty-five.



**STATUTE OF
THE INTERNATIONAL
COURT OF JUSTICE**

Article 1

THE INTERNATIONAL COURT OF JUSTICE established by the Charter of the United Nations as the principal judicial organ of the United Nations shall be constituted and shall function in accordance with the provisions of the present Statute.

CHAPTER I - ORGANIZATION OF THE COURT**Article 2**

The Court shall be composed of a body of independent judges, elected regardless of their nationality from among persons of high moral character, who possess the qualifications required in their respective countries for appointment to the highest judicial offices, or are jurisconsults of recognized competence in international law.

Article 3

1. The Court shall consist of fifteen members, no two of whom may be nationals of the same state.
2. A person who for the purposes of membership in the Court could be regarded as a national of more than one state shall be deemed to be a national of the one in which he ordinarily exercises civil and political rights.

Article 4

1. The members of the Court shall be elected by the General Assembly and by the Security Council from a list of persons nominated by the national groups in the Permanent Court of Arbitration, in accordance with the following provisions.
2. In the case of Members of the United Nations not represented in the Permanent Court of Arbitration, candidates shall be nominated by national groups appointed for this purpose by their governments under the same conditions as those prescribed for members of the Permanent Court of Arbitration by Article 44 of the Convention of The Hague of 1907 for the pacific settlement of international disputes.
3. The conditions under which a state which is a party to the present Statute but is not a Member of the United Nations may participate in electing the members of the Court shall, in the absence of a special agreement, be laid down by the General Assembly upon recommendation of the Security Council.

Article 5

1. At least three months before the date of the election, the Secretary-General of the United Nations shall address a written request to the members of the Permanent Court of Arbitration belonging to the states which are parties to the present Statute, and to the members of the national groups appointed under Article 4, paragraph 2, inviting them to undertake, within a given time, by national groups, the nomination of persons in a position to accept the duties of a member of the Court.
2. No group may nominate more than four persons, not more than two of whom shall be of their own nationality. In no case may the number of candidates nominated by a group be more than double the number of seats to be filled.

Article 6

Before making these nominations, each national group is recommended to consult its highest court of justice, its legal faculties and schools of law, and its national academies and national sections of international academies devoted to the study of law.

Article 7

1. The Secretary-General shall prepare a list in alphabetical order of all the persons thus nominated. Save as provided in Article 12, paragraph 2, these shall be the only persons eligible.
2. The Secretary-General shall submit this list to the General Assembly and to the Security Council.

Article 8

The General Assembly and the Security Council shall proceed independently of one another to elect the members of the Court.

Article 9

At every election, the electors shall bear in mind not only that the persons to be elected should individually possess the qualifications required, but also that in the body as a whole the representation of the main forms of civilization and of the principal legal systems of the world should be assured.

Article 10

1. Those candidates who obtain an absolute majority of votes in the General Assembly and in the Security Council shall be considered as elected.
2. Any vote of the Security Council, whether for the election of judges or for the appointment of members of the conference envisaged in Article 12, shall be taken without any distinction between permanent and non-permanent members of the Security Council.
3. In the event of more than one national of the same state obtaining an absolute majority of the votes both of the General Assembly and of the Security Council, the eldest of these only shall be considered as elected.

Article 11

If, after the first meeting held for the purpose of the election, one or more seats remain to be filled, a second and, if necessary, a third meeting shall take place.

Article 12

1. If, after the third meeting, one or more seats still remain unfilled, a joint conference consisting of six members, three appointed by the General Assembly and three by the Security Council, may be formed at any time at the request of either the General Assembly or the Security Council, for the purpose of choosing by the vote of an absolute majority one name for each seat still vacant, to submit to the General Assembly and the Security Council for their respective acceptance.
2. If the joint conference is unanimously agreed upon any person who fulfils the required conditions, he may be included in its list, even though he was not included in the list of nominations referred to in Article 7.
3. If the joint conference is satisfied that it will not be successful in procuring an election, those members of the Court who have already been elected shall, within a period to be fixed by the Security Council, proceed to fill the vacant seats by selection from among those candidates who have obtained votes either in the General Assembly or in the Security Council.
4. In the event of an equality of votes among the judges, the eldest judge shall have a casting vote.

Article 13

1. The members of the Court shall be elected for nine years and may be re-elected; provided, however, that of the judges elected at the first election, the terms of five judges shall expire at the end of three years and the terms of five more judges shall expire at the end of six years.
2. The judges whose terms are to expire at the end of the above-mentioned initial periods of three and six years shall be chosen by lot to be drawn by the Secretary-General immediately after the first election has been completed.
3. The members of the Court shall continue to discharge their duties until their places have been filled. Though replaced, they shall finish any cases which they may have begun.

4. In the case of the resignation of a member of the Court, the resignation shall be addressed to the President of the Court for transmission to the Secretary-General. This last notification makes the place vacant.

Article 14

Vacancies shall be filled by the same method as that laid down for the first election, subject to the following provision: the Secretary-General shall, within one month of the occurrence of the vacancy, proceed to issue the invitations provided for in Article 5, and the date of the election shall be fixed by the Security Council.

Article 15

A member of the Court elected to replace a member whose term of office has not expired shall hold office for the remainder of his predecessor's term.

Article 16

1. No member of the Court may exercise any political or administrative function, or engage in any other occupation of a professional nature.
2. Any doubt on this point shall be settled by the decision of the Court.

Article 17

1. No member of the Court may act as agent, counsel, or advocate in any case.
2. No member may participate in the decision of any case in which he has previously taken part as agent, counsel, or advocate for one of the parties, or as a member of a national or international court, or of a commission of enquiry, or in any other capacity.
3. Any doubt on this point shall be settled by the decision of the Court.

Article 18

1. No member of the Court can be dismissed unless, in the unanimous opinion of the other members, he has ceased to fulfil the required conditions.
2. Formal notification thereof shall be made to the Secretary-General by the Registrar.
3. This notification makes the place vacant.

Article 19

The members of the Court, when engaged on the business of the Court, shall enjoy diplomatic privileges and immunities.

Article 20

Every member of the Court shall, before taking up his duties, make a solemn declaration in open court that he will exercise his powers impartially and conscientiously.

Article 21

1. The Court shall elect its President and Vice-President for three years; they may be re-elected.
2. The Court shall appoint its Registrar and may provide for the appointment of such other officers as may be necessary.

Article 22

1. The seat of the Court shall be established at The Hague. This, however, shall not prevent the Court from sitting and exercising its functions elsewhere whenever the Court considers it desirable.

2. The President and the Registrar shall reside at the seat of the Court.

Article 23

1. The Court shall remain permanently in session, except during the judicial vacations, the dates and duration of which shall be fixed by the Court.

2. Members of the Court are entitled to periodic leave, the dates and duration of which shall be fixed by the Court, having in mind the distance between The Hague and the home of each judge.

3. Members of the Court shall be bound, unless they are on leave or prevented from attending by illness or other serious reasons duly explained to the President, to hold themselves permanently at the disposal of the Court.

Article 24

1. If, for some special reason, a member of the Court considers that he should not take part in the decision of a particular case, he shall so inform the President.

2. If the President considers that for some special reason one of the members of the Court should not sit in a particular case, he shall give him notice accordingly.

3. If in any such case the member of the Court and the President disagree, the matter shall be settled by the decision of the Court.

Article 25

1. The full Court shall sit except when it is expressly provided otherwise in the present Statute.

2. Subject to the condition that the number of judges available to constitute the Court is not thereby reduced below eleven, the Rules of the Court may provide for allowing one or more judges, according to circumstances and in rotation, to be dispensed from sitting.

3. A quorum of nine judges shall suffice to constitute the Court.

Article 26

1. The Court may from time to time form one or more chambers, composed of three or more judges as the Court may determine, for dealing with particular categories of cases; for example, labor cases and cases relating to transit and communications.

2. The Court may at any time form a chamber for dealing with a particular case. The number of judges to constitute such a chamber shall be determined by the Court with the approval of the parties.

3. Cases shall be heard and determined by the chambers provided for in this Article if the parties so request.

Article 27

A judgment given by any of the chambers provided for in Articles 26 and 29 shall be considered as rendered by the Court.

Article 28

The chambers provided for in Articles 26 and 29 may, with the consent of the parties, sit and exercise their functions elsewhere than at The Hague.

Article 29

With a view to the speedy despatch of business, the Court shall form annually a chamber composed of five judges which, at the request of the parties, may hear and determine cases by summary procedure. In

addition, two judges shall be selected for the purpose of replacing judges who find it impossible to sit.

Article 30

1. The Court shall frame rules for carrying out its functions. In particular, it shall lay down rules of procedure.
2. The Rules of the Court may provide for assessors to sit with the Court or with any of its chambers, without the right to vote.

Article 31

1. Judges of the nationality of each of the parties shall retain their right to sit in the case before the Court.
2. If the Court includes upon the Bench a judge of the nationality of one of the parties, any other party may choose a person to sit as judge. Such person shall be chosen preferably from among those persons who have been nominated as candidates as provided in Articles 4 and 5.
3. If the Court includes upon the Bench no judge of the nationality of the parties, each of these parties may proceed to choose a judge as provided in paragraph 2 of this Article.
4. The provisions of this Article shall apply to the case of Articles 26 and 29. In such cases, the President shall request one or, if necessary, two of the members of the Court forming the chamber to give place to the members of the Court of the nationality of the parties concerned, and, failing such, or if they are unable to be present, to the judges specially chosen by the parties.
5. Should there be several parties in the same interest, they shall, for the purpose of the preceding provisions, be reckoned as one party only. Any doubt upon this point shall be settled by the decision of the Court.
6. Judges chosen as laid down in paragraphs 2, 3, and 4 of this Article shall fulfil the conditions required by Articles 2, 17 (paragraph 2), 20, and 24 of the present Statute. They shall take part in the decision on terms of complete equality with their colleagues.

Article 32

1. Each member of the Court shall receive an annual salary.
2. The President shall receive a special annual allowance.
3. The Vice-President shall receive a special allowance for every day on which he acts as President.
4. The judges chosen under Article 31, other than members of the Court, shall receive compensation for each day on which they exercise their functions.
5. These salaries, allowances, and compensation shall be fixed by the General Assembly. They may not be decreased during the term of office.
6. The salary of the Registrar shall be fixed by the General Assembly on the proposal of the Court.
7. Regulations made by the General Assembly shall fix the conditions under which retirement pensions may be given to members of the Court and to the Registrar, and the conditions under which members of the Court and the Registrar shall have their traveling expenses refunded.
8. The above salaries, allowances, and compensation shall be free of all taxation.

Article 33

The expenses of the Court shall be borne by the United Nations in such a manner as shall be decided by the General Assembly.

CHAPTER II - COMPETENCE OF THE COURT**Article 34**

1. Only states may be parties in cases before the Court.
2. The Court, subject to and in conformity with its Rules, may request of public international organizations information relevant to cases before it, and shall receive such information presented by such organizations on their own initiative.
3. Whenever the construction of the constituent instrument of a public international organization or of an international convention adopted thereunder is in question in a case before the Court, the Registrar shall so notify the public international organization concerned and shall communicate to it copies of all the written proceedings.

Article 35

1. The Court shall be open to the states parties to the present Statute.
2. The conditions under which the Court shall be open to other states shall, subject to the special provisions contained in treaties in force, be laid down by the Security Council, but in no case shall such conditions place the parties in a position of inequality before the Court.
3. When a state which is not a Member of the United Nations is a party to a case, the Court shall fix the amount which that party is to contribute towards the expenses of the Court. This provision shall not apply if such state is bearing a share of the expenses of the Court.

Article 36

1. The jurisdiction of the Court comprises all cases which the parties refer to it and all matters specially provided for in the Charter of the United Nations or in treaties and conventions in force.
2. The states parties to the present Statute may at any time declare that they recognize as compulsory ipso facto and without special agreement, in relation to any other state accepting the same obligation, the jurisdiction of the Court in all legal disputes concerning:
 - a. the interpretation of a treaty;
 - b. any question of international law;
 - c. the existence of any fact which, if established, would constitute a breach of an international obligation;
 - d. the nature or extent of the reparation to be made for the breach of an international obligation.
3. The declarations referred to above may be made unconditionally or on condition of reciprocity on the part of several or certain states, or for a certain time.
4. Such declarations shall be deposited with the Secretary-General of the United Nations, who shall transmit copies thereof to the parties to the Statute and to the Registrar of the Court.
5. Declarations made under Article 36 of the Statute of the Permanent Court of International Justice and which are still in force shall be deemed, as between the parties to the present Statute, to be acceptances

of the compulsory jurisdiction of the International Court of Justice for the period which they still have to run and in accordance with their terms.

6. In the event of a dispute as to whether the Court has jurisdiction, the matter shall be settled by the decision of the Court.

Article 37

Whenever a treaty or convention in force provides for reference of a matter to a tribunal to have been instituted by the League of Nations, or to the Permanent Court of International Justice, the matter shall, as between the parties to the present Statute, be referred to the International Court of Justice.

Article 38

1. The Court, whose function is to decide in accordance with international law such disputes as are submitted to it, shall apply :

- a. international conventions, whether general or particular, establishing rules expressly recognized by the contesting states;
- b. international custom, as evidence of a general practice accepted as law;
- c. the general principles of law recognized by civilized nations;
- d. subject to the provisions of Article 59, judicial decisions and the teachings of the most highly qualified publicists of the various nations, as subsidiary means for the determination of rules of law.

2. This provision shall not prejudice the power of the Court to decide a case *ex aequo et bono*, if the parties agree thereto.

CHAPTER III - PROCEDURE

Article 39

1. The official languages of the Court shall be French and English. If the parties agree that the case shall be conducted in French, the judgment shall be delivered in French. If the parties agree that the case shall be conducted in English, the judgment shall be delivered in English.

2. In the absence of an agreement as to which language shall be employed, each party may, in the pleadings, use the language which it prefers; the decision of the Court shall be given in French and English. In this case the Court shall at the same time determine which of the two texts shall be considered as authoritative.

3. The Court shall, at the request of any party, authorize a language other than French or English to be used by that party.

Article 40

1. Cases are brought before the Court, as the case may be, either by the notification of the special agreement or by a written application addressed to the Registrar. In either case the subject of the dispute and the parties shall be indicated.

2. The Registrar shall forthwith communicate the application to all concerned.

3. He shall also notify the Members of the United Nations through the Secretary-General, and also any other states entitled to appear before the Court.

Article 41

1. The Court shall have the power to indicate, if it considers that circumstances so require, any provisional measures which ought to be taken to preserve the respective rights of either party.
2. Pending the final decision, notice of the measures suggested shall forthwith be given to the parties and to the Security Council.

Article 42

1. The parties shall be represented by agents.
2. They may have the assistance of counsel or advocates before the Court.
3. The agents, counsel, and advocates of parties before the Court shall enjoy the privileges and immunities necessary to the independent exercise of their duties.

Article 43

1. The procedure shall consist of two parts: written and oral.
2. The written proceedings shall consist of the communication to the Court and to the parties of memorials, counter-memorials and, if necessary, replies; also all papers and documents in support.
3. These communications shall be made through the Registrar, in the order and within the time fixed by the Court.
4. A certified copy of every document produced by one party shall be communicated to the other party.
5. The oral proceedings shall consist of the hearing by the Court of witnesses, experts, agents, counsel, and advocates.

Article 44

1. For the service of all notices upon persons other than the agents, counsel, and advocates, the Court shall apply direct to the government of the state upon whose territory the notice has to be served.
2. The same provision shall apply whenever steps are to be taken to procure evidence on the spot.

Article 45

The hearing shall be under the control of the President or, if he is unable to preside, of the Vice-President; if neither is able to preside, the senior judge present shall preside.

Article 46

The hearing in Court shall be public, unless the Court shall decide otherwise, or unless the parties demand that the public be not admitted.

Article 47

1. Minutes shall be made at each hearing and signed by the Registrar and the President.
2. These minutes alone shall be authentic.

Article 48

The Court shall make orders for the conduct of the case, shall decide the form and time in which each party must conclude its arguments, and make all arrangements connected with the taking of evidence.

Article 49

The Court may, even before the hearing begins, call upon the agents to produce any document or to supply any explanations. Formal note shall be taken of any refusal.

Article 50

The Court may, at any time, entrust any individual, body, bureau, commission, or other organization that it may select, with the task of carrying out an enquiry or giving an expert opinion.

Article 51

During the hearing any relevant questions are to be put to the witnesses and experts under the conditions laid down by the Court in the rules of procedure referred to in Article 30.

Article 52

After the Court has received the proofs and evidence within the time specified for the purpose, it may refuse to accept any further oral or written evidence that one party may desire to present unless the other side consents.

Article 53

1. Whenever one of the parties does not appear before the Court, or fails to defend its case, the other party may call upon the Court to decide in favor of its claim.
2. The Court must, before doing so, satisfy itself, not only that it has jurisdiction in accordance with Articles 36 and 37, but also that the claim is well founded in fact and law.

Article 54

1. When, subject to the control of the Court, the agents, counsel, and advocates have completed their presentation of the case, the President shall declare the hearing closed.
2. The Court shall withdraw to consider the judgment.
3. The deliberations of the Court shall take place in private and remain secret.

Article 55

1. All questions shall be decided by a majority of the judges present.
2. In the event of an equality of votes, the President or the judge who acts in his place shall have a casting vote.

Article 56

1. The judgment shall state the reasons on which it is based.
2. It shall contain the names of the judges who have taken part in the decision.

Article 57

If the judgment does not represent in whole or in part the unanimous opinion of the judges, any judge shall be entitled to deliver a separate opinion.

Article 58

The judgment shall be signed by the President and by the Registrar. It shall be read in open court, due notice having been given to the agents.

Article 59

The decision of the Court has no binding force except between the parties and in respect of that particular case.

Article 60

The judgment is final and without appeal. In the event of dispute as to the meaning or scope of the judgment, the Court shall construe it upon the request of any party.

Article 61

1. An application for revision of a judgment may be made only when it is based upon the discovery of some fact of such a nature as to be a decisive factor, which fact was, when the judgment was given, unknown to the Court and also to the party claiming revision, always provided that such ignorance was not due to negligence.
2. The proceedings for revision shall be opened by a judgment of the Court expressly recording the existence of the new fact, recognizing that it has such a character as to lay the case open to revision, and declaring the application admissible on this ground.
3. The Court may require previous compliance with the terms of the judgment before it admits proceedings in revision.
4. The application for revision must be made at latest within six months of the discovery of the new fact.
5. No application for revision may be made after the lapse of ten years from the date of the judgment.

Article 62

1. Should a state consider that it has an interest of a legal nature which may be affected by the decision in the case, it may submit a request to the Court to be permitted to intervene.
2. It shall be for the Court to decide upon this request.

Article 63

1. Whenever the construction of a convention to which states other than those concerned in the case are parties is in question, the Registrar shall notify all such states forthwith.
2. Every state so notified has the right to intervene in the proceedings; but if it uses this right, the construction given by the judgment will be equally binding upon it.

Article 64

Unless otherwise decided by the Court, each party shall bear its own costs.

CHAPTER IV - ADVISORY OPINIONS**Article 65**

1. The Court may give an advisory opinion on any legal question at the request of whatever body may be authorized by or in accordance with the Charter of the United Nations to make such a request.
2. Questions upon which the advisory opinion of the Court is asked shall be laid before the Court by means of a written request containing an exact statement of the question upon which an opinion is required, and accompanied by all documents likely to throw light upon the question.

Article 66

1. The Registrar shall forthwith give notice of the request for an advisory opinion to all states entitled to appear before the Court.
2. The Registrar shall also, by means of a special and direct communication, notify any state entitled to appear before the Court or international organization considered by the Court, or, should it not be sitting, by the President, as likely to be able to furnish information on the question, that the Court will be prepared to receive, within a time limit to be fixed by the President, written statements, or to hear, at a public sitting to be held for the purpose, oral statements relating to the question.
3. Should any such state entitled to appear before the Court have failed to receive the special commu-

nication referred to in paragraph 2 of this Article, such state may express a desire to submit a written statement or to be heard; and the Court will decide.

4. States and organizations having presented written or oral statements or both shall be permitted to comment on the statements made by other states or organizations in the form, to the extent, and within the time limits which the Court, or, should it not be sitting, the President, shall decide in each particular case. Accordingly, the Registrar shall in due time communicate any such written statements to states and organizations having submitted similar statements.

Article 67

The Court shall deliver its advisory opinions in open court, notice having been given to the Secretary-General and to the representatives of Members of the United Nations, of other states and of international organizations immediately concerned.

Article 68

In the exercise of its advisory functions the Court shall further be guided by the provisions of the present Statute which apply in contentious cases to the extent to which it recognizes them to be applicable.

CHAPTER V - AMENDMENT

Article 69

Amendments to the present Statute shall be effected by the same procedure as is provided by the Charter of the United Nations for amendments to that Charter, subject however to any provisions which the General Assembly upon recommendation of the Security Council may adopt concerning the participation of states which are parties to the present Statute but are not Members of the United Nations.

Article 70

The Court shall have power to propose such amendments to the present Statute as it may deem necessary, through written communications to the Secretary-General, for consideration in conformity with the provisions of Article 69.

FOR CHINA:
POUR LA CHINE:
中國:
За Кита́й:
FOR LA CHINA:

鈞 惠 明 芳 璜 勳 武 霖
維 寵 道 貽 君 必
預 王 魏 吳 李 張 董 胡

FOR THE UNION OF SOVIET SOCIALIST REPUBLICS:
POUR L'UNION DES RÉPUBLIQUES SOVIÉTIQUES SOCIALISTES:
蘇維埃社會主義共和國聯邦:
За Союз Советских Социалистических Республик:
POR LA UNIÓN DE REPÚBLICAS SOCIALISTAS SOVIÉTICAS:

[Handwritten signatures in Cyrillic script]
А. М. Мухоморов
В. В. Иванов
С. С. Смирнов
К. К. Косов
Р. Р. Романов

FOR THE PHILIPPINE COMMONWEALTH:
POUR LE COMMONWEALTH DES PHILIPPINES:
菲律賓共和國:
За Филиппины:
POR LA MANCOMUNIDAD DE FILIPINAS:

[Handwritten signature: Carlos P. Romulo]

[Handwritten signature: Francisco A. Delgado,]

FOR THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND:
 POUR LE ROYAUME-UNI DE GRANDE-BRETAGNE ET D'IRLANDE DU NORD:
 大不列顛及北愛爾蘭聯合王國:
 За Соединенное Королевство Великобритании и Северной Ирландии:
 POR EL REINO UNIDO DE LA GRAN BRETAÑA E IRLANDA DEL NORTE:

*Halifax
 Cranborne.*

FOR THE UNITED STATES OF AMERICA:
 POUR LES ETATS-UNIS D'AMÉRIQUE:
 美利堅合衆國:
 За Соединенные Штаты Америки:
 POR LOS ESTADOS UNIDOS DE AMÉRICA:

*E. Dutton
 Tom Cunnally
 Alexander
 Jof Bloom
 Charles A. Eaton
 Harold C. Stassen
 Virginia C. Giddens.*

FOR FRANCE:
POUR LA FRANCE:
法蘭西:
За Францию:
POR FRANCIA:

J. Carl-Boncompagni

FOR ARGENTINA:
POUR L'ARGENTINE:
阿根廷:
За Аргентину:
POR LA ARGENTINA:

Julian...
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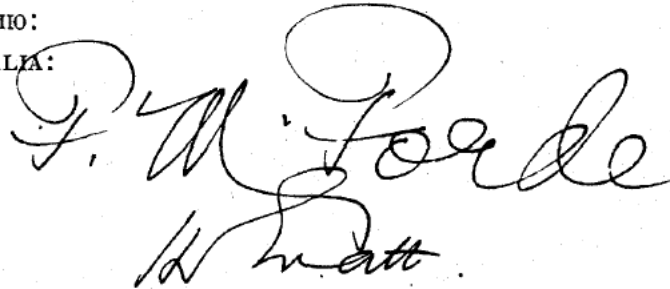
FOR AUSTRALIA:

POUR L'AUSTRALIE:

澳大利亞:

За Австралию:

FOR AUSTRALIA:



P. M. Forde
W. Watt.

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比利時王國:

За Королевство Бельгии:

FOR EL REINO DE BÉLGICA:



M. Rebecq

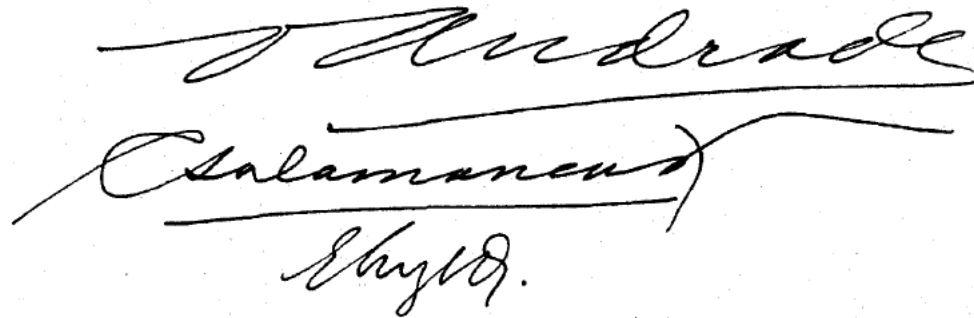
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За Боливию:

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J. Andrade
Salamancas
Soyuz.

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POUR LE BRÉSIL:
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За Бразилию:
POR EL BRASIL:

P. Luis Viana
code: 19610101
Gen. Estevão Lito
A. - Lourenço A. de univ.
Dr. Zolha Lito

FOR THE BYELORUSSIAN SOVIET SOCIALIST REPUBLIC:
POUR LA RÉPUBLIQUE SOVIÉTIQUE SOCIALISTE DE BÉLORUSSIE:
白俄羅斯蘇維埃社會主義共和國:
За Белорусскую Советскую Социалистическую Республику:
POR LA REPÚBLICA SOCIALISTA SOVIÉTICA BIELORRUSA:

А. П. Шершак
В. Терцель
Байдаков
Dr. Шморгель

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POUR LE CANADA:
加拿大:
За Канаду:
POR EL CANADÁ:

Ms. Kwasungu's King.
Louis St. Laurent

FOR CHILE:
POUR LE CHILI:
智利:
За Чили:
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Gregorio Fernández
Ramon M. M.
Si
Sebastian
Contreras Gabarce
J. Luis
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Amante
Luis

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POUR LA COLOMBIE:
哥倫比亞:
За Колумбию:
FOR COLOMBIA:

Alfredo Vera
Alfonso Alejandro
~~Alfonso Alejandro~~
Alfonso Alejandro
Alfonso Alejandro
Alfonso Alejandro

FOR COSTA RICA:
POUR COSTA-RICA:
哥斯大黎加:
За Коста-Рику:
FOR COSTA RICA:

Alfonso Alejandro
Alfonso Alejandro

FOR CUBA:

POUR CUBA:

古巴:

За Кубу:

FOR CUBA:



Ernesto Dilligo

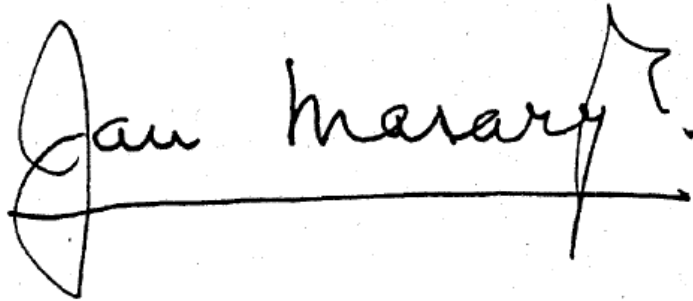
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FOR CZECHOSLOVAKIA:




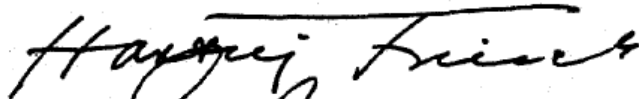
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FOR DINAMARCA:



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POR LA REPÚBLICA DOMINICANA:

M. Juan Bator
Rumboldy Godoy
Alberto Sanchez

1-1-1-1
Reinera Bernardino

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POUR L'ÉQUATEUR:
厄瓜多:
За Эквадор:
POR EL ECUADOR:

P. Souco Ciguay
Galos
C. Tobay Zaldumbide

Prozo

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埃及:
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A. Badar
A. Haki

FOR EL SALVADOR:

POUR LE SALVADOR:

薩爾瓦多:

За Сальвадор:

FOR EL SALVADOR:

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Carlos Leizaola, M.D.

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POUR L'ETHIOPIE:

阿比西尼亞:

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FOR ETIOPIA:

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POUR LE HONDURAS:
洪都拉斯:
За Гондурас:
POR HONDURAS:

Julian Velasco
Marcos Varas Reyes
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POR LA INDIA:

Arumawami Mudalai
V. T. Krishnama Chari

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Mohamady Adly

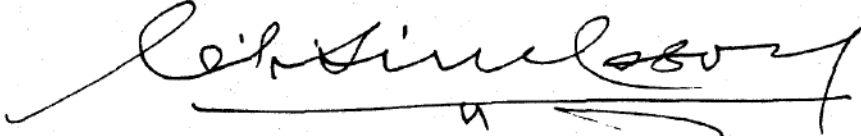
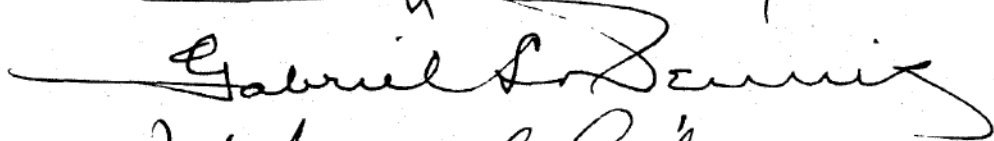

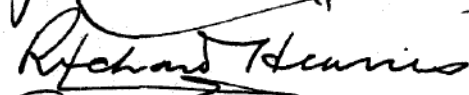
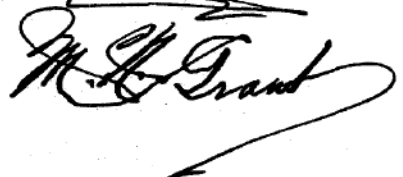
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POR IRAK:

Mohd. Fadhel Jamali

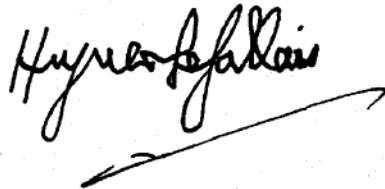
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A. Youfi
S. M. M.
Charles Malik

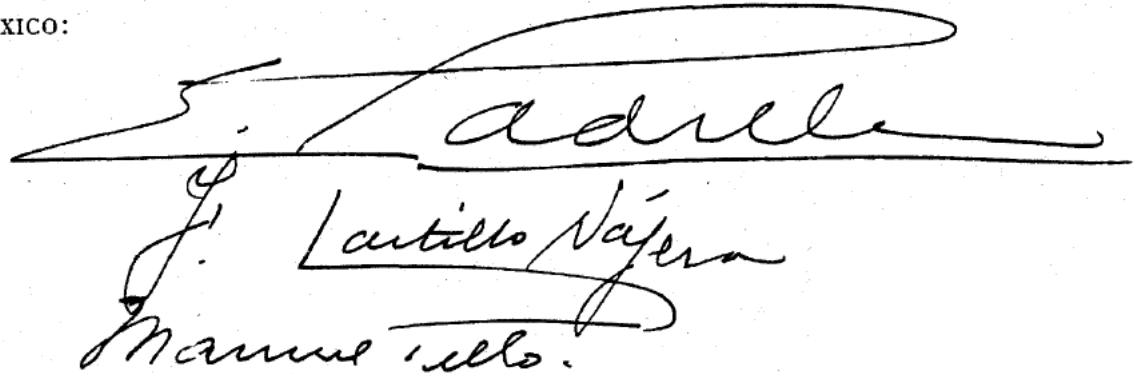
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FOR LIBERIA:

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POUR LE GRAND DUCHÉ DE LUXEMBOURG:
盧森堡大公國:
За Великое Герцогство Люксембург:
POR EL GRAN DUCADO DE LUXEMBURGO:

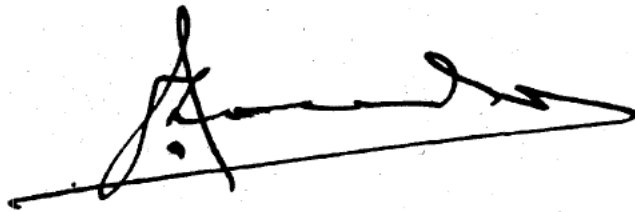


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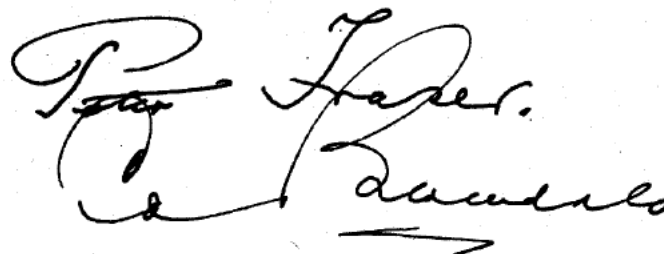


J. Castillo Najera
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FOR THE KINGDOM OF THE NETHERLANDS:
POUR LE ROYAUME DES PAYS-BAS:
荷蘭王國:
За Королевство Нидерландов:
POR EL REINO DE HOLANDA:



FOR NEW ZEALAND:
POUR LA NOUVELLE-ZÉLANDE:
紐西蘭:
За Новую Зеландию:
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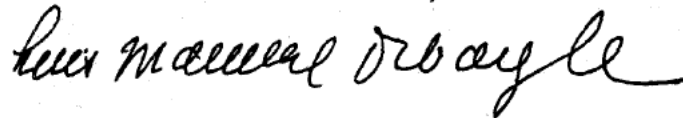
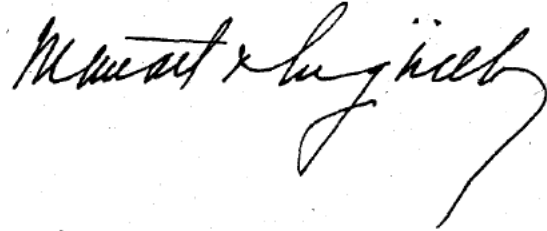
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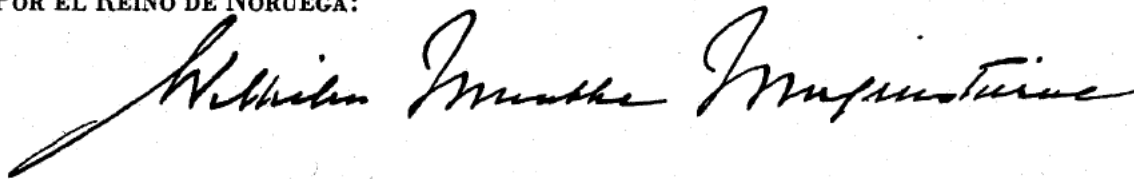
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POUR LE ROYAUME DE NORVÈGE:

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За Королевство Норвегии:

FOR EL REINO DE NORUEGA:



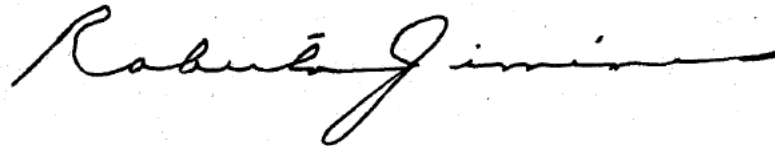
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За Панаму:

FOR PANAMÁ:



FOR PARAGUAY:

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巴拉圭:

За Паргвай:

POR EL PARAGUAY:

Cesar R. Velazquez
J. B. Guaya

FOR PERU:

POUR LE PÉROU:

秘魯:

За Перу:

POR EL PERÚ:

~~*Manuel A. Pizarro*~~
J. H. Betancourt
Antonio Bernales

FOR SAUDI ARABIA:
 POUR L'ARABIE SAOUDITE:
 蘇地亞拉伯:
 За Сауди Аравію:
 FOR ARABIA SAUDITA:

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FOR SYRIA:
 POUR LA SYRIE:
 叙利亞:
 За Сирію:
 FOR SIRIA:

F. Al-Khouri

Ja. Antakis

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N. Roudsi *[Handwritten signature]*

FOR TURKEY:
 POUR LA TURQUIE:
 土耳其:
 За Турцію:
 FOR TURQUIA:

Hasan Sakay

Mustafa Nazif Baydar

Behiye Akinci

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FOR THE UKRAINIAN SOVIET SOCIALIST REPUBLIC:
POUR LA RÉPUBLIQUE SOVIÉTIQUE SOCIALISTE D'UKRAINE:
烏克蘭蘇維埃社會主義共和國:
За Украинскую Советскую Социалистическую Республику:
POR LA REPÚBLICA SOCIALISTA SOVIÉTICA UCRANIANA:

Д. М. Мануйльський

Jean Senin

Олександр Талочкін

Микола Петровський

FOR THE UNION OF SOUTH AFRICA:
POUR L'UNION SUD-AFRICAINE:
南非聯邦:
За Южноафриканский Союз:
POR LA UNIÓN SUDAFRICANA:

W. J. van der Merwe

FOR URUGUAY:

POUR L'URUGUAY:

烏拉圭:

За Уругвай:

POR EL URUGUAY:

Jose Serrato

Jacobs Varela

Guillermo Guzman

Francisco

Ismael F. Guindon

Victor Paz

FOR VENEZUELA:

POUR LE VENEZUELA:

委內瑞拉:

За Венесуэлу:

POR VENEZUELA:

W. Gonzalez

Antonio Herrera

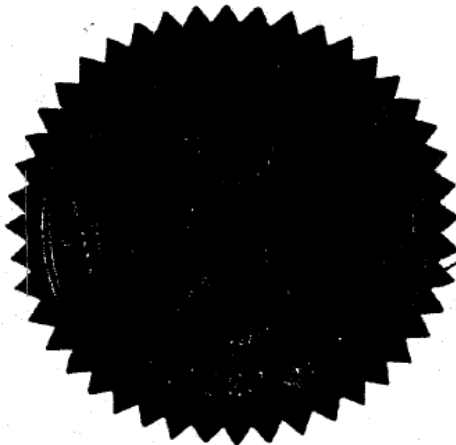
Martha G. Lopez

FOR YUGOSLAVIA:
POUR LA YOUGOSLAVIE:
南斯拉夫:
За Югославию:
POR YUGOSLAVIA:

Stanoje Simić

I Certify That the foregoing is a true copy of the Charter of the United Nations, with the Statute of the International Court of Justice annexed thereto, signed in San Francisco, California, on June 26, 1945, in the Chinese, French, Russian, English, and Spanish languages, the signed original of which is deposited in the archives of the Government of the United States of America.

In Testimony Whereof, I, EDWARD R. STETTINIUS, JR., Secretary of State, have hereunto caused the seal of the Department of State to be affixed and my name subscribed by an Assistant Chief, Division of Central Services of the said Department, at the city of Washington, in the District of Columbia, this twenty ^{sixth} ~~seventh~~ day of June 1945.



E. R. Stettinius Jr.
Secretary of State

By *M. L. Neustreich*
Assistant Chief, Division of Central Services

UNIVERSAL DECLARATION ON DEMOCRACY

Declaration adopted without a vote by the Inter-Parliamentary Council at its 161st session
(Cairo, 16 September 1997)*

The Inter-Parliamentary Council,

Reaffirming the Inter-Parliamentary Union's commitment to peace and development and *convinced* that the strengthening of the democratisation process and representative institutions will greatly contribute to attaining this goal,

Reaffirming also the calling and commitment of the Inter-Parliamentary Union to promoting democracy and the establishment of pluralistic systems of representative government in the world, and *wishing* to strengthen its sustained and multiform action in this field,

Recalling that each State has the sovereign right, freely to choose and develop, in accordance with the will of its people, its own political, social, economic and cultural systems without interference by other States in strict conformity with the United Nations Charter,

Recalling also the Universal Declaration of Human Rights adopted on 10 December 1948, as well as the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights adopted on 16 December 1966, the International Convention on the Elimination of All Forms of Racial Discrimination adopted on 21 December 1965 and the Convention on the Elimination of All Forms of Discrimination Against Women adopted on 18 December 1979,

Recalling further the *Declaration on Criteria for Free and Fair Elections* which it adopted in March 1994 and in which it confirmed that in any State the authority of the government can derive only from the will of the people as expressed in genuine, free and fair elections,

Referring to the *Agenda for Democratisation* presented on 20 December 1996 by the UN Secretary-General to the 51st session of the United Nations General Assembly,

Adopts the following **Universal Declaration on Democracy** and *urges* Governments and Parliaments throughout the world to be guided by its content:

FIRST PART - THE PRINCIPLES OF DEMOCRACY

1. Democracy is a universally recognised ideal as well as a goal, which is based on common values shared by peoples throughout the world community irrespective of cultural, political, social and economic differences. It is thus a basic right of citizenship to be exercised under conditions of freedom, equality, transparency and responsibility, with due respect for the plurality of views, and in the interest of the polity.

2. Democracy is both an ideal to be pursued and a mode of government to be applied according to modalities which reflect the diversity of experiences and cultural particularities without derogating from internationally recognised principles, norms and standards. It is thus a constantly perfected and always

perfectible state or condition whose progress will depend upon a variety of political, social, economic, and cultural factors.

3. As an ideal, democracy aims essentially to preserve and promote the dignity and fundamental rights of the individual, to achieve social justice, foster the economic and social development of the community, strengthen the cohesion of society and enhance national tranquillity, as well as to create a climate that is favourable for international peace. As a form of government, democracy is the best way of achieving these objectives; it is also the only political system that has the capacity for self-correction.

4. The achievement of democracy presupposes a genuine partnership between men and women in the conduct of the affairs of society in which they work in equality and complementarity, drawing mutual enrichment from their differences.

5. A state of democracy ensures that the processes by which power is acceded to, wielded and alternates allow for free political competition and are the product of open, free and non-discriminatory participation by the people, exercised in accordance with the rule of law, in both letter and spirit.

6. Democracy is inseparable from the rights set forth in the international instruments recalled in the preamble. These rights must therefore be applied effectively and their proper exercise must be matched with individual and collective responsibilities.

7. Democracy is founded on the primacy of the law and the exercise of human rights. In a democratic State, no one is above the law and all are equal before the law.

8. Peace and economic, social and cultural development are both conditions for and fruits of democracy. There is thus interdependence between peace, development, respect for and observance of the rule of law and human rights.

SECOND PART - THE ELEMENTS AND EXERCISE OF DEMOCRATIC GOVERNMENT

9. Democracy is based on the existence of well-structured and well-functioning institutions, as well as on a body of standards and rules and on the will of society as a whole, fully conversant with its rights and responsibilities.

10. It is for democratic institutions to mediate tensions and maintain equilibrium between the competing claims of diversity and uniformity, individuality and collectivity, in order to enhance social cohesion and solidarity.

11. Democracy is founded on the right of everyone to take part in the management of public affairs; it therefore requires the existence of representative institutions at all levels and, in particular, a Parliament in which all components of society are represented and which has the requisite powers and means to express the will of the people by legislating and overseeing government action.

12. The key element in the exercise of democracy is the holding of free and fair elections at regular intervals enabling the people's will to be expressed. These elections must be held on the basis of universal, equal and secret suffrage so that all voters can choose their representatives in conditions of equality, openness

and transparency that stimulate political competition. To that end, civil and political rights are essential, and more particularly among them, the rights to vote and to be elected, the rights to freedom of expression and assembly, access to information and the right to organise political parties and carry out political activities. Party organisation, activities, finances, funding and ethics must be properly regulated in an impartial manner in order to ensure the integrity of the democratic processes.

13. It is an essential function of the State to ensure the enjoyment of civil, cultural, economic, political and social rights to its citizens. Democracy thus goes hand in hand with an effective, honest and transparent government, freely chosen and accountable for its management of public affairs.

14. Public accountability, which is essential to democracy, applies to all those who hold public authority, whether elected or non-elected, and to all bodies of public authority without exception. Accountability entails a public right of access to information about the activities of government, the right to petition government and to seek redress through impartial administrative and judicial mechanisms.

15. Public life as a whole must be stamped by a sense of ethics and by transparency, and appropriate norms and procedures must be established to uphold them.

16. Individual participation in democratic processes and public life at all levels must be regulated fairly and impartially and must avoid any discrimination, as well as the risk of intimidation by State and non-State actors.

17. Judicial institutions and independent, impartial and effective oversight mechanisms are the guarantors for the rule of law on which democracy is founded. In order for these institutions and mechanisms fully to ensure respect for the rules, improve the fairness of the processes and redress injustices, there must be access by all to administrative and judicial remedies on the basis of equality as well as respect for administrative and judicial decisions both by the organs of the State and representatives of public authority and by each member of society.

18. While the existence of an active civil society is an essential element of democracy, the capacity and willingness of individuals to participate in democratic processes and make governance choices cannot be taken for granted. It is therefore necessary to develop conditions conducive to the genuine exercise of participatory rights, while also eliminating obstacles that prevent, hinder or inhibit this exercise. It is therefore indispensable to ensure the permanent enhancement of, *inter alia*, equality, transparency and education and to remove obstacles such as ignorance, intolerance, apathy, the lack of genuine choices and alternatives and the absence of measures designed to redress imbalances or discrimination of a social, cultural, religious and racial nature, or for reasons of gender.

19. A sustained state of democracy thus requires a democratic climate and culture constantly nurtured and reinforced by education and other vehicles of culture and information. Hence, a democratic society must be committed to education in the broadest sense of the term, and more particularly civic education and the shaping of a responsible citizenry.

20. Democratic processes are fostered by a favourable economic environment; therefore, in its overall effort for development, society must be committed to satisfying the basic economic needs of the most disadvantaged, thus ensuring their full integration in the democratic process.

21. The state of democracy presupposes freedom of opinion and expression; this right implies freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

22. The institutions and processes of democracy must accommodate the participation of all people in homogeneous as well as heterogeneous societies in order to safeguard diversity, pluralism and the right to be different in a climate of tolerance.

23. Democratic institutions and processes must also foster decentralised local and regional government and administration, which is a right and a necessity, and which makes it possible to broaden the base of public participation.

THIRD PART - THE INTERNATIONAL DIMENSION OF DEMOCRACY

24. Democracy must also be recognised as an international principle, applicable to international organisations and to States in their international relations. The principle of international democracy does not only mean equal or fair representation of States; it also extends to the economic rights and duties of States.

25. The principles of democracy must be applied to the international management of issues of global interest and the common heritage of humankind, in particular the human environment.

26. To preserve international democracy, States must ensure that their conduct conforms to international law, refrain from the use or threat of force and from any conduct that endangers or violates the sovereignty and political or territorial integrity of other States, and take steps to resolve their differences by peaceful means.

27. A democracy should support democratic principles in international relations. In that respect, democracies must refrain from undemocratic conduct, express solidarity with democratic governments and non-State actors like non-governmental organisations which work for democracy and human rights, and extend solidarity to those who are victims of human rights violations at the hands of undemocratic régimes. In order to strengthen international criminal justice, democracies must reject impunity for international crimes and serious violations of fundamental human rights and support the establishment of a permanent international criminal court.

* * *

DECLARATION ON CRITERIA FOR FREE AND FAIR ELECTIONS

Unanimously adopted by the Inter-Parliamentary Council at its 154th session (Paris, 26 March 1994)

The Inter-Parliamentary Council,

Reaffirming the significance of the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights which establish that the authority to govern shall be based on the will of the people as expressed in periodic and genuine elections,

Acknowledging and endorsing the fundamental principles relating to periodic free and fair elections that have been recognized by States in universal and regional human rights instruments, including the right of everyone to take part in the government of his or her country directly or indirectly through freely chosen representatives, to vote in such elections by secret ballot, to have an equal opportunity to become a candidate for election, and to put forward his or her political views, individually or in association with others,

Conscious of the fact that each State has the sovereign right, in accordance with the will of its people, freely to choose and develop its own political, social, economic and cultural systems without interference by other States in strict conformity with the United Nations Charter,

Wishing to promote the establishment of democratic, pluralist systems of representative government throughout the world,

Recognizing that the establishment and strengthening of democratic processes and institutions is the common responsibility of governments, the electorate and organized political forces, that periodic and genuine elections are a necessary and indispensable element of sustained efforts to protect the rights and interests of the governed and that, as a matter of practical experience, the right of everyone to take part in the government of his or her country is a crucial factor in the effective enjoyment by all of human rights and fundamental freedoms,

Welcoming the expanding role of the United Nations, the Inter-Parliamentary Union, regional organizations and parliamentary assemblies, and international and national non-governmental organizations in providing electoral assistance at the request of governments,

Therefore adopts the following Declaration on Free and fair Elections, and **urges** Governments and Parliaments throughout the world to be guided by the principles and standards set out therein :

1. Free and Fair Elections

In any State the authority of the government can only derive from the will of the people as expressed in genuine, free and fair elections held at regular intervals on the basis of universal, equal and secret suffrage.

2. Voting and Elections Rights

- (1) Every adult citizen has the right to vote in elections, on a non-discriminatory basis.
- (2) Every adult citizen has the right to access to an effective, impartial and non-discriminatory procedure for the registration of voters.
- (3) No eligible citizen shall be denied the right to vote or disqualified from registration as a voter, otherwise than in accordance with objectively verifiable criteria prescribed by law, and provided that such measures are consistent with the State's obligations under international law.
- (4) Every individual who is denied the right to vote or to be registered as a voter shall be entitled to appeal to a jurisdiction competent to review such decisions and to correct errors promptly and effectively.
- (5) Every voter has the right to equal and effective access to a polling station in order to exercise his or her right to vote.
- (6) Every voter is entitled to exercise his or her right equally with others and to have his or her vote accorded equivalent weight to that of others.
- (7) The right to vote in secret is absolute and shall not be restricted in any manner whatsoever.

3. Candidature, Party and Campaign Rights and Responsibilities

- (1) Everyone has the right to take part in the government of their country and shall have an equal opportunity to become a candidate for election. The criteria for participation in government shall be determined in accordance with national constitutions and laws and shall not be inconsistent with the State's international obligations.
- (2) Everyone has the right to join, or together with others to establish, a political party or organization for the purpose of competing in an election.
- (3) Everyone individually and together with others has the right:
 - To express political opinions without interference;
 - To seek, receive and impart information and to make an informed choice;
 - To move freely within the country in order to campaign for election;
 - To campaign on an equal basis with other political parties, including the party forming the existing government.
- (4) Every candidate for election and every political party shall have an equal opportunity of access to the media, particularly the mass communications media, in order to put forward their political views.
- (5) The right of candidates to security with respect to their lives and property shall be recognized and protected.
- (6) Every individual and every political party has the right to the protection of the law and to a remedy for violation of political and electoral rights.

(7) The above rights may only be subject to such restrictions of an exceptional nature which are in accordance with law and reasonably necessary in a democratic society in the interests of national security or public order (*ordre public*), the protection of public health or morals or the protection of the rights and freedoms of others and provided they are consistent with States' obligations under international law. Permissible restrictions on candidature, the creation and activity of political parties and campaign rights shall not be applied so as to violate the principle of non-discrimination on grounds of race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

(8) Every individual or political party whose candidature, party or campaign rights are denied or restricted shall be entitled to appeal to a jurisdiction competent to review such decisions and to correct errors promptly and effectively.

(9) Candidature, party and campaign rights carry responsibilities to the community. In particular, no candidate or political party shall engage in violence.

(10) Every candidate and political party competing in an election shall respect the rights and freedoms of others.

(11) Every candidate and political party competing in an election shall accept the outcome of a free and fair election.

4. The Rights and Responsibilities of States

(1) States should take the necessary legislative steps and other measures, in accordance with their constitutional processes, to guarantee the rights and institutional framework for periodic and genuine, free and fair elections, in accordance with their obligations under international law. In particular, States should:

- Establish an effective, impartial and non-discriminatory procedure for the registration of voters;
- Establish clear criteria for the registration of voters, such as age, citizenship and residence, and ensure that such provisions are applied without distinction of any kind;
- Provide for the formation and free functioning of political parties, possibly regulate the funding of political parties and electoral campaigns, ensure the separation of party and State, and establish the conditions for competition in legislative elections on an equitable basis;
- Initiate or facilitate national programmes of civic education, to ensure that the population are familiar with election procedures and issues;

(2) In addition, States should take the necessary policy and institutional steps to ensure the progressive achievement and consolidation of democratic goals, including through the establishment of a neutral, impartial or balanced mechanism for the management of elections. In so doing, they should, among other matters:

- Ensure that those responsible for the various aspects of the election are trained and act impartially, and that coherent voting procedures are established and made known to the voting public;
- Ensure the registration of voters, updating of electoral rolls and balloting procedures, with the assistance of national and international observers as appropriate;

- Encourage parties, candidates and the media to accept and adopt a Code of Conduct to govern the election campaign and the polling period;
- Ensure the integrity of the ballot through appropriate measures to prevent multiple voting or voting by those not entitled thereto;
- Ensure the integrity of the process for counting votes.

(3) States shall respect and ensure the human rights of all individuals within their territory and subject to their jurisdiction. In time of elections, the State and its organs should therefore ensure:

- That freedom of movement, assembly, association and expression are respected, particularly in the context of political rallies and meetings;
- That parties and candidates are free to communicate their views to the electorate, and that they enjoy equality of access to State and public-service media;
- That the necessary steps are taken to guarantee non-partisan coverage in State and public-service media.

(4) In order that elections shall be fair, States should take the necessary measures to ensure that parties and candidates enjoy reasonable opportunities to present their electoral platform.

(5) States should take all necessary and appropriate measures to ensure that the principle of the secret ballot is respected, and that voters are able to cast their ballots freely, without fear or intimidation.

(6) Furthermore, State authorities should ensure that the ballot is conducted so as to avoid fraud or other illegality, that the security and the integrity of the process is maintained, and that ballot counting is undertaken by trained personnel, subject to monitoring and/or impartial verification.

(7) States should take all necessary and appropriate measures to ensure the transparency of the entire electoral process including, for example, through the presence of party agents and duly accredited observers.

(8) States should take the necessary measures to ensure that parties, candidates and supporters enjoy equal security, and that State authorities take the necessary steps to prevent electoral violence.

(9) States should ensure that violations of human rights and complaints relating to the electoral process are determined promptly within the timeframe of the electoral process and effectively by an independent and impartial authority, such as an electoral commission or the courts.



INTER-PARLIAMENTARY UNION
PLACE DU PETIT-SACONNEX
1211 GENEVA 19

PROMOTING GREATER RESPECT AND PROTECTION OF HUMAN RIGHTS IN GENERAL AND IN PARTICULAR FOR WOMEN AND CHILDREN

Resolution adopted without a vote by the 96th Inter-Parliamentary Conference (Beijing, 20 September 1996)

The 96th Inter-Parliamentary Conference,

Emphasizing the responsibility of all nations, in the spirit of the Charter of the United Nations, to promote and encourage respect for the human rights and fundamental freedoms of all people, regardless of race, colour, sex, language, religious belief or social position,

Bearing in mind the aim of the Universal Declaration of Human Rights and other relevant international human rights instruments, namely to promote and protect human rights and fundamental freedoms - civil, political, economic, social and cultural rights,

Noting with satisfaction that the Vienna Declaration and Programme of Action reiterate that the right to development is a universal and inalienable right and an integral part of human rights,

Reaffirming that efforts to promote and protect human rights should be consistent with the purposes and principles of the United Nations Charter and international law,

Underlining that the current world economic order is still unjust, and therefore hinders the realization of human rights and fundamental freedoms and adversely affects women and children in particular,

Expressing deep concern about the deterioration of living conditions in developing countries which deprives their inhabitants of full enjoyment of their human rights and, in particular, about the harmful effects of economic hardship and a heavy foreign debt burden on the developing countries,

Recalling that the Vienna Declaration and Programme of Action emphasize that the human rights of women and children are an indispensable and inalienable part of universal human rights,

Recalling:

- The Declaration and Plan of Action on the Survival, Protection and Development of Children adopted at the World Summit for Children which stress special protection for children,
- The commitments, especially concerning full respect for all human rights, fundamental freedoms and non-discrimination, set out in the Declaration and Programme of Action adopted by the World Summit for Social Development held in Copenhagen in March 1995,

Recalling further the successful work of the United Nations Fourth World Conference on Women held in Beijing from 4 to 15 September 1995, as well as the Beijing Declaration and Platform for Action adopted by the Conference,

Convinced that the Beijing Declaration and Platform for Action will contribute to eliminating discrimination against women and raising the social status of women in the world, and *considering* that all governments, UN bodies, parliaments of all nations, non-governmental organizations, public and private organizations should give effect to them,

Recognizing that the UN Convention on the Elimination of All Forms of Discrimination Against Women and the UN Convention on the Rights of the Child are important international human rights instruments for the promotion and protection of the rights of women and children,

Conscious that while some countries have made tangible efforts to attain equality between men and women and achieved noticeable results, others have failed to make adequate efforts, with the result that inequality between men and women is still common and much remains to be done,

Deeply concerned at the many forms of discrimination and violence against women and children resulting from poor social and economic conditions, natural disasters, armed conflict, economic and sexual exploitation, terrorism and drug trafficking, illiteracy, hunger, intolerance and disability in many parts of the world, requiring nations and the international community to take immediate and effective remedial measures consistent with the UN Convention on the Rights of the Child and the Convention on the Elimination of All Forms of Discrimination Against Women,

Aware that the number of economically exploited children has increased substantially over the last five years and that their working conditions have seriously deteriorated, resulting in greater physical, emotional and mental suffering,

Conscious that the causes of child labour are primarily rooted in poverty created by social and economic inequality as well as in insufficient educational facilities,

Recognizing that people with disabilities, in particular children, face additional barriers to the equal enjoyment of human rights,

Reaffirming the principle set out in the Vienna Declaration and Programme of Action that efforts to solve the problems concerning children, in particular the girl child, should give priority to non-discrimination and the best interests of children, and take account of the opinions of children,

Welcoming the Declaration on the Elimination of Violence Against Women which emphasizes that violence against women constitutes infringement upon, hindrance to and denial of the human rights and fundamental freedoms of women,

Noting with concern that there are many political prisoners and displaced persons as a result of terrorism and armed conflict in the world and that they include women and children,

Recalling the resolution on sexual violence against women adopted by the UN Commission on Human Rights on 21 August 1996 in Geneva,

Drawing attention in particular to the following texts adopted by the Inter-Parliamentary Conferences:

- Resolution on the protection of the rights of children (Budapest, March 1989);
- Resolution on policies to put an end to violence against children and women (Pyongyang, May 1991);
- Plan of Action to correct present imbalances in the participation of men and women in political life (Paris, March 1994);
- Resolution on parliamentary action for women's access to and participation in decision-making structures aimed at achieving true equality for women (Madrid, April 1995);
- Resolution on strategies for effective implementation of national and international commitments adopted at the World Summit for Social Development in Copenhagen (Bucharest, October 1995),

1. *Calls on* all governments to intensify their efforts to remove obstacles to the realization of human rights and fundamental freedoms, to strengthen international co-operation, to promote mutual understanding through dialogue and to promote and protect human rights on the basis of equality and mutual respect;

2. *Also calls on* all States to establish or, where they already exist, to strengthen national institutions for the promotion and protection of human rights and to ensure that these institutions are independent of government, have a reliable source of financing, are pluralistic and represent those in society involved in the promotion and protection of human rights, are

empowered to comment on the human rights performance of the government and are active in human rights education;

3. *Further calls on* all governments and UN bodies to strengthen their co-operation, consider the best ways and means of implementing the Declaration on the Right to Development, foster progress in the attainment of this right and pay special attention to the condition of women and children;

4. *Urges* the governments of the industrialized countries to end cuts in official development assistance and instead to aim at the target set by the United Nations (from 0.7 percent to 1 percent of GNP), in view of the fact that poverty is often the cause of the difficult human rights situation of women and children;

5. *Calls on* all countries, UN bodies, the World Trade Organization, the World Bank and the International Monetary Fund to take appropriate action to reevaluate their policies, readjust the current international economic order and establish fair and just relations between all countries of the world;

6. *Emphasizes* the need for creditor countries to take effective measures to cancel or reduce the debt burden of developing countries and eventually solve their debt problems;

7. *Urges* all governments to promote the protection of the human rights of women and girls by taking effective measures to implement fully the Beijing Declaration and Platform for Action (September 1995), and all parliaments to follow up on the commitment they undertook in the Beijing Parliamentary Declaration to implement the recommendations of the Beijing Conference;

8. *Appeals* to countries which have not yet done so to accede to or ratify as soon as possible the UN Convention on the Elimination of All forms of Discrimination Against Women and the UN Convention on the Rights of the Child, and *urges* the States parties to these instruments to take all necessary legislative, administrative and other measures to implement the above Conventions effectively;

9. *Urges* all countries to formulate and implement their plans of action according to the UN Convention on the Rights of the Child and the Declaration and Plan of Action on the Survival, Protection and Development of Children so as to protect and promote the rights of the child by strengthening international co-operation, giving priority, *inter alia*, to reducing infant mortality, child malnutrition and the rate of illiteracy, providing children with safe and clean drinking water, health care and sanitation, and basic education, and solving the problems of children who live in absolute poverty;

10. *Calls on* the parliaments and governments of the countries concerned and the international community to take emergency measures to protect the rights of the child and particularly those

of girls, abandoned children, street children, children who are victims of economic and sexual exploitation, including child pornography, child prostitution or trafficking in human organs, trafficking in children for purposes of adoption, children suffering from diseases including AIDS, refugee and displaced children, detained children, children suffering owing to armed conflict, famine, drought or harm caused by other emergency situations;

11. *Strongly condemns* the conscription and recruitment of children in armed forces or armed groups (especially when these are forced), as a violation of fundamental human rights requiring the punishment of those responsible for such heinous acts;

12. *Recommends* that parliaments and governments adopt and implement a programme setting out standards for the protection of women and children living in zones of national or international conflicts, of which they are the main victims, as has been proven on many occasions;

13. *Appeals* to all governments to use more effective measures, such as targeted education programmes and the provisions of criminal law, as well as police co-operation and co-operation with the media, tour operating companies and Internet and other network operators etc., to ensure that child prostitution and child pornography are consistently condemned and eliminated by society on a global scale;

14. *Commends* the holding of the First World Congress against Commercial Sexual Exploitation of Children (Stockholm, 27-31 August 1996), and *calls on* parliaments and governments to take action to support the Declaration and Agenda for Action by enacting legislation to implement their recommendations;

15. *Calls on* national parliaments, governments and the international community to initiate an open in-depth debate with a view to the adoption of measures that will tackle the root causes of child labour, *inter alia* by means of specific strategies and long-term programmes designed to address all causal factors of this complex issue;

16. *Urges* national parliaments and governments to ensure the provision of compulsory primary education and health care which are accessible to all and relevant to the individual child, paying particular attention to the inclusion of girls and children from marginalized groups;

17. *Calls on* States to recognize the important and constructive role that non-governmental organizations can play and to support their efforts aimed at enhancing promotion and respect of human rights;

18. *Also calls on* States where appropriate to provide advisory and technical services, to send on-site missions of experts to States that request them as well as to assist States to find ways and means to implement the rights set out in international legal instruments;

19. *Requests* the United Nations to consider the implications of trade-related sanctions with a view to addressing their negative impact on women and children;

20. *Rejects* any coercive or unilateral measures, whether political or legal, applied by one country against another, since such measures ultimately penalize men, women and children who are alien to political controversies and interests and should therefore be regarded as an infringement of human rights;

21. *Calls on* parliaments and governments worldwide to strongly condemn and combat drug production and trafficking and terrorism, as their destructive action begins with children and through them, affects society as a whole;

22. *Also calls on* parliaments and governments to introduce programmes of positive action and education to ensure non-discrimination and equal enjoyment of human rights in accordance with standard rules on the equalization of opportunities for persons with disabilities, in particular women and children;

23. *Appeals to* all countries to settle disputes and differences peacefully through negotiations, to make concerted efforts to promote economic and social development and to create an environment conducive to the full enjoyment of human rights, particularly by women and children;

24. *Strongly condemns* sexual violence including in armed conflicts, particularly the use of rape as an instrument of terror, forced prostitution and all other forms of sexual aggression, *recommends* that all parliaments and governments take emergency action to confront and eliminate all forms of violence against women and girls; and *recommends* that the United Nations further extend the powers of the international tribunals to ensure that States and individuals are held accountable for such crimes;

25. *Calls on* States to exercise diligence to make sure that violence is not occurring in the home and schools and to stop invoking customs, traditions or religion to avoid their obligation to eliminate violence against women and children;

26. *Recommends* that all parliaments and governments provide constitutional guarantees, promulgate and implement proper laws to prohibit sexual discrimination against all women and girls of all ages, including at the workplace and in school programmes and textbooks, and ensure that women enjoy rights equal to those of men and fully exercise these rights;

27. *Urges* governments to end forced sterilization of women and forced abortion, which in all cases constitute a grave violation of the woman's personal integrity and in some cases are also used for suppressing peoples and minorities;

28. *Requests* all countries to reflect the principle of equality between men and women in their legislation and take effective measures to guarantee the implementation of this principle;

29. *Also requests* the parliaments of all countries to:

- Examine their national legislation, including customary law and legal practice regarding, *inter alia*, the family, civil matters, crime, labour and commercial activities, to ensure that the principles governing international human rights instruments are implemented through national legislation, abolish any existing laws based on sexual discrimination and eliminate sexual discrimination in all areas of society;
- - Pursue efforts towards the establishment of family-friendly societies in order to promote the rights of members of the family, especially the rights of women and girl children in accordance with UN General Assembly resolution 50/142: Follow-up to the International Year of the Family;

30. *Urges* parliaments and governments to devise comprehensive human rights education programmes, enlisting the assistance of political circles (governments, national and local politicians, administrations) as well as all the players in civil society (families, teachers, students, media, associations), and to ensure that such programmes are implemented as part of the education system and relayed to all areas of social life;

31. *Requests* all countries to implement education curricula which include programmes for eliminating ignorance of the law and to make use of the media, in order to help women to understand their rights and exercise them through the legal system;

32. *Appeals* to parliaments and governments to condemn, and to take all possible action to ban, prostitution and pornography and to enact legislation prohibiting their dissemination through the media;

33. *Calls on* parliaments and governments to develop co-operation and the exchange of experience between women representatives from international intergovernmental and non-governmental organizations operating in different fields, in order to promote the rights of women in the family and society;

34. *Requests* all parliaments and governments to have translated into the native languages of their countries international legislation and other material concerning human rights and especially the equality of the status and human rights of women, and to ensure the most extensive dissemination of this material in order to heighten women's awareness of their rights.



INTER-PARLIAMENTARY UNION
PLACE DU PETIT-SACONNEX
1211 GENEVA 19

PARLIAMENTARY ACTION FOR WOMEN'S ACCESS TO AND PARTICIPATION IN DECISION-
MAKING STRUCTURES AIMED AT ACHIEVING TRUE EQUALITY FOR WOMEN

*Resolution unanimously adopted by the 93rd Inter-Parliamentary Conference
(Madrid, 1 April 1995)*

The 93rd Inter-Parliamentary Conference,

Considering that, at its 154th session, in March 1994, the Inter-Parliamentary Council unanimously adopted a Plan of Action to correct present imbalances in the participation of men and women in political life,

Noting that the Plan of Action includes measures to promote women's equal participation in and equal access to education, health, employment and economic life as a prerequisite for their equal participation in political life and decision-making,

Recognizing that the question of equality is a question of democracy which affects the whole of humanity,

Affirming the need to build on and implement the principles of equality already laid down in the Charter of the United Nations, the Universal Declaration of Human Rights, the Convention on the Political Rights of Women, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Declaration on the Participation of Women in Promoting International Peace and Co-operation, and the Vienna Declaration and Programme of Action agreed at the World Conference on Human Rights (Vienna 1993),

Recognizing that continuing action by all States and parliaments in particular is needed to promote these principles, and that supportive national legislation plays a key role in improving women's status, regardless of the economic situation of countries,

Also recognizing the paramount role of public education and awareness raising in promoting equality and partnership between men and women in society. **Realizing further** that education can help ensure a safer, healthier, more prosperous, environmentally sound and egalitarian

world, while at the same time contributing to social, economic and cultural progress, tolerance and international co-operation,

Acknowledging that the imbalance in the participation of men and women in political life and in decision-making structures reflects and is reflected in women's lower socio-economic and cultural status,

Noting that the United Nations IVth World Conference on Women (Beijing, September 1995) has as its critical areas of concern:

(a) Inequality between men and women in the sharing of power and decision-making at all levels;

(b) Insufficient mechanisms at all levels to promote the advancement of women;

(c) Lack of awareness of, and commitment to, internationally and nationally recognized women's human rights;

(d) The persistent and growing burden of poverty on women;

(e) Inequality in women's access to and participation in the definition of economic structures and policies and the productive process itself;

(f) Inequality in access to education;

(g) Inequalities in health and access to appropriate health care;

(h) Violence against women;

(i) Effects of armed and other kinds of conflict on women;

(j) Insufficient use of mass media to promote women's positive contributions to society;

(k) Lack of adequate recognition and support for women's contribution to managing natural resources and safeguarding the environment,

Aware that States will wish at the IVth World Conference on Women to report progress on the IPU Plan of Action to correct imbalances in the participation of men and women in political life, as well as progress on the Forward-Looking Strategies agreed at the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women (Nairobi 1985),

1. **Urges** all States to make the IVth World Conference on Women a conference of commitments, by pledging firm commitments of action in Beijing;
2. **Also urges** parliamentarians to keep informed of conventions on the rights of women and make them known to all local, regional or national bodies; to monitor the status of these conventions at the national and international levels; and to urge their States, if they have not yet done so, to ratify the Convention on the Political Rights of Women (1952) and the Convention on the Elimination of All Forms of Discrimination against Women (1979);
3. **Calls on** parliamentarians to play a more active role, along with governments and the various parties concerned, to get States which have expressed reservations to re-examine them with a view to lifting them as rapidly as possible;
4. **Also calls on** all governments and parliaments to take account of the human rights of women and equality in national legislation and all action on human rights, and to integrate them into strategies for progress in employment, education, health and other areas of human development;
5. **Urges** all States to implement regional and national instruments enshrining the equality of men and women;
6. **Also urges** all parliaments to ensure balanced and equitable distribution of national resources and the benefits of development programmes, taking into account the needs and aspirations of women;
7. **Recommends** that all parliaments monitor progress towards the goal of equal participation by men and women in decision-making in all sectors and in political structures at all levels;
8. **Encourages** all governments to promote responsible partnership between men and women within the family and, at the same time, **urges** parliaments to formulate laws which facilitate shared responsibility in this respect;
9. **Urges** political parties to endorse and implement the Plan of Action to correct present imbalances in the participation of men and women in political life, and **encourages** other organizations to adopt this course of action;
10. **Also urges** parliaments to endorse the Plan of Action and to report annually to the IPU on measures taken to implement the Plan, the first such annual report to be submitted in advance of the IVth World Conference on Women in Beijing in September 1995.

THE IMPORTANCE OF CIVIL SOCIETY AND ITS INTERPLAY WITH PARLIAMENTS AND OTHER DEMOCRATICALLY ELECTED ASSEMBLIES FOR THE MATURING AND DEVELOPMENT OF DEMOCRACY
*Resolution adopted unanimously by the 113th Assembly
(Geneva, 19 October 2005)*

The 113th Assembly of the Inter-Parliamentary Union,

Recognizing that a sincere and active commitment to interplay between civil society and parliaments and other democratically elected assemblies is a long-term political investment that, if properly managed, will contribute to ensuring peace, justice and prosperity, increase civic participation, and enhance the effectiveness of representative institutions and the legitimacy of governments,

Underscoring the close link between democracy and civil society, as well as the role of the latter in developing and strengthening democracy, and in introducing change required for development processes,

Aware that among democratic institutions parliament is a privileged forum for a transparent and free dialogue with the different forms of civil society,

Acknowledging that there will always be an essential difference between positive and constructive interplay, and relations that are or become confrontational, manipulative or inspired by hidden motives,

Noting that the articulation of this interplay must take into account both national and international dimensions, and with this the need for States to be committed not only to ensuring but also to promoting ongoing collaboration with civil society, with the aim of developing and consolidating democracy, and recognizing that the dynamic links between the maturing of democracy as a political process and its participatory nature can be strengthened by such interplay,

Recognizing the importance of building the capacity of citizens through education, as human and social capital are the driving forces and key elements in the democratization process, and are as important as financial and physical capital,

Acknowledging that parliaments around the world have a responsibility to provide a foundation for people-oriented social and economic policies which enhance bonds of trust, mutual confidence and reciprocity among citizens, and ensure appropriate, transparent and legally verifiable funding, whose sole objective should be the promotion of democracy and not the subversion of legitimately constituted governments,

Reaffirming the IPU's Universal Declaration on Democracy adopted at the 161st Session of the Inter-Parliamentary Council (Cairo, September 1997) and the Resolution entitled Ensuring lasting democracy by forging close links between Parliament and people, adopted at the 98th Inter-Parliamentary Conference (Cairo, September 1997),

Recalling the Beijing Declaration and Platform for Action, which encouraged governments to take measures to ensure women's full participation in power structures and decision-making and to increase women's capacity to participate in decision-making and leadership, and in this connection acknowledging the important contribution to the development of participatory democracy that women's popular movements such as non-governmental organizations (NGOs) make at the local and international levels,

Convinced that an enabling environment for civil society, ensured through legal provisions that guarantee the basic freedoms of assembly, association and expression in accordance with the Universal Declaration of Human Rights and other international and regional covenants and conventions, should be the cornerstone and basis of interplay between parliaments and civil society,

Stressing the need to establish a balanced partnership between the State and civil society that ensures transparency and accountability and the right of governments to enact laws governing the activities of civil society organizations,

Underlining the grass-roots-based and voluntary aspect of civil society, and *noting* the great differences in the structure of civil society in the various regions,

Stressing the fact that civil society is currently developing into a major global, social and economic force, and that its activities cover a very wide field, such as social services, education, health, human rights, communication and information,

Emphasizing the need to preserve the independence of civil society organizations and the importance of preventing them from being co-opted by foreign interests to advance illegal agendas,

Recognizing the importance of creative interplay between parliaments and civil society, especially in bridging gaps between various local groups and government bodies, public sector organizations, private business enterprises and the public,

Affirming that the financial relationships between civil society organizations and governments must be structured to provide needed support while avoiding co-optive pressures or the breakdown of ties between organizations and their constituencies that could compromise the independence and diversity of civil society organizations,

Conscious of forces that can undermine democracy by suppressing or manipulating civil society and that may emanate from intolerant governments or ideologies,

Conscious that poverty, unemployment, corruption and lack of opportunity limit the freedom of citizens, thus undermining the democratic system as a whole by inhibiting the integration of social organizations that foster democratic rights,

1. *Asserts* that the articulation of the interplay between civil society and parliaments and other democratically elected assemblies will not only contribute to the eradication of poverty, but also empower even the poorest of the poor to engage in general democratic life in their respective countries and, in so doing, will enhance the richness and credibility of political representation and strengthen the legitimacy of democratic institutions and processes, and in this connection, *calls*

- upon* parliaments to assist the efforts of NGOs to intensify the fight against poverty, so that all people have practical opportunities to participate in the development of civil society;
2. *Emphasizes* that only the full affirmation of political and social pluralism can ensure for all citizens the enjoyment of fundamental rights and freedoms;
 3. *Calls upon* all parliaments and governments to promote constructive interplay with their respective civil societies, with a view to optimizing the participatory character of their democracies, inter alia through the effective use of information technology and by bridging the digital divide between regions, and through the involvement of civil society organizations in gender-sensitive budgeting processes;
 4. *Calls upon* the world's parliamentarians to initiate and implement projects to facilitate public participation and education for youth, women and men, thereby training civil society in the operations and functions of legislatures and in the importance of civic participation in sustaining democracies;
 5. *Invites* parliaments and the IPU to set up mechanisms for the exchange of information, experience and best practices on the implementation and results of such projects;
 6. *Further calls upon* parliaments to put forward flexible social policies pursuant to prevailing national laws, and to adopt legislation to promote civil society interactions and make it easier for voluntary organizations to register or to be incorporated, while at the same time guaranteeing the independence and diversity of NGOs, and ensuring that civil society organizations, whose support stems from ideologies based on fundamentalism and intolerance, are not encouraged;
 7. *Also calls upon* parliaments to regularly review legislation relating to civil society organizations in order to guarantee their right to be registered and incorporated as legally independent entities;
 8. *Emphasizes* that fair funding of civil society is necessary to consolidate democracies, and that this need gives both the public and private sectors a great opportunity to contribute by collaborating with civil society in ways that do not create co-optive pressures or erode the ties between such organizations and those they represent, and thus to sustain the independence and diversity of civil society organizations;
 9. *Urges* all States to protect not only old, well-established organizations, but also new, democratic movements and associations in the most marginalized neighbourhoods and villages, and to support the struggle for tolerance and coexistence in those environments;
 10. *Strongly urges* parliaments to support and where necessary enhance all constructive channels of political expression, the promotion of human rights and investment in human capital, through legislation, policies and regulations that promote civil society;
 11. *Reiterates* that transparency and accountability are vital to civil society and that the establishment of mechanisms for control and self-discipline, and also of national and international codes of conduct, can bring about great improvements in this regard;
 12. *Calls upon* parliaments to enact legislation and, in cooperation with civil society, to adopt all measures incumbent upon them in order to counter corruption, which poses an internal threat to democracy, and to promote discussions on anti-corruption measures, including through negotiations related to the United Nations Convention against Corruption;
 13. *Urges* parliaments to promote conditions for the representatives of the corporate sector and NGOs to engage in a policy dialogue aimed at exploring avenues of increased collaboration, especially with regard to long-term commitments in areas such as the pursuit of the Millennium Development Goals, environmental protection and debt relief, and also aimed at identifying and removing

impediments preventing NGOs from participating in and contributing to various fields of development;

14. *Invites* parliaments and governments to support, consistent with the national policies, the role played by civil society organizations in job creation and economic development, and to draw upon their expertise in this field;
15. *Urges* parliaments and governments to encourage the development and strengthening of civil society by providing the necessary support, training and technical assistance, and by organizing open hearings and other activities that promote a permanent dialogue with civil society;
16. *Invites* parliaments to create ongoing contacts with NGOs, including those that represent marginalized groups, with a view to encouraging a greater level of popular advocacy in political life, providing (and encouraging NGOs to seek from governments) systematic responses to advocacy, including both actions taken and clear explanations of inaction, so as to strengthen incentives for participation, and educating their constituents about the importance of civic participation at all levels;
17. *Calls upon* parliaments to adopt rules and procedures capable of ensuring an effective dialogue with civil society in the performance of parliamentary functions;
18. *Stresses* the importance of parliamentarians' developing direct contacts with civil society actors and citizens in general, both at the electoral district level, by establishing a parliamentary presence there where constituents can be received, and at the national or international level, by using information and communications technologies, for example;
19. *Recommends* that the IPU develop closer links with civil society and project itself as a global actor in the promotion of civil society by adopting a new comprehensive media strategy to make the Union better-known to the general public;
20. *Urges* parliaments to encourage active interaction among civil society groups through the sharing of experiences and exchange of views, to ensure best practices;
21. *Invites* parliaments to design, jointly with their governments, programmes that promote the teaching of democratic values such as freedom, equality before the law, and freedom of association, and emphasizes that these values are best defended and respected in an organized and well-informed society;
22. *Invites* parliaments and governments to ensure that legislation is worded in a manner that is clear and comprehensible for the citizen, and to ensure also that citizens and civil society actors are aware of their legal and constitutional rights and their responsibilities in the democratic process;
23. *Encourages* parliaments to ensure that their relations with the media and their information and communication policies for civil society and the public in general are development-focused, transparent and based on truth as well as mutual respect and the best interests of society.



INTER-PARLIAMENTARY UNION
PLACE DU PETIT-SACONNEX
1211 GENEVA 19, SWITZERLAND

THE PREVENTION OF CONFLICTS AND THE RESTORATION OF PEACE AND TRUST IN COUNTRIES EMERGING FROM WAR; THE RETURN OF REFUGEES TO THEIR COUNTRIES OF ORIGIN, THE STRENGTHENING OF DEMOCRATIC PROCESSES AND THE HASTENING OF RECONSTRUCTION

Resolution adopted without a vote by the 99th Inter-Parliamentary Conference (Windhoek, 10 April 1998)

The 99th Inter-Parliamentary Conference,

Aware that, despite the development of conflict prevention mechanisms and the growing number of successes achieved by preventive diplomacy, armed conflicts still occur and post-war normalisation and rehabilitation require constant and active international involvement and support,

Deeply concerned that the slow pace of post-war normalisation and rehabilitation in various crisis areas of the world continues to endanger international peace, stability and security,

Recalling the relevant resolutions adopted by the Inter-Parliamentary Union, including those entitled " Respect for international humanitarian law and support for humanitarian action in armed conflicts ", " Prevention of conflicts, maintenance and consolidation of peace: Role and means of the United Nations and regional organizations ", " The protection of minorities as a global issue and a prerequisite for stability, security and peace " and " Co-operation for world and regional security and stability, as well as respect for all forms of the sovereignty and independence of States ", adopted, respectively, by the 90th, 91st, 95th and 97th Inter-Parliamentary Conferences,

Considering that war, political instability and oppression but also poverty and economic hardship trigger movements of refugees, and *conscious* that poverty, especially when combined with ethnic or political discord and political oppression, provides fertile ground for those wishing to foment violent opposition to governments,

Also recalling Conclusions No. 18 (XXXI) of 1980, No. 40 (XXXVI) of 1985, No. 56 (XL) of 1989, No. 74 (XLV) of 1994, No. 80 (XLVII) of 1996 and No 81 (XLVIII) of 1997 of the Executive

Committee of the Office of the UN High Commissioner for Refugees on international protection, and *wishing* to further stress:

- (a) The fundamental right of refugees to return home voluntarily and in safety and dignity;
- (b) The entitlement of returning refugees to all constitutional rights, including all human rights as enshrined in the Universal Declaration of Human Rights of 10 December 1948;
- (c) The need for the international community to provide adequate support to facilitate the reintegration of returnees, internally and externally displaced persons and demobilised soldiers,

Noting that democratic governance, transparency and accountability in government, the strengthening of electoral processes, the pursuit of social and economic development and the observance of basic human rights can not only prevent conflict but also restore peace to countries emerging from war,

Acknowledging the leading role of the United Nations and regional organisations in preventing conflict and restoring peace, ensuring sustainable economic and social development and promoting fundamental human rights,

Also acknowledging the importance of implementing all UN Security Council resolutions on conflicts,

Recalling relevant United Nations documents, especially the UN Secretary-General's 'An Agenda for Peace', the 'Supplement to an Agenda for Peace', 'An Agenda for Development' and 'An Agenda for Democratization', as well as General Assembly resolutions 52/18 of 15 January 1998 and 52/129 of 12 December 1997,

Recognising the Beijing Declaration and Platform for Action adopted by the States participating in the Fourth World Conference on Women organised by the UN in 1995, and *convinced* that the establishment and maintenance of peace and security require the unrestricted participation of women in decision-making processes, conflict prevention and settlement and all other peace initiatives,

Stressing the need to consolidate international peace and security through disarmament, in particular nuclear disarmament leading to the elimination of all nuclear weapons, and to impose quantitative and qualitative restrictions on the arms race, and *recalling* to this end the resolution of the 85th Inter-Parliamentary Conference (Pyongyang, April 1991) entitled " Need to prevent the proliferation of nuclear weapons and other weapons of mass destruction, to ensure the security of all States and to strengthen confidence-building measures in the context of the process of disarmament ",

Pointing out that the overwhelming majority of arms sales to developing countries are made by the permanent members of the UN Security Council,

Believing that the restoration of peace, the return of refugees, land rehabilitation and even economic recovery would be facilitated by the banning of the use, stockpiling, production and transfer of anti-personnel mines and by their destruction in conformity with IPU resolutions on the subject (Beijing, September 1996 and Cairo, September 1997),

Noting with great interest the content of the address delivered to the Conference by the Director General of UNESCO, Mr. Federico Mayor, on 6 April,

Also noting the importance of promoting all the components of a genuine " culture of peace ", and *hoping* for full recognition of the right to peace which is inherent in every individual and every society and is the very foundation of such a culture,

Urging parliaments to play their true role by legislating effectively to achieve the objectives of this resolution and by holding the Executive accountable for its action in these areas,

A. Conflicts and Conflict Prevention

1. *Calls on* the United Nations and other international and regional organisations concerned to develop and implement an international system for preventing aggression by tackling the root causes of problems, and *urges* these organisations to proceed accordingly with an in-depth review of the conditions to be met and the means to be applied to ensure that conflict prevention is more effective than in the past;
2. *Urges* all countries to support the UN Secretary-General in his efforts to reform and strengthen the mechanisms of the UN which deal with conflict prevention and early warning;
3. *Stresses the need* to avoid different standards when implementing UN Security Council resolutions;
4. *Emphasises* that no single State or closed group is entitled to monopolise conflict settlement worldwide, particularly by threatening to resort to force or military action, and that any attempts to do so should be rejected by the world community;
5. *Calls on* States which have not yet signed the *Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction* (Ottawa, December 1997) to do so, and on signatory States to ratify it as soon as possible to ensure its early entry into force; and *urges* States to facilitate the implementation of the Convention, especially with regard to humanitarian demining and victim assistance;
6. *Also calls on* States to reaffirm that rape in the conduct of armed conflict constitutes a war crime and, in certain circumstances, a crime against humanity and an act of genocide as defined in the 1951 Convention on the Prevention and Punishment of the Crime of Genocide, to take all measures required for the protection of women and

children from such acts, and to strengthen mechanisms to investigate and punish those responsible and bring the perpetrators to justice;

7. *Underlines the need* to establish or restore civilian control over society as an essential step towards restoring peace and trust;
8. *Calls on* governments and all other parties concerned to end arms sales which lead to wars and conflicts;
9. *Underlines the importance* of national and regional NGO networks dealing with conflict prevention and peace-building;

B. Restoration of Peace and Trust

1. *Condemns* the use of military force against peoples exercising their right to self-determination;
2. *Calls on* the United Nations to support all parties which suffer from conflicts, regardless of whether they are subject to international law;
3. *Also calls on* parties to conflicts to start and pursue direct negotiations as an essential means of reaching a peaceful solution;
4. *Believes* that developing democratic processes and enforcing human rights are the most effective means of preventing conflicts and restoring peace and trust in countries emerging from war;

C. Refugees

1. *Calls on* all countries of origin, countries of asylum, the Office of the UN High Commissioner for Refugees (UNHCR) and the international community to take all necessary measures to enable refugees to exercise freely their right to return to their home in safety and dignity;
2. *Also calls on* governments and parliaments to facilitate the early and voluntary return, the resettlement and the rehabilitation of refugees and displaced persons; the disarming, demobilisation and subsequent training and reintegration of former combatants, especially child soldiers, into civilian life: and the rehabilitation of traumatised populations, in particular women and children;
3. *Urges* the international community to provide timely and speedy humanitarian assistance and support to countries affected by an influx of refugees and displaced persons, and to help them particularly with the care and maintenance of large populations;
4. *Calls on* governments and parliaments to consider measures to guarantee the safety of displaced persons, including internally displaced persons, and their property during and after repatriation;
5. *Urges* governments and parliaments to condemn the use of refugees either as human shields in armed conflicts or as political pawns;
6. *Appeals* to donor countries to promote reconstruction in conflict regions and the integration of returning refugees by providing generous assistance in order to

safeguard the physical, social, legal and material security of former refugees and displaced persons;

7. *Recommends* that international financial bodies accord generous terms to countries which take in substantial numbers of refugees;

D. Democratic Processes

1. *Stresses* that the holding of free and fair elections as early as possible in countries emerging from war is of the utmost importance to the normalisation process;
2. *Underscores* that a freely and democratically elected Parliament is a prerequisite for the consolidation of peace and the prevention of new conflicts;
3. *Calls on* political parties and structures to choose their leaders according to merit;
4. *Attaches* the utmost importance to respect for human rights and fundamental freedoms, the rights of minorities and the freedom of the media, as major elements in the strengthening of democratic processes;
5. *Urges* governments to include teaching on tolerance, human rights and the culture of peace in formal and informal education;

E. Reconstruction

1. *Calls on* governments and parliaments to assist in the reconstruction and development of necessary infrastructure and productive capacity;
2. *Stresses* the importance of inter-ethnic reconciliation in the post-war normalisation process in multi-ethnic States.

FREEDOM OF EXPRESSION AND THE RIGHT TO INFORMATION

*Resolution adopted by consensus * by the 120th IPU Assembly (Addis Ababa, 10 April 2009)*

The 120th Assembly of the Inter-Parliamentary Union,

Recalling that under Article 19 of the Universal Declaration of Human Rights (1948), "Everyone has the right to freedom of opinion and expression",

Further recalling Article 19 of the International Covenant on Civil and Political Rights (1966),

Taking note of Article 10 of the European Convention on Human Rights (1950),

Taking note of Article 13 of the American Convention on Human Rights (1969),

Taking note of Article 9 of the African Charter on Human and Peoples' Rights (1981),

Taking note of the Chapultepec Declaration adopted by the Hemisphere Conference on Free Speech (1994),

Recalling the 63rd General Conference of the International Federation of Library Associations and Institutions (IFLA) held in Copenhagen (1997) on access to information and freedom of expression,

Taking note of the Aarhus Convention (1998) adopted by the Member States of the UN Economic Commission for Europe and the European Union,

Noting the 1998 Report of the UN Special Rapporteur on the protection and promotion of the right to freedom of opinion and expression,

Noting the 1999 and 2004 Joint Declarations of the UN Special Rapporteur on the right to freedom of opinion and expression, the Organisation for Security and Co-operation in Europe (OSCE) Representative on Freedom of the Media and the Organization of American States (OAS) Special Rapporteur on Freedom of Expression,

Noting the 2002 African Commission on Human and Peoples' Rights (ACHPR) Declaration of Principles on Freedom of Expression in Africa,

Recalling the May 2005 IPU Seminar on Freedom of Expression, Parliament and the Promotion of Tolerant Societies,

Noting the 2006 Joint Declaration of the UN Special Rapporteur on the right to freedom of opinion and expression, the OSCE Representative on Freedom of the Media, the OAS Special Rapporteur on Freedom of Expression and the ACHPR Special Rapporteur on Freedom of Expression and Access to Information in Africa,

Noting the outcome of the World Summit on the Information Society, held in two instalments (Geneva, 2003 and Tunisia, 2005), which seeks to build an information society with a humane and inclusive dimension that is conducive to development, in which each individual has the possibility to create, obtain, use and share information and knowledge, in keeping with the aims and principles of the Charter of the United Nations and the Universal Declaration of Human Rights,

Welcoming the Medellin Declaration on Securing the Safety of Journalists and Combating Impunity adopted on the occasion of the UNESCO Conference on Press Freedom, Safety of Journalists and Impunity in 2007,

Believing that the people's right to information as well as the generation and dissemination of information are indispensable elements of a functioning democracy and that access to information is an essential tool for strengthening government accountability, transparency and adherence to the rule of law,

Believing furthermore that the new digital communication tools, notably the Internet, can constitute powerful tools likely to facilitate the exercise of freedom of expression, access to information, transparency and diversity of opinions in the information society,

Recognizing the importance of freedom of expression and access to information in a democratic society for ensuring accountability, checking corrupt practices and enhancing good governance,

Recognizing also that freedom of expression should not be used to spread or promote hatred inciting to discrimination, hostility or violence,

Convinced that the protection of journalists' sources is an indispensable condition of press freedom,

Expressing concern that in some parts of the world, citizens are not sufficiently informed about their rights to freedom of expression and of access to information,

Expressing concern that denial of access to information on matters of public concern remains widespread in many government bureaucracies,

Expressing further concern that in some parts of the world illiteracy may affect citizens' ability to exercise their right to access information and freedom of expression,

Urging governments to inform their citizens of their legal rights, including freedom of expression and access to information,

Considering that education and literacy are crucial to the full enjoyment of access to information rights,

Concerned, however, that computer systems and new digital communication tools can be misused or abused to spread child pornography and racist or xenophobic propaganda,

Convinced of the need to strike a balance between freedom of expression, on the one hand, and the fight against incitement to hatred, on the other,

Convinced of the need to clearly define the lawful limits to freedom of expression that are necessary and proportionate in any democratic society,

Aware that appropriate measures should be taken, especially in the new information and communication environment, to protect minors from the harmful effects of content and behaviour likely to affect their well-being negatively,

Concerned about the widening digital divide between developing and developed countries, which impedes equal enjoyment of freedom of expression and the right to information by all people,

Aware that people's right to access information is more relevant today than ever, as modern democracy embraces a wider and more direct concept of accountability,

1. *Believes* that freedom of expression and access to information are fundamental to a democratic society;
2. *Welcomes* the expansion among States of freedom of information rights;
3. *Welcomes* the adoption and modernization of rights-based access to information legislation throughout the world;
4. *Welcomes also* the efforts of international institutions and organizations aimed at protecting freedom of expression and the right to information;
5. *Encourages* those parliaments that have not already done so to enact freedom of information legislation at the earliest opportunity, and *underscores* the need for the parliaments of States that already have such a legal framework in place to ensure that it is implemented effectively;
6. *Calls on* parliaments to enact laws that ensure respect for intellectual pluralism;
7. *Urges* parliaments to adopt the legislative measures needed to criminalize the dissemination or transmission of child pornography through any medium;
8. *Invites* parliaments to take legislative action to protect journalists from being compelled to reveal their sources;
9. *Condemns* restrictions imposed on, violence suffered by, victimization and even assassination of members of parliament, journalists and other opinion shapers in exercising the right of freedom of expression;
10. *Urges* parliaments to ensure that only those restrictions on freedom of expression that are absolutely necessary to protect the rights of others and provided for by law are allowed, and that any regulatory regime operates in this context;
11. *Recognizes* that freedom of expression and access to information may need to be restricted in case of war or other serious threat to public security, but *stresses* that such restrictions ought to be strictly limited in scope and duration by legislation that is proportionate to its purpose and whose implementation is subject to independent judicial oversight;
12. *Expresses its concern* that the concentration of media ownership will lead to the marginalization of the right to express unconventional views or views that are not in the mainstream;
13. *Invites* those parliaments that have not already done so to pass laws to guarantee the plurality of media, including public-interest and community broadcasters, as being essential to freedom of expression; furthermore *calls on* parliaments to combat arbitrary sanctions by the State on the media, press agencies and their agents;

14. *Believes* that plurality of media and public-interest broadcasters should be encouraged by parliaments as being essential to freedom of expression;
15. *Urges* the media to exercise their freedom of expression judiciously in all circumstances, particularly during armed conflicts, counter-terrorism operations and in other similar situations;
16. *Believes* in the importance of promoting a society in which a diversity of broadcasters, publishers, artists, and other persons or organizations can exercise their freedom of expression and participate fully and in which the public has access to a variety of opinions, perspectives and views;
17. *Invites* the Security Council to adopt a resolution recalling the scope of international humanitarian law for journalists present in conflict zones;
18. *Further calls* for parliaments to participate actively in an international dialogue on the future governance of the Internet to ensure that it constitutes a democratic medium of expression that respects the legitimate rights of others, particularly in the framework of the UN Internet Governance Forum (IGF), and of emerging networks linked to the IGF on the national and regional levels;
19. *Calls on* parliaments to ensure that education is compulsory, free and equally available to boys and girls until at least age 16 and that adult literacy and mastery of new information and communication technologies become widespread practices;
20. *Believes* that freedom of information is essential to full enjoyment of the right of freedom of expression and meaningful participation in a democratic society;
21. Encourages parliaments to take effective measures to narrow the digital divide, including by providing technical and financial assistance to developing countries and by strengthening international cooperation in this field;
22. *Urges* the IPU to encourage the exchange of experiences and good practices in the development of the right to freedom of information and to give technical support to parliaments wishing to take action to enhance the exercise and enjoyment of the right to freedom of information;
23. *Encourages* the development of freedom of information beyond State actors to encompass significant private-sector companies and bodies;
24. *Believes* that whistleblowers should be protected by law, if acting in the public interest;
25. *Stresses* that, in public administration, the basic principle should be in favour of transparency so that disclosure is subject only to narrowly defined restrictions permissible only in the public interest, or to protect the personal data of individuals;
26. *Urges* parliaments to eliminate the barriers to an effective freedom of information regime, including, but not limited to, public awareness, sufficient resources, limiting exceptions, effective guidelines, elimination of delays and excessive fees, and an independent regulatory mechanism to enforce compliance, and to encourage a culture of openness in the public service.

PARLIAMENTS' ROLE IN STRENGTHENING DEMOCRATIC INSTITUTIONS AND HUMAN DEVELOPMENT IN A FRAGMENTED WORLD

*Resolution adopted unanimously by the 108th Conference
(Santiago de Chile, 11 April 2003)*

The 108th Inter-Parliamentary Conference,

Reaffirming the principles enshrined in the IPU's "Universal Declaration on Democracy" adopted by the Inter-Parliamentary Council at its 161st session (September 1997, Cairo),

Recalling the Declaration of Presiding Officers of National Parliaments entitled "The Parliamentary Vision for International Cooperation at the Dawn of the Third Millennium", adopted on 1 September 2000,

Recalling also the United Nations Millennium Declaration of 8 September 2000 which sets out the Millennium Development Goals as internationally agreed targets for poverty eradication, and the United Nations Development Programme (UNDP) Human Development Report 2002,

Reaffirming that democracy is both an ideal to be pursued and a mode of government to be applied according to modalities which reflect the diversity of experiences and cultural particularities without derogating from internationally recognised principles and norms and that it is thus a constantly perfected and always perfectible state or condition whose progress will depend upon a variety of political, social, economic and cultural factors,

Acknowledging that national parliaments represent the basis for good governance grounded on democratic institutions responsive to the needs of the people, the rule of law, anti-corruption measures, gender equality and a favourable atmosphere and environment for investment,

Recognising that parliamentary institutions make an indispensable contribution to the achievement of meaningful democratic control and accountability through their scrutiny of the activities of governments, by:

- Relying on their constitutional authority to authorise, among other government legislative initiatives, the revenue-raising and spending measures of governments as a means of ensuring their cooperation,
- Conducting substantive scrutiny using a variety of practices that are specific to individual jurisdictions, including oral question periods and the entitlement to address written questions to ministers, committee hearings and other practices that support financial scrutiny,
- Providing citizens, both directly and through the mass media, with the information needed to hold governments accountable and to contribute constructively to the processes used to produce policy and legislation relating to democratisation and human development, both at home and abroad,

Emphasising the central role of democratic institutions in ensuring successful long-term human development, by:

- Using effective electoral, parliamentary and other mechanisms to create the conditions for ensuring that governments are responsive to the needs and interests of the governed,
- Ensuring that governments maintain the levels of popular legitimacy required both for effective governmental action with respect to human development and other issues, and for the civil order that is a precondition for effective governance,

Stressing the important role of parliaments as legitimate representatives of the people in strengthening democratisation in multilateral institutions and furthering human development,

Convinced that respect for human rights is not only a fundamental value in itself but also essential to developing stable, democratic and prosperous societies that are capable of living together in peace,

Recognising that education is a key to human development, and *acknowledging* that parliaments have a vital responsibility to guarantee free universal education without any discrimination whatsoever, as this hastens the pace of economic, social and political development and fosters cultural and spiritual advancement,

Noting that countries that have developed effective macroeconomic policies, established robust public institutions, maintained domestic political stability and strengthened the rule of law, supported by investments in people through better health and education, have generally achieved strong economic growth and made progress towards poverty reduction,

Convinced that the side-effects of globalisation and certain policies are, in some cases, inconsistent with the very concept of human development, and *stressing* the need for developing countries to realise that any progress, whether economic or social, is contingent upon their ability to create the necessary national will to face the challenges imposed on them by the new global system,

Stressing that persistent extreme poverty deprives citizens of full and effective enjoyment of human rights and of participation in democratic processes in each society,

Concerned that efforts to build strong democratic institutions while working towards sustainable human development encounter numerous challenges, such as poverty, corruption, globalisation, lack of resources, discrimination, transnational crime, civil strife, environmental degradation and overpopulation,

Expressing concern at the growth of terrorism, which poses a serious threat to democratic institutions, and its repercussions on human development,

Also expressing concern at the growing divide between rich and poor countries,

Emphasising the need to grant debt relief to the poor countries, address the causes of debt and take measures to ensure that indebtedness does not recur,

Stressing the need to redouble efforts to combat HIV/AIDS,

Recognising that volunteerism builds strong cohesive communities, encourages participation in the democratic process and reduces social tensions by forging a common view,

1. *Urges* governments and parliaments to acknowledge their collective responsibility to uphold the principles of human dignity, equality and equity at the global level;
2. *Calls on* all the parliaments in the world to work for democracy based on the freely expressed will of the people through free and fair elections to choose their own political, economic, social and cultural systems and participate fully in every sphere of their lives and, in this context, to affirm the universal need to promote and protect human rights and fundamental freedoms at the national and international levels;
3. *Calls on* governments to promote the participation of all sections of society, in particular women, the disadvantaged and minorities, in the decision-making process;
4. *Urges* the governments and parliaments of all countries to foster participation by their citizens in political decision-making, shielded from undue interference from institutionalised pressure groups, by creating, through democratic means, decentralised representative institutions vested with real power and endowed with adequate financial resources, and instituting channels for this purpose that are consistent with the spirit of their Constitution and traditions;
5. *Stresses* the need to reinforce cooperation between the United Nations and its organs and agencies and national parliaments with a view to furthering peace, security and development, abiding strictly by the principles of human dignity and equity;
6. *Urges* all States and multilateral institutions, including the IPU, to continue providing practical support to strengthen political structures such as parliaments and their committees, local governments, electoral commissions and political parties and to uphold democratic processes, and particularly free elections, so that these essential political systems operate with sufficient power, responsibility and authority to reflect the interests of the people as a whole; in this regard, *encourages* the IPU and the UNDP to pursue their cooperation in strengthening parliamentary institutions, and in implementing a strategic partnership within their respective development agendas;
7. *Stresses* the need for parliaments to submit regular reports on the state of democracy and human development in the world, to serve as working and consultative papers for the drafting of national policy;
8. *Encourages* all States to ratify and implement the international human rights instruments in their widest possible sense, which constitute the basis of democracy;
9. *Urges* the United Nations to extend the 1965 Convention on the Elimination of All Forms of Racial Discrimination to cover any form of political activity that derives from hate and violence;
10. *Recommends* the development of the natural function of parliament as the mediator between the public and international organisations and institutions, and parliament's systematic rapprochement with the NGOs that play a major role within civil society;
11. *Requests* the IPU Secretary General to arrange for the IPU to make a substantive contribution, including the circulation of a document on the IPU and democracy, to the 5th International Conference of New or Restored Democracies in June 2003 in Ulaanbaatar (Mongolia);
12. *Stresses* the urgent need to reform existing multilateral institutions by promoting democratic principles to ensure that their policies and programmes meet the interests of and benefit all nations; and *reaffirms* that the United Nations is the only legitimate multilateral institution responsible for world peace and security and must perform its role and functions in compliance with the principles of international law and its Charter;
13. *Urges* parliaments around the world to make maximum use of existing processes for exerting legislative influence, financial control, scrutiny and accountability in support of a global

democratisation and human development agenda, and to experiment with special debates, public consultations, committee studies and other initiatives designed to mobilise governments and world public opinion in favour of democratic institutions and human development;

14. *Encourages* parliaments to develop parliamentary diplomacy activities and to strengthen bilateral and multilateral cooperation;
15. *Urges* parliaments, in this regard, to devote ever closer attention to international issues and particularly to development financing, debt, poverty reduction, human rights, gender equality, the rights of the child, and the right to education, and to routinely take account of this dimension when legislating;
16. *Also urges* parliaments to put into place the necessary structures to monitor and oversee the international negotiations conducted by governments, particularly when they need to be subsequently enacted into legislation;
17. *Requests* governments to ensure that all useful information relating to such negotiations is submitted to parliament, both in the negotiation phase and when implementing decisions, encompassing all texts, including those which do not require enactment into domestic law;
18. *Emphasises* the central role of the Inter-Parliamentary Union, as the world organisation of parliaments, in making a key contribution to strengthening democracy in its relations with international institutions and to keeping world peace;
19. *Acknowledges* that, to achieve peace and security through social and economic stability, international institutions must offer the countries of the world the aid required to ensure reasonable standards of living, in contrast to the present disparities between rich and poor countries;
20. *Underscores* the importance of establishing an international and regional strategy for human development focused on attaining sustainable economic growth and combating poverty, and of supporting and expanding integration-promoting institutions through national political participation in policy formulation and legislative decision-making, with continuous re-evaluation;
21. *Requests* all parliaments to urge their governments to adopt measures to effectively enable them to honour the undertaking made by all the United Nations Member States in the Millennium Declaration, and to work jointly to establish more egalitarian processes in which all citizens in every country can participate;
22. *Also requests* all countries to make a firm pledge to human development and take all appropriate measures to increase current social expenditure allocated in their budgets for human development;
23. *Calls on* the parliaments of the developed countries to work towards the goal of earmarking at least 0.7 per cent of GNP as Official Development Assistance for global human development;
24. *Further calls on* all parliaments and parliamentarians to enact not only measures that focus on facilitating economic growth, but more particularly those that empower people and promote their welfare and development;
25. *Endorses* the Brussels Declaration, and the Programme of Action for the Least Developed Countries for the Decade 2001-2010, adopted by the United Nations General Assembly in its resolution 55/279 of 12 July 2001, and emphasises, in particular, the need for the effective implementation of Commitment 2 of the Programme relating to good governance at the national and international levels, and of Commitment 7 relating to necessary implementation of the Programme at the national level;
26. *Requests* the IPU to devote special attention to the LDCs in its programmes and activities focusing on the areas of good governance at the national and international levels, and *also*

*requests*parliaments to play a supportive role in ensuring the effective implementation of the Brussels Programme of Action at the national level;

27. *Strongly endorses* the resolution adopted by the IPU Council at its 168th session on 7 April 2001, expressing support for volunteerism and encouraging closer cooperation between the IPU and the United Nations Volunteers in this regard.

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