

TREATY TO ESTABLISH THE AFRICAN UNION
(RATIFICATION AND ENFORCEMENT) ACT

ARRANGEMENT OF SECTIONS

SECTION

1. Enforcement of Treaty to establish the African Union.
2. Short title.

SCHEDULE

TREATY TO ESTABLISH THE AFRICAN UNION
(RATIFICATION AND ENFORCEMENT) ACT

An Act to enable effect to be given in the Federal Republic of Nigeria to the Treaty to establish the African Union; and for purposes connected therewith.

[24th December, 2003]

[Commencement.]

WHEREAS the Treaty establishing the African Union was signed by the Heads of Government of the Member States of the African Union on 26 April, 2003;

AND WHEREAS Nigeria was a signatory to the said Treaty;

AND WHEREAS the Government of the Federal Republic of Nigeria has in accordance with her Constitutional Process ratified the said Treaty;

AND WHEREAS it is necessary and expedient to enact a law to enable effect to be given to the Treaty establishing the African Union in Nigeria.

1. Enforcement of the Treaty to establish the African Union

The provisions of the Treaty to establish the African Union which are set out in the Schedule to this Act, shall subject as thereunder provided, have jurisdiction in Nigeria and shall be given full recognition and effect in Nigeria.

2. Short title

This Act may be cited as the Treaty to establish the African Union (Ratification and Enforcement) Act, 2003.

SCHEDULE

[Section 1.]

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ARTICLE I

Interpretation

"**AEC**" means the African Economic Community;

"**Assembly**" means the Assembly of Heads of State and Government of the Union as provided for in Articles 9 and 10 of this Treaty;

"**Commission**" means the Economic and Social Commission of the Union as provided for under Article 17 of this Treaty;

"**Council**" means the Council of Ministers of the Union as provided for in Articles 13 and 14 of this Treaty;

"**Court**" means the Court of Justice as provided for in Article 19 of this Treaty;

"**Member State**" or "Member States" means a Member State of the Union;

"**OAU**" means the Organisation of African Unity;

"**Parliament**" means the Pan African Parliament of the Union as provided for in Article 18 of this Treaty;

"**Protocol**" means an instrument of implementation of the present Treaty having the same legal force as the latter;

"**Secretariat**" means the General Secretariat of the Union as provided for in Articles 19 and 20 of this Treaty;

"**Secretary-General**" means the Secretary-General of the Union;

"**Treaty**" means the present Treaty.

ARTICLE 2

Establishment

1. The High Contracting Parties hereby establish the African Union (hereafter referred to as "the Union").

2. This Treaty shall constitute the basis of the Union supplemented by the OAU Charter and the Treaty establishing the African Economic Community (the Abuja Treaty).

ARTICLE 3

Principles

1. The High Contracting Parties, in pursuit of the objectives stated in Article 4 of this Treaty, solemnly reaffirm their commitment to the principles enshrined in Article 3 of the OAU Charter and Article 3 of the AEC Treaty.

2. In addition they solemnly affirm and declare their adherence to the following principles-

- (a) respect of the borders existing on the achievement of national independence;
- (b) democratic principles including the respect of individual and collective freedoms, and the holding of free and fair elections;
- (c) condemnation and rejection of unconstitutional changes of Governments;
- (d) tolerance, mutual accommodation and respect of the rights of minorities;

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- (e) prevention and peaceful settlement of conflicts;
- (f) observance of human and peoples' rights in accordance with the principle of the African Charter on Human and Peoples' Rights as well as other human rights instruments;
- (g) promotion of justice, equity and solidarity in international relations;
- (h) respect of international law;
- (i) good governance and rejection of corruption gender equality.

ARTICLE 4

Objectives

1. In addition to the objectives set out in Article 2 of the OAU Charter and Article 4 of the AEC Treaty, the objectives of the Union shall be to-

- (a) achieve greater unity and solidarity between African countries and peoples in conformity with the ultimate objectives of the OAU Charter and the AEC Treaty;
- (b) achieve rapid political and socio-economic integration of the Continent through the speedy implementation of the AEC Treaty;
- (c) promote democratic principles and institutions, popular participation and good governance;
- (d) promote and protect human and peoples' rights in accordance with the African Charter on human and peoples' rights and other human rights instruments;
- (e) promote peace, security and stability in the Continent and to put an end to the scourge of conflicts and their devastating consequences, in particular, through the OAU Mechanism for Conflict Prevention, Management and Resolution;
- (j) promote and defend African common positions on issues of concern to the Continent and its peoples;
- (g) promote and support fundamental research and development in the fields of science and technology, for the development of the continent;
- (h) promote sustainable development, in particular, the protection of environment;
- (i) create conducive conditions for the continent to play its rightful role in the global economy and in international negotiations;
- (j) mobilise international support and solidarity towards Africa; and
- (k) address the scourge of pandemic on the continent.

ARTICLE 5

Common Policies

1. To realise these objectives, the Member States shall develop and adopt common policies, in particular, in the following fields-

- (a) peace, security and stability-
 - (i). defence and security;
 - (ii) prevention, management and resolution of conflicts;
 - (iii) humanitarian and human rights issues;
- (b) socio-economic co-operation and integration.

(1) Member States shall accelerate the implementation of the AEC Treaty, in particular, through-

- (i) shortening the implementation stages of the Abuja Treaty;
- (ii) ensuring the speedy establishment of all the institutions provided for in the Abuja Treaty, such as the African Central Bank, the African Monetary Union, the African Court of Justice and, in particular, the Pan-African Parliament;
- (iii) strengthening and consolidating the Regional Economic Communities as the pillars for achieving the objectives of the African Economic Community and realising the envisaged Union.

(2) Member States shall promote their co-operation in particular in the following fields-

- (i) science, technology, health, research and development;
- (ii) agriculture, industry, basic infrastructure, energy, natural resources and environment;
- (iii) trade, money and finance;
- (iv) human resources, education and culture;
- (v) transport and communications.

2. Member States shall build these common policies on the relevant provisions of the OAU Charter, the AEC Treaty and all other relevant legal instruments and declarations adopted by the Assembly.

3. Member States shall actively and faithfully promote these common policies and ensure that they are reflected in their national policies. In regard, they shall adopt a selective approach on the basis of convergence criteria freely agreed to in the different stages leading to the economic integration of the continent.

ARTICLE 6

Common Positions

Member States shall adopt common positions on issues of concern to the Union and shall defend these positions in all fora and co-ordinate their action so as to ensure the effectiveness of the Union as a cohesive force in international relations.

ARTICLE 7

Membership

Membership of the Union shall be open to all Member States of the OAU.

ARTICLE 8

Organs

I. The Organs of the Union shall be-

- (a) the Assembly of Heads of State and Government;
- (b) the Council of Ministers;
- (c) the Economic and Social Commission;
- (d) the Pan African Parliament;
- (e) the African Court of Justice;

- (f) the General Secretariat; and
- (g) other Organs provided for in the OAU Charter and the AEC Treaty.

2. Each organ shall act within the limits of the powers conferred upon it by this Treaty, the OAU Charter and the AEC Treaty.

ARTICLE 9

The Assembly of Heads of State and Government

The Assembly shall be the Assembly of Heads of State and Government as provided for in the OAU Charter and the AEC Treaty.

ARTICLE 10

Functions and Powers of the Assembly of Heads of State and Government

1. The Assembly shall be the supreme organ of the Union. In that capacity it shall be responsible for the formulation of general policies for the Union.
2. The Assembly shall receive and consider reports and recommendations from the other organs of the Union and may make decisions thereon.
3. The Assembly may delegate to Council its authority to take decisions in pursuance of this Article.

ARTICLE 11

Meetings and Procedures of the Assembly of Heads of State and Government

1. The Assembly shall meet once a year in regular session. An extraordinary session may be convened by the Chairman of the Assembly or at the request of a member State provided that such a request is supported by two-thirds of the members of the Assembly.
2. The office of the Chairman shall be held every year by one of the Heads of State and Government elected by the Assembly after consultation among Member States.
3. The Assembly shall adopt its Rules of Procedure, pending which, the Rules of Procedure of the Assembly of Heads of State and Government of the OAU shall apply.

ARTICLE 12

Decisions of the Assembly of Heads of State and Government

1. The Assembly shall act by decisions.
2. Unless otherwise provided in this Treaty, decisions of the Assembly shall be adopted by consensus, failing that, by a two-thirds majority of Member States.

ARTICLE 13

The Council of Ministers

The Council shall be the Council of Ministers as provided for in the OAU Charter and the AEC Treaty.

ARTICLE 14

Functions and Powers of the Council of Ministers

1. The Council shall assist the Assembly in the discharge of its functions under this Treaty.

2. Request the Secretariat to undertake any activities or studies it considers necessary for the realisation of the objectives of the Union.

ARTICLE 15

Meetings and Procedures of the Council of Ministers

1. The Council shall meet twice a year in Ordinary Session. One such session shall precede the Ordinary Session of the Assembly.
2. An Extraordinary Session may be converted by the Chairman of the Council at the request of a Member State provided that such request is supported by two-thirds of the members of the Council.
3. The office of the Chairman of the Council shall be held by the Minister of Member State elected by the Council after consultations with its members.
4. The Council shall determine its Rules of Procedure, pending which, the Rules of Procedure of the Council of Ministers of the OAU shall apply.

ARTICLE 16

Decisions/Regulations of the Council of Ministers

1. The Council shall act by decisions/regulations,
2. Unless otherwise provided in this Treaty, decisions/regulations shall be adopted by consensus or, failing that, by two-thirds majority of Member States.

ARTICLE 17

The Economic and Social Commission

The Commission shall be the Economic and Social Commission of the AEC as provided for in Articles 15 and 17 of the AEC Treaty.

ARTICLE 18

The Pan-African Parliament

The Parliament shall be the Pan-African Parliament of the AEC as provided for in Articles 7 and 14 of the AEC Treaty. The seat of the Pan-African Parliament shall be decided upon by the Assembly, taking into consideration the need for decentralisation of the various institutions established under the Union within the continent.

ARTICLE 19

The African Court of Justice

The Court shall be the Court of Justice of the AEC as provided for in Articles 7 and 18 of the AEC Treaty. The seat of the African Court of Justice shall be decided upon by the Assembly, taking into consideration the need for decentralisation of the various institutions established under the Union within the continent.

ARTICLE 20

The General Secretariat

1. The Secretariat shall be the General Secretariat of the OAU.

2. In the appointment of Staff of the Union and in addition to the need to ensure high integrity and competence, consideration shall be given to equitable geographical distribution of posts among all Member States and adequate gender representation.

ARTICLE 21

Functions and Powers of the General Secretariat

The functions and powers of the Secretariat shall be as provided for under this Treaty, the OAU Charter and the AEC Treaty.

ARTICLE 22

Co-operation with other Organisations and Entities

In pursuance of its objectives and, in conformity with the relevant provisions of the OAU Charter and the AEC Treaty, the Union shall closely co-operate with the Regional Economic Communities, other African Governmental and Non-Governmental organisations as well as the United Nations and its various agencies, international organisations and other relevant entities.

ARTICLE 23

Consultations with the Civil Society

1. In order to provide a platform for the common peoples of Africa and their grassroots organisations to be more involved in discussions on the problems and challenges facing the continent, and enable them to make proposals and recommendations to the organs of the Union, consultative fora shall be convened by the Secretariat, on a regular basis.
2. The modalities of these consultations shall be determined by the Council upon recommendations by the Secretary-General.

ARTICLE 24

Budget and Resources

- I. The annual regular budget of the Union shall be prepared annually or within such periods as may be determined by the Council of Ministers upon recommendation of the Secretary-General.
2. The budget shall be funded by contributions made by Member States in accordance with the scale of assessment of the OAU. Upon the recommendation of the Council, the Assembly shall determine the conditions under which the financial contributions of Member States may be supplemented or where necessary, replaced by the proper resources of the Union.
3. The Secretary-General may accept on behalf of the Union, gifts, bequests and other donations made to the Union. He/she shall inform the Assembly through the Council accordingly.
4. Special budgets shall be made available, where necessary, to meet the extra-budgetary expenditure of the Union. The Assembly shall determine the contributions of Member States to special budgets of the Union.
5. Upon the decision of the Assembly, any Member State having areas in the payment of its contribution to the budget of the union, shall not have the right to vote or participate in taking decisions of the Union if the amount of its arrears is equal to, or in excess of the contributions payable by such State for the last preceding two financial years. Such Member States shall cease to enjoy other benefits arising by virtue of this Treaty as well as the rights to address meetings. In addition, it shall lose the right to present candidates for vacant posts within the

Union and shall not be eligible for office in the deliberative Organs of the Union. The Assembly may, where necessary, impose other sanctions on a Member State for non-payment of contributions.

6. Notwithstanding the provisions of paragraph 1 of this Article, the Assembly may suspend the application of the provisions of the said paragraph if it is satisfied, on the basis of an explanatory report by the Member States through the Secretary-General, that the non-payment of contributions is due to causes and circumstances beyond the control of the said Member State.

7. The Assembly shall decide on the modalities for the application of this Article.

ARTICLE 25

The Seat of the

Union

The seat of the Union shall be the seat of the OAU.

ARTICLE 26

Working Languages of the Union

The working languages of the Union shall be the working languages of the OAU.

ARTICLE 27

Legal Capacity, Immunities and Privileges

1. The Union shall enjoy in the territory of Member States legal personality for the exercise of its functions and the fulfilment of its objectives.

2. The Union and its officials shall be entitled to the privileges and immunities provided for under the General Convention on privileges and immunities of the OAU.

ARTICLE 28

interpretation

Any question which may arise concerning the interpretation of this Treaty shall be decided by the Court and until it is established, by a simple majority of the Assembly.

ARTICLE 29

Signature and Ratification

This Treaty and the Protocols, shall be open to signature and ratification and accession by the High Contracting Parties in accordance with their respective constitutional procedures. The instruments of ratification/accession shall be deposited with the Secretary-General of the Union.

ARTICLE 30

Entry into Force

This Treaty shall enter into force thirty (30) days after the deposit of the instrument of ratification by two-thirds of the Parties signatory to this Treaty.

ARTICLE 31

Accession and Admission

1. Any Member State of the OAU may notify the Secretary-General of its intention to accede to this Treaty.

2. The Secretary-General shall, upon receipt of such notification, transmit copies thereof to all Member States. Admission shall be decided by simple majority of Member States which shall transmit their votes to the Secretary-General. Upon receipt of the required number of votes, the Secretary-General shall transmit the decision to the concerned Member State.

ARTICLE 32

Withdrawal

1. Any Member State wishing to withdraw from the Union shall notify by giving one year notice in writing, to the Secretary-General who shall inform Member States thereof upon the expiration of such a period, that Member State shall, if the notice is not withdrawn, cease to be a Member of 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 Treaty and shall be bound to discharge its obligations under this Treaty up to the date of its withdrawal.

ARTICLE 33

Depository of the Treaty

1. This Treaty, drawn up in four (4) original texts in Arabic, English, French and Portuguese, all four (4) texts being equally authentic shall be deposited with the Secretary-General of the Union.

2. The Secretary-General shall notify Member States of the dates of deposit of the instruments of ratification or accession and shall upon the entry into force of this Treaty register the same with the Secretariat of the United Nations.

ARTICLE 34

Amendment, Reviewal' Revision of the Treaty

1. Any Member State may submit proposals for the amendment or revision of this Treaty.

2. Proposals for amendment or revision shall be submitted to the Secretary-General who shall transmit the same to Member States within thirty (30) days of receipt thereof.

3. The Assembly upon the advice of the Council shall examine these proposals within a period of one year following notification of Member States in accordance with the provision of paragraph 2 of this Article.

4. Amendments or revisions shall be adopted by the Assembly by consensus or, failing that, by 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 instrument of ratification by two-thirds of the Member States with the Secretary-General.

SUBSIDIARY LEGISLATION

No Subsidiary Legislation
