

African Union, African Regional Bodies

Treaty Establishing the African Economic Community

Protocol to the Treaty Establishing the African Economic Community Relating to the Pan-African Parliament

Legislation as at 2 March 2001

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Protocol to the Treaty Establishing the African Economic Community Relating to the Pan-African Parliament
 Contents

Article 1 – Definitions 2

Article 2 – Establishment of the Pan-African Parliament 2

 Paragraph 1. 2

 Paragraph 2. 2

 Paragraph 3. 2

 Subparagraph i) 2

 Subparagraph ii) 2

Article 3 – Objectives 2

 Paragraph 1. 2

 Paragraph 2. 3

 Paragraph 3. 3

 Paragraph 4. 3

 Paragraph 5. 3

 Paragraph 6. 3

 Paragraph 7. 3

 Paragraph 8. 3

 Paragraph 9. 3

Article 4 – Composition 3

 Paragraph 1. 3

 Paragraph 2. 3

 Paragraph 3. 3

Article 5 – Election, tenure and vacancies 3

 Paragraph 1. 3

 Paragraph 2. 3

 Paragraph 3. 3

 Paragraph 4. 3

 Subparagraph a) 3

 Subparagraph b) 3

 Subparagraph c) 3

 Subparagraph d) 3

 Subparagraph e) 3

 Subparagraph f) 3

 Subparagraph g) 3

Article 6 – Vote	3
Article 7 – Incompatibility	4
Article 8 – Privileges and immunities of Pan-African Parliamentarians	4
Paragraph 1.	4
Paragraph 2.	4
Article 9 – Parliamentary immunities	4
Paragraph 1.	4
Paragraph 2.	4
Article 10 – Allowance	4
Article 11 – Functions and powers	4
Paragraph 1.	4
Paragraph 2.	4
Paragraph 3.	4
Paragraph 4.	4
Paragraph 5.	4
Paragraph 6.	4
Paragraph 7.	4
Paragraph 8.	5
Paragraph 9.	5
Article 12 – Rules of Procedure and organization of the Pan-African Parliament	5
Paragraph 1.	5
Paragraph 2.	5
Paragraph 3.	5
Paragraph 4.	5
Paragraph 5.	5
Paragraph 6.	5
Paragraph 7.	5
Paragraph 8.	5
Subparagraph a)	5
Subparagraph b)	5
Subparagraph c)	5
Subparagraph d)	5
Subparagraph e)	5
Subparagraph f)	5
Subparagraph g)	5

Paragraph 9.	5
Paragraph 10.	5
Paragraph 11.	5
Paragraph 12.	6
Paragraph 13.	6
Paragraph 14.	6
Article 13 – Oath of office	6
Article 14 – Sessions	6
Paragraph 1.	6
Paragraph 2.	6
Paragraph 3.	6
Paragraph 4.	6
Article 15 – Budget	6
Paragraph 1.	6
Paragraph 2.	6
Article 16 – Seat of the Pan-African Parliament	6
Article 17 – Working languages	6
Article 18 – The relationship between the Pan-African Parliament and the Parliaments of Regional Economic Communities and National Parliaments or other deliberative organs	7
Article 19 – Withdrawal	7
Article 20 – Interpretation	7
Article 21 – Signature and ratification	7
Paragraph 1.	7
Paragraph 2.	7
Article 22 – Entry into force	7
Article 23 – Accession	7
Paragraph 1.	7
Paragraph 2.	7
Article 24 – Amendment or revision of the Protocol	7
Paragraph 1.	7
Paragraph 2.	7
Paragraph 3.	7
Paragraph 4.	8
Paragraph 5.	8

Article 25 – Review of the Protocol 8
 Paragraph 1. 8
 Paragraph 2. 8

African Union

Treaty Establishing the African Economic Community

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The Member States of the Organization of African Unity State Parties to the Treaty Establishing the African Economic Community:

Bearing in mind the Sirte Declaration adopted at the Fourth Extraordinary Session of the Assembly of Heads of State and Government held in the Great Socialist People's Libyan Arab Jamahiriya on 9.9.99 establishing the African Union and calling for the speedy establishment of the institutions provided for in the Treaty establishing the African Economic Community signed in Abuja, Nigeria, on 3 June, 1991 and the establishment of the Pan-African Parliament by the year 2000;

Noting, in particular, the adoption by the Assembly of Heads of State and Government meeting in its 36th Ordinary Session in Lomé, Togo, from 10 to 12 July, 2000, of the Constitutive Act of the African Union, thereby giving concrete expression to the common vision of a united, integrated and strong Africa;

Further noting that the establishment of the Pan-Parliament is informed by a vision to provide a common platform for African peoples and their grass-roots organizations to be more involved in discussions and decision-making on the problems and challenges facing the Continent.

Conscious of the imperative and urgent need to further consolidate the aspiration of the African peoples for greater unity, solidarity and cohesion in a larger community transcending cultural, ideological, ethnic, religious and national differences;

Considering the principles and objectives stated in the Charter of the Organization of African Unity;

Further considering that Articles 7 and 14 of the Treaty establishing the African Economic Community provide for a Pan-African Parliament of the Community, whose composition, functions, powers and organization shall be defined in a related Protocol;

Recalling the Cairo Agenda for Action which was endorsed by the Thirty-first Ordinary Session of the Assembly held in Addis Ababa, Ethiopia, from 26 to 28 June 1995 (AHG/Res. 236 (XXXI)), and which recommended the speeding up of the rationalization of the institutional framework in order to achieve economic integration at the regional level;

Recalling further the Declaration on the Political and Socio-Economic Situation in Africa and the Fundamental Changes Taking Place in the World, which was adopted by the Twenty-sixth Ordinary Session of the Assembly in Addis Ababa, Ethiopia, on 11 July 1990;

Considering that by the Algiers Declaration (AHG/Decl.I (XXXV)) of 14 July 1999 the Assembly reaffirmed its faith in the African Economic Community;

Determined to promote democratic principles and popular participation, to consolidate democratic institutions and culture and to ensure good governance;

Further determined to promote and protect human and peoples' rights in accordance with the African Charter on Human and Peoples' Rights and other relevant human rights instruments;

Conscious of the obligations and legal implications for Member States of the need to establish the Pan-African Parliament;

Firmly convinced that the establishment of the Pan-African Parliament will ensure effectively the full participation of the African peoples in the economic development and integration of the continent;

HEREBY AGREE AS FOLLOWS:

Article 1 – Definitions

In this Protocol, the following expressions shall have the meanings assigned to them hereunder:

"**Assembly**" means the Assembly of Heads of State and Government of the Community;

"**Bureau**" means the officers of the Pan-African Parliament as provided for in Article 12 (5) of this Protocol;

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

"**Council**" means the Council of Ministers of the Community;

"**Court of Justice**" means the Court of the Community;

"**General Secretariat**" means the General Secretariat of the Community;

"**Member of Pan-African Parliament**" or "Pan-African Parliamentarian" means a representative elected or designated in accordance with Article 5 of this Protocol;

"**Member State**" or "Member States", unless the context otherwise prescribes, means Member State or Member States of the Community;

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

"**President**" means the Member of the Pan-African Parliament elected to conduct the business of Parliament in accordance with Article 12 (2) of this Protocol;

"**Region of Africa**" shall have the meaning assigned to it in Article 1 of the Treaty establishing the African Economic Community;

"**Secretary General**" means the Secretary General of the Community;

"**Treaty**" means the Treaty establishing the African Economic Community.

Article 2 – Establishment of the Pan-African Parliament

1. Member States hereby establish a Pan-African Parliament the composition, functions, powers and organization of which shall be governed by the present Protocol.
2. The Pan-African Parliamentarians shall represent all the peoples of Africa.
3. The ultimate aim of the Pan-African Parliament shall be to evolve into an institution with full legislative powers, whose members are elected by universal adult suffrage. However, until such time as the Member States decide otherwise by an amendment to this Protocol:
 - i) The Pan-African Parliament shall have consultative and advisory powers only; and
 - ii) The Members of the Pan-African Parliament shall be appointed as provided for in Article 4 of this Protocol.

Article 3 – Objectives

The objectives of the Pan-African Parliament shall be to:

1. facilitate the effective implementation of the policies and objectives of the OAU/AEC and, ultimately, of the African Union;

2. promote the principles of human rights and democracy in Africa;
3. encourage good governance, transparency and accountability in Member States;
4. familiarize the peoples of Africa with the objectives and policies aimed at integrating the African Continent within the framework of the establishment of the African Union;
5. promote peace, security and stability;
6. contribute to a more prosperous future for the peoples of Africa by promoting collective self-reliance and economic recovery;
7. facilitate cooperation and development in Africa;
8. strengthen Continental solidarity and build a sense of common destiny among the peoples of Africa;
9. facilitate cooperation among Regional Economic Communities and their Parliamentary fora.

Article 4 – Composition

1. During the interim period, Member States shall be represented in the Pan-African Parliament by an equal number of Parliamentarians;
2. Each Member State shall be represented in the Pan-African Parliament by five (5) members, at least one of whom must be a woman;
3. The representation of each Member State must reflect the diversity of political opinions in each National Parliament or other deliberative organ.

Article 5 – Election, tenure and vacancies

1. The Pan-African Parliamentarians shall be elected or designated by the respective National Parliaments or any other deliberative organs of the Member States, from among their members.
2. The Assembly shall determine the beginning of the first term of office of the Pan-African Parliament at its session immediately following the entry into force of this Protocol.
3. The term of a Member of the Pan-African Parliament shall run concurrently with his or her term in the National Parliament or other deliberative organ.
4. The seat of a Member of the Pan-African Parliament shall become vacant if he or she:
 - a) dies;
 - b) resigns in writing to the President;
 - c) is unable to perform his or her functions for reasons of physical or mental incapacity;
 - d) is removed on grounds of misconduct;
 - e) ceases to be a Member of the National Parliament or other deliberative organ;
 - f) is recalled by the National Parliament or other deliberative organ; or
 - g) ceases to be a Pan-African Parliamentarian in terms of Article 19 of this Protocol.

Article 6 – Vote

The Pan-African Parliamentarians shall vote in their personal and independent capacity.

Article 7 – Incompatibility

Membership of the Pan-African Parliament shall not be compatible with the exercise of executive or judicial functions in a Member State.

Article 8 – Privileges and immunities of Pan-African Parliamentarians

1. The Pan-African Parliamentarians, while exercising their functions, shall enjoy in the territory of each Member State the immunities and privileges extended to representatives of Member States under the General Convention on the Privileges and Immunities of the OAU and the Vienna Convention on Diplomatic Relations.
2. Without prejudice to Paragraph (1) of this Article, the Pan-African Parliament shall have the power to waive the immunity of a member in accordance with its Rules of Procedure.

Article 9 – Parliamentary immunities

1. The Pan-African Parliamentarians shall enjoy parliamentary immunity in each Member State. Accordingly, a member of the Pan-African Parliament shall not be liable to civil or criminal proceedings, arrest, imprisonment or damages for what is said or done by him or her within or outside the Pan-African Parliament in his or her capacity as a member of Parliament in the discharge of his or her duties.
2. Without prejudice to Paragraph (1) of this Article, the Pan-African Parliament shall have the power to waive the immunity of a member in accordance with its Rules of Procedure.

Article 10 – Allowance

The Pan-African Parliamentarians shall be paid an allowance to meet expenses in the discharge of their duties.

Article 11 – Functions and powers

The Pan-African Parliament shall be vested with legislative powers to be defined by the Assembly. However, during the first term of its existence, the Pan-African Parliament shall exercise advisory and consultative powers only. In this regard, it may:

1. Examine, discuss or express an opinion on any matter, either on its own initiative or at the request of the Assembly or other policy organs and make any recommendations it may deem fit relating to, *inter alia*, matters pertaining to respect of human rights, the consolidation of democratic institutions and the culture of democracy, as well as the promotion of good governance and the rule of law.
2. Discuss its budget and the budget of the Community and make recommendations thereon prior to its approval by the Assembly.
3. Work towards the harmonization or co-ordination of the laws of Member States.
4. Make recommendations aimed at contributing to the attainment of the objectives of the OAU/AEC and draw attention to the challenges facing the integration process in Africa as well as the strategies for dealing with them.
5. Request officials of the OAU/AEC to attend its sessions, produce documents or assist in the discharge of its duties.
6. Promote the programmes and objectives of the OAU/AEC, in the constituencies of the Member States.
7. Promote the coordination and harmonization of policies, measures, programmes and activities of the Regional Economic Communities and the parliamentary fora of Africa.

8. Adopt its Rules of Procedure, elect its own President and propose to the Council and the Assembly the size and nature of the support staff of the Pan-African Parliament.
9. Perform such other functions as it deems appropriate to achieve the objectives set out in Article 3 of this Protocol.

Article 12 – Rules of Procedure and organization of the Pan-African Parliament

1. The Pan-African Parliament shall adopt its own Rules of Procedure on the basis of a two-thirds majority of all its members.
2. The Pan-African Parliament shall elect, at its first sitting following its election, by secret ballot, from among its members and in accordance with its Rules of Procedure, a President and four (4) Vice Presidents representing the Regions of Africa as determined by the OAU. The election shall, in each case, be by simple majority of the members present and voting.
3. The terms of office of the President and the Vice-Presidents shall run with the National Parliament or the deliberative organ which elects or designates them.
4. The Vice-Presidents shall be ranked in the order of first, second, third and fourth initially, in accordance with the result of the vote and subsequently by rotation.
5. The President and the Vice-Presidents shall be the Officers of the Pan-African Parliament. The officers, under the control and direction of the President and subject to such directives as may be issued by the Pan-African Parliament, shall be responsible for the Pan-African Parliament and its organs. In the discharge of their duties, the Officers shall be assisted by the Clerk and the two Deputy Clerks.
6. The Pan-African Parliament shall appoint a Clerk, two Deputy Clerks and such other staff and functionaries as it may deem necessary for the proper discharge of its functions and may by regulations provide for their terms and conditions of office in accordance with the relevant OAU practice as appropriate.
7. The President shall preside over all Parliamentary proceedings except those held in committee and, in his or her absence, the Vice-Presidents shall act in rotation, in accordance with the Rules of Procedure which shall also deal with the powers of the person presiding over Parliamentary proceedings.
8. The Office of the President or Vice-President shall become vacant if he or she:
 - a) dies;
 - b) resigns in writing;
 - c) is unable to perform his or her functions for reasons of physical or mental incapacity;
 - d) is removed on grounds of misconduct;
 - e) ceases to be a Member of the National Parliament or other deliberative organ;
 - f) is recalled by the National Parliament or other deliberative organ; or
 - g) ceases to be a Pan-African Parliamentarian in terms of Article 19 of this Protocol.
9. Removal on the grounds stipulated in 8 (c) or (d) above shall be on a motion to be decided on by secret ballot and supported at the end of debate by two-thirds majority of all the Pan-African Parliamentarians. In the case of removal under the ground stipulated in 8 (c), the motion shall, in addition, be supported by a medical report.
10. A vacancy in the Office of the President or Vice-President shall be filled at the sitting of the Pan-African Parliament immediately following its occurrence.
11. The quorum for a meeting of the Pan-African Parliament shall be constituted by a simple majority.

12. Each Pan-African Parliamentarian shall have one vote. Decisions shall be made by consensus or, failing which, by a two-thirds majority of all the Members present and voting. However, procedural matters, including the question of whether a matter is one of the procedure or not, shall be decided by a simple majority of those present and voting, unless otherwise stipulated in the Rules of Procedure. In the event of an equal number of votes, the person presiding shall have a casting vote.
13. The Pan-African Parliament may establish such committees, as it deems fit, for the proper discharge of its functions and in accordance with its Rules of Procedure.
14. Until the Pan-African Parliament appoints its staff, the General Secretariat of the OAU shall act as its Secretariat.

Article 13 – Oath of office

At its first sitting, after the election and before proceeding with any other matter, the Pan-African Parliamentarians shall take an oath or make a solemn declaration which shall be set out as an Addendum to this Protocol.

Article 14 – Sessions

1. The inaugural session shall be presided over by the Chairperson of the OAU/AEC until the election of the President of the Pan-African Parliament who shall thereafter preside.
2. The Pan-African Parliament shall meet in ordinary session at least twice a year, within a period to be determined in the Rules of Procedure. Each ordinary session may last up to one month.
3. Two-thirds of the Pan-African Parliamentarians, the Assembly or the Council, through the Chairperson of the OAU, may, by written notification addressed to the President, request an Extraordinary session. The request shall provide a motivation for and details of the matters to be discussed at the proposed Extraordinary session. The President shall convene such a session which shall discuss only the matters stipulated in the request. The session shall end upon exhaustion of the agenda.
4. The proceedings of the Pan-African Parliament shall be open to the public, unless otherwise directed by the Bureau.

Article 15 – Budget

1. The annual budget of the Pan-African Parliament shall constitute an integral part of the regular budget of the OAU/AEC.
2. The budget shall be drawn up by the Pan-African Parliament in accordance with the Financial Rules and Regulations of the OAU/AEC and shall be approved by the Assembly until such time as the Pan-African Parliament shall start to exercise legislative powers.

Article 16 – Seat of the Pan-African Parliament

The seat of the Pan-African Parliament shall be determined by the Assembly and shall be located in the territory of a State Party to this Protocol. However, the Pan-African Parliament may convene in the territory of any Member State at the invitation of that Member State.

Article 17 – Working languages

The working languages of the Pan-African Parliament shall be, if possible, African languages, Arabic, English, French and Portuguese.

Article 18 – The relationship between the Pan-African Parliament and the Parliaments of Regional Economic Communities and National Parliaments or other deliberative organs

The Pan-African Parliament shall work in close co-operation with the Parliaments of the Regional Economic Communities and the National Parliaments or other deliberative organs of Member States. To this effect, the Pan-African Parliament may, in accordance with its Rules of Procedure, convene annual consultative fora with the Parliaments of the Regional Economic Communities and the National Parliaments or other deliberative organs to discuss matters of common interest.

Article 19 – Withdrawal

The Pan-African Parliamentarians from a Member State which withdraws from the Community shall automatically cease to be Pan-African Parliamentarians.

Article 20 – Interpretation

The Court of Justice shall be seized with all matters of interpretation emanating from this Protocol. Pending its establishment, such matters shall be submitted to the Assembly which shall decide by a two-thirds majority.

Article 21 – Signature and ratification

1. This Protocol shall be signed and ratified by the Member States in accordance with their respective Constitutional procedures.
2. The instruments of ratification or accession shall be deposited with the Secretary General of the OAU.

Article 22 – Entry into force

This Protocol shall enter into force thirty (30) days after the deposit of the instruments of ratification by a simple majority of the Member States.

Article 23 – Accession

1. Any Member State may notify the Secretary General of its intention to accede to this Protocol after its entry into force. The Secretary General shall, upon receipt of such notification, transmit copies thereof to all Member States.
2. For any Member State acceding to this Protocol, the Protocol shall come into force on the date of the deposit of its instrument of accession.

Article 24 – Amendment or revision of the Protocol

1. This Protocol may be amended or revised by the decision of a two-thirds majority of the Assembly.
2. Any Member State party to this Protocol or the Pan-African Parliament may propose, in writing to the Secretary General, any amendment or revision of the Protocol.
3. The Secretary General shall notify the proposal to all Member States at least thirty (30) days before the meeting of the Assembly, which is to consider the proposal.

4. The Secretary General shall request the opinion of the Pan--African Parliament on the proposal and shall transmit the opinion, if any, to the Assembly, which may adopt the proposal, taking into account the opinion of the Pan-African Parliament.
5. The amendment or revision shall enter into force thirty (30) days after the deposit of the instruments of ratification with the Secretary General by two-thirds of Member States.

Article 25 – Review of the Protocol

1. Five years after the entry into force of this Protocol, a Conference of the States Parties to this Protocol shall be held to review the operation and effectiveness of this Protocol, and the system of representation in the Pan-African Parliament, with a view to ensuring that the objectives and purposes of this Protocol, as well as the vision underlying the Protocol, are being realised and that the Protocol meets with the evolving needs of the African Continent.
2. At intervals of ten years thereafter, further Review Conferences of States Parties to this Protocol may be convened with the same objective as stated in Paragraph 1 above. Such Conferences may be convened at an interval of less than ten years, if so decided by the Pan-African Parliament.

Done at Sirte, Libya, 2 March 2001.