

The African Peace and Security Architecture

A Handbook

By Alhaji Sarjoh Bah, Elizabeth Choge-Nyangoro, Solomon Dersso,
Brenda Mofya and Tim Murithi



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About the Handbook - Chapter Summary *

Chapter 1 – Introduces the handbook by summarizing the content of each chapter of this book jointly developed by the AU peace and security department (PSD) and the Friedrich-Ebert-Stiftung Addis Ababa office. The handbook is intended to provide an understanding of the APSA based on its mandate derived from the protocol establishing the PSC.

Chapter 2 – starts with highlighting the historical evolution of the AU from the Organization of African Unity (OAU), which was established in 1963. The analysis focuses on the normative and institutional transformations of the AU with special emphasis on the move from the hitherto sacrosanct principle of non-intervention to the principle of non-indifference.

Chapter 3 - discusses the Peace and Security Council (the nerve centre of the APSA) and corresponding structures in the RECs. Given the centrality of the RECs, it examines what the ongoing efforts at the various RECs to create corresponding structures are and evaluates their aim in complementing the activities of the PSC

Chapter 4 - brings the Continental Early Warning System (CEWS) and corresponding structures in the Regions to focus. It traces the evolution of CEWS and highlights some of the challenges associated with the system.

Chapter 5 - presents the Panel of the Wise and corresponding structures in the RECs. Given the Panel's centrality to the AU's preventive diplomacy, it also touches on the synergies or lack thereof between the Panel of the Wise and other key APSA components, most notably, the PSC.

Chapter 6 - discusses the African Standby Force (ASF) and efforts to operationalize it in the RECs and RMs.

Chapter 7 - focuses on a crucial aspect of the APSA which is less discussed; the Peace Fund. The Peace Fund, which remains largely underfunded, is meant to address the acute financial resources gap that continues to confront the AU and the RECs/RMs.

Chapter 8 - highlights the broad contours of the linkage between the AU and RECs/

RMs in the area of peace and security. It specifically focuses on the interaction and synergy or lack thereof, between the AU and these entities with respect to the operationalization of APSA. It also reflects on the envisaged division of labour between the AU and the RECs/ RMs underpinned by the principles of subsidiarity, complementarity and comparative advantage.

Chapter 9 - addresses some of the key cross cutting security challenges confronting the AU and RECs. The proliferation of Small Arms and Light Weapons (SALW), terrorism and Post-Conflict Reconstruction and Development (PCRD) have been identified as broader continental challenges that require a coordinated response between the AU and the RECs/RMs. It also briefly discusses the AU's responses to other cross-cutting challenges such as border management, drug trafficking and piracy.

Chapter 10 - examines the evolving cooperation between the AU and two of its key strategic partners, the United Nations (UN) and the European Union (EU). The analysis focuses on the state of cooperation between the AU and these institutions in the managing of peace and security in Africa. It focuses on existing cooperation arrangements between these three institutions from the strategic and operational levels.

Chapter 11 - underlines the evolving role of civil society in engaging with the AU, the PSC and broader APSA. It highlights specific steps taken to define the relationship between the AU and civil society focusing on The Livingstone Formula, which regulates the interaction between the AU and these entities.

Chapter 12 - Briefly analyses the prospects for APSA, and the way forward. The Handbook calls for greater synergistic relationship between the AU and RECs, and more crucially for greater African funding for the operationalization and eventual activities of the APSA.

** This APSA Handbook reflects the status of the operationalization of the various structural processes up to the end of 2012. Given the evolving nature of the APSA, some of its aspects are bound to change. However, the essence of the structure and processes would remain the same*

Preface

The publication of this Handbook is timely as it coincides with the 10th anniversary of the African Union and the 50th anniversary of its predecessor, the Organization of African Unity (OAU), both of which were founded to foster the welfare of Africans. Informed by the lessons from the OAU, the AU elaborated an expansive peace and security mandate aimed at preventing and managing and resolving conflicts and crisis situations on the continent. As clearly espoused in this volume, there has been a steady progress recorded in the process of fully operationalizing the African Peace and Security Architecture (APSA) albeit with some variations, particularly in the establishment of its key components. From the progress achieved thus far, it is clear that the AU has set itself on a renewed path of improving the lives of Africans by putting in place the policies, mechanisms and processes of dealing with the debilitating effects of violent conflicts which has contributed to stunting the socio-economic performance of the continent.

The Peace and Security Council (PSC) has established itself as a pivotal actor on issues of peace and security by taking bold decisions on critical conflict situations and pronouncing itself on broader cross-cutting issues. Within Africa, the PSC has continued to scale up its engagement with the Regional Economic Communities (RECs) and other stakeholders on the basis of the principles set by the Protocol establishing the PSC. The strengthening of the relationship between the PSC and other relevant institutions within the framework of APSA would provide them with significant leverage in carrying out their respective mandates. Globally, international actors including the United Nations Security Council as well as the European Union Political and Security Committee, are forging important partnerships with the PSC on account of its pivotal role.

The process of fully operationalizing the other components of the APSA, that is, the Continental Early Warning Systems (CEWS), the African Standby Force, the

Panel of the Wise and the Peace Fund are also making good progress. Information exchange and interconnectivity between CEWS and the RECs has registered some significant progress. The process of fully operationalizing the ASF by 2015 is on course, following the successful holding of a comprehensive multidisciplinary exercise, AMANI Africa in 2010. The first batch of ASF personnel were deployed to the African Union Mission in Somalia (AMISOM), an important milestone and a test case of employing one of the response arms of the APSA. For its part, the Panel of the Wise has been involved in a range of activities including the publication of its thematic series on elections related violence, women in armed conflict amongst others. The Peace Fund is increasingly benefiting from Member States support through assessed contributions.

More broadly, the development of the Post-Conflict Reconstruction and Development Program, the AU Border Program, the Security Sector Reform program, the counter-terrorism policy, the New Economic Partnership for Africa's Development (NEPAD) Declaration on Democracy and the African Peer Review Mechanism (APRM), the AU Convention on the Prevention and Combating of Corruption, and the African Charter on Democracy, Elections and Governance demonstrates a clear commitment by the AU to a holistic approach to the question of peace and security on the continent.

The Peace and Security Department is pleased to partner with the Friedrich-Ebert-Stiftung (FES), Addis Ababa office in the publication of this handbook as part of the broader partnership of the two entities. The partnership with FES demonstrates the AU's growing linkage with civil society and non-governmental entities working on issues of peace and security. The Handbook benefited significantly from the analysis, findings and conclusion of the 2010 APSA Assessment, which was commissioned by the Peace and Security Department.

I am confident that the Handbook would serve as an important one-stop shop for policy makers, academic and research institutions, as well as all

those engaged in the quest for a peace and prosperous Africa. The publication provides comprehensive, concrete and concise information on the APSA and the opportunities and challenges it faces.

I would like to express my deep appreciation to the authors of this volume for their commitment to the project. Finally, I would like to thank Arne Schildberg, FES' Resident Representative in Addis Ababa, Brenda Mofya, former FES Liaison Officer to the AUC and Elizabeth Choge-Nyangoro, the PSD officer who shepherded this process through.

El Ghassim Wane
Director, Peace and Security Department
Addis Ababa, December, 2013

Foreword

Violence and conflict in the African continent continue to inhibit social and political progress and limit economic growth. Protracted violent conflicts, such as that in Somalia, the continuing violence in Darfur, conflict in South Sudan as well as Central African Republic pose huge challenges of peace-making and peace-keeping to African states and considerable stress on regional institutions that are still in the process of development. Many of these seemingly localized conflicts are interwoven and will remain unresolved as long as there are no effective peace and security mechanisms in Africa at continental and regional levels to address them. In the face of these and other regional conflicts, the African continent has made significant steps towards building a common security architecture within the framework of the African Union. Despite all its shortcomings and imperfections, the African Union has shown its commitment to non-indifference by acting as a fire-brigade in conflict situations, where others have hesitated.

Therefore, this continental security architecture should be understood and supported by decision makers and the public at large at sub-regional and national levels. Towards this end, Friedrich-Ebert-Stiftung (FES), Addis Ababa office, has been training African Journalists on key topics of the African Peace and Security Architecture (APSA) as well as the institutional transformation of the AU since 2007 in eight different training programmes covering more than 30 African countries. However, participants in these trainings indicated one shortcoming, namely, that there is no systematically compiled reference document for journalists who work on pan-African issues, such as APSA and the AU institutional transformation. Furthermore, if awareness and discussion on the AU is to be decentralized to regional and national levels in the future, as well as be extended to parliamentarians and civil society, it is important to have one standard reference book with factual information, analysis, suggestions for further reading, links and other useful information.

Besides training journalists to play their roles as multipliers to provide reliable information to the public and decision makers, preparing a handbook on APSA constitutes a very important avenue for transmitting the correct information to the right person. Moreover, having a handbook on APSA will hopefully enhance stakeholder awareness on the importance of coordination among various actors for the promotion of peace and stability in the continent at different levels. It is with this aim that FES in cooperation with the Peace and Security Department of the African Union Commission has produced this handbook on APSA in order to avail it to all stakeholders working in the area of peace and security with special focus on journalists. We sincerely hope that this handbook will not only be used frequently but will also be of great use to journalists and other interested stakeholders.

I would like to sincerely thank the five authors, Alhaji Sarjoh Bah, Elizabeth Choge-Nyangoro, Solomon Derrso, Brenda Mofya and Timothy Murithi for their excellent work in drafting this handbook, as well as Hellina Kassahun for her relentless efforts in organising the journalists' trainings and preparing the Terms of Reference for this handbook. Last, but not least, my heartfelt thanks goes to all the speakers, presenters and resource persons of the training seminars and workshops, as well as to the AUC staff who have supported us in our endeavour. Special thanks go to Mr. El Ghassim Wane, Director for Peace and Security at the African Union Commission, for his unwavering support to this project.

Addis Ababa, April 2014

Arne Schildberg (Mr.)

Resident Representative, Friedrich-Ebert-Stiftung - Addis Ababa office

ACROYNMS

ACDS	African Chiefs of Defense Staff
AMIB	African Union Mission in Burundi
AMIS	African Union Mission in the Sudan AMM Africa Media Monitor
AMISOM	African Union Mission in Somalia
APF	African Peace Facility
APSA	African Peace and Security Architecture
ASF	African Standby Force
AU	African Union
AUSMC	African Union Standing Multidimensional Committee
CEN-SAD	Community of Sahel-Saharan States
CEWS	Continental Early Warning System
COMESA	Common Market for East and Southern Africa
DDR	Disarmament, Demobilization and Reintegration
DPA	Darfur Peace Agreement
EAC	East African Community
ECCAS	Economic Community of Central African States
ECOMOG	ECOWAS Ceasefire Monitoring Group
ECOSOCC	Economic Social and Cultural Council
ECOWAS	Economic Community of West African States
EDF	European Development Fund
ESAAMLG	Eastern and Southern African Anti-Money Laundering Group
FPU	Formed Police Unit (FPU)
IDPs	Internally Displaced Persons
IGAD	Intergovernmental Authority on Development

JEM	Justice and Equality Movement
MLD	Continental Military Logistic Depot
MSC	Military Staff Committee
PCRD	Post-Conflict Reconstruction and Development
PLANELM	Planning Element
PSC	Peace and Security Council
RECs	Regional Economic Communities
RM	Regional Mechanisms
SADC	Southern Africa Development Community
SARPPCO	Southern Africa Regional Police Chiefs Cooperation Organisation
SLA	Sudan Liberation Army
SSG	Security Sector Governance
SSR	Security Sector Reform
UN	United Nations
UNAMID	African Union-United Nations Joint Hybrid Mission in Darfur
UNODC	United Nations Office on Drugs and Crime
UNOSOM	UN Operation in Somalia
UNSAC	UN Standing Advisory Committee on Security Questions in Central Africa
UNSC	United National Security Council

Chapter I

INTRODUCTION

Following its formal inauguration in Durban, South Africa, in 2002, the African Union (AU) has embarked on an elaborate normative and institutional transformation. These changes are meant to consolidate the gains from the anti-colonial struggle while carving a new path for the continent in the 21st century; a century that some have referred to as Africa's century. There is however consensus that the 21st century can only be Africa's century if the lingering security and socio-economic challenges on the continent are confronted in a holistic and deliberate manner. It is against this background that the AU instituted normative and institutional measures to tackle the myriad of conflicts that have impeded the continent's full realization of its potential. The irony is not lost on many on the continent today that despite being one of the richest continents in terms of natural resources, it has remained at the bottom of the development ladder; A development that could change if current economic growth trends on the continent are sustained.

The adoption of the Constitutive Act, which established the AU, marked a radical shift in Africa's international relations. Article 4(h) and (j) of the Constitutive Act broke new ground by empowering AU member states to intervene in situations involving crimes against humanity, war crimes and genocide. The shift from non-intervention to what is now commonly referred to as non-indifference was largely informed by the genocide in Rwanda in 1994. The genocide in that country demonstrated two things; the absence of a normative and legal basis to intervene, and perhaps more crucially, the lack of capacity to do so, even if the legal hurdles were circumvented. Driven by the "never again" principle, the AU dispensed with the old rules that had governed inter-African relations, especially with respect to intervention in the internal affairs of its members. It embraced the principle of non-indifference, a more proactive norm, which if implemented would ensure that the terrible crimes committed in Rwanda in 1994 would never be repeated anywhere on the continent.

In furtherance of its normative shift, the AU adopted the Protocol relating to the establishment of the Peace and Security Council (PSC), which entered into force on 26 December, 2003. The Protocol embraces an expanded and comprehensive agenda for peace and security that includes conflict prevention, early warning and preventive diplomacy, peace-making and peace building, the encouragement and promotion of democratic practices, intervention, humanitarian action and disaster management. The Protocol elaborated a far-reaching African Peace and Security Architecture (APSA). The APSA is intended to give the AU the necessary instruments to fulfil the tasks set out in the Constitutive Act and the Protocol establishing the PSC.

The Peace and Security Council (PSC) was established as the nerve centre of the APSA and to serve as a standing decision making Organ of the AU. It is to be supported by the AU Commission, the Panel of the Wise, the Continental Early Warning System (CEWS), an African Standby Force (ASF) and a Special Fund. The functions of these as mandated in the Protocol underscore the importance of interdependence and synergy between and among the pillars. The RECs/RMs are the building blocs of the APSA. Hence, there is also a parallel process of setting up functioning systems in the RECs/RMs. Consequently, the success of the APSA is therefore largely contingent on a synergistic linkage between the various APSA components at one level, and the AU and the RECs/RMs at another.

Article 12 of the Protocol provides for early warning information provided to the Chairperson of the Commission through the CEWS. This is meant to provide the PSC with an opportunity of taking the required action after due consideration of the issues. For its part, the Panel of the Wise could be deployed to support efforts of the Peace and Security Council (Article 11). In situations of grave magnitude as envisaged in Articles 4 (h) and (j) of the Constitutive Act, it could trigger some form of intervention. Hence, an African Standby Force is to be established to deal with such eventualities (Article 13). The Protocol envisages an inter-locking peace and security architecture that would address pressing security challenges

on the continent. Thus, ensuring synergistic and coherent approaches would determine the success of the APSA in the medium to long-term.

This Handbook jointly developed by the AU Peace and Security Department (PSD) and the Friedrich Ebert Stiftung (FES) Addis Ababa Office, is intended to provide an understanding of the APSA based on its mandate derived from the Protocol establishing the PSC. It is hoped that the Handbook will contribute to informing key policy actors including parliamentarians and civil society about the mandate, the activities and interface between the AU and RECs/RMs in the promotion of peace and stability on the continent. The handbook is meant to serve as standard reference that provides systematic information in a standardized form for all stakeholders (with special focus on journalists), who work on Pan-African issues such as APSA and general peace and security matters. The Handbook avoids the temptation of being too prescriptive, but, instead, it presents a factual account of the APSA structures focusing on their mandates, activities and challenges i.e, the PSC, CEWS, the Panel of the Wise, the ASF and the Peace Fund. The Handbook is divided into 12 chapters as outlined below.

Chapter two traces the historical evolution of the AU from the Organization of African Unity (OAU), which was established in 1963. The analysis focuses on the normative and institutional transformations of the AU with special emphasis on the shift from the hitherto sacrosanct principle of non-intervention to the principle of non-indifference.

Chapter three concentrates on the Peace and Security Council (the nerve centre of the APSA) and corresponding structures in the RECs. Given the centrality of the RECs, the chapter explores ongoing efforts at the various RECs to create corresponding structures that are aimed at complementing the activities of the PSC.

Chapter four focuses on the CEWS, and corresponding structures in the Regions. It traces the evolution of CEWS and highlights some of the challenges associated

with the system. As with the PSC this chapter, it reflects on efforts to create early warning systems in the regions, and their interface with the CEWS.

Chapter five presents the Panel of the Wise and corresponding structures, where they exist, in the Regions. Given the Panel's centrality to the AU's preventive diplomacy, the chapter also touches on the synergies or lack thereof between the Panel of the Wise and other key APSA components, most notably, the PSC.

Chapter six focuses on the African Standby Force (ASF) and efforts to operationalize it in the RECs and RMs. The ASF, perhaps more than any of the other APSA components, illustrates the central role of the RECS/RMs in the APSA given that they have the responsibility to prepare the various multidimensional standby elements, with the AU playing a coordinating role. Thus, the success of the interface between the AU and RECs/RMs on this particular component would serve as a litmus test of how well the interlocking system envisaged for the APSA would work in practice.

Chapter seven presents a crucial aspect of the APSA but one that is less talked about: the Peace Fund. The Peace Fund, which remains largely under funded, is meant to address the acute financial resources gap that continues to confront the AU and the RECs/RMs.

Chapter eight explores the broad contours of the linkage between the AU and RECs/RMs in the area of peace and security. It specifically focuses on the interaction and synergy or lack thereof, between the AU and these entities with respect to the operationalisation of APSA. It also reflects on the envisaged division of labour between the AU and the RECs/RMs underpinned by the principles of subsidiarity, complementarity and comparative advantage.

Chapter nine explores some key cross-cutting security challenges confronting the AU and RECs. The proliferation of Small Arms and Light Weapons (SALW),

terrorism and Post-Conflict Reconstruction and Development (PCRD) have been identified as broader continental challenges that require a coordinated response between the AU and the RECs/RMs. The chapter briefly discusses the AU's responses to other cross-cutting challenges such as border management, drug trafficking and piracy.

Chapter ten examines the evolving cooperation between the AU and two of its key institutional partners, the United Nations (UN) and the European Union (EU). The analysis focuses on the state of cooperation between the AU and these institutions in managing peace and security in Africa. It looks at existing cooperation arrangements between these three institutions from the strategic and operational levels.

Chapter eleven explores the evolving role of civil society in engaging with the AU, the PSC and broader APSA. The chapter highlights specific steps taken to define the relationship between the AU and civil society with a specific focus on The Livingstone Formula, which guiding framework for the interaction between the AU and these entities.

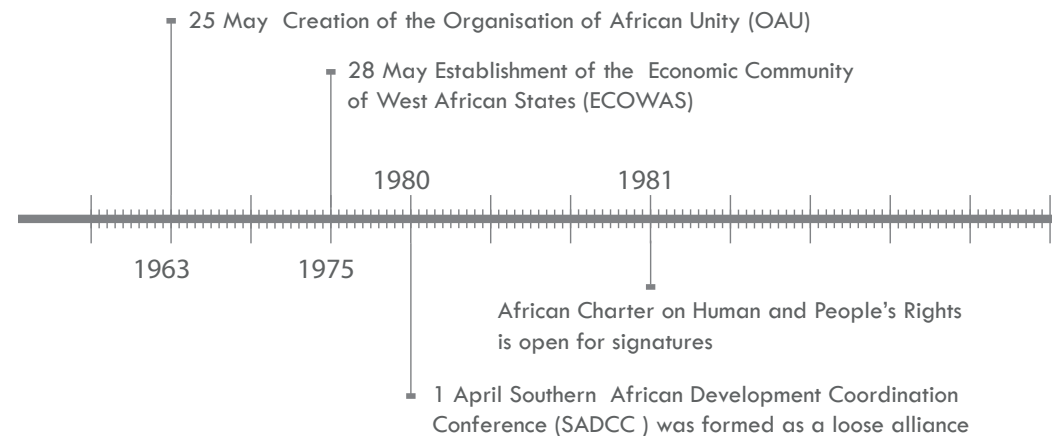
Chapter twelve concludes the Handbook with a brief analysis of the prospects for APSA, and the way forward. In this chapter, the Handbook calls for greater synergistic relationship between the AU and RECs, and more crucially for greater African funding for the operationalisation and eventual activities of the APSA.

Chapter II

THE HISTORICAL EVOLUTION OF THE AFRICAN UNION

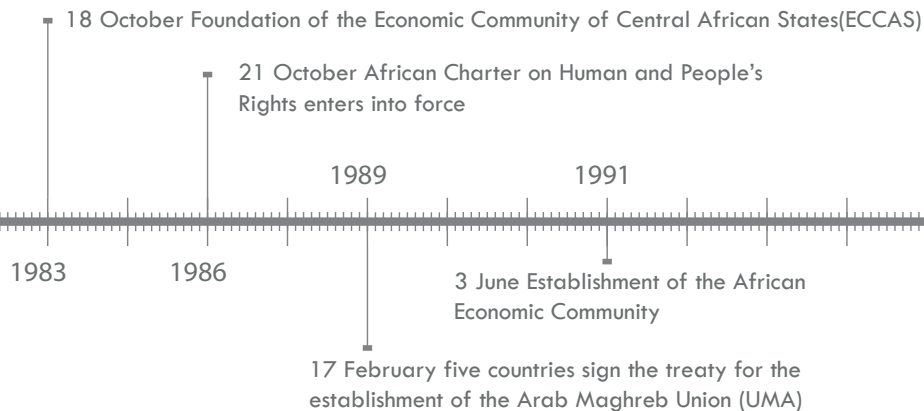
The transformation of the Organisation of African Unity (OAU) to the African Union (AU) is attributable to the changes in political, peace and security as well as socio-economic needs of Africa in the context of the broader global changes following the end of the Cold War. An important aspect of these changes which significantly shaped the normative and institutional framework of the Africa Union is the shift in the concept of security, both regionally and globally, from the traditional narrow, state-centred to the broad and comprehensive human-centred conceptualization of security. The African Peace and Security Architecture (APSA), the 'operational structure for the effective implementation of the decisions taken in the areas of conflict prevention, peace-making, peace support operations, as well as peace-building and post-conflict reconstruction', also embodies and constitutes an institutional reflection of the shift to human security which is widely accepted at the continental level.

Meanwhile, Pan-Africanism has been a compelling vision sustained by Africans on the continent and abroad which classically is a movement that brings people



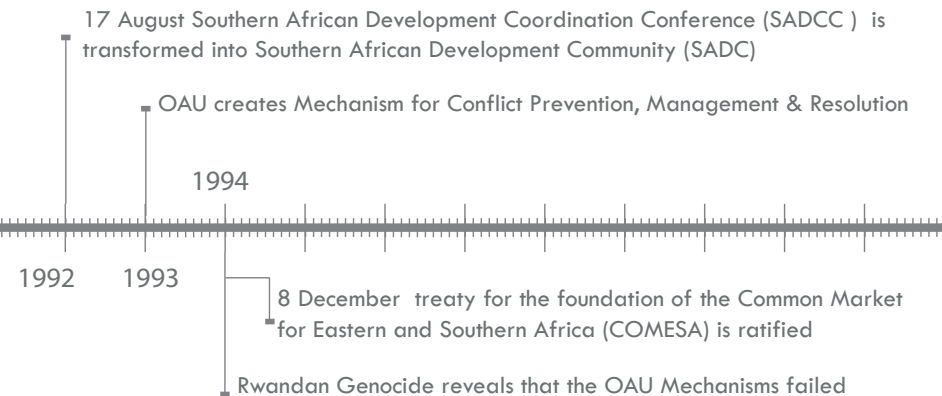
of African origins together¹. This expression of the spirit of solidarity and cooperation among leaders was not only to convene but rather to formulate a strategy for social, cultural, political and economic emancipation. Kwame Nkrumah of Ghana, Leopold Senghor of Senegal, Gamal Abdel Nasser of Egypt and Ali Ben Bella of Algeria, among others, took the idea of Pan-Africanism to another level in 1963 when they created the OAU². The OAU, a coalition of two ideologies³, was established on 25 May 1963, after the approval of a Charter creating it by all leaders of 32 then independent African States⁴. The leaders agreed that as a continent, Africa had concerns and problems which had to

1. See Kay Mathews, *Renaissance of Pan-Africanism: the AU and the New Pan-Africanists*, in *The African Union and Its Institutions*, (Cape Town: Centre for Conflict Resolution, 2008), 26.
2. *Charter of the Organisation of African Unity*, (Addis Ababa: OAU, 1963).
3. Thus, the 'Realists' who called themselves the Monrovia group, comprised the majority of countries- they propagated a loose alliance between African States; and the 'Pan-Africanists,' also calling themselves the Casablanca group, (spearheaded by Kwame Nkrumah of Ghana)- these thought it would be interesting to have an African government with a bicameral African Parliament and possibly a continental government. For literature on this see James, S. Bowen, 'Power & Authority in the African Context: why Somalia did not have to starve. The OAU an example of the Constitutive process,' *National Black Law Journal* (1995), 98, quoted in Brenda Mofya, *Integration through Jurisprudence, can the Lessons of the EU Court of Justice Travel to Africa* (Bremen: Faculty of Law, University of Bremen) 2002.



be addressed above the level of the individual states. These were reflected in what later became the aims, purpose and guiding principles of the OAU⁵. With the creation of the OAU, a continental structure was created which supported liberation movements across the continent to get rid of colonialism and racial subjugation including apartheid in South Africa⁶. Indeed, after the fall of the Apartheid regime in 1994, the OAU was applauded for having successfully achieved one of its primary aims; 'to eradicate all forms of colonialism from Africa.'⁷

4. See 'OAU: A Brief History,' from www.oau-oua/history.htm; accessed 20th Jan. 2010.
5. To free the continent from colonialism, realise peace and security, improve the economic welfare of the African people, guard the sovereignty and dignity of African states, promote unity and co-operation among African states, to ensure human and natural resources development. Preamble, Art. II & III OAU Charter.
6. The OAU established a Liberation Committee mandated to co-ordinate the liberation struggle. The June 1972 'Heads of State and Government Summit' in Morocco, increased by 50% the financial aid to the committee. 'History of the OAU- Founding May 1963,' in Brenda Mofya (note 60 above) 15.
7. Thabo Mbeki, 'Opening address: 38th Assembly of Heads of State and Government of the OAU,' 8th July, 2002, www.au2002.gov.za/docs/speeches/mbek097a.htm; in Brenda Mofya, *Ibid*.



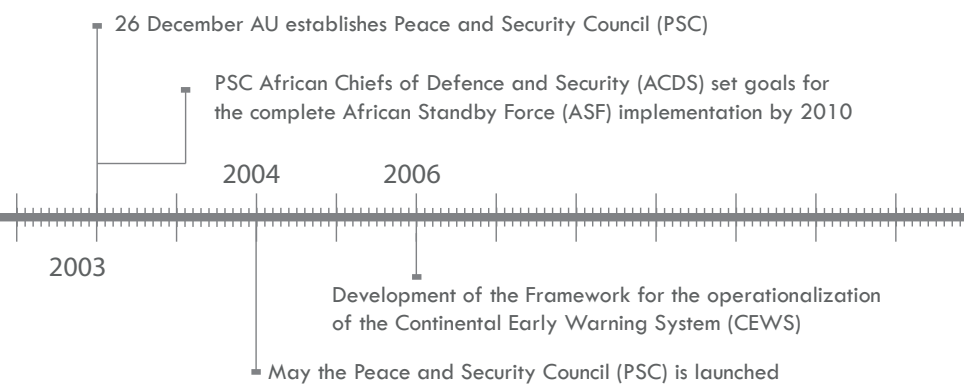
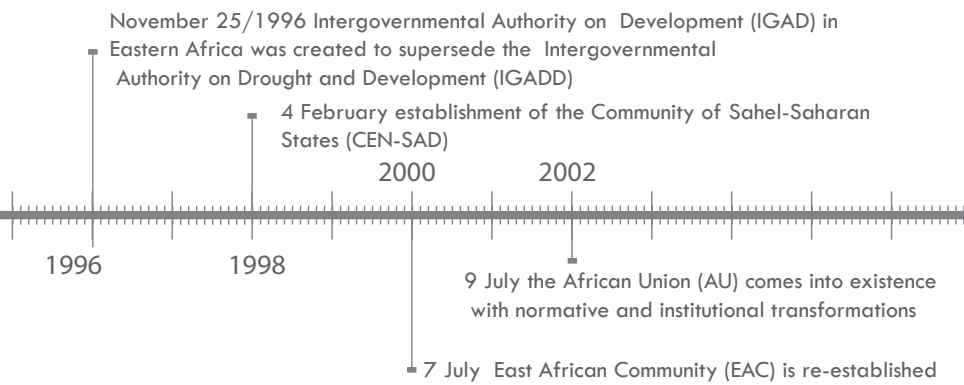
African Union founding principles and objectives: Constitutive Act, Lomé 2000

- * Accelerate the political and socio-economic integration of the continent;
- * Promote and defend African common positions;
- * International cooperation, taking due account of the Charter of the UN, and the Universal Declaration of Human Rights;
- * Promote peace and security and stability on the continent;
- * Promote democratic principles, popular participation, good governance;
- * Establish conditions which enable the continent to play its rightful role in the global economy;
- * Equality and interdependence among Member States;
- * Common defense policy for the African Continent;
- * The right to intervene in a Member State pursuant to a decision of the Assembly in respect of grave crimes including genocide.
- * The right of Member States to request intervention from the AU in order to restore peace and security;
- * Gender equality
- * Respect for democratic principles, human rights, the rule of law and good governance;
- * Condemnation and rejection of unconstitutional changes of governments.

However, most observers believed that since the eradication of colonialism was not the only aim or purpose of the OAU, the measurement of success of OAU should go beyond that aspect. Observers note that while the OAU continued fighting colonialism and imperialism, civil wars in various African countries and disputes among members states intensified. Whenever the OAU was challenged to intervene in internal disputes and systematic violations of human rights, it declined, insisting that the principles of sovereignty and non-interference in the internal affairs (embodied in Article III of its Charter), forbid it from intervening.⁸ Furthermore, the optimism held when forming the OAU, that the continental body will help improve the economic welfare of its people, never measured up to expectations, as the African continent continued to lag in socio-economic development.

In view of this, by its 20th anniversary, no mention of the OAU was made without suggestion for its reformation. There was consensus among African leaders and experts that the OAU Charter needed revision or a total overhaul, especially as it relates to the principles of sovereignty and non-interference.⁹ This finally led to the adoption of a Charter on Human and People's Rights, which was signed in

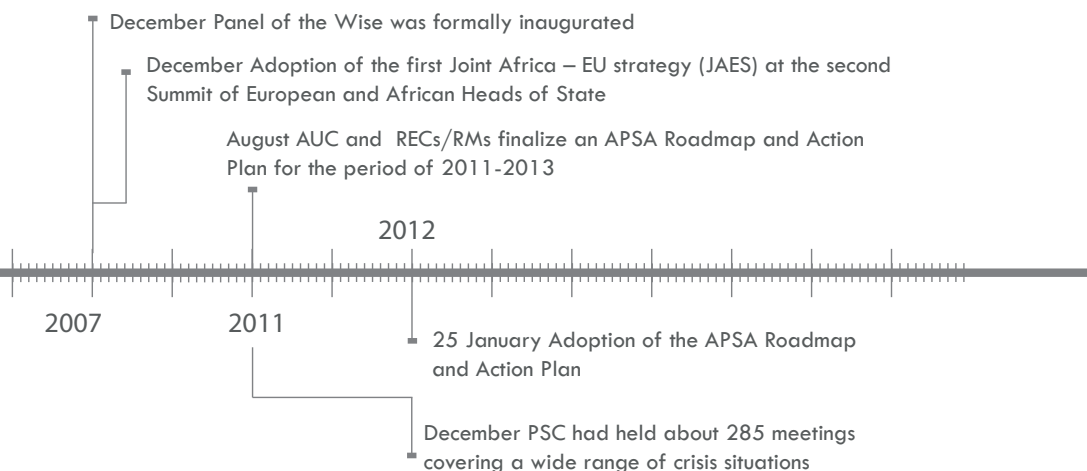
8. See 'OAU winds up...Bye bye white Elephant!' www.zamnet.zm/news/viewnews.cgi?category=4&du=102117800; accessed 6 April 2002; in Brenda Mofya, *Ibid*.



1981 and came into effect in 1986. Furthermore, the Assembly of Heads of State and Government proceeded to adopt a treaty establishing the African Economic Community on 3rd June, 1991.¹⁰ The OAU also created a Mechanism for Conflict Prevention, Management and Resolution in Cairo, in 1993. This instrument was ineffective in resolving disputes on the continent. Tragically, the Rwandan genocide in 1994 took place while this Mechanism was operational. It was also during the last decade of the 20th century that the conflict in Somalia led to the collapse of the state and the violence in Sierra Leone, Liberia, Angola and the Democratic Republic of Congo led to the deaths and displacement of millions of Africans. These devastating events illustrated the limitations of the OAU as a framework for conflict resolution.

9. Corinne A.A Packer and Donald Rukare, 'The New African Union and its Constitutive Act,' (*American Journal of International Law*, 2002) 367, http://www.fpvmv.umb.sk/fpvmv_www/phprs/storage/File/kmvd/predmety/Bajzikova/Packer_Rukare_AU.pdf; accessed 9/06/10.

10. Essentially, the AEC proceeds from the OAU Assembly in Libreville in July 1977, when the Assembly endorsed the Kinshasa Declaration by the Council of Ministers of December 1976 concerning the ultimate establishment of an African Economic Community, to be attained in successive stages. Later on in April 1980, African leaders adopted the Lagos Plan of Action and Final Act in which they expressed their firm commitment to establish an African Economic Community by the year 2000. It is therefore on the basis of this that the AEC finally was drafted. Corinne A.A. Packer & Donald Rukare, *Ibid.* 369.



The conflicts that afflicted the African continent from the end of the Cold War to the first decade of the 21st century demanded that urgent changes be made to the way of doing things.¹¹ So it became increasingly clear to many leaders on the African continent that it was necessary again to find a way to revive the spirit of Pan-Africanism. Pan-Africanism was again taken to another level with the launch of the African Union, first as an idea at a Summit of the OAU in Sirte, Libya in 1999. Subsequently, the Constitutive Act of the African Union was signed, in Lome, Togo, on 11 July 2000. This led to the official inauguration of the African Union, as the successor to the Organization of African Unity, in July 2002 in Durban, South Africa.

As indicated in the diagram above, the AU Constitutive Act provides for the creation of an Assembly of Heads of States and Government as the supreme organ of the Union. In turn, the Executive Council is composed of the Ministers of Foreign Affairs of Member States and meets twice a year in ordinary session. The Permanent Representatives Committee (PRC), composed of Permanent Representatives to the Headquarters of the Union in Addis Ababa, meets every month or as often as may be necessary. Other organs of the AU which are in various stages of implementation include the Peace and Security Council, the Pan African Parliament, the African Court of Justice, the Economic, Social and Cultural Council (ECOSOCC), three envisaged financial institutions (an African Central Bank, African Investment Bank and African Monetary Fund) and seven specialized technical committees.¹² The Act also creates a Secretariat, known as the Commission, in charge of the day to day running of the Union. It is headed by a Chairperson, who is elected by the Assembly of the Union and is assisted by a Deputy Chairperson and eight Commissioners.

11. Analytical Report of the Brainstorming Meeting of the Commission of the African Union and Eminent Personalities on Building an African Union for the 21st Century, held from 25-28 October 2003 in Addis Ababa, Ethiopia.

Normative and Institutional Transformations

The transformation of the OAU into the AU ushered in substantive normative and institutional changes that were totally unthinkable during the Cold War. In normative terms, the shift from strict adherence to the principle of non-interference to the right of the AU to intervene¹³ or what some have called the principle of non-indifference, was a radical shift from previous policies. Equally important was the prominence given to human rights and democracy in the AU Constitutive Act, these issues are repeated in almost all of the major instruments adopted subsequently.¹⁴ Institutionally, the transformation heralded the emergence of an ambitious and proactive African Peace and Security Architecture commonly referred to as the APSA.

The AU introduced a number of normative changes whose reach and impact was not adequately appreciated at the time. These changes are most powerfully expressed in the areas of peace and security, human rights, democracy and intervention. Not surprisingly, peace and security constitutes the major agenda of the newly established AU. As enunciated in the preamble to the AU Constitutive Act, one of the factors underlying the establishment of the AU was the recognition 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 pre-requisite for the implementation of our development and integration agenda.'¹⁵ In line with this, the Act provides that one of the objectives of the AU is to 'promote peace, security, and stability on the continent.'

12. See, *AU Profile*, <http://bibliotecavirtual.clacso.org.ar/ar/libros/iss/pdfs/oau/AUprofile.pdf>, accessed 21/05/10.

13. See Ben Kioko 'The right of intervention under the African Union's Constitutive Act: From non-interference to non-intervention' (85 *International Review of the Red Cross*, 2003) 807.

14. See A. Abass and M. A. Baderin 'Towards Effective Collective Security and Human Rights Protection in Africa: An Assessment of the Constitutive Act of the New African Union' (49 (1) *NILR*, 2002), 1.

Probably one of the other interesting aspects of the AU Constitutive Act in this area, which marks a break from the OAU, is the ground-breaking principle of the right of the Union to intervene in Member States.¹⁶ Article 4 (h) of the Constitutive Act provides for the AU 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.'

This, more than the generic commitment for the promotion of peace and security, expresses the resolve of Africa to never let another Rwanda happen again. It not only creates the legal basis for intervention but also imposes an obligation on the AU to intervene to prevent or stop the perpetration of heinous international crimes anywhere on the continent. As pointed out by Cilliers and Sturman, this is one of the provisions of the Act that 'are the cornerstones of credibility' for the AU.¹⁷

This provision together with the emphasis on ending conflicts and promoting peace and security reverses the primacy that the OAU accorded to the state-centric principles, especially as it relates to non-intervention. Most notably, it revises the understanding and scope of application of the principles of state sovereignty and non-interference. By narrowing down the scope of application of state sovereignty and non-interference, Article 4(h) elevates situations

15. See *Constitutive Act of the African Union (adopted 11 July 2000, entered into force 26 May 2001)*.

16. For literature on this see Girmachew Alemu Aneme *A study of the African Union's Right of Intervention Against Genocide, Crimes Against Humanity and War Crimes* (Oslo: Faculty of Law, University of Oslo, 2008); Jakkie Cilliers and Kathryn Sturman 'The Right Intervention; Enforcement Challenge for the African Union' (2002) 11(3) *African Security Review*; Kithure Kindiki, *Intervention to Protect Civilians in Darfur: Legal Dilemmas and Policy Imperatives*, ISS Monograph 131, Pretoria: Institute for Security Studies, 2007; Abdulqawi A Yusuf, *The Right of Intervention by the African Union: A New Paradigm in Regional Enforcement Action?* (2005 *African Yearbook of International Law*) 3-21.

17. *Ibid.*

involving war crimes, crimes against humanity and genocide to matters of continental concern. To some extent, it helps to settle the controversy around intervention in situations involving the aforementioned crimes. This represents a paradigmatic shift from the OAU's exclusive focus on state security. Unlike the OAU Charter, the Constitutive Act has strong human rights content. Indeed, one of its objectives is 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'.¹⁸

As such, sovereignty and non-interference would no longer shield states from external scrutiny and even military intervention, not only where they endanger the lives of people on a massive scale, but also where they are unable to protect their citizens from grave threats.¹⁹ Crucially, the Constitutive Act leaves no room for inaction on the part of the AU in the face of such threats. In this, the AU Act became a pioneer in leading what has come to be characterised as a 'systemic shift in international law, namely, a growing tendency to recognise that the principle of state sovereignty finds its limits in the protection of "human security".²⁰

Clearly, the most notable feature of the AU Constitutive Act is its emphasis on protecting people from grave circumstances and the promotion of human and peoples' rights as well as democracy and good governance. Underlying the principle of intervention and the focus on peace and security is therefore the overriding concern for the inherent dignity and inalienable worth of the

18. See Art. 3(h) of the AU Constitutive Act (*supra* note 38).

19. As Cilliers and Sturman put it '[t]he absence or disappearance of a functioning government can lead to the same kind of human catastrophe as the presence of a repressive state. In Africa, intervention will be needed in as many cases where a weak state is unable to protect its citizens, as when a repressive state is unwilling to do so or is itself the cause of the abuse.' (note 40).

20. Carsten Stahn 'Responsibility to Protect: Political Rhetoric or Emerging Legal Norm?' (101 *American Journal of International Law*, 2007) 99, 100-101.

individuals and communities constituting member states of the AU. This is further reiterated in the Protocol Relating to the Establishment of the Peace and Security Council (PSC Protocol).²¹

Consistent with the paradigm shift within the framework of the Constitutive Act from state security to human security, the approach that the PSC protocol articulates is underpinned by the concern for the well-being and security of people. This is expressed first in the recognition of 'the fact that the development of strong democratic institutions and culture, observance of human rights and the rule of law, as well as the implementation of post-conflict recovery programmes and sustainable development policies, are essential for the promotion of collective security, durable peace and stability, as well as the prevention of conflicts.'²² Second, it envisages that one of the objectives of the PSC is to 'promote and encourage democratic practices, good governance and the rule of law, protect human rights and fundamental freedoms, respect the sanctity of human life and humanitarian law'.²³ Among the principles that underpin the PSC Protocol are (a) early response to contain crisis situations so as to prevent them from developing into full-blown conflicts,²⁴ (b) respect for the rule of law, fundamental human rights and freedoms, the sanctity of human life and international humanitarian law,²⁵ and (c) the right of the Union to intervene in a member state in respect of grave circumstances as defined under Article 4 (h) of the AU Act.²⁶

The new normative concept of human security, which underpins the AU's peace and security regime, is more explicitly stated in the AU's Solemn Declaration on a Common African Defence and Security Policy. The Policy makes as its point of

21. Adopted in Durban, South Africa on 9 July 2002 and entered into force on 23 December 2003.

22. See Preamble to PSC Protocol, *Ibid*.

23. As above, Art. 3(f).

24. As above, Art. 4(b).

25. As above, Art. 4(c).

26. As above, Art. 4(j).

departure, a definition of security 'which encompasses both traditional, state-centric, notion of the survival of the state and its protection by military means from external aggression, as well as the non-military notion which is informed by the new international environment and the high incidence of intra-state conflicts.'²⁷ More than anything else, it is the rise in intra-state conflicts witnessed on the continent during the post-Cold War period that prompted African states to embrace the new normative concept of human security as the basis for AU's peace and security regime.²⁸

Moreover, the policy rightly identifies as common security threats not only inter-state conflicts/tensions and common external threats but also intra-state conflicts/tensions.

The Common Security and Defence Policy further outlines a number of principles and values that reiterate and reinforce the peace and security norms of the AU Act. It reaffirms the right of the Union to intervene in a member state in respect

" the PSC Protocol allows intervention of the Union, in a Member State in respect of grave circumstances, namely war crimes, genocide and crimes against humanity, as defined in relevant international conventions and instruments"

of war crimes, genocide and crimes against humanity. Others include respect for democratic principles, human rights, the rule of law and good governance. Additionally, it envisions 'early action for conflict prevention, containment, management, resolution and elimination, including the deployment and sustenance of peacekeeping missions and thus promote initiatives that will preserve and strengthen peace and development in Africa.'²⁹

27. African Union, *Solemn Declaration on a Common African Defence and Security Policy*, Addis Ababa (African Union, 28 February 2004) Para. 6.

28. As the Policy states: 'The causes of intra-state conflict necessitate a new emphasis on human security, based not only on political values but on social and economic imperatives as well.' *Ibid.*

29. Para 13 (j).

Institutional Developments

Alongside these normative developments, was the realization of the need to establish institutional structures for the implementation of these newly embraced norms. The AU Constitutive Act itself did not give enough details in this regard. It merely mentions that the AU Assembly shall 'give directives to the Executive Council on the management of conflicts, war and other emergency situations and the restoration of peace.'³⁰

This gap was later on rectified with the adoption of the Protocol Relating to the Establishment of the Peace and Security Council (PSC Protocol). Adopted at the first ordinary session of the AU Heads of State and Government in Durban, South Africa, the Protocol came into force in January 2004 following its ratification by simple majority of member states of the AU. The PSC was subsequently launched in May 2004.

Through this protocol, the AU is endowed with a comprehensive peace and security architecture, which has come to be known as the African Peace and Security Architecture (APSA), with the Regional Economic Communities (RECs) (the Protocol refers to them as Regional Mechanisms for Conflict Prevention, Management and Resolution) and not RECs as its pillars. Central to the APSA is the Peace and Security Council. According to Article 2 of the Protocol, the PSC is 'a standing decision-making organ for the prevention, management and

30. See AU Constitutive Act (*supra* note 38) Article 9 (g).

resolution of conflicts' which operates as 'a collective security and early warning arrangement to facilitate timely and efficient response to conflict and crisis situations in Africa.'

The mandate of the PSC as stipulated under Article 7 includes to:

- anticipate and prevent disputes and conflicts, as well as policies that may lead to genocide and crimes against humanity;
- undertake peace-making and peace-building functions in order to resolve conflicts where they have occurred; authorise the mounting and deployment of peace support missions;
- recommend to the assembly intervention in a member state in respect of grave circumstances as provided for in Article 4 (h) of the Constitutive Act; and
- support and facilitate humanitarian action in situations of armed conflicts or major natural disasters

Article 2 of the PSC Protocol defines the components of the APSA that support the work of the PSC. These are the AU Commission, a Panel of the Wise, a Continental Early Warning System (CEWS), an African Standby Force and a Special Fund. Articles 8 and 16 provide for the Military Staff Committee and Regional Mechanisms for Conflict Prevention, Management and Resolution as additional components of the APSA. In institutional terms, the PSC, the CEWS, the Panel of the Wise, the African Standby Force, and the Special Fund (also known as the Peace Fund) are also pillars of the APSA. Hence a deeper analysis

of the mandate, structure and operationalization of these structures constitute the core of this handbook.

Conclusion

Prompted by the changing nature of conflicts from inter-state to intra-state following the end of the Cold War, Africa and the wider international community articulated a new concept of security, marking a shift from the traditional state-centric concept of security to human security.³¹ The shift has shaped important global and continental normative and institutional developments. At the global level, there is now greater emphasis on the responsibility of states and the wider international community to protect civilians against gross human rights violations as articulated in Article 4(h) of the Constitutive Act. The commitment to protect civilians is articulated in a number of ground breaking human rights and humanitarian norms developed over the past few decades. In Africa, the shift from non-interference to non-indifference is perhaps the most notable change during this period.

Needless to say, the challenge now is how to strike the right balance between the AU's affirmation of the traditional concept of security and its new commitment to human security at one level, and how to translate its commitments to human security into practice at another level. How the AU handles these two challenges will determine not only its efficacy, but also the value of its commitment to the citizens of its member states.

31. See Giliane Cherubin-Doumbia, *African commitments to human rights: A review of eight NEPAD countries (2004)* 3.

Chapter III

The Peace and Security Council and corresponding organs at the RECS

The Peace and Security Council (PSC) of the African Union, the nerve centre of the APSA, is composed of 15 Member States (10 elected for a term of two years and five for a term of three years). The Chairperson of the African Union is assisted by a Commissioner in charge of peace and security to provide operational support to the Peace and Security Council as well as deploy efforts and take the necessary steps to prevent, manage and resolve conflicts. The purpose of the PSC is to provide 'a collective security and early-warning arrangement to facilitate timely and efficient response to conflict and crisis situations in Africa.'³² The PSC assesses potential crisis situations; sends fact-finding missions to trouble spots and authorises and legitimises the AU's intervention if and when necessary, pursuant to Article 4(h) of the AU Constitutive Act, which affirms the right of the Union to intervene in a Member State with respect to crisis situations. Specifically, Article 7(e) of the Protocol Establishing the Peace and Security Council, herein after referred to as the PSC Protocol states that the Council can 'recommend to the Assembly of Heads of State, intervention, on behalf of the Union, in a Member State in respect of grave circumstances, namely, war crimes, genocide and crimes against humanity, as defined in relevant international conventions and instruments.'³³

Elections of Members of the PSC

The PSC members are elected by the Executive Council, sitting in Ordinary Session, in line with Decision Assembly (AU.DEC. 106 (VI), by which the Assembly delegated its power to the Executive Council for elections of PSC members under Article 5 (2) of the PSC Protocol. The elected members are subsequently

32. Article 2, AU PSC Protocol (*supra* note 44).

33. *Ibid.*

endorsed by the Session of the Assembly of Heads of State and Government. In electing the members of the Council, the Assembly applies the principle of equitable regional representation and national rotation, and a retired member of the PSC is eligible for immediate re-election. Article 5(2) of the PSC Protocol stipulates the criteria in the selection of each prospective member state including, among others, the country's contribution to the promotion and maintenance of peace and security in Africa; its willingness and ability to take up responsibility for regional and continental conflict resolution initiatives; as well as respect for constitutional governance, in accordance with the Lomé Declaration. The new members of the Council take up office on the first day of April after their election by the AU Summit. The new list of Council members and the inaugural Chairperson for the month of April has to be formally communicated to PSC members and other AU Member States before the end of February.

The Chair of the PSC

At the Retreat of the PSC, convened from 5 to 6 July 2007, in Dakar, Senegal, the Council resolved to adopt the practice of a monthly rotating Chairmanship.³⁴ According to Article 8(6) of the PSC Protocol, the Chair of the Council shall be held in turn by the members of the Council in the English alphabetical order of the names of individual countries, for a period of one calendar month. In other words, following each election PSC members will assume the Rotating Chairmanship according to the English alphabetical order of the names of their countries.

The Chair of the PSC is occupied by the Permanent Representative of the country that is designated to chair the Council for a particular month. The Permanent Representative has to be duly accredited to the AU Commission and he or she is therefore expected to remain in Addis Ababa, where the AU headquarters are,

34. PSC/PR/2(LXXXIII).

during his or her chairmanship. He or she also has the mandate to develop a provisional program of work of the PSC, to bring to attention of the PSC any matter, which in his/or her opinion, may threaten peace, security and stability in the continent, and request briefings from the different committees of the PSC and other organs and institutions of the AU. In addition, through the Livingstone Formula, the Chair of the PSC can engage directly with civil society organisations on a range of early warning, peacemaking, peacekeeping and peace building issues. The provisional agenda of the PSC is determined by the Chairperson of the Council on the basis of proposals submitted by the Chairperson of the Commission and Member States. The inclusion of any item on the provisional agenda may not be opposed by a Member State.³⁵

PSC decision-making process and dynamics

As the PSC is the sole mandating authority, its decision-making procedures and practices have direct bearing on the activities of the AU in the area of peace and security including the authorization of peace operations. Article 8(1) of PSC Protocol provides that the PSC, like the United Nations Security Council (UNSC), is to be so organised so as to be able to function continuously. For this purpose, each Member State of the Council shall at all times be represented at the headquarters of the AU. The PSC meets at three levels: Ambassadorial level, Ministerial level and at the level of Heads of State and Government. Whilst the Council is required to meet as often as requested at the Ambassadorial level but at least twice a month, it is required to meet at least once a year at the Ministerial and Heads of State and Government levels.³⁶ However, according to the Report of the African Union Audit, '[i]t is doubtful whether, given the incidence, complexity, diversity and variety of peace and security issues on the continent,

35. Art. 8 (7) PSC Protocol.

36. Art. 8(2) PSC Protocol.

the occasional Ministerial and Heads of State and Government meetings will allow them sufficient time to delve into issues, take informed decisions and provide the leadership required.'³⁷

The PSC decisions are generally guided by the principle of consensus. However, unlike the OAU Mechanism, in case of failure to reach a consensus, decisions on procedural matters are by a simple majority and on substantive matters by a two-thirds majority of members eligible to vote.³⁸ In a situation where a complaint before the PSC implicates one of its members, the affected country does not participate in the PSC's deliberations on the matter.

To the extent that the PSC, like the UNSC, is a political body composed of member states that pursue their respective national interests, and the speed with which the PSC decides a particular agenda depends, among others, on the interest and political dynamics of members of the PSC, the strength and diplomatic skills of the Chairperson of the PSC at the time that the issue arises. And most importantly, on the influence of member states with strong interest in the issue. Depending on the influence that they command regionally and continentally, member states reportedly have been seen exerting huge influence on the nature and content of the decisions of the PSC.

The PSC Secretariat

The Secretariat is established under article 10 (4) of the PSC Protocol. It was formally established as a division within the Peace and Security Department in 2006, with the appointment of the Secretary of the PSC to lead the Division with the support of experts.³⁹ The key responsibility of the Secretariat is to facilitate the functioning of the PSC by providing direct operational support to

37. African Union Audit, 98.

38. Article 8 (13) PSC Protocol; Rule 28, Rules of Procedure of the Peace and Security Council of the AU.

39. See <http://au.int/?q=psc/secretariat>, visited 17/05/10.

the Council. In this respect, the Secretariat's core functions and responsibilities are as follows:

1. Elaboration of policy briefs and papers;
2. Elaboration of briefs for the Commissioner for Peace and Security and PSC decisions;
3. Follow-up on the implementation of the PSC decisions;
4. Elaboration of the Report of the PSC on its activities and the state of peace in Africa;
5. Elaboration of the PSC programme of work, policy and other relevant documents of the PSC;
6. Organization of periodic retreats/brainstorming sessions of the PSC, including elaboration of working theme papers;
7. Arrangement of meetings of the PSC and support to all other meetings whose activities feed into the PSC's activities;
8. Organization of PSC field mission;
9. Servicing of PSC sub- committees; and
10. Servicing of the Military Staff Committee.⁴⁰

In addition, the Secretariat keeps the Peace and Security Department and the entire Commission abreast with the mandate of the PSC.⁴¹

Article 2 of the PSC Protocol defines the components of the APSA that supports the work of the PSC. These are the AU Commission,⁴² a Panel of the Wise,⁴³

40. *Ibid.*

41. *Ibid.*

42. *The Chairperson of the AU Commission is tasked to take initiatives for conflict prevention and is also responsible for following-up the implementation of the decisions of the PSC with respect to conflict prevention, management, resolution and peace-building. Art. 10 PSC Protocol.*

43. *The Panel has peacemaking and advisory roles and plays an important role at the stage of conflict prevention. On the Panel of the Wise see Jamila El Abdellaoui The Panel of the Wise, (ISS Paper No. 193, August 2009).*

a Continental Early Warning System (CEWS),⁴⁴ an African Standby Force and a Special Fund. Articles 8 and 16 provide for the Military Staff Committee and Regional Mechanisms for Conflict Prevention, Management and Resolution respectively as additional components of the APSA.

Under the envisaged interlocking system, the different components of the APSA come into play sequentially in the process for the prevention, management and resolution of conflicts. Initially, what triggers the application of the APSA is the information analysis that CEWS produces. It is at the stage where efforts for conflict prevention and peacemaking are deployed that the Panel of the Wise comes into play.⁴⁵ Within the framework of the APSA, the ASF is deployed after peacemaking efforts have failed to prevent the eruption of a conflict in cases where violent conflicts are about to erupt (preventive deployment) or have already erupted and/or for intervention in respect of grave circumstances.⁴⁶ Under normal circumstances, it therefore comes at the end of the chain of the APSA components and processes. It is however followed by Post-Conflict Reconstruction and Development.

A cursory assessment of its seven-year existence reveals that the PSC has convened more than 300 meetings and issued as many communiqués and statements relating to crisis and conflict situations in Burundi, Central African Republic, Chad, Comoros, Côte d'Ivoire, Democratic Republic of Congo, Guinea, Guinea-Bissau, Kenya, Liberia, Madagascar, Mauritania, Niger, Rwanda, Somalia, South Sudan, Sudan, Togo, and Zimbabwe, among others. The Council has also authorised sanctions against several member states. The Council has authorised the deployment of four peace operations in Burundi (2003 to 2004), Sudan

44. *The CEWS is one of the sources of information and analysis that alerts the Chairperson of the Commission and through him the PSC of the existence of an emerging crisis for them to take the necessary action that the situation demands. See Art. 12 PSC Protocol.*

45. *Jamila El Abdellaoui, (supra note 91)*

46. *Art. 13 PSC Protocol.*

(2004 to the present now being jointly undertaken with the UN), the Comoros (2006 to present), and Somalia (2007 to present). Undoubtedly, the Council has demonstrated its ability to draw attention to crisis situations in Africa and will continue to function as one of the most important and powerful organs of the APSA.

Regional Decision Making Structures⁴⁷

Just as the AU, efforts are underway to develop PSC-like structures by the various RECs. For instance, since 2000, COMESA has had a Committee on Peace and Security, which meets at least annually to consider peace and security issues. All Member States are represented on the Committee at ministerial level. However, the Committee is not a decision-making structure. It can only make recommendations to the Council of Ministers which will be subsequently forwarded to the Authority for a final decision; thus, the Authority is the supreme decision-making organ of COMESA. The Bureau serves as the standing decision making organ that ensures regular interface between the Authority, Committee and Secretariat on matters of peace and security. It also liaises with the AU PSC and other RECs in the region. Perhaps, given COMESA's comparative advantage in trade-related issues, its cooperation with the PSC and other RECs in this area is still evolving. The tripartite partnership between COMESA, SADC and EAC would undoubtedly contribute to harnessing the resources and initiatives of the three RECs on issues of peace and security in particular, and more broadly.

Unlike other RECs, IGAD does not have an equivalent of the PSC that is distinct from its overall political organs: the Assembly of Heads of State and Government,

47. This section was reproduced in whole from the APSA Assessment that was undertaken in 2010. This was done with the permission of the AU's Peace and Security Department, the copyright holder of the APSA assessment. We are grateful to members of the APSA assessment team: Lt. General (Rtd.) Louis Matshenyego Fisher, (Team Leader), Dr. Alhaji Sarjoh Bah, (Deputy Team Leader), Dr. Abeer Mniema, Dr. Hortense Nguema Okome, Colonel (Rtd.) Meissa Tamba, Jonas Frederiksen, Dr. Alaa Abdelaziz and Richard Reeve.

and the Council of Ministers. Moreover, it does not have the equivalent of the Military Staff Committee, but an ad hoc panel of Chiefs of Defence Staff has been convened to provide advice on military issues such as its planned peace operation for Somalia, which never materialized. In Southern Africa, the troika of the SADC Organ on Politics, Defence and Security is the decision making organ of the institution on issues of politics, defence and security. Consisting of three members – the outgoing, the serving and incoming members, the troika of the Organ is supported by the Inter-State Defence and Security Committee (ISDSC), whose sub-committee on Defence is the equivalent of the MSC. The Organ is one of the oldest institutions in SADC; it dates back to the Front Line States (FLS) which, was established to coordinate support for the anti-colonial struggle in the region. Unlike the PSC, decisions of the troika of the Organ are forwarded to the Summit for final approval. Institutionally, there is no formalized relationship between the troika of the Organ and the PSC, making collaboration on conflict situations challenging.

West Africa, perhaps more than any other region, has one of the most robust and proactive decision-making organs, the Mediation and Security Council (MSC). The MSC consists of nine members, seven of those are elected by the Authority of Heads of State and Government, and the other two members are the current Chairperson of the Authority and his /her immediate predecessor. The MSC has taken very intrusive and binding decisions including the deployment of peace operations to Cote d'Ivoire and Liberia in 2003, and has suspended several of its members from its Council for failing to comply with its norms. For instance, Guinea and Niger were suspended due to the military takeovers in both countries. The suspensions were in line with the ECOWAS policy of zero-tolerance for unconstitutional change of government. Institutionally, the MSC is supported by the Defence and Security Council (DSC), one of the most active components of the ECOWAS peace and security architecture. Despite the pivotal role of the MSC in dealing with issues of peace and security, its cooperation with the PSC has been sporadic and ad hoc. However, when they have cooperated as

was the case with the extension of President Laurent Gbagbo's term in office in 2006, the outcome was positive in the sense that the two institutions spoke with one voice. Unfortunately, that kind of cooperation has not been replicated on a consistent basis. For instance, ECOWAS and the AU appeared uncoordinated in their response to the crisis in Niger, which was triggered by former President Mamadu Tandja's attempt to perpetuate himself in power through a discredited referendum, which subsequently triggered the military takeover.

For its part, CEN-SAD is in the process of establishing a Peace Council that will consist of 10 members, which like its counterparts in other regions, will meet at three levels: Summit, Ministerial and Ambassadorial. The Peace Council is to be supported by a CEN-SAD Military Staff Committee, which would serve as an advisory organ of the Peace Council. However, the creation of these structures was pending the approval of the CEN-SAD Conflict Prevention, Management and Resolution Mechanism which was adopted in 2004 but had only been ratified by three members by July 2010.

Meanwhile, the PSC equivalent in ECCAS, the Conseil de Paix et de Sécurité de l'Afrique Centrale, known under the French acronym, COPAX, was established as the organ for political and military dialogue in Central Africa. Approved in February 2000, the Protocol establishing COPAX formally entered into force in January 2004. COPAX has two decision making organs, namely the Heads of States and Governments Conference and the Council of Ministers composed of the Ministers of Foreign Affairs and the Ministers in charge of Defense and Security. The Defense and Security Commission, the Political and Diplomatic Action Directorate, the early warning mechanism of Central Africa known under the French acronym MARAC and the multidimensional force of Central Africa known under the French acronym of FOMAC are the technical and action organs of COPAX. Its mandate covers a wide spectrum of issues including ensuring peace, security and stability in the region. It is also responsible for authorizing the deployment of multi-dimensional peace operations in the region. ECCAS

plans to establish a Committee of ambassadors along the lines of the Panel of the Wise, to augment its preventive diplomacy. Operationally, there has been limited partnership between COPAX and the PSC.

Conclusion

The PSC has emerged as the most visible component of the APSA. It has held more meetings and briefing sessions than was initially anticipated, demonstrating two things. First, the growing commitment of AU member states to tackle conflicts on the continent. Second, the frequency with which it has met demonstrates the fragility of the security situation of some of its members.

However, the interface between the PSC and similar organs in the RECs has been limited. Moreover, the interaction between the PSC and other APSA components has not been optimal, primarily due to the fact that some of the components are still being operationalized. Institutional support to the PSC, whose agenda of activities has grown exponentially, is limited. The Secretariat is overstretched in the face of growing demands on it to support both the PSC and some of its members with limited capacity in their embassies. The structures in the RECs are confronted by similar challenges, especially with respect to support structures at their headquarters.

CHAPTER IV

THE CONTINENTAL EARLY WARNING SYSTEM AND CORRESPONDING STRUCTURES IN THE REGIONS

The Continental Early Warning System (CEWS)⁴⁸ was originally envisaged to go fully operational by end of 2009. Since the 2003 Maputo Summit, the AU Commission has placed particular emphasis on the issue of conflict prevention and the anticipation of conflicts at an early stage. Article 12 (1) of the PSC Protocol specifically states that a 'Continental Early Warning System to be known as the Early Warning System shall be established'.⁴⁹ Accordingly, CEWS is a key component of the APSA as well as the various organs of the Commission, through the provision of analysis and early reporting. The PSC Protocol introduced the concept of early warning and mechanisms of early response attaching high importance to the need for early detection of conflict. The Chairperson of the Commission shall use the information gathered through the Early Warning System to advise the Peace and Security Council on potential conflicts and threats to peace and security in Africa and recommend the best course of action. The CEWS is composed of:

- An observation and monitoring centre located at the AU, known as 'The Situation Room';
- Observation and Monitoring Units of the Regional Mechanisms to be linked directly through appropriate means of communications to the Situation Room, these units collect and process data at the regional level and transmit this to the Situation Room.

48. Part of this chapter was reproduced from the 2010 APSA assessment with the approval of the AU's Peace and Security Department.

49. PSC Protocol (*supra* note 72).

To date, the most important progress towards the full operationalisation of the CEWS has included the establishment of:

1. A Framework for the Operationalisation of the system adopted in December 2006. The framework consists of three major components namely, data collection and analysis; engagement with decision makers; co-ordination and collaboration with the Regional Mechanisms, which was endorsed by the Executive Council meeting in January 2007.
2. A Strategic Conflict Assessment (SCA) methodology Handbook has been prepared. The handbook guides analysts in monitoring and analysis and provides them with ideas of how to recommend possible response options on potential conflict situations.
3. Various data collection software applications have been developed in order to enhance the process of information gathering and analysis. These software applications include a number of IT based tools such as the Africa Media Monitor (AMM), the CEWS Portal, the Indicators and Profiles Modules, the Africa Reporter and an Africa Prospectus.
4. A Memorandum of Understanding (MoU) on cooperation in the area of peace and security was signed between the AU and RECs and Regional Mechanisms in January 2008, in Addis Ababa, Ethiopia. The MoU is expected to enhance cooperation between the CEWS and the regional early warning mechanisms in a number of fields including through coordination, regular reporting, and division of labour.
5. Refurbishment of the Situation Room. Infrastructure upgrade and installment of the necessary equipment, including the live monitoring software (i.e. LIVEMON in the office of the AUC Chairperson, Deputy Chairperson, Commissioner for Peace and Security and the Director for Peace and Security).

6. Information collection and monitoring tools are operational and data can be accessed through a specifically developed CEWS information portal.

7. Between May 2008 and April 2012, 10 technical meetings have been held between the AU and RECs at the AU's initiative and the meetings are likely to continue. These meetings serve as the main forum in bringing both the AU and the RECs closer on the exchange of lessons learned as well as harmonization of data collection instruments.

8. Existing IT technology within the AU Conflict Management Situation Room has been upgraded. This facilitates the sharing of information in an effective and timely manner once the connectivity between the Situation Room and the RMs through an AU-VSAT is ensured.

The 2010 APSA assessment study found that automated data collection and reporting are relatively advanced at the level of CEWS. This is also the case at ECOWARN and CEWARN. In most other RECs, progress has been achieved in establishing policy frameworks, specific concepts and approaches to early warning. But data collection and reporting for early warning is yet to be effective in CEN-SAD, EAC and COMESA.

Conflict analysis and development of response options are at an incipient level in some regions. Together with the need for sharing information with stakeholders, analysis and response options remain the biggest challenges. As part of efforts to enhance the data collection and information gathering capacity of the Situation Room, the AU and RECs are in the process of developing various software modules to facilitate the collection, sharing and distribution of information within the AU (including PSOs and field offices) and with the RECs.

The CEWS intends to further strengthen relations with the early warning systems of the RECs by undertaking joint trainings and staff exchange programmes in particular to enhance the analytic capacity of staff. Development and delivery

of specialised and customized trainings for staff dealing with CEWS and early warning systems in the RECs should be given priority in the coming years. Sustained skills training and capacity building for staff dealing with early warning in the AUC and RECs are required for effective operationalisation of CEWS and the early warning systems in the RECs, particularly the analysis component.

Efforts to strengthen engagement with senior management and political decision makers in some of the RECs remain embryonic, a situation that needs to be addressed. At another level, an incremental, pragmatic approach is needed to gradually build functional and result-oriented partnerships with relevant international organizations. Coordination and collaboration with the UN, its agencies and other international organizations should also continue.

The consultation between CEWS and CSOs foreseen for September 2009 finally took place from 29 to 30 May 2012. The meeting brought together CSOs with interest in early warning, peace and security in general, including training institutions.

Conclusion

It is clear from the above that a lot of progress has been made in terms of developing the necessary infrastructure and systems for the operationalisation of the CEWS. A lot more needs to be done for the effective operation and running of the system. In this regard, issues that require further attention include developing or recruiting the necessary technical expertise; the deployment of the necessary tools for data collection and analysis; institutionalizing a standardized early warning system at the RECs and establishing the necessary system for linking them to the CEWS at the AU HQ, as well as the legal and political framework for institutionalized relations with RECs.

CHAPTER V

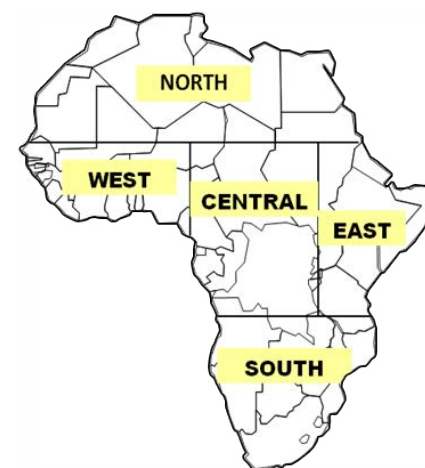
THE AFRICAN STANDBY FORCE (ASF)

Article 13 of the Protocol Establishing the Peace and Security Council of the African Union envisages the establishment of an African Standby Force (ASF). The ASF is an integral component of the African Peace and Security Architecture and will play a critical function in enabling the PSC to fulfil its mandate.

The ASF is organized into five regional standby forces, previously known as regional brigades. The formation of the regional forces includes a full time Planning Element (PLANELM); a Logistics Depot (LD); a Brigade Headquarters; and the Pledged Brigade Units. The various RECs and RMs are at various stages of establishing the aforementioned structures, although some regions like SADC have opted not to establish a standing Brigade Headquarters.

There have been contentious discussions about membership of the ASF regional groupings. Ideally, the Regional Economic Communities could have been used as the formation for the ASF regional brigade. However, there are currently eight RECs and the ASF is designed on the basis of 5 regions. As a result there are some Member States that belong to more than one regional brigade. Therefore, the use of RECs as organisational units of the ASF brigades has turned out to be challenging. However, the five regional groupings are tentatively divided as follows:

The Southern African Grouping known as the Southern Africa Standby Force (SASF) includes: Botswana, Lesotho, Malawi, Mozambique, Namibia, South Africa, Swaziland, Tanzania, Zambia, and Zimbabwe. Angola and the Democratic Republic of the Congo (DRC) also belong to the Central Grouping. Madagascar and Mauritius are also members of this group.



The Eastern Africa Grouping known as the Eastern Africa Standby Force (EASF) is composed of Burundi, Comoros, Djibouti, Eritrea, Ethiopia, Kenya, Sudan, Rwanda, Seychelles, Somalia, and Uganda.

The Central African Grouping known as the Central African Standby Force (CASF) is composed of Burundi, Cameroon, Central African Republic, Chad, Congo-Brazzaville, Equatorial Guinea, and Sao Tome Principe. Angola and the DRC could potentially belong to the Southern Grouping.

The West Africa Grouping known as the ECOWAS Standby Force (ESF) is composed of Benin, Burkina Faso, Cape Verde, Côte d'Ivoire, Gambia, Ghana, Guinea-Bissau, Liberia, Sierra Leone, Mali, Niger, Nigeria, and Senegal.

The North African Grouping known as the North African Regional Capability (NARC) is composed of Algeria, Egypt, Libya, Mauritania, Tunisia and Western Sahara. However, this brigade is yet to make the expected progress.

According to the 2003 Policy Framework for the Establishment of the ASF and the Military Staff Committee (MSC) and the 2005 Roadmap for the operationalisation of the ASF, subsequently supplemented by Roadmap II, the ASF was to be developed in two phases and inaugurated in 2010. At the end of Phase II in 2010, the ASF was supposed to be operationally ready for deployment

including for complex peacekeeping operations and intervention in response to grave circumstances – war crimes, crimes against humanity and genocide - as defined under Article 4 (h) of the Constitutive Act of the AU. However, following the AMANI Africa Exercise, the ASF was assessed to have reached only its Initial Operational Capability (IOC), Roadmap III was then developed to support the Full Operational Capability (FOC) of the ASF by 2015.

However, even if the ASF is fully operationalized by 2015, there are still some more practical issues relating to the adoption of the Draft AU decision making process/aide-Memoire already used during the Amani Africa Exercise for absence of a coherent policy with regard to mandating and coordination of the ASF. In addition, the AU is working for a specific legal framework, within the APSA, for the establishment and use of the ASF before its FOC by 2015. This will help to clarify the key function of the PSC and other institutions of a similar nature at the RECs level. The AU's technical competence also has to be enhanced, and issues such as the Rapid Deployment Capability (RDC) and logistical infrastructure, including the establishment of the Regional Logistic Base (RLB) in Douala, Cameroon, of the ASF have to be in place to enable the activation of Regional Brigades for future ASF missions.

The PSC communiqué PSC/PR/BR (CLXVI) issued on 16 January 2009, 'commended the Commission for the activities undertaken within Roadmap II' and more specifically 'welcomed the efforts deployed and the progress made towards the full operationalisation of Regional Brigades, the implementation of the ASF Training Plan through the initialisation conference of the AMANI Africa Exercise and the Rapid Deployment Capability'. Additionally, the PSC requested the Commission 'to undertake further work to implement the ASF Policy Documents' and 'to develop and finalise the additional documents and submit proposals on those areas to Ministers of Defence and Security, for their early action towards the implementation of the ASF by 2010.'

After the PSC adopted the communiqué, the AU submitted a report in May 2009 on progress made at the 6th Meeting of African Chiefs of Defence Staff (ACDS) and Heads of Safety and Security, which followed the Experts Meeting of ACDS. The Declaration adopted by the African Chiefs of Defence Staff and Heads of Safety and Security noted 'the ongoing efforts to improve upon the Rapid Deployment Capability Concept, the Continental Logistics Bases (CLBs), work on the Strategic Lift Capability Concept, the Formed Police Unit (FPU) Concept, development of the Civilian Dimension and the elaboration of an ASF Training Plan 2009 – 2010, as well as the various training efforts'. The Experts Meeting noted that a key challenge was the 'lack of common understanding between the AUC and the RECs / RMs on mandating of missions'. This is an issue that results from the way the ASF was designed and is currently being operationalised.

As conceptualised in the relevant ASF Policy documents and further institutionally developed, the ASF is a force organised into five Regional Brigades composed of multidisciplinary contingents on standby in their country of origin. The Brigades that together constitute the ASF are raised and maintained by the five Regional Economic Communities /Regional Mechanisms (ECOWAS, NARC, EASBRICOM, ECCAS, and SADC) which serve as building blocks of the Peace and Security Architecture of the AU. This structural organisation of the ASF suggests that there are at least two entities having authority over the use and deployment of the ASF: the AU and RECs/RMs.

The ASF Policy Framework provides that each REC/RM will have to prepare, by 2010, a capability, consisting of military, police and civilians elements of about 5,000 personnel. This means that the overall size of the ASF will come to a capability of 25,000 – 30,000.⁵⁰ This has the potential to address aspects of the problem of force generation as ASF forces are pledged by states ahead of

50. This will rise to about 40,000 following the decision of the May 2009 ACDS and Heads of Security Meeting to increase the police standby arrangement from the 240 Individual Police Officers (IPOs) per REC/RM to 720 and the FPU from 2 to 6 per REC/RM. See Johan Potgieter *Peacekeeping Forces for Peace Support Operations in Africa ISS Today* (4 August 2009) available on www.issafrica.org.

the decision for deployment. Even in this regard however, a lot depends on the establishment of the necessary legal arrangements between the AU and RECs, between RECs/RMs and member states as well as the adoption of the necessary laws at the national level. Without the necessary legal instruments, the AU would still need to negotiate individually with member states for the release of their pledged contingents. Without the necessary national laws as well, member states may face serious legal problems in releasing their pledged contingents, particularly in the case of sensitive AU missions.

Conclusion

Efforts to operationalize the ASF has registered good progress although, the degree of progress varies from region to region. Progress in developing a multidimensional concept for the ASF is perhaps one of the most remarkable to date. The Military and Police components have been put in place in all RECs and RMs. However, there are still some crucial gaps, especially as it relates to the civilian component. The absence of a binding framework between the AU, RECs/RMs and their member states is a critical gap that should be addressed as matter of urgency. Meanwhile, the AU should adopt an advocacy plan to raise awareness about the ASF. It is hoped that lessons from the 2010 AMANI exercise and practical experience from the AU's peace operations in Darfur (AMIS and UNAMID) and Somalia (AMISOM) would contribute to achieving Full Operational Capability (FOC) by 2015.

Chapter VI

THE PANEL OF THE WISE AND CORRESPONDING STRUCTURES AT THE RECS

The Panel of the Wise was established as a component of APSA. Besides the office of the Chairperson of the Commission (Chairperson), a Continental Early Warning System (CEWS), an African Standby Force and a Special Fund, the Peace and Security Council (PSC) can call upon the assistance of the Panel of the Wise (Panel). Specifically, the Panel is an integral aspect of the AU's dedicated preventive diplomacy framework given its mandate to anticipate potential crisis situations and intervene in a timely fashion to prevent the escalation of a dispute or resolve existing tensions to reduce the likelihood of a return to violence.

Mandate and Modalities of Operations of the Panel

The Panel of the Wise is constituted under the terms of Article 11 of the Protocol Relating to the Establishment of the Peace and Security Council of the African Union. This article provides that the Panel shall advise the PSC and the Chairperson of the Commission, particularly on all issues pertaining to the promotion and maintenance of peace, security and stability in Africa; shall undertake all such action deemed appropriate to support the efforts of the Council and those of the Chairperson of the Commission for the prevention of conflict and may, as and when necessary in the form it considers most appropriate, pronounce itself on any issue relating to the promotion and maintenance of peace, security and stability in Africa.⁵¹

It is important to emphasise that 'in carrying out its mandate... the Panel may act either at the request of the Council or the Chairperson of the Commission, or at its own initiative.' This clause is crucial as it allows the Panel a degree of independence, bearing in mind that it nevertheless operates within the larger

⁵¹ Article. 11 (3) & (4)

framework of the APSA.⁵² This provision endows the Panel with a very broad mandate to effectively comment, draw attention and intervene in virtually any situation on the continent that it deems worthy of attention.

The Modalities for the Functioning of the Panel of the Wise were adopted by

' the Panel shall undertake all such action deemed appropriate to support the efforts of the Council and those of the Chairperson of the Commission for the prevention of conflict'

the AU Peace and Security Council.⁵³ It states that the Panel may undertake various activities 'in coordination with the Council and the Chairperson of the Commission, and in support of, and complement to, their efforts, including through the Special Envoys/Representatives and other emissaries.'⁵⁴ These activities inter alia include, advising the PSC as well as the Chairperson regarding peace and security issues, facilitating channels of communication between the PSC or the Chairperson and parties involved in conflict, undertaking fact-finding missions as an instrument of conflict prevention, assisting and advising mediation teams, and so on.⁵⁵

Membership

The modalities confirmed the provisions of the Protocol establishing the PSC: that the Panel will be composed of five members 'selected from among highly respected African personalities of high integrity and independence, who

52. See Jamila El Addellaoui, *the PSC of the African Union: A framework for evaluation*, (paper presented at the ISS Expert Roundtable on the AU Peace and Security Council Five Year Appraisal 2004 – 2009, Addis Ababa, March 2010).

53. Adopted by the Peace and Security Council at its 100th Meeting, 12 November, 2007. Addis Ababa.

54. *Ibid.* section II (4).

55. *Ibid.*, section II (1).

have made outstanding contributions to Africa in the areas of peace, security and development'.⁵⁶ These individuals are selected by the Chairperson of the AU Commission based on consultations with the member states, but they are ultimately appointed through a decision of the Assembly of Heads of State and Government. The Panel Modalities are explicit on the requirement that members of the Panel should not be politically active at the time of their appointment and throughout their tenure. They can serve for a renewable term of three years. The Panel members appoint from amongst themselves a Chairperson who serves for only one year. In addition, 'a member of the Panel may not be elected Chairperson more than once in any period of three years'.⁵⁷ The Panel can meet as and when required, or at the request of the Council and Commission, but it has to meet at least three times a year.

In January 2007 the AU Assembly appointed five distinguished African personalities to the Panel of the Wise for a period of three years; the pioneer members of the Panel included Salim Ahmed Salim, former Secretary-General of the OAU, representing the East African region, Brigalia Bam, Chairperson of the Independent Electoral Commission of South Africa, representing the Southern Africa region, Ahmed Ben Bella the former President of Algeria, representing the North Africa region, Elisabeth Pognon, President of the Constitutional Court of Benin, representing West Africa and Miguel Trovoada, former President of Sao Tomé and Príncipe, representing the Central African region. However, at the July 2010 Summit in Kampala, the former Algerian President Ahmed Ben Bella and Salim Ahmed Salim were re-appointed for another term ending in December 2013 and three new members were appointed: Mary Chinery Hesse of Ghana; Kenneth Kaunda of Zambia; and Marie Madeleine Kalala-Ngoy of the Democratic Republic of the Congo. However, on April 11th 2012, President Ahmed Ben Bella died before completing his term.

56. *Ibid.* I (2).

57. *Ibid.* IV (1).

Operationalising the Panel

On 18 December 2007 the Panel of the Wise was formally inaugurated at a

The Current Five members of the Panel (2010 – 2013)

- Salim Ahmed Salim, former Secretary-General of the Organisation of African Unity, representing the East African region
- Kenneth Kaunda, former President of Zambia, representing the Southern Africa region
- Ahmed Ben Bella (late), former President of Algeria, representing the North Africa region;
- Mary Chinery Hesse of Ghana, representing West Africa
- Marie Madeleine Kalala-Ngoy of the Democratic Republic of Congo, representing Central Africa.

meeting which included representatives of Member States of the AU as well as the diplomatic community. On 20 February 2008, the Panel convened its first meeting at the AU headquarters in Addis Ababa and adopted a broad outline of its programme of work. At its second meeting on 17 July 2008, the Panel further enumerated its work programme and elected Ben Bella as the Chairperson of the Panel of the Wise. Panel members agreed to devote that year's thematic reflection on the prevention of conflict emerging from disputed elections, influenced by the post-electoral violence that had afflicted Kenya in January 2008.

The second meeting of the Panel also addressed among other issues, the resources that would be needed to support the work of the Panel, including a dedicated Secretariat within the Conflict Management Division in the Peace and Security Department at the AU the Commission. The Panel Modalities stipulate that 'the Commission shall provide administrative, technical and logistical support as may be required to facilitate its work' and also provide 'substantive services in support of the Panel's work, including information relating to specific situations, on mediation and negotiation processes'.⁵⁸ The Modalities also state that the Commission will provide the necessary research and advisory capacities to support the Panel's work. In this regard, the meeting of the Panel also discussed the issue of how to complement the work of the Panel with specialised expertise as well as an annual budget. It was agreed that in order to enhance its effectiveness, 'if the Panel considers it necessary, it may invite resource persons, experts, institutions or individuals, to attend a meeting in order to assist the Panel in its deliberations on specific issues'.⁵⁹ The Panel also noted that it would receive support from 'ad hoc specialised expertise'.⁶⁰

Thus far, the Panel has selected three themes, i.e. prevention of election-related violence (2008), impunity, reconciliation and healing (2009) and women and children in armed conflict (2010)

In operational terms, the Panel can 'facilitate the establishment of channels of communication between the Council and the Chairperson of the Commission, on the one hand, and parties engaged in a dispute, on the other hand, in order to prevent such dispute from escalating into conflict'.⁶¹ In addition, it can 'carry out fact-finding missions as an instrument of conflict prevention conduct shuttle

58. *Ibid.* VIII-1.

59. *Ibid.* IV-5.

60. *African Union Panel of the Wise: A Critical Pillar of the African Peace and Security Architecture*, p.20.

61. *Ibid.* Modalities of Action, 1b.

diplomacy between parties to a conflict in cases where parties are not ready to engage in formal talks.⁶² When it deems it necessary the Panel is also mandated to issue a press release or a statement on any matter that it is considering. This in effect constitutes an array of tools for deploying preventive diplomacy. In line with its mandate, the Panel has taken a thematic approach to its work, whereby one theme is selected on an annual basis. It also selects 'priority conflict situations' every year which it monitors constantly. Since then, the Panel has selected these four themes, prevention of election-related violence (2008), non-impunity, truth, justice and reconciliation (2009); women and children in armed conflict (2010); and strengthening political governance for peace, security and stability (2011). The Panel is however also conscious of the fact that its engagement with situations has to add value to the overall promotion of prevention and reduction of conflict. In this regard, the Panel has adopted five criteria which will serve as a litmus test of when it should engage in crisis situations⁶³, and these are:

1. the degree to which a conflict situation already receives regional and international attention or not. Conflicts that have been neglected for lack of resources or other reasons may be especially appropriate cases for the Panel to engage with;
2. whether the PSC is already seized with a particular conflict situation and whether additional attention by the Panel may add further value to existing efforts;
3. whether a given situation has remained in conflict for a considerable amount of time or in danger of descending into conflict, despite multiple mediation and negotiation efforts. In such a situation, the Panel may advise and strengthen existing efforts, inject new urgency to mediation processes, or take a fresh look at the conflict dynamics at play;

62. *Ibid. Modalities of Action, 1b.*

63. *bid. Modalities of Action, 1c and 1d.*

4. whether a conflict situation has experienced a sudden and speedy decline;
5. whether a conflict situation has experienced difficulties in implementing a peace agreement and, therefore faces the risk of reverting to conflict.

Although the Panel's mandate places more emphasis on conflict prevention as opposed to managing or resolving existing conflict, the Panel's modalities of action also include the provision for its members to support AU mediation teams in their efforts. In cases where a dedicated AU Special Envoy or Representative has been appointed the Panel can provide support by undertaking additional shuttle diplomacy or behind the scenes confidence building between parties. In post-conflict situations the Panel can also 'assist and advise parties on how to resolve disputes related to the implementation of peace agreements' and encourage parties to 'carry out reconciliation processes'⁶⁴

Corresponding Structures at the RECs⁶⁵

While efforts to operationalize the Panel continue to make progress, similar efforts are underway in the RECs. In fact, in some RECs such as ECOWAS, its Council of the Wise established under the 1999 Protocol for Conflict Prevention, Management, Resolution, Peacekeeping and Security predates the Panel. The ECOWAS Council of the Wise has been at the forefront in preventive interventions in West Africa. Members of the Council have been deployed by the Mediation and Security Council to either backstop ongoing mediation efforts or to intervene to avert the outbreak of violence in potential crisis situations. Since its establishment, Council members have been deployed to Niger, Guinea, Liberia, Sierra Leone, Togo and Guinea-Bissau to deal with varying degrees of conflicts in these countries. In a bid to strengthen its overall preventive diplomacy, ECOWAS

64. *Ibid. Modalities of Action, 1e.*

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is in the process of establishing a permanent Mediation Facilitation Division, whose mandate will include supporting the Council of the Wise. Moreover, plans are underway to establish a Forum of Former Presidents which will complement the work of the Council of the Wise.

One of the major shortfalls of the Council of the Wise is the fact that its members are appointed by their governments. This is potentially problematic as it could impair their impartiality. Institutionally, there is no dedicated support for the Council in the ECOWAS Commission along the lines of the Panel's Secretariat at the AUC. Among other things, this deprives the ECOWAS Commission of the ability to provide adequate support to Council members when they are on assignment, and most importantly, complicates efforts to capture valuable lessons and best practice from their engagements. In operational terms, there is no institutional linkage between the Council and the Panel; a gap that needs to be addressed urgently if the interventions by both entities are to be optimized.

For its part, the Community of Sahel-Saharan States (CEN-SAD) established a structural component called the CEN-SAD Permanent High Level Mediator for Peace and Security in 2000. The High-Level Mediator has undertaken mediation efforts with varying results. Institutionally, there is no support mechanism for the High-Level Mediator at the CEN-SAD Secretariat, whose overall staffing level is skeletal.

The Common Market for Eastern and Southern Africa (COMESA) has established a Committee of Elders as part of its preventive diplomacy strategy. The Committee has nine standing members and is supported by a unit in the Secretariat. The Committee's functions include mediation, dispatching of peace envoys, and providing leadership for COMESA election observation missions. The first five Elders were elected by the Council of Foreign Ministers in 2009 and the remaining four were elected during the 13th COMESA Summit in 2010. There are plans to

put in place a mediation support unit within COMESA's Secretariat to support the Committee of Elders in their mediation efforts.

Under the draft 2010-14 Peace and Security Strategy, the Intergovernmental Authority on Development (IGAD) has prioritized the establishment of a Mediation Support Unit. It is important to note that, IGAD has considerable experience in mediating conflicts. The Comprehensive Peace Agreement (CPA) between North and South Sudan and the current Transitional Federal Government (TFG) are two of the most notable examples of its role in mediation efforts in the region. However, currently it appears to have little institutional capacity beyond its facilitators/envoys monitoring these two peace processes.

The East African Community (EAC) is in the process of establishing a Council of Eminent Persons to undertake mediation within and among the EAC member states. The bill establishing it is the Conflict Prevention, Management and Resolution (CPMR) which was passed by the East African Legislative Assembly, and the draft instrument for the establishment and functioning of the Council of Eminent Persons has also been adopted by the EAC partner states. The issue is the need to clarify the mandate of the Council of Eminent Persons, and its formal and informal links with the AU Panel of the Wise. The EAC Council will be primarily aimed at dealing with mediation instead of other areas of conflict prevention such as shuttle diplomacy. One of the most unique features of the EAC's Council of Eminent Persons is the fact that its membership is not restricted to individuals from the five partner states (Burundi, Kenya, Rwanda, Tanzania and Uganda). Thus, the Council could include high-level personalities from other regions.

So far, the Southern African Development Community (SADC) has opted not to have a standing organ that is equivalent to the Panel of the Wise or similar structures in other RECs. The troika of the Organ would mandate prominent

personalities from the region to either backstop an ongoing mediation effort or to embark on other preventive endeavours. Under this model, SADC has deployed mediators and Special Envoys to some of its member states to deal with conflicts situations. Just as with the other RECs, there was limited evidence of cooperation between SADC and the AU's Panel of the Wise in their respective engagements.

In Central Africa, the Economic Community of Central African States (ECCAS) plans to establish the Comité Des Ambassadeurs (Committee of Ambassadors). The Committee of Ambassadors was established in 2007 to assist the general secretariat of ECCAS in the transfer of CEMAC's peacekeeping force, FOUMC, to that of ECCAS. ECCAS plans to create a structure for preventive diplomacy and mediation. The Committee of Ambassadors would play the role of a Peace and Security Council as is the case in similar organs.⁶⁶

Collaboration with Relevant Organs of the AU

The Panel members have been holding both formal and informal consultations with the PSC and the Chairperson of the AU Commission, to brief them on the Panel's activities as well as explore and exchange information on the conflict situations on the continent and options to be undertaken to promote peace, security and stability.⁶⁷

Although the complex nature of the business of the Panel as well as the fact that there are numerous other structures that have a conflict prevention and peace-making mandate demand that the Panel collaborates further with other relevant Organs and departments of the AU, it is pertinent for the Panel to engage more with departments such as Political Affairs that deal with issues

66. APSA Assessment, November, 2010, pp53-55.

67. African Union, Press Statement of the 176 meeting of the PSC, Addis Ababa, 6th March 2009.

related to conflict prevention, for instance democracy, governance and the rule of law. Apart from internal coordination, there is also a lack of interface between the Panel and other actors outside the AU relevant to its work. For instance, as stated above, most RECs have established or are in the process of establishing structures similar to the Panel charged with providing mediation expertise. Coordination with these structures is important to avoid duplication of efforts as well as sharing experiences and lessons. In terms of the ever increasing need for skills and expertise on the part of the AU, the Panel is yet to establish formal interaction frameworks with civil society; an important gap given the wealth of information and experience that is contained among civil society entities.

In terms of the accountability of the Panel to the wider AU system, the Panel reports to the PSC and through it to the AU Assembly. This is vital in order to ensure that the Panel does not duplicate, but rather supports, the efforts of the Council and the Commission. The Chairperson of the Panel of the Wise can request to address the AU Assembly of Heads of State and Government. The Panel can submit its views and recommendations to the Council and to the Chairperson of the Commission 'whenever it considers it appropriate'.

Conclusion

Since its inauguration in 2007, the Panel of the Wise has embarked on important initiatives through direct engagements and, or, its thematic reports. There is no question as to whether the Panel can add value to the initiatives of the PSC or the Chairperson of the Commission and contribute effectively to conflict prevention and resolution. The Panel Modalities clearly stipulate that it has the independence to pursue any conflict situation that it believes warrants its attention. However, the Panel will confront some political obstacles that typically

affect the work of conflict prevention frameworks. Therefore, the importance of ensuring political buy-in from AU member states is absolutely vital for the efficacy of the Panel. Ultimately, a pragmatic appreciation of the nexus between preventing conflicts, making peace once conflicts have escalated, and keeping peace following agreements will determine the effectiveness of the Panel in the long run.

Chapter VII

THE PEACE FUND

Introduction

The Peace Fund is established as one of the key pillars of the African Peace and Security Architecture under Article 21 of the PSC Protocol.⁶⁸ It is meant to provide the necessary financial resources for peace support missions and other operational activities related to peace and security. The operations of the Peace Fund are to be governed by the relevant Financial Rules and Regulations of the AU.

The Peace Fund shall be made up of financial appropriations from the regular budget of AU, including arrears of contributions, voluntary contributions from Member States and from other sources within Africa, including the private sector, civil society and individuals, as well as through appropriate fund raising activities. The Chairperson of the Commission shall raise and accept voluntary contributions from sources outside Africa, in conformity with the objectives and principles of the AU.

There shall also be established, within the Peace Fund, a revolving Trust Fund. The appropriate amount of the revolving Trust Fund shall be determined by the relevant Policy Organs of the AU upon recommendation by the Peace and Security Council. When required, and following a decision by the relevant Policy Organs of the AU, the cost of the operations envisaged under the African Standby Force (Art.13.3) shall be assessed by Member States based on the scale of their contributions to the regular budget of the AU.

68. This Chapter was reproduced in whole from the 2010 APSA assessment with the permission of the AU's Peace and Security Department.

Progress and Challenges in the Operationalization of the Peace Fund

The high-level 2007 Audit of the African Union concluded that there is 'cause for concern regarding the funding of peace operations in Africa. The Peace Fund remains small and precarious. On average, only 6 percent of the regular budget is allocated to the Peace Fund. This is a paltry sum viewed against the needs of peacekeeping activities of the continent. The assessed contributions to finance peacekeeping has not been done and the reimbursement within six months of States contributing contingents to peace support operations, as provided for in the Protocol, has not always been honoured.

The Peace Fund is envisaged as a standing reserve on which the AU can call upon in case of emergencies and unforeseen priorities. The AU Special Summit in Tripoli (2009) decided to gradually increase the reserve to a total of 12% by 2012, though this is yet to be realized as the member States contributions currently stand at 7%.

The Tripoli Summit stated that 'it is critical that AU Member States meet their financial obligations, so that the organization's dependency on external aid is reduced, and that sustainability and ownership is guaranteed. It is also true that the implementation of APSA is taking place at time when demands on the (AU) organization increases exponentially. In a context where capacities are stretched to the limit, and where organizational development, training and additional recruitment of staff are urgent, the questions and sustainability of APSA are many'. The AU Commission was also charged with presenting a 'comprehensive report on how best to mobilize increased resources from within the continent to support peace efforts'. Following this decision, the AU appointed former Nigerian President, Olusegun Obasanjo, to head a team of prominent Africans with a mandate to explore alternative funding mechanisms for the AU; at the time of going to print, the panel had not presented its report.

Chapter VIII

THE RELATIONSHIP BETWEEN THE AU AND RECS/RMS IN THE AREA OF PEACE AND SECURITY

The legal basis and instruments that define the relationship between the AU and its RECs include the Constitutive Act, the Protocol Relating to the Establishment of the AU Peace and Security Council and the Protocol on Relations between the African Union and the Regional Economic Communities.

The Protocol on Relations between the African Union and the Regional Economic Communities sets out the objectives as to: formalize, consolidate and promote close cooperation among the RECs and between them and the Union through the coordination and the harmonization of their policies, measures, programmes and activities in all fields and sectors and to establish a framework for coordination of the activities of the RECs.⁶⁹ Through this Protocol the Union and RECs commit to endeavor to engage in common undertakings, i.e. cooperate and coordinate policies and programmes of the RECs with those of the Union; exchange information and experiences; promote inter-regional projects in all fields and support each other in their respective integration endeavors and agree to attend and participate effectively in all meetings; strengthen their relations with AU; and align their policies, programmes and strategies with those of the AU.

Pursuant to Article 16 of the Protocol Relating to the Establishment of the AU Peace and Security Council, a Memorandum of Understanding (MOU) on cooperation in the area of peace and security was signed between the AU, RECs and the Coordinating Mechanisms of the Regional Standby Brigades

69. Adopted Accra, 2007, Decision on the Protocol on Relations between the African Union and the Regional Economic Communities (RECs), Assembly/AU/Dec.166 (IX).

of Eastern and Northern Africa in January 2008, in Addis Ababa, Ethiopia. The Memorandum which outlines objectives and principles of cooperation, also proceeds to affirm that the parties will cooperate in all areas relevant for the promotion and maintenance of peace, security and stability in Africa, including: the operationalisation and functioning of APSA; the prevention, management and resolution of conflicts; humanitarian action and disaster response; post-conflict reconstruction and development; arms control and disarmament; counter-terrorism and the prevention and combating of trans-national organized crime; border management; capacity building, training and knowledge sharing; resource mobilization; and in any other areas of shared priorities and common interest as may be agreed. In the area of operationalisation of the African Peace and Security Architecture, the Union will collaborate with RECs to ensure the full and effective functioning of the architecture and the continental early warning system.

This cooperation also extends to ensuring that the African Standby Force, is operational pursuant to the provisions of Article 13 of the PSC Protocol and on the basis of the Policy Framework on the Establishment of the African Standby Force and Military Staff Committee, which, among other things, provides for the establishment of five regional forces to constitute the African Standby Force. The MOU also provides that the parties shall where appropriate and within the framework of their conflict prevention strategies, establish structures similar to the Panel of the Wise.⁷⁰

It further provides for the establishment of Liaison Offices to the RECs/RMs by the AU and vice versa by the RECs/RMs. Six RECs, namely; COMESA, EAC, ECCAS, ECOWAS, IGAD and SADC have already established Liaison Offices to the AU, as well the two RMs, NARC and EASFCOM. The Offices have helped facilitate coordination and collaboration between the AU and the RECs/RMs.

70. See Article V & VI Memorandum of Understanding on Cooperation in the Area of Peace and Security between the African Union, the Regional Economic Communities, Addis Ababa, Ethiopia, 2008

Given the importance of the RECs/RMs as the pillars of the APSA, the 2010 APSA assessment recommended for strong vertical and horizontal coordination.⁷¹

On vertical coordination, the APSA assessment noted improved coordination between the AU and the RECs/RMs, especially as it relates to the operationalization of two key components of the APSA: the African Standby Force (ASF) and the Continental Early Warning System (CEWS). The assessment noted that the level of coherence in the development of these components was more advanced than the other three components (the PSC, the Panel of the Wise and the Peace Fund). This was partly explained by the fact that the ASF and the CEWS have clearly articulated roadmaps, thereby providing more structured basis for their operationalization. For instance, the AU and the RECs/RMs have worked closely together in the development of the doctrine and policy instruments for the ASF. While there are still some gaps in the development of the various standby multi-dimensional elements, coordination has proved much easier due to the existence of a roadmap. More broadly, the rotating workshops between the AU, RECs/RMs and their partners provide an additional avenue to take stock of progress and to address wider partnership issues including funding and other forms of support. In the same breath, the quarterly meetings between the AU and the RECs on the CEWS is proving to be an important brainstorming and lesson sharing exercise on progress and challenges in establishing the early warning systems at the continental and regional levels.

Institutionally, the appointment of the REC/RM Liaison Officers to the AU has improved the communication gap and it is hoped that when the AU deploys its Liaison Officers to the RECs/RMs, it would boost coordination even further.

71. For more on this, see the APSA Assessment, Peace and Security Department, African Union, November, 2010, Zanzibar, Tanzania. The section on vertical and horizontal coordination was reproduced in whole from the 2010 APSA assessment with the permission of the AU's Peace and Security Department.

Beyond the ASF and CEWS, coordination between the other APSA components has lagged. The absence of direct linkage between the PSC, Panel of the Wise and similar structures in the RECs/RMs remained a huge gap. Related to this is the feeling that APSA in its current iteration does not adequately cover all existing and emerging security challenges. For example, while the ASF is envisaged as an instrument for peace operations, the emerging security challenges such as terrorism, piracy and improving the governance of the security sector fall outside the remit of the ASF. In other words, the ASF is confronted with a conceptual challenge; it is critical therefore, to ensure that conceptualization of APSA is flexible so that it can be recalibrated as and when needed. Flexibility is applicable at least two levels. First, it is important for the conceptualisation of the APSA to be flexible. Second, it is critical for the AU to be flexible to allow for a bottom-up approach as that would ensure that the APSA is aligned with existing and emerging challenges in the regions.

At another level, more progress needs to be made in the relations between the AU PSC and similar organs in the RECs. Without proper coordination, implementing PSC decisions will be constrained.

The assessment further noted that the level of horizontal coordination has been limited. For instance, the inter-locking system that is envisaged, whereby the decisions of the PSC benefit from information and analysis from other components such as the early warning systems at the AUC and the RECs, has been limited. Although this is partly due to the fact that APSA is still being operationalized, it is important to ensure that the level of interface is improved throughout the operationalization process. This is a gap that needs to be addressed if the envisaged interconnectedness, interdependence and complementarity of the APSA are to be optimized

Meanwhile, the REC/RM to REC/RM interface has been equally limited. This portends a big gap given the overlapping membership in some RECs/RMs and the practical and political implications of such a dynamic. From a practical standpoint, member states that belong to more than one REC are faced with resource – human and material – challenges in meeting their commitments to the various entities. However, the recent sixth meeting of the AU, RECs and RMs Senior Officials held in Maputo on 24 May, 2012 discussed the issue of REC-REC interface and made proposals on how this interface can be enhanced.

Despite these challenges, there are some REC/RM to REC/RM coordination initiatives on peace and security, which could provide useful lessons on how to enhance inter-REC coordination. For instance, relation between COMESA, EAC and IGAD in the area of peace and security include a Joint Conflict Prevention Management and Resolution (CPMR) programme for East Africa with EAC on Small Arms and Light Weapons and with IGAD on pastoralist conflicts and cross border issues. The three RECs have jointly developed the Regional Political Integration and Human Security Support Programme (RPI HSSP), on democracy, governance and human security, to be jointly implemented by EAC, COMESA and IGAD. With respect to security challenges posed by piracy off the coast of Somalia, COMESA, EAC and IGAD have jointly developed an action plan against piracy and are working towards developing a joint programme for funding. Moreover, COMESA currently hosts the Inter-regional Coordinating Committee (IRCC), which coordinates the various RECs in Eastern Africa on European Union funding. Efforts are also underway to establish a tripartite coordination mechanism involving COMESA, EAC and SADC. The envisaged framework would help to deal with coordination issues in a region that stretches from North through East to Southern Africa.

Meanwhile, ECOWAS and ECCAS have bi-lateral cooperation on specific issues such as human trafficking and piracy in the strategic Gulf of Guinea. In addition, ECOWAS has another partnership with IGAD in the area of early warning. However, despite these partnerships, coordination remains a big challenge. In looking at questions relating to vertical coordination, it is important to reflect on the issues of complementarity, existence of formal structures, questions of overlapping membership and broader political dynamics that are often at the heart of such complex arrangements.⁷²

72. APSA Assessment, November, 2010, pp 62-64

Chapter IX

THE AU AND CROSS-CUTTING SECURITY CHALLENGES

In addition to establishing the formal APSA structures, the AU has also adopted continent-wide frameworks to deal with some of the cross-cutting security challenges. This chapter will focus on three of these challenges: Arms Proliferation, Terrorism and Post-Conflict Reconstruction and Development.

Arms Proliferation

One of the factors that contributes to the eruption of conflicts and fuels existing conflicts in Africa is the illicit proliferation and movement of small arms and weapons. The gravity of this problem was highlighted by member states of the OAU when they adopted the Bamako Declaration in which they stated that:

*We express our grave concern that the problem of illicit proliferation, circulation and trafficking of small arms and light weapons continue to have devastating consequences for stability and development in Africa.*⁷³

As outlined in the declaration, the impact of this problem ranges from sustaining conflicts, exacerbating violence, to fuelling crime and terrorism, to promoting a culture of violence, to undermining development and good governance as well as broader efforts for peacemaking. To address this challenge, the AU and RECs have established legal regimes to combat the challenges posed by the easy access and availability of small arms. The problem is not arms trade per se. It is rather the illicit transfer or trading of arms which puts arms into the hands of various groups and individuals without any control mechanism.

73. OAU's Bamako Declaration on an African Common Position on the Illicit Proliferation, Circulation and Trafficking of Small Arms and Light Weapons (2000).

Several arms control and disarmament strategies with respect to small arms and light weapons have been established in Africa both at continental and sub-regional levels. These instruments amongst other objectives have sought to make the illicit production and possession of small arms and light weapons a criminal offence, ensure the destruction of stocks of surplus weapons, and introduce tighter measures over weapons stock piles and arms transfers.

The continental initiative for addressing the problem of the proliferation of small arms and light weapons can be traced back to the 32nd Ordinary Session of the Assembly of Heads of State and Government of the OAU held in Yaoundé, Cameroon in 1996. During this meeting, member states of the OAU decided to conduct an in-depth study into the ways of reducing the proliferation and circulation of small arms. This was followed by the July 1999 decision of the Assembly of the OAU to combat the illicit proliferation, circulation and trafficking of small arms, light weapons and landmines at both the regional and continental levels.

Promote measures aimed at restoring peace, security and confidence among and between Member States with a view to reducing the resort to arms; promote structures and processes to strengthen democracy, the observance of human rights, the rule of law and good governance, as well as economic recovery and growth; and, importantly, to promote comprehensive solutions to the problem of the illicit proliferation, circulation and trafficking of small arms and light weapons that include both control and reduction, as well as supply and demand aspects; that are based on the co-ordination and harmonisation of the efforts of the Member States at regional, continental and international levels and which involve civil society in support of the central role of governments.

In terms of putting in place a continental framework on this subject, the first major initiative was the Bamako Declaration on an African Common Position on the Illicit Proliferation, Circulation and Trafficking of Small Arms. This declaration

was adopted as a framework to present Africa's common position at the world conference that the UN organised in 2001. As spelt out in this declaration, the purpose of the declaration is to:⁷⁴

Adopted on 1 December, the Bamako Declaration includes many important commitments. African states have committed themselves to 'address the problem of illicit proliferation, circulation, and trafficking of small arms and light weapons in a comprehensive, integrated, sustainable and efficient manner'. The Bamako declaration was re-affirmed and further strengthened in subsequent instruments and mechanisms adopted under the AU. In 2002, the Bamako Declaration earned recognition when the AU adopted a 'Plan of Action for the Prevention and Combating of Terrorism in Africa which includes 'developing and strengthening border control-points and combating the illicit import, export and stockpiling of arms, ammunition and explosives'.⁷⁵ In February 2003, the Bamako Declaration received further impetus when the NEPAD Sub-Committee on Peace and Security urged its implementation. The Committee identified small arms proliferation as a priority area of action.

The 2005 African Common Position to the Review Conference on Progress Made in the Implementation of the 'UN PoA to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects' not only reaffirmed the Bamako declaration but also expanded on it. The outcome document stated that the Conference reaffirms that ensuring the reduction of the availability, supply and demand for small arms and light weapons is critical to the well being of its Member States and can be achieved through actions/initiatives at the national, regional, continental and international levels in that respect in general, but in particular through:

74. *Ibid.*

75. *Plan of Action of the African Union High-Level Intergovernmental Meeting on the Prevention and Combating of Terrorism in Africa, Algiers, Algeria, (Mtg/Hlig/Conv.Terror/Plan (I), 11–14 September 2002).*

- Political commitment and action to address the root causes of conflict in a comprehensive manner;
- Preventing, combating and eradicating the illicit manufacture, possession, stockpiling and trade in small arms and light weapons;
- Placing emphasis on public awareness and education;
- Engaging in effective collection and destruction mechanisms for both surplus and illicit arms;
- Effective disarmament, demobilisation and reintegration measures in peace agreements as may be applicable;
- Providing for rehabilitation and reintegration assistance to demobilised soldiers, ex-combatants and in particular child soldiers as referred to by the PCRD debate in the African Union; and
- Recognizing the need for small arms and light weapons programmes to continue beyond post conflict and transitional stages, through mainstreaming of small arms reduction and management in all national and local action plans related to development, crime prevention, and reconstruction⁷⁶

The declaration also influenced subsequent developments both at international and sub-regional levels. It has also shaped the development of the ECOWAS Convention on Small Arms and Light Weapons as explicitly recognised in the preamble to this Convention.⁷⁷

76. African Common Position to the Review Conference on Progress Made in the Implementation of the UN PoA to Prevent, Combat and Eradicate the Illicit Trade in Small Arms and Light Weapons in All Its Aspects, 16 December 2005 AU Doc. SALW/Exp. (II) para. 18.

77. *Ibid.*

The challenges facing the implementation of the commitments under the Bamako Declaration are various. In the first place, the Bamako Declaration is not a legally binding instrument but an expression of the political and moral commitment of AU member states. However, it is the only document that commits all the states in Africa, including those in North Africa to a common set of principles in regard to small arms.⁷⁸ A major challenge is probably the regional character of many conflicts in the Horn of Africa, Great Lakes and West Africa. Another challenge is the lack of capacity of some member states to properly stock arms and weapons and put in place effective administration.

In countries in transition from conflicts, the effective implementation of Disarmament, Demobilisation and Reintegration programs can also play a role in this regard. Where the arms of various armed groups are not properly accounted for and full disarmament is not effectively implemented, arms will remain in the hands of some groups and circulate illegally within those societies.

Counter-Terrorism

The OAU adopted the 1999 Convention on Preventing and Combating of Terrorism known as the Algiers Convention in its 35th ordinary session in Algiers. Although this marked the first anti-terrorism instrument, various other instruments that targeted extremism and fanaticism were adopted much earlier. The 1992 Declaration against Extremism and the 1994 Declaration on the Code of Conduct of Inter-African Relations are examples.

78. *Ibid.*

The Algiers Convention requires member states to implement actions including enactment of legislation and penalising certain acts as required in terms of international instruments. In addition, the Convention requires states to establish and increase inter-agency cooperation at the national level identifying primary players in the enforcement of anti-terrorism strategies.

Improvement of surveillance and border patrol capacities is another point of emphasis in the Convention. Countries are required to develop and strengthen their methods of monitoring and detecting plans and activities aimed at the illegal cross-border transportation, importation, export and stockpiling of arms, ammunitions and explosives that are used for committing terrorist acts. In addition, the Convention requires states to develop their methods of monitoring and controlling land, sea, customs and immigration points to pre-empt infiltration by those involved in the planning and organisation of terrorist acts.

In addition to establishing the legal framework and developing the capability to monitor terrorist activities, the Convention requires member states to take stringent measures against the financing of terror related acts. Similarly, the Convention prohibits member states from providing any kind of financial and logistic support to international terrorist organisations.

Apart from the Algiers Convention, the AU has adopted a stance against terrorism in various instruments. For example the Constitutive Act of the AU clearly declares as one of its founding principles, the condemnation and rejection of acts of terrorism. The AU in 2002 adopted the Protocol to the OAU Convention on the Prevention and Combating of Terrorism of 1999. This Protocol complements the Algiers Convention. The protocol aims to enhance the effective implementation of the Convention and in addition to law enforcement; it also sought to address the underlying causes of terrorism. Accordingly, it urged governments to promote policies aimed at reducing poverty, deprivation and marginalization.

In an effort to harmonize and coordinate continental efforts in the fight against terrorism, the Protocol requires the AU Peace and Security Council (PSC) to:

- Establish operational procedures for information gathering, processing and dissemination;
- Establish mechanisms to facilitate the exchange of information among state parties on patterns and trends in terrorist acts and the activities of terrorist groups and on successful practices in combating terrorism;
- Present an annual report to the assembly of the Union on terrorist activities on the continent;
- Examine all reports submitted by member states on the implementation of the Protocol;
- Establish an information network with national, regional and international focal points on terrorism;
- Monitor, evaluate and make recommendations on the implementation of the Plan of Action of the African Union High Level Inter-Governmental Meeting on the Prevention and Combating of Terrorism in Africa of 2002 and programmes adopted by the AU; and
- Examine all reports submitted by member states on the Plan of Action and programmes adopted by the AU.

The Plan of Action provides states with guidelines and strategies on how to combat terrorism both individually as well as collectively through strengthening their law enforcement and border control capability, developing the necessary legislative and judicial measures to improve their counter-terrorism capabilities,

effectively suppressing terrorism financing, exchanging information and intelligence relating to terrorist activities and facilitating coordination.

The AU Protocol to the OAU Convention on the Prevention and Combating of Terrorism emphasised the complementary role of regional mechanisms to combat terrorism. To this end, regional mechanisms are required to:

1. Establish contact points on terrorism at regional levels;
2. Liaise with the Commission of the AU to develop measures for the prevention and combating of terrorism;
3. Promote cooperation at regional level for the implementation of all aspects of the Protocol and the Convention;
4. Adopt and coordinate national measures to prevent and combat terrorism in their respective regions;
5. Establish modalities for sharing information on the activities of perpetrators of terrorist acts and best practices of prevention and combating terrorism;
6. Assist member states to implement regional, continental and international instruments of combating and preventing terrorism; and
7. Report regularly to the AU Commission on measures taken at the regional level to combat terrorist acts

Apart from the legal framework, the AU has other programmes that are engaged in combating terrorism. The Algiers-based African Centre for Study and Research on Terrorism (ACSRT) is one such programme. The ACSRT is a structure of the AU Commission and the Peace and Security Council. It was established by the AU in

2004 as its technical arm on matters related to terrorism and the implementation of the AU's counter-terrorism programme. The objective of the ACSRT is to serve as a 'catalyst in translating into action the commitments of African countries by providing training and technical expertise' (ACSRT 2006). The ACSRT had so far been engaged in providing a forum for meetings for national and REC focal points and regional meetings. It has also organised training seminars. Now with 42 national and seven regional focal points, the Centre provides counter-terrorism training to AU member states and carries out research to help African states better understand the causes and features of terrorism on the continent.

Although the AU has developed such an elaborate legal framework to combat terrorism in the continent, several challenges stand in the way of the effective implementation of the strategies contained in these instruments. Competing priorities in the African Peace and Security Council and the Peace and Security Commission, lack of institutional capacity, are among the major challenges hampering the AU's attempts to coordinate counter-terrorism efforts in the continent.⁷⁹ In addition, the legal framework of the AU is yet to be ratified by all member states.⁸⁰ Most RECs in the region are not actively engaging in anti-terrorism efforts in the continent. This stems as much from the failure to view terrorism as an immediate threat in the region as it does from the long list of urgent priorities that countries in these sub-regions are faced with. However, the threat of terrorism has become very real in the continent over a recent period. This phenomenon requires concerted effort towards the design of effective anti-terrorism strategies on the part of the regional as well as the continental body. One missing element is the fact that there is no harmonized approach and little institutional mechanism for coordinating and harmonizing RECs norms and activities in this area with that of the AU.

⁷⁹ E Rosend and J Ipe *Enhancing Counter Terrorism Cooperation in Southern Africa African Security Review*, 47.

⁸⁰ *Ibid.*

Post Conflict Reconstruction and Development

The AU Summit in 2005 at Sirte, Libya instructed the AU Commission to develop a policy framework for the challenges of reconstruction in countries emerging from conflict. The OAU had also considered strategies for post-conflict reconstruction, prior to that. The Declaration on the establishment, within the OAU, of a Mechanism for Conflict Prevention, Management and Resolution, adopted by the Assembly of Heads of State and Government in June 1993 is a case in point.⁸¹

For its part, Article 6 of the PSC Protocol empowers the Peace and Security Council with peace building functions. Specifically, it notes that the PSC shall undertake 'peace-building and post-conflict reconstruction; humanitarian action and disaster assistance';⁸² article 13(3) (e) and (f) providing the African Standby Force (ASF) with such functions as 'peace-building ... post-conflict disarmament and demobilisation and humanitarian assistance.'⁸³ Article 14(1) directed the PSC to 'assist in the restoration of the rule of law, establishment and development of democratic institutions,'⁸⁴ among other democratic practices. The AU policy defines post-conflict reconstruction as:

*A comprehensive set of measures that seek to: address the needs of countries emerging from conflict, including the needs of affected populations; prevent escalation of disputes; avoid relapse into violence; address the root causes of conflict; and consolidate sustainable peace.*⁸⁵

81. See African Union, Protocol Relating to the Establishment of the Peace and Security Council of the African Union (supra note 44).

82. Ibid, P. 10.

83. Ibid, P. 23.

84. Ibid, P. 23.

85. Report- Elaboration of a policy on Post-Conflict Reconstruction and Development (PCRD)

Ex.CI/274(IX), 9th Ordinary session of the Executive Council Banjul, Gambia 28 to 29 June 2006, p. 5&6.

Key aspects of the Policy Framework includes the attempt to put in place the pillars of a post-conflict reconstruction system which recognises the importance of an appropriate response to complex emergencies, to social and political transition following conflict, and to long term development. The policy's main components are its four objectives to:

- Consolidate peace and prevent relapse into violence;
- Help address the root causes of conflict;
- Encourage and fast track planning and implementation of reconstruction activities; and
- Enhance complementarities and coordination between and among diverse actors engaged in PCRD processes.

The policy also outlines the five dimensions of a post-conflict reconstruction process as: security; political transition, governance and participation; socio-economic development; human rights, justice and reconciliation; and, coordination, management and resource mobilisation. Furthermore, it acknowledges that each conflict situation is context specific. As such the post-conflict reconstruction strategy adopted must correspond to the specificities of each situation. Post-conflict reconstruction processes and strategies therefore have to be relatively flexible in responding to changing situations.

Other aspects of the Policy Framework include recognition that there is a natural relationship between peace, security and development. The Policy Framework also identifies 'the lack of sufficient local ownership and participation' in the post-conflict reconstruction.⁸⁶ Externally driven post-conflict reconstruction

86. New Partnership for Africa's Development (NEPAD), African Post-Conflict Reconstruction Policy Framework, (Midrand: NEPAD Secretariat, June 2005).

processes cannot be sustained if they are not owned by the people that they are targeting. It is vital for strategies to be adopted which emphasise transferring the management of all affairs directly to the local citizenry in the shortest time possible. In order to ensure this, there needs to be greater collaboration between the AU and NEPAD and the regional economic communities (RECs) as well as external actors to outline an exit strategy and timetable for external actors when a mission is being planned. This is vital in order for war-affected communities to become self-reliant and self-sufficient in the shortest time possible.⁸⁷

Apart from outlining clear central objectives, the Policy also encompasses six indicative elements: security, humanitarian/emergency assistance; political governance and transition; social-economic reconstruction and development; human rights, justice and reconciliation; women and gender.⁸⁸

The Policy Framework proposed the establishment of a Multidimensional Committee to speed up the development of operational guidelines for implementing the policy in regions and nations; and an AU/NEPAD Post-Conflict Reconstruction Unit to undertake the day-to-day task of coordinating and implementing. The Unit would also undertake advocacy and develop post-conflict reconstruction programmes in partnership with RECs, civil society and other inter-governmental organisations.

1. The Policy Framework identifies the need for resource mobilisation. It emphasises the need for more strategic targeting of sections of the society that are in greatest need including child soldiers, Internally Displaced Persons (IDPs) and refugees, women particularly victims of sexual violence and those

87. Cyrus Samii, *Developing Peace Partnerships in Africa: Report from the 35th Annual Vienna Peacemaking and Peacekeeping Seminar*, (New York: International Peace Academy, 2005).

88. Paragraph 21 PCRDR.

afflicted by HIV/AIDS. As part of the PCRDR Policy, and as a follow-up to a decision adopted by the Assembly in January 2008, the Commission is also in the process of finalizing a comprehensive AU framework on Security Sector Reform (SSR).

The Challenges of Implementing the PCRDR Policy

There are several challenges that the implementation of the PCRDR policy is facing mainly arising from the multiplicity of actors working on post-conflict reconstruction. Key strategies to ensure the effective implementation of the AU PCRDR Policy should include:

1. African countries remaining seized with the PCRDR policy positions as signed

the PCRDR Framework also identifies the lack of sufficient local ownership and participation in the post-conflict reconstruction. Externally driven post-conflict reconstruction processes cannot be sustained if they are not owned by the people that they are targeting.

in 2006 in Banjul, The Gambia;

2. Intensified coordination amongst African actors;

3. Continued intensive engagement with external collaborating actors and maintaining high level effective coordination of the engagement of such actors;

4. Enhance human resource capacity;

5. Mobilisation of resources.

One important issue that also deserves particular attention is the integration of PCRDR with other conflict resolution and management processes such as AU

peace operations. At the same time it is critical to ensure that implementation of the PCRDR Policy does not follow a linear approach whereby engagements are only undertaken in the aftermath of conflict. There is already ample evidence that speaks against such an approach. It would also be very helpful for the AU to advance the use of the Policy on PCRDR within the framework of its partnership with the UN and the EU. In the context of the UN, one important avenue is to link the AU's PCRDR with the UN's Peace-building Commission, whose agenda has been largely dominated by African cases⁸⁹

While the AU has made significant progress in addressing the PCRDR needs of the continent during the past few years especially through the creation of normative frameworks, it is evident that the bulk of the work is yet to be done in bringing the PCRDR policy to bear upon the needs, gaps and challenges on the ground. It is therefore necessary that the envisaged AU Multidimensional Committees and related support structures be urgently established and that the development of operational guidelines for implementing the policy in regions and nations be speeded-up if the PCRDR Policy is not to remain a visionary document. Developing the right capacities and generating adequate resources from within Africa are critical first steps; post-conflict reconstruction is a resource-intensive venture.

Other Cross-cutting Issues

In addition to aforementioned, the AU has also adopted several other instruments to deal with a range of peace and security challenges on the continent. The NEPAD Declaration on Democracy and the African Peer Review Mechanism (APRM), both adopted in Durban, in July 2002; the AU Convention on the Prevention and Combating of Corruption (2003); and the African Charter on Democracy, Elections and Governance (2007), which builds on earlier OAU/

AU documents, including the Lomé Declaration on Unconstitutional Changes of Government are cases in point. In 2008, the Assembly of the Union adopted an AU Plan of Action on Drug Control and Crime Prevention (2007-2012). Moreover, the AU's Executive Council adopted the Declaration on the AU Border Programme (AUBP), in June 2007 in Accra, Ghana. The AUBP's mandate is twofold, namely: the delimitation and demarcation of African borders where such an exercise has not yet taken place, and the development of cross-border cooperation.

89. There are currently six African countries on the agenda of the PBC and these are: Burundi, Sierra Leone, Guinea, Liberia, Guinea Bissau and Central Africa Republic. For more on the PBC, go to: <http://www.un.org/en/peacebuilding/>. Accessed 02/03/12.

Chapter X

EVOLVING PARTNERSHIP BETWEEN THE AU AND ITS KEY PARTNERS: THE UN AND EU

Background

At the inception of the UN there were only 4 African countries present as fully sovereign entities: Egypt, Ethiopia, Liberia and South Africa. South Africa was operating under the system of apartheid, internal colonialism, and institutionalised racism. So its status as an ‘independent’ African country can be disputed. This lack of adequate African representation at the creation of the UN meant that issues which typically would have been in the interests of African countries were not necessarily emphasised. As a result of this inadequate representation, at the outset, African voices were not sufficiently heard in the formulation of peace, security and development policies at the UN.

From the late 1950s the UN’s Special Political Committee presided over the decolonisation of African countries. Africa’s insufficient representation in the first few decades of the UN set the tone for the interaction between the body and Africa. The newly independent African states had to effectively hit the ground running as far as catching up with the “diplomatic game” that was playing itself out at the UN. The diplomatic “rules of engagement”, so to speak, had already been determined before the African countries joined the organisation.

Effectively, in the early decades of the UN there was an asymmetrical partnership between the body and Africa. Newly independent African states were just beginning to establish their political, social and economic footing. As a collective entity, African countries were not in a position to influence policy at the UN.

Partnership between the AU and UN

Although the relationship between the UN and Africa has been defined by individual states’ engagement at the UN, Chapter VIII of the UN Charter provides the legal framework under which the two relate on matters to do with peace and security. According to this provision, the UN can delegate a mandate to regional groupings such as the AU to deal with such matters relating to the maintenance of peace and security at regional level – provided such activities are consistent with the UN purpose and principles.⁹⁰ With the UNSC authorisation, the AU can undertake enforcement action within the continent.⁹¹

The fact over 60 percent of issues on the agenda of the UN Security Council over the past decade or so have been focused on Africa calls for the establishment of strong partnership between the UN and AU, a partnership that should be based on mutual respect, reciprocity and dialogue. This partnership should involve mutually enriching relationship based on respect and collaboration established through dialogue. A decade after the launch of the AU, its relationship with the UN, especially that between the Security Council and the AU’s Peace and Security Council has evolved, albeit on an ad hoc basis. However, towards the end of 2011 and the beginning of 2012, the Secretary-General of the United Nations and the Chairperson of the AU Commission released their respective reports on how to enhance relationship between the two organizations.⁹²

90. *Charter of the United Nations (1945) Chapter VIII (52 (1))*,

91. *Ibid.* (53 (1)).

92. For details see, “*Report of the Chairperson of the Commission on the Partnership Between the African Union and the United Nations on Peace and Security: Towards Greater Strategic and Political Coherence*,” PSC/PR/2.(CCCVII) 9 January 2012; “*Report of the Secretary-General on United Nations-African Union cooperation in peace and security*,” S/2011/805, 29 December 2011.

The reports present a unique opportunity for greater dialogue between the two organizations on enhancing their partnership as provided for by Chapter VIII of the UN Charter. Such a dialogue would contribute to improving and consolidating the partnership especially between the UNSC and the AU PSC, the decision-making organs of the two institutions.

The absence of clearly defined parameters for the partnership has not hindered cooperation between the two institutions. For instance, the two Councils (UNSC and AU PSC) have held several annual consultative meetings with the aim of fostering coherence on responses to peace and security challenges on the continent.

Operationally, the establishment of the UN-AU Joint Task Force (JTF) on peace and security in September 2010 was perhaps the most practical step at improving cooperation between the UN Secretariat and the AU Commission. It is mandated to coordinate immediate and long-term strategic issues of common interest between the two organizations, and has held several meetings since its inception. The two institutions have partnered on issues ranging from mediation to peace operations in Darfur, Somalia and Burundi, the birth place of UN-AU cooperation in the area of peace operations.⁹³

93. For more information on the specifics of the partnership see "Report of the Chairperson of the Commission on the Partnership Between the African Union and the United Nations on Peace and Security: Towards Greater Strategic and Political Coherence," PSC/PR/2.(CCCVII) 9 January 2012, pp11-18

AU-UN Partnership in Burundi

Following decades of political tension and sporadic civil war, in 2003, the African Union Mission in Burundi (AMIB) was the AU's first operation wholly initiated, planned and executed by its members. In this regard, it represents a milestone for the AU in terms of self-reliance in operationalising and implementing a peace operation. AMIB was mandated to stabilise a fluid and dynamic situation in which the country was in danger of relapsing into violent conflict. In April 2003, the AU deployed AMIB with more than 3,000 troops from South Africa, Ethiopia, and Mozambique to monitor the peace process and provide security.⁹⁴ The AU appointed the late Ambassador Mamadou Bah as its Special Representative to Burundi to oversee this peace operation. One of the tasks of the AU force was to protect returning politicians who would take part in the transitional government.

Other tasks included opening secure demobilisation centres and facilitating the reintegration of former militia back into society. These centres supervised the demobilisation, disarmament and reintegration (DDR) process. AMIB was also involved in creating conditions that would allow Internally Displaced Persons (IDPs) and refugees, based in the eight Burundian provinces and three refugee camps in Tanzania, to return to their homes. Overall, AMIB had the task of establishing conditions which would allow for a UN peace operation to come into the country. AMIB's role in this case was a vital and crucial one in creating conditions through which peace, albeit fragile, could be built in the country. AMIB

94. Timothy Murithi, *The African Union: Pan-Africanism, Peace building and Development*, (Aldershot, England: Ashgate Publishing Ltd., 2005), pp.91-95.

was therefore engaging in peace building through violent conflict prevention and trying to lay the foundations for reconciliation and reconstruction.

Throughout its period of operation AMIB succeeded in de-escalating a potentially volatile situation and in February 2004 a UN evaluation team concluded that the conditions were appropriate to establish a UN peacekeeping operation in the country. Following the UN Security Council Resolution 1545, of 21 May 2004, to deploy a peacekeeping mission in Burundi, Kofi Annan, then UN Secretary-General appointed a Special Representative, Ambassador Berhanu Dinka, to head the mission on 1 June 2004. The former AMIB troops belonging to the African Union were incorporated into the UN Peace Operation in Burundi (ONUB).

As of November 2006 some 20,000 military personnel were demobilised, but many still lack economic opportunities and could pose a potential security threat.⁹⁵ Therefore, it is too early to conclude whether the foundations for peace building that were laid by both AMIB and ONUB will be sustained. It was therefore welcome that Burundi was one of the first countries, together with Sierra Leone, to be placed on the agenda of the UN Peace building Commission. ONUB terminated its operations in 2006 and was succeeded by the United Nations Integrated Office in Burundi (BINUB) with a mandate to support peace building efforts and coordinate international assistance. BINUB was to provide technical assistance for the development of a comprehensive Security Sector Reform Plan which includes the training of the Burundi National Police and

95. Centre for Conflict Resolution (CCR)/ Friedrich Ebert Stiftung (FES) seminar report on African Perspectives on the UN Peace building Commission, Maputo, Mozambique, 3-4 August 2006, available at: <http://ccrweb.uct.ac.za>.

army. The mission was also tasked with completing the national programme for the demobilisation and integration of former combatants, as well as providing training for employment and access to micro-credit schemes.⁹⁶ Even though the UN took over from the AU, the case of Burundi demonstrates that the continental

‘ Following the UN Security Council Resolution 1545, of 21 May 2004, to deploy a peacekeeping mission in Burundi, Kofi Annan, the UN Secretary-General appointed a Special Representative, Ambassador Berhanu Dinka, to head the mission on 1 June 2004

body can in fact make critical peace building interventions around the continent as demonstrated by the progress in Somalia that has been brought about by the robust intervention of the AU Mission in Somalia (AMISOM)

Conclusion

Given the confluence of mandates that the UN and the AU share, there is no question that there needs to be greater policy coherence and partnership between the two bodies. The bulk of the UNSC’s agenda is dominated by African issues, making a strong partnership based on clear co-ordination structures imperative. African countries have an important role to play in the UN. The reports by the Secretary-General and the AU Chairperson are an important basis for engaging in dialogue on how to enhance the AU-UN relationship in the field of peace and security. Continued cooperation between the UNSC and the AU

96. *Ibid.*

PSC, cooperation in the fields of mediation and peace operations should provide critical lessons to inform the relationship between the two in the near to long-term.⁹⁷

PARTNERSHIP WITH THE EUROPEAN UNION

Introduction

The historical links between Africa and Europe have been well documented and the fate of both continents and their countries are closely linked together. Europe and Africa have long-standing political, development and cultural links which qualify their relationship as unique.

Europeans are increasingly discovering and defining common European Union (EU) interests in Africa in terms of democratic governance, security, energy, combating terrorism, climate change, etc. while maintaining their support to African efforts to reach the Millennium Development Goals (MDG) by 2015. Policies are developed at the EU level to address most of those challenges. Even assistance programmes also mention problems of conflicts and instability, integrated trade needs, environment and humanitarian issues. The EU is starting to use its aid instruments differently as shown by the creation of the African Peace Facility (APF) or the Instrument for Stability (IFS), the Trade Policy and the Governance Initiative. But likewise the political dialogue, diplomacy and the civilian and military crisis management instruments in the European Security and Defence Policy are increasingly used in response to challenges on the continent in close cooperation with the AU and with RECs.

97. See *Support to African Union Peacekeeping Operations Authorized by the UN, (Report of the UN Secretary General Ban Ki-moon submitted to the UNSC on 18 September 2009)*.

The Joint EU-Africa Strategy

The Joint Africa – EU strategy (JAES) was adopted at the second Summit of European and African Heads of State and Government gathered in Lisbon in December 2007. The first summit was held in Cairo in 2000, where it was agreed that there was need for the institutionalisation of the partnership between the two continents.

The Joint Africa–EU Strategy provides a long-term framework for relations between the AU and the EU, based on equality and shared interests. In its second part, titled ‘shared vision’ the JAES states that its purpose is to take the ‘Africa-EU relationship to a new, strategic level with a strengthened political partnership and enhanced cooperation at all levels.’ The strategy is meant to be an ‘umbrella’ for all existing and future cooperation between the two organisations, and has a plan of action with specific priorities and outcomes to be achieved over a given period of time. The JAES can be considered an innovation in the international relations of Africa, where for the first time Europe is attempting to deal with Africa as a continent through a partnership based on agreed principles.

These are structured along eight areas of cooperation (known as ‘partnerships’) that cover important subjects for civil society in both continents, ranging from peace and security to governance, human rights, trade, migration and climate change.

The Joint Strategy will be implemented by Joint Action Plans - with sub-chapters covering each three year period – as a political instrument for Heads of State and

Governments to assess success and failure and allow timely political influence or revision. An institutional architecture of Actors in the implementation of plans and definition of concrete projects has been put in place including regular Africa-EU Summits to be organised every three years;⁹⁸ Africa-EU troika meetings;⁹⁹ summits but also Joint Expert Groups (JEGs) for each of eight partnerships and priorities¹⁰⁰ and Joint Expert Group (JEG) meetings organised around each of the eight partnerships and priorities.¹⁰¹ While the two commissions are tasked with coordination roles, an evaluation strategy has been put in place where the two commissions and the EU Council Secretariat meet annually to produce a report that assesses progress made in implementation¹⁰² of the EU-Africa Strategy – focusing on the policies and actions outlined in the Action Plans and using clear indicators and concrete benchmarks and timetables to track implementation. A mid-term Assessment of plans is also carried out for each given three year

98. *The Third Summit was held in Libya in November 2010*

99. *Regular meetings of Senior Officials and Ministers held in troika format e.g. on the part of the AU consisting of current and outgoing AU Presidencies and the AU. EU-Africa Strategy, 16344/07 (Presse 291), bulletin 100*

100. *These include, peace and security; democratic governance and human rights; trade, regional integration and infrastructure; Millennium development goals; Energy; Climate Change; Migration, Mobility and Employment; and Science, Information Society and Space, (EU/Africa Strategy, first action plan (2008 – 2010), 16344/07, Presse 291)*

101. *These include, peace and security; democratic governance and human rights; trade, regional integration and infrastructure; Millennium development goals; Energy; Climate Change; Migration, Mobility and employment; and Science, Information Society and Space, EU/Africa Strategy, first action plan (2008 – 2010), 16344/07 (Presse 291)*

102. *Ibid. Bulletin 115*

priority phase.¹⁰³ Efforts in developing a joint strategy are based on mutual understanding on shared interests.

Cooperation between AU and EU in Peace and Security Matters

The interaction between the EU and the AU in the area of peace and security remains by far the most significant compared to the other sectors. The EU is concerned about the impact of instability in Africa beyond the continent's borders. Beside the migration caused by poverty and environmental disasters, the emanating problems to Europe by conflicts are even more serious even if not easily recognised. The humanitarian disasters challenge many European member states in particular in those African regions where expectations are easily raised due to former colonial links. In the Africa-EU Strategic Partnership document, it is acknowledged that peace and security lie at the foundation of progress and sustainable development and as such a joint strategy is outlined in which both parties commit to co-operating in enhancing the capacity to respond timely and adequately to security threats and to engage in joint efforts in addressing global threats.¹⁰⁴

The EU will in turn support the effective operationalisation of APSA, in particular CEWS – facilitating cooperation between the AU Situation Room and corresponding structures in the EU; the Panel of the Wise and the ASF with its civilian dimension. This will also include EU support to regional brigades training

103. *See, Assessment report: Progress and Challenges in the Implementation of the Joint Africa-EU Strategy and its Thematic Partnerships of the first Action Plan (2008-2010); Oct. 2009, http://ec.europa.eu/development/icenter/repository/jaes_assessment_report_20091010_en.pdf. Accessed 13/05/10*

104. *Joint Africa-EU Strategy – Rationale for Africa-EU Partnership on Peace and Security. (16344/07 EU Press 291).*

- exercises, validation and logistics and the establishment of the EU-Africa civil society network capable of supporting peace and security initiatives.¹⁰⁵ Through the strategic document, the EU also reassures continuation of funding. It pledges to provide predictable funding for Africa-led peace support operations thereby:

1. Taking steps towards the establishment of a predictable and sustainable funding mechanism, building on the experience of the African Peace Facility (APF) and EU and AU Member States' bilateral contributions;
2. Working with the G-8 and other members of the international community to contribute to the funding of African-led peace support operations;
3. Working together to achieve, within the framework of Chapter VIII of the UN Charter, a UN mechanism to provide sustainable, flexible and predictable financial support for peace keeping operations undertaken by the AU, or under its authority and with the consent of the UN Security Council.¹⁰⁶

The joint effort follows the rules of African ownership, the understanding of an African-European partnership and the encouragement of African Solidarity.

The PSC and the EU COPS

On 14 May 2008 the AU PSC convened a meeting to discuss the relationship between the Council and the European Union Political and Security Committee, which is known by its French acronym COPS, or Comité politique et de sécurité. The PSC issued a statement in which it reiterated its willingness to further consolidate its relationship with the EU COPS.¹¹⁰ On 12 September 2008 the Council convened a Preparatory Consultation of the Joint PSC / EU COPS meeting

¹⁰⁵ Ibid. Priority action 2: operationalisation of APSA.

¹⁰⁶ Ibid. Priority action 3: Predictable funding for Africa-led Peace support operations

which was held on 30 September 2008, in Brussels, Belgium. In October 2009, the AU PSC and EU COPS again met as part of the events of the annual AU-EU Ministerial troika scheduled for the same month. On the agenda of the meeting of the AU PSC and EU COPS¹⁰⁷ was the assessment of the conflict situations in Africa and Europe.

It is important to note that the COPS occupy an important place within the structure of the European Union. The COPS is the body mandated to address all aspects of European Security and Defence Policy (ESDP) and the Common Foreign and Security Policy (CFSP). It monitors and follows-up on the EU's response in the event of a crisis.

One of the areas of priority of the JEAS is the enhancement of dialogue on peace and security in Africa. The EU COPS has reiterated its commitment to the operationalisation of the African Peace and Security Architecture. In particular, it is actively working with the AU PSC and Commission to enhance the capacity of the organisation to plan, manage and deploy effective peace operations. Specifically, a new African Peace Facility has been established allocating € 100 million for capacity building;¹⁰⁸ €600 million for Peace Support Operations (PSO);¹⁰⁹ €15 million for early response mechanism (ERM); and an amount of €40

¹⁰⁷ PSC/PR/BR/(CXVII)

¹⁰⁸ Operationalisation of African Peace and Security Architecture (APSA) and Africa-EU dialogue. EU support aims at strengthening the capacity and effective functioning of the various components of the APSA and at reinforcing the political dialogue by improving cooperation on the prevention, management and resolution of conflicts in Africa; http://ec.europa.eu/europeaid/where/acp/regional-cooperation/peace/index_en.htm, visited 17/05/10.

¹⁰⁹ The funding of Peace Support Operations represents the core activity of the African Peace Facility (APF). EU support aims at providing sustainable and predictable funding, enabling the AU and African sub-regional organisations to plan and conduct peace support operations; *Ibid.*

million is for Contingencies.¹¹⁰ Additional funds have been assigned to cover costs for activities, such as audit, monitoring, visibility, evaluation and technical assistance. Furthermore, the 10th European Development Fund (EDF) has a provision of €110 million for peace and security issues. The EU is also funding a number of activities of the AU, including the liaison officers in war-affected countries and the AU's engagement with Disarmament, Demobilisation and Reintegration (DDR), Post-Conflict Reconstruction and Development (PCRD), Security Sector Reform (SSR) issues as well as the AU Border Programme. The EU has also committed itself to financing AU-led peace operations to the tune of €200 million, which is supplemented by individual contributions from EU member states. The AU and EU have discussed how to ensure predictable and sustainable funding for peace operations in Africa

The COPS has recognised the AU PSC as one of its key interlocutors in Africa, evidenced by the fact that the two bodies have agreed to institutionalise an annual meeting.

Cooperation between the AU and EU has registered some progress, however the results especially as relates to the operationalisation of APSA do not yet match expectations in Europe and actual needs in Africa. Thus, managing the high expectations in Europe and the realities of developing an inter-governmental peace and security architecture Africa requires continuous dialogue so as to avoid misunderstanding. Continued dialogue on the dynamics in both Europe and Africa is critical.

110. This amount is allocated for unforeseen needs in case any of the above-mentioned budget lines is depleted.

CHAPTER XI

THE ROLE OF CIVIL SOCIETY IN PEACE AND SECURITY

The Statutes of the AU Economic Social and Cultural Council (ECOSOCC) describe civil society as including social and professional groups, Non-Governmental Organisations (NGOs), Community-Based Organisations (CBOs), as well as voluntary and cultural organisations.¹¹¹ Article 20 of the Protocol Establishing the Peace and Security Council of the African Union mandates the Council to engage with civil society organisations in the course of undertaking its functions. Specifically, 'the Peace and Security Council shall encourage non-governmental organisations, community-based and other civil society organisations, particularly women's organisations, to participate actively in the efforts aimed at promoting peace, security and stability in Africa. When required, such organisations may be invited to address the Peace and Security Council.'¹¹²

Furthermore, Article 8 of the Protocol enables the PSC to hold 'informal consultations' with civil society organisations 'as may be needed for the discharge of its responsibilities.'¹¹³ In addition, the Conclusions of the Retreat of the Peace and Security Council of the African Union which were issued in Dakar, Senegal, on 6 July 2007 noted that 'an appropriate formula to be approved by the PSC shall be established to allow for the interaction between the PSC and the Civil Society Organisations with a view to giving effect to Article 20 of the PSC Protocol.'¹¹⁴

111. African Union, *Economic Social and Cultural Council (ECOSOCC)*, (Addis Ababa: African Union, 2002).

112. *Protocol Establishing the Peace and Security Council (2002)*, Article 20.

113. *Protocol PSC (note 131 above)*, Article 8.

114. *African Union Peace and Security Council, Conclusions of the Retreat of the Peace and Security Council of the African Union, (PSC/PR/2 (LXXXV), Dakar, Senegal, 5 to 6 July 2007)* 8.

The Constitutive Act of the African Union states that one of the objectives of the Union is 'to build a partnership between governments and all segments of civil society' and to promote the 'participation of the African peoples in the activities of the Union'.¹¹⁵ The AU has, from the outset, therefore expressed a commitment to engaging with civil society in the implementation of its objectives.¹¹⁶ A core principle of the AU includes a commitment to the 'peaceful resolution of conflicts' and 'the peaceful co-existence of Member States and their right to live in peace and harmony'.¹¹⁷ Therefore, the Constitutive Act of the AU sets the scene for the participation of civil society in the AU's efforts to achieve peace and security on the continent.¹¹⁸

It is therefore evident that the mandate for civil society participation in the activities of the AU PSC is provided for in the legal and policy instrument of the AU. The AU has, from time to time expressed commitment to engaging with civil society in the implementation of its objectives.¹¹⁹

Consultations with CSOs

According to Article 8 of the Protocol, the PSC is mandated to hold closed and open meetings that include consultations; closed sessions during which decisions are taken; and open sessions to receive briefings and at the end of which no decisions are taken.¹²⁰

115. African Union, *Constitutive Act of the African Union*, (Lome: African Union, 2000), preamble.

116. M. Muchie, A. Habib, and V. Panayachee, 'African Integration and Civil Society: The Case of the African Union', *Transformation: Critical Perspectives on Southern Africa*, (Vol. 61, 2006), 3-24.

117. African Union, *Constitutive Act*, Article 4 (e) and (i).

118. *Ibid*, preamble.

119. M. Muchie, A. Habib, and V. Panayachee, (*supra* note 165).

120. *Ibid*.4.

In a specific crisis situation, the PSC can convene a formal consultation or open session and invite CSOs with specific competence and expertise on the matter being addressed to take part in their deliberations for a set period of time. This enables members of the PSC to dialogue, debate, and engage with CSOs experts on specific issues which would enhance their information and knowledge of particular situations, and thus provides them with a basis upon which to make their decisions on how to respond. Following these meetings, the PSC would then meet in its closed session to make decisions based on the discussions that it had in the earlier sessions.

The PSC can also hold a formal meeting typically consisting initially of a closed session for Member States followed by an open session where other interested parties may be invited to participate. CSOs could therefore contribute to the open session of the meeting.

Apart from formal consultations, the PSC can convene informal consultations through which the PSC can be provided with an analysis of a particular situation. CSOs can take part in such meetings to deliver reports on specific issues to the PSC. These meetings can also be convened by CSOs through a request submitted to the Secretariat of the PSC, the Rotating Chairperson of the PSC and the AU Commissioner for Peace and Security.

The Livingstone Formula

The Retreat of the Peace and Security Council, held from 4 to 5 December 2008 in Livingstone, Zambia, discussed a mechanism for interaction between the PSC and CSOs. The Retreat established the Livingstone Formula which stipulated that CSOs may provide technical support to the AU 'by undertaking early warning reporting and situation analysis which feeds information into the decision-making process of the PSC' (PSC/PR/CLX): page 3).

The Livingstone Formula states that the PSC remains master of its procedures and decisions, and that the Economic, Social and Cultural Council (ECOSOCC), as the consultative organ responsible for coordinating the participation of civil society in the work of the African Union, particularly the Peace and Security Cluster, is the focal point and plays a consultative role in the interaction between the PSC and CSOs.

The Formula also laid down the conditions that civil society organizations have to comply with for interacting with the PSC. Civil Society Organizations must conform to the relevant provisions in the Constitutive Act of the African Union and the provisions in the PSC Protocol, especially article 8 (10c), as well as to the Rules of Procedure of the PSC (rules 21 and 22). They shall comply with the criteria for membership eligibility as defined in article 6 of the Statutes of ECOSOCC, in particular:

1. It shall be registered in an AU member State in accordance with national legislation of the country;
2. It shall uphold the objectives and principles of the African Union, as stated in articles 3 and 4 of the Constitutive Act of the AU;
3. It shall be a member of a national, regional and continental organization or the African Diaspora, in pursuit of activities at the national, regional or continental level;
4. It shall be accredited, with the African Union or an African Regional Economic Community/Regional Mechanism;
5. It shall solemnly declare to uphold the objectives and principles of the AU, as well as the provisions governing the CSOs in an observer status with the AU Commission, or working with it, including the principle of impartiality.

6. It shall belong to a recognized regional or continental umbrella/network of CSOs.

The PSC has invited on some occasions various organizations to brief it on various issues of concern. On 30 March 2009, human rights organizations particularly those working on women rights were invited to brief the PSC and this has led the PSC to adopt one of its very few thematic communiqués on the situation of women and children in armed conflicts.

CHAPTER XII

THE PROSPECTS FOR APSA AND THE WAY FORWARD

The AU has clearly undergone significant normative and institutional transformation since its formal inception in 2002. Efforts to operationalise the APSA constitute the most radical normative and institutional transformations of Africa's peace and security architecture since the founding of the OAU in 1963. This shows in important ways that African states are paying increasing attention to the debilitating effects of conflicts on the socio-economic well being of the continent. While the process of operationalising the various APSA components is uneven, the level of commitment to the development of these structures is unquestioned.

The AU has an impressive track record with respect to norm-setting, institutional development and policy pronouncement. Additionally, the PSC, as the engine of the APSA, has also demonstrated a commendable level of commitment to respond to crisis situations. As at December 2011, the PSC had held about 285 meetings covering a wide range of conflicts and crisis situations. However, more still needs to be done in terms of implementation and enforcement of its decisions is wanting.

However, despite these challenges, the AU has also demonstrated its willingness to act by deploying peacekeeping operations as it did in Burundi, Darfur, Comoros and the on-going African Union Mission in Somalia (AMISOM).

More generally, the African Union has made practical efforts to function as a framework for resolving conflicts by adopting a posture of non-indifference.¹²¹

121. *Ibid.*

In a bid to enhance the operationalization of APSA both at the AU and at the regional level, the AUC and the RECs/RMs finalized an APSA Roadmap and Action Plan for the period 2011-2013 in August 2011. The Roadmap is informed by the outcome of the study that was undertaken by the AU in conjunction with the RECs/RMs and the EU from July to October 2010, to assess the progress achieved in the operationalization of APSA with a view to identifying further priorities and capacity needs, both at the AUC and within the RECs/RMs.

The report of the study was used as a basis to develop the Indicative Elements of the APSA Roadmap adopted at the third meeting of Chief Executives of the AU and RECs/ RMs held from 4 – 8 November 2010 in Zanzibar. The APSA Roadmap and Action Plan were adopted during the AU-RECs-RMs Chief Executives meeting held in Addis Ababa on 25 January 2012.

The Roadmap and Action Plan are expected to assist in aligning APSA programming, both within the AUC and the RECs/RMs, and will inform future support to APSA by the EU and other Partners as well. The two documents will also enable both the AU and RECs/RMs to monitor progress made in the operationalization of APSA.

The Roadmap addresses the key APSA elements (PSC, ASF, CEWS, Panel of the Wise, RECs/RMs, Peace Fund) as well as instruments and policies that the AU has adopted over the years to facilitate structural prevention of conflicts.

These include the African Union Border Programme (AUBP) adopted in 2007, the Post-Conflict Reconstruction and Development (PCRD) Policy adopted

in 2006 in Banjul, The Gambia, the Security Sector Reform (SSR) policy that is under development as well as Demobilization, Disarmament and Reintegration (DDR) and Counter Terrorism. In a bid to make the Roadmap as inclusive as possible, emerging and cross-cutting peace and security issues such as Maritime Security and Safety, Climate Change and Security, Women, Peace and Security and Humanitarian Action and Disaster Management are addressed. The main challenge for the AU would be the full implementation of the activities set out in the Roadmap and Action Plan during the period projected.

Indeed, both the operationalisation of the APSA and the practices of the AU reveal that there are important limitations that impact upon the operation of the APSA. Among these include institutional issues specific to the AU Commission, development or availability of the required capacity and the necessary material resources. These limitations are already impacting on the effectiveness of the various APSA components.

There is need on the part of African states to provide the APSA with the resources necessary for its optimal functionality. Moreover, it is critical for the AU to enter into a meaningful collaboration with civil society organizations as well. This is important as it would contribute to deepening African ownership of the APSA and AU's response to conflicts.

The partnership with external actors such as the UN and the EU, especially as it relates to support for the APSA should be harnessed to ensure enhanced and sustainable support.

The APSA reflects a growing realization on the African continent that ensuring stability and order is a necessary pre-requisite for improving the livelihood and welfare of Africans. The AU and the RECs have charted a course for continental integration, but there is much that remains to be done to operationalise this objective.

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ANNEXES

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 Pan-African 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, there from;
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 there by 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.

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
2. Republic of Angola
3. Republic of Benin
4. Republic of Botswana

5. Burkina Faso
6. Republic of Burundi
7. Republic of Cameroon
8. Republic of Cape Verde
9. Central African Republic
10. Republic of Chad
11. Islamic Federal Republic of the Comoros
12. Republic of the Congo
13. Republic of Côte d'Ivoire
14. Democratic Republic of Congo
15. Republic of Djibouti
16. Arab Republic of Egypt
17. State of Eritrea
18. Federal Democratic Republic of Ethiopia
19. Republic of Equatorial Guinea
20. Republic of Gabon
21. Republic of The Gambia
22. Republic of Ghana
23. Republic of Guinea
24. Republic of Guinea Bissau
25. Republic of Kenya
26. Kingdom of Lesotho

27. Republic of Liberia
28. Great Socialist People's Libyan Arab Jamahiriya
29. Republic of Madagascar
30. Republic of Malawi
31. Republic of Mali
32. Islamic Republic of Mauritania
33. Republic of Mauritius
34. Republic of Mozambique
35. Republic of Namibia
36. Republic of Niger
37. Federal Republic of Nigeria
38. Republic of Rwanda
39. Sahrawi Arab Democratic Republic
40. Republic of Sao Tome and Principe
41. Republic of Senegal
42. Republic of Seychelles
43. Republic of Sierra Leone
44. Republic of Somalia
45. Republic of South Africa
46. Republic of Sudan
47. Kingdom of Swaziland
48. United Republic of Tanzania

- 49. Republic of Togo
- 50. Republic of Tunisia
- 51. Republic of Uganda
- 52. Republic of Zambia
- 53. Republic of Zimbabwe

PROTOCOL RELATING TO THE ESTABLISHMENT OF THE PEACE AND SECURITY COUNCIL OF THE AFRICAN UNION

WE, the Heads of State and Government of the Member States of the African Union;

CONSIDERING the Constitutive Act of the African Union and the Treaty establishing the African Economic Community, as well as the Charter of the United Nations;

RECALLING the Declaration on the establishment, within the Organization of African Unity (OAU), of a Mechanism for Conflict Prevention, Management and Resolution, adopted by the 29th Ordinary Session of the Assembly of Heads of State and Government of the OAU, held in Cairo, Egypt, from 28 to 30 June 1993;

RECALLING also Decision AHG/Dec.160 (XXXVII) adopted by the 37th Ordinary Session of the Assembly of Heads of State and Government of the OAU, held in Lusaka, Zambia, from 9 to 11 July 2001, by which the Assembly decided to incorporate the Central Organ of the OAU Mechanism for Conflict Prevention,

Management and Resolution as one of the organs of the Union, in accordance with Article 5(2) of the Constitutive Act of the African Union, and, in the regard, requested the Secretary-General to undertake a review of the structures, procedures and working methods of the Central Organ, including the possibility of changing its name;

MINDFUL of the provisions of the Charter of the United Nations, conferring on the Security Council primary responsibility for the maintenance of international peace and security, as well as the provisions of the Charter on the role of regional arrangements or agencies in the maintenance of international peace and security, and the need to forge closer cooperation and partnership between the United Nations, other international organizations and the African Union, in the promotion and maintenance of peace, security and stability in Africa;

ACKNOWLEDGING the contribution of African Regional Mechanisms for Conflict Prevention, Management and Resolution in the maintenance and promotion of peace, security and stability on the Continent and the need to develop formal coordination and cooperation arrangements between these Regional Mechanisms and the African Union;

RECALLING Decisions AHG/Dec.141 (XXXV) and AHG/Dec.142 (XXXV) on Unconstitutional Changes of Government, adopted by the 35th Ordinary Session of the Assembly of Heads of State and Government of the OAU held in Algiers, Algeria, from 12 to 14 July 1999, and Declaration AHG/Decl.5 (XXXVI) on the Framework for an OAU Response to Unconstitutional Changes of Government, adopted by the 36th Ordinary Session of the Assembly of Heads of State and Government of the OAU, held in Lomé, Togo, from 10 to 12 July 2000;

REAFFIRMING our commitment to Solemn Declaration AHG/Decl.4 (XXXVI) on the Conference on Security, Stability, Development and Cooperation in Africa (CSSDCA), adopted by the 36th Ordinary Session of the Assembly of Heads of State and Government of the OAU, held in Lomé, Togo, from 10 to 12 July 2000, as well as Declaration AHG/Decl.1 (XXXVII) on the New Partnership for Africa's Development (NEPAD), which was adopted by the 37th Ordinary Session of the Assembly of Heads of State and Government of the OAU, held in Lusaka, Zambia, from 9 to 11 July 2001;

AFFIRMING our further commitment to Declaration AHG/Decl.2 (XXX) on the Code of Conduct for Inter-African Relations, adopted by the 30th Ordinary Session of the Assembly of Heads of State and Government of the OAU, held in Tunis, Tunisia, from 13 to 15 June 1994, as well as the Convention on the Prevention and Combating of Terrorism, adopted by the 35th Ordinary Session of the Assembly of Heads of State and Government of the OAU held in Algiers, Algeria, from 12 to 14 July 1999;

CONCERNED about the continued prevalence of armed conflicts in Africa and the fact that no single internal factor has contributed more to socioeconomic decline on the Continent and the suffering of the civilian population than the scourge of conflicts within and between our States;

CONCERNED ALSO by the fact that conflicts have forced millions of our people, including women and children, into a drifting life as refugees and internally displaced persons, deprived of their means of livelihood, human dignity and hope;

CONCERNED FURTHER about the scourge of landmines in the Continent

RECALLING, in this respect, the Plan of Action on a Landmine Free Africa, adopted by the 1st Continental Conference of African Experts on Anti-Personnel Mines, held in Kempton Park, South Africa, from 17 to 19 May 1997, and endorsed by the 66th Ordinary Session of the OAU Council of Ministers, held in Harare, Zimbabwe, from 26 to 30 May 1997, as well as subsequent decisions adopted by the OAU on this issue;

CONCERNED ALSO about the impact of the illicit proliferation, circulation and trafficking of small arms and light weapons in threatening peace and security in Africa and undermining efforts to improve the living standards of African peoples and **RECALLING**, in this respect, the Declaration on the Common African Position on the Illicit Proliferation, Circulation and Trafficking of Small Arms and Light Weapons, adopted by the OAU Ministerial Conference held in Bamako, Mali, from 30 November to 1 December 2000, as well as all subsequent OAU decisions on this issue;

AWARE that the problems caused by landmines and the illicit proliferation, circulation and trafficking of small arms and light weapons constitute a serious impediment to Africa's social and economic development, and that they can only be resolved within the framework of increased and well coordinated continental cooperation;

AWARE ALSO of the fact that the development of strong democratic institutions and culture, observance of human rights and the rule of law, as well as the implementation of post-conflict recovery programmes and sustainable development policies, are essential for the promotion of collective security, durable peace and stability, as well as for the prevention of conflicts;

DETERMINED to enhance our capacity to address the scourge of conflicts on the Continent and to ensure that Africa, through the African Union, plays a central role in bringing about peace, security and stability on the Continent;

DESIROUS of establishing an operational structure for the effective implementation of the decisions taken in the areas of conflict prevention, peace-making, peace support operations and intervention, as well as peace-building and post-conflict reconstruction, in accordance with the authority conferred in that regard by Article 5(2) of the Constitutive Act of the African Union;

HEREBY AGREE ON THE FOLLOWING:

ARTICLE 1

DEFINITIONS

For the purpose of this Protocol:

- a) "Protocol" shall mean the present Protocol;
- b) "Cairo Declaration" shall mean the Declaration on the Establishment, within the OAU, of the Mechanism for Conflict Prevention, Management and Resolution;
- c) "Lomé Declaration" shall mean the Declaration on the Framework for an OAU Response to Unconstitutional Changes of Government;
- d) "Constitutive Act" shall mean the Constitutive Act of the African Union;
- e) "Union" shall mean the African Union;
- f) "Assembly" shall mean the Assembly of Heads of State and Government of the African Union;
- g) "Commission" shall mean the Commission of the African Union;

h) "Regional Mechanisms" shall mean the African Regional Mechanisms for Conflict Prevention, Management and Resolution;

i) "Member States" shall mean Member States of the African Union.

ARTICLE 2

ESTABLISHMENT, NATURE AND STRUCTURE

1. There is hereby established, pursuant to Article 5(2) of the Constitutive Act, a Peace and Security Council within the Union, as a standing decision-making organ for the prevention, management and resolution of conflicts. The Peace and Security Council shall be a collective security and early-warning arrangement to facilitate timely and efficient response to conflict and crisis situations in Africa.

2. The Peace and Security Council shall be supported by the Commission, a Panel of the Wise, a Continental Early Warning System, an African Standby Force and a Special Fund.

ARTICLE 3

OBJECTIVES

The objectives for which the Peace and Security Council is established shall be to:

- a. promote peace, security and stability in Africa, in order to guarantee the protection and preservation of life and property, the well-being of the African people and their environment, as well as the creation of conditions conducive to sustainable development;
- b. anticipate and prevent conflicts. In circumstances where conflicts have occurred, the Peace and Security Council shall have the responsibility to undertake peace-making and peace building functions for the resolution of

these conflicts;

c. promote and implement peace-building and post-conflict reconstruction activities to consolidate peace and prevent the resurgence of violence;

d. co-ordinate and harmonize continental efforts in the prevention and combating of international terrorism in all its aspects;

e. develop a common defence policy for the Union, in accordance with article 4(d) of the Constitutive Act;

f. promote and encourage democratic practices, good governance and the rule of law, protect human rights and fundamental freedoms, respect for the sanctity of human life and international humanitarian law, as part of efforts for preventing conflicts.

ARTICLE 4

PRINCIPLES

The Peace and Security Council shall be guided by the principles enshrined in the Constitutive Act, the Charter of the United Nations and the Universal Declaration of Human Rights. It shall, in particular, be guided by the following principles:

a. peaceful settlement of disputes and conflicts;

b. early responses to contain crisis situations so as to prevent them from developing into full-blown conflicts;

c. respect for the rule of law, fundamental human rights and freedoms, the sanctity of human life and international humanitarian law;

d. interdependence between socio-economic development and the security of peoples and States;

e. respect for the sovereignty and territorial integrity of Member States;

f. non interference by any Member State in the internal affairs of another;

g. sovereign equality and interdependence of Member States;

h. inalienable right to independent existence;

i. respect of borders inherited on achievement of independence;

j. 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, in accordance with Article 4(h) of the Constitutive Act;

k. the right of Member States to request intervention from the Union in order to restore peace and security, in accordance with Article 4(j) of the Constitutive Act.

ARTICLE 5

COMPOSITION

1. The Peace and Security Council shall be composed of fifteen Members elected on the basis of equal rights, in the following manner:

a. ten Members elected for a term of two years; and

b. five Members elected for a term of three years in order to ensure continuity.

2. In electing the Members of the Peace and Security Council, the Assembly shall apply the principle of equitable regional representation and rotation, and the following criteria with regard to each prospective Member State:

a. commitment to uphold the principles of the Union;

b. contribution to the promotion and maintenance of peace and security in Africa – in this respect, experience in peace support operations would be an added advantage;

c. capacity and commitment to shoulder the responsibilities entailed in

membership;

d. participation in conflict resolution, peace-making and peace building at regional and continental levels;

e. willingness and ability to take up responsibility for regional and continental conflict resolution initiatives;

f. contribution to the Peace Fund and/or Special Fund created for specific purpose;

g. respect for constitutional governance, in accordance with the Lomé Declaration, as well as the rule of law and human rights;

h. having sufficiently staffed and equipped Permanent Missions at the Headquarters of the Union and the United Nations, to be able to shoulder the responsibilities which go with the membership; and

j. commitment to honor financial obligations to the Union.

3. A retiring Member of the Peace and Security Council shall be eligible for immediate re-election.

4. There shall be a periodic review by the Assembly to assess the extent to which the Members of the Peace and Security Council continue to meet the requirements spelt out in article 5 (2) and to take action as appropriate.

ARTICLE 6

FUNCTIONS

The Peace and Security Council shall perform functions in the following areas:

a. promotion of peace, security and stability in Africa;

b. early warning and preventive diplomacy;

c. peace-making, including the use of good offices, mediation, conciliation and enquiry;

d. peace support operations and intervention, pursuant to article

4 (h) and (j) of the Constitutive Act;

e. peace-building and post-conflict reconstruction;

f. humanitarian action and disaster management;

g. any other function as may be decided by the Assembly.

ARTICLE 7

POWERS

1. In conjunction with the Chairperson of the Commission, the Peace and Security Council shall:

a. anticipate and prevent disputes and conflicts, as well as policies that may lead to genocide and crimes against humanity;

b. undertake peace-making and peace-building functions to resolve conflicts where they have occurred;

c. authorize the mounting and deployment of peace support missions;

d. lay down general guidelines for the conduct of such missions, including the mandate thereof, and undertake periodic reviews of these guidelines;

e. recommend to the Assembly, pursuant to Article 4(h) of the Constitutive Act, intervention, on behalf of the Union, in a Member State in respect of grave circumstances, namely war crimes, genocide and crimes against humanity, as defined in relevant international conventions and instruments;

f. approve the modalities for intervention by the Union in a Member State, following a decision by the Assembly, pursuant to article 4(j) of the Constitutive Act;

g. institute sanctions whenever an unconstitutional change of Government takes place in a Member State, as provided for in the Lomé Declaration;

- h. implement the common defense policy of the Union;
- i. ensure the implementation of the OAU Convention on the Prevention and Combating of Terrorism and other relevant international, continental and regional conventions and instruments and harmonize and coordinate efforts at regional and continental levels to combat international terrorism;
- j. promote close harmonization, co-ordination and co-operation between Regional Mechanisms and the Union in the promotion and maintenance of peace, security and stability in Africa;
- k. promote and develop a strong “partnership for peace and security” between the Union and the United Nations and its agencies, as well as with other relevant international organizations;
- l. develop policies and action required to ensure that any external initiative in the field of peace and security on the continent takes place within the framework of the Union’s objectives and priorities;
- m. follow-up, within the framework of its conflict prevention responsibilities, the progress towards the promotion of democratic practices, good governance, the rule of law, protection of human rights and fundamental freedoms, respect for the sanctity of human life and international humanitarian law by Member States;
- n. promote and encourage the implementation of OAU/AU, UN and other relevant international Conventions and Treaties on arms control and disarmament;
- o. examine and take such appropriate action within its mandate in situations where the national independence and sovereignty of a Member State is threatened by acts of aggression, including by mercenaries;
- p. support and facilitate humanitarian action in situations of armed conflicts or major natural disasters;
- q. submit, through its Chairperson, regular reports to the Assembly on its activities and the state of peace and security in Africa; and

- r. decide on any other issue having implications for the maintenance of peace, security and stability on the Continent and exercise powers that may be delegated to it by the Assembly, in accordance with Article 9 (2) of the Constitutive Act.
2. The Member States agree that in carrying out its duties under the present Protocol, the Peace and Security Council acts on their behalf.
 3. The Member States agree to accept and implement the decisions of the Peace and Security Council, in accordance with the Constitutive Act.
 4. The Member States shall extend full cooperation to, and facilitate action by the Peace and Security Council for the prevention, management and resolution of crises and conflicts, pursuant to the duties entrusted to it under the present Protocol.

ARTICLE 8

PROCEDURE

Organization and Meetings

1. The Peace and Security Council shall be so organized as to be able to function continuously. For this purpose, each Member of the Peace and Security Council shall, at all times, be represented at the Headquarters of the Union.
2. The Peace and Security Council shall meet at the level of Permanent Representatives, Ministers or Heads of State and Government. It shall convene as often as required at the level of Permanent Representatives, but at least twice a month. The Ministers and the Heads of State and Government shall meet at least once a year, respectively.
3. The meetings of the Peace and Security Council shall be held at the Headquarters of the Union.
4. In the event a Member State invites the Peace and Security Council to meet in its country, provided that two-thirds of the Peace and Security Council members

agree, that Member State shall defray the additional expenses incurred by the Commission as a result of the meeting being held outside the Headquarters of the Union.

Subsidiary Bodies and Sub-Committees

5. The Peace and Security Council may establish such subsidiary bodies as it deems necessary for the performance of its functions. Such subsidiary bodies may include ad hoc committees for mediation, conciliation or enquiry, consisting of an individual State or group of States. The Peace and Security Council shall also seek such military, legal and other forms of expertise as it may require for the performance of its functions.

Chairmanship

6. The chair of the Peace and Security Council shall be held in turn by the Members of the Peace and Security Council in the alphabetical order of their names. Each Chairperson shall hold office for one calendar month.

Agenda

7. The provisional agenda of the Peace and Security Council shall be determined by the Chairperson of the Peace and Security Council on the basis of proposals submitted by the Chairperson of the Commission and Member States. The inclusion of any item in the provisional agenda may not be opposed by a Member State.

Quorum

8. The number of Members required to constitute a quorum shall be two-thirds of the total membership of the Peace and Security Council.

Conduct of Business

9. The Peace and Security Council shall hold closed meetings. Any Member of the Peace and Security Council which is party to a conflict or a situation under consideration by the Peace and Security Council shall not participate either in the discussion or in the decision making process relating to that conflict or situation.

Such Member shall be invited to present its case to the Peace and Security Council as appropriate, and shall, thereafter, withdraw from the proceedings.

10. The Peace and Security Council may decide to hold open meetings.

In this regard:

a. any Member State which is not a Member of the Peace and Security Council, if it is party to a conflict or a situation under consideration by the Peace and Security Council, shall be invited to present its case as appropriate and shall participate, without the right to vote, in the discussion;

b. any Member State which is not a Member of the Peace and Security Council may be invited to participate, without the right to vote, in the discussion of any question brought before the Peace and Security Council whenever that Member State considers that its interests are especially affected;

c. any Regional Mechanism, international organization or civil society organization involved and/or interested in a conflict or a situation under consideration by the Peace and Security Council may be invited to participate, without the right to vote, in the discussion relating to that conflict or situation.

11. The Peace and Security Council may hold informal consultations with parties concerned by or interested in a conflict or a situation under its consideration, as well as with Regional Mechanisms, international organizations and civil society organizations as may be needed for the discharge of its responsibilities.

Voting

12. Each Member of the Peace and Security Council shall have one vote.

13. Decisions of the Peace and Security Council shall generally be guided by the principle of consensus. In cases where consensus cannot be reached, the Peace and Security Council shall adopt its decisions on procedural matters by a simple majority, while decisions on all other matters shall be made by a two-thirds majority vote of its Members voting.

Rules of Procedure

14. The Peace and Security Council shall submit its own rules of procedure, including on the convening of its meetings, the conduct of business, the publicity and records of meetings and any other relevant aspect of its work, for consideration and approval by the Assembly.

ARTICLE 9**ENTRY POINTS AND MODALITIES FOR ACTION**

1. The Peace and Security Council shall take initiatives and action it deems appropriate with regard to situations of potential conflict, as well as to those that have already developed into full-blown conflicts. The Peace and Security Council shall also take all measures that are required in order to prevent a conflict for which a settlement has already been reached from escalating.

2. To that end, the Peace and Security Council shall use its discretion to effect entry, whether through the collective intervention of the Council itself, or through its Chairperson and/or the Chairperson of the Commission, the Panel of the Wise, and/or in collaboration with the Regional Mechanisms.

ARTICLE 10**THE ROLE OF THE CHAIRPERSON OF THE COMMISSION**

1. The Chairperson of the Commission shall, under the authority of the Peace and Security Council, and in consultation with all parties involved in a conflict, deploy efforts and take all initiatives deemed appropriate to prevent, manage and resolve conflicts.

2. To this end, the Chairperson of the Commission:

a. shall bring to the attention of the Peace and Security Council any matter, which,

in his/her opinion, may threaten peace, security and stability in the Continent;

b. may bring to the attention of the Panel of the Wise any matter which, in his/her opinion, deserves their attention;

c. may, at his/her own initiative or when so requested by the Peace and Security Council, use his/her good offices, either personally or through special envoys, special representatives, the Panel of the Wise or the Regional Mechanisms, to prevent potential conflicts, resolve actual conflicts and promote peace building and post-conflict reconstruction.

3. The Chairperson of the Commission shall also:

a. ensure the implementation and follow-up of the decisions of the Peace and Security Council, including mounting and deploying peace support missions authorized by the Peace and Security Council. In this respect, the Chairperson of the Commission shall keep the Peace and Security Council informed of developments relating to the functioning of such missions. All problems likely to affect the continued and effective functioning of these missions shall be referred to the Peace and Security Council, for its consideration and appropriate action;

b. ensure the implementation and follow-up of the decisions taken by the Assembly in conformity with Article 4 (h) and (j) of the Constitutive Act;

c. prepare comprehensive and periodic reports and documents, as required, to enable the Peace Security Council and its subsidiary bodies to perform their functions effectively.

4. In the exercise of his/her functions and powers, the Chairperson of the Commission shall be assisted by the Commissioner in charge of Peace and Security, who shall be responsible for the affairs of the Peace and Security Council. The Chairperson of the Commission shall rely on human and material resources available at the Commission, for servicing and providing support to the Peace and Security Council. In this regard, a Peace and Security Council Secretariat shall be established within the Directorate dealing with conflict prevention, management and resolution.

ARTICLE 11

PANEL OF THE WISE

1. In order to support the efforts of the Peace and Security Council and those of the Chairperson of the Commission, particularly in the area of conflict prevention, a Panel of the Wise shall be established.
2. The Panel of the Wise shall be composed of five highly respected African personalities from various segments of society who have made outstanding contribution to the cause of peace, security and development on the continent. They shall be selected by the Chairperson of the Commission after consultation with the Member States concerned, on the basis of regional representation and appointed by the Assembly to serve for a period of three years.
3. The Panel of the Wise shall advise the Peace and Security Council and the Chairperson of the Commission on all issues pertaining to the promotion, and maintenance of peace, security and stability in Africa.
4. At the request of the Peace and Security Council or the Chairperson of the Commission, or at its own initiative, the Panel of the Wise shall undertake such action deemed appropriate to support the efforts of the Peace and Security Council and those of the Chairperson of the Commission for the prevention of conflicts, and to pronounce itself on issues relating to the promotion and maintenance of peace, security and stability in Africa.
5. The Panel of the Wise shall report to the Peace and Security Council and, through the Peace and Security Council, to the Assembly.
6. The Panel of the Wise shall meet as may be required for the performance of its mandate. The Panel of the Wise shall normally hold its meetings at the Headquarters of the Union. In consultation with the Chairperson of the Commission, the Panel of the Wise may hold meetings at such places other than the Headquarters of the Union.
7. The modalities for the functioning of the Panel of the Wise shall be worked out

by the Chairperson of the Commission and approved by the Peace and Security Council.

8. The allowances of members of the Panel of the Wise shall be determined by the Chairperson of the Commission in accordance with the Financial Rules and Regulations of the Union.

ARTICLE 12

CONTINENTAL EARLY WARNING SYSTEM

1. In order to facilitate the anticipation and prevention of conflicts, a Continental Early Warning System to be known as the Early Warning System shall be established.
2. The Early Warning System shall consist of:
 - a. an observation and monitoring centre, to be known as "The Situation Room", located at the Conflict Management Directorate of the Union, and responsible for data collection and analysis on the basis of an appropriate early warning indicators module; and
 - b. observation and monitoring units of the Regional Mechanisms to be linked directly through appropriate means of communications to the Situation Room, and which shall collect and process data at their level and transmit the same to the Situation Room.
3. The Commission shall also collaborate with the United Nations, its agencies, other relevant international organizations, research centers, academic institutions and NGOs, to facilitate the effective functioning of the Early Warning System.
4. The Early Warning System shall develop an early warning module based on clearly defined and accepted political, economic, social, military and humanitarian indicators, which shall be used to analyze developments within

the continent and to recommend the best course of action.

5. The Chairperson of the Commission shall use the information gathered through the Early Warning System timeously to advise the Peace and Security Council on potential conflicts and threats to peace and security in Africa and recommend the best course of action. The Chairperson of the Commission shall also use this information for the execution of the responsibilities and functions entrusted to him/her under the present Protocol.

6. The Member States shall commit themselves to facilitate early action by the Peace and Security Council and or the Chairperson of the Commission based on early warning information.

7. The Chairperson of the Commission shall, in consultation with Member States, the Regional Mechanisms, the United Nations and other relevant institutions, work out the practical details for the establishment of the Early Warning System and take all the steps required for its effective functioning.

ARTICLE 13

AFRICAN STANDBY FORCE

Composition

1. In order to enable the Peace and Security Council perform its responsibilities with respect to the deployment of peace support missions and intervention pursuant to article 4 (h) and (j) of the Constitutive Act, an African Standby Force shall be established. Such Force shall be composed of standby multidisciplinary contingents, with civilian and military components in their countries of origin and ready for rapid deployment at appropriate notice.

2. For that purpose, the Member States shall take steps to establish standby contingents for participation in peace support missions decided on by the Peace and Security Council or intervention authorized by the Assembly. The strength

and types of such contingents, their degree of readiness and general location shall be determined in accordance with established African Union Peace Support Standard Operating Procedures (SOPs), and shall be subject to periodic reviews depending on prevailing crisis and conflict situations.

Mandate

3. The African Standby Force shall, inter alia, perform functions in the following areas:

a. observation and monitoring missions;

b. other types of peace support missions;

c. intervention in a Member State in respect of grave circumstances or at the request of a Member State in order to restore peace and security, in accordance with Article 4(h) and (j) of the Constitutive Act;

d. preventive deployment in order to prevent (i) a dispute or a conflict from escalating, (ii) an ongoing violent conflict from spreading to neighboring areas or States, and (iii) the resurgence of violence after parties to a conflict have reached an agreement.;

e. peace-building, including post-conflict disarmament and demobilization;

f. humanitarian assistance to alleviate the suffering of civilian population in conflict areas and support efforts to address major natural disasters; and

g. any other functions as may be mandated by the Peace and Security Council or the Assembly.

4. In undertaking these functions, the African Standby Force shall, where appropriate, cooperate with the United Nations and its Agencies, other relevant international organizations and regional organizations, as well as with national authorities and NGOs.

5. The detailed tasks of the African Standby Force and its modus operandi for each authorized mission shall be considered and approved by the Peace and

Security Council upon recommendation of the Commission.

Chain of Command

6. For each operation undertaken by the African Standby Force, the Chairperson of the Commission shall appoint a Special Representative and a Force Commander, whose detailed roles and functions shall be spelt out in appropriate directives, in accordance with the Peace Support Standing Operating Procedures.

7. The Special Representative shall, through appropriate channels, report to the Chairperson of the Commission. The Force Commander shall report to the Special Representative. Contingent Commanders shall report to the Force Commander, while the civilian components shall report to the Special Representative.

Military Staff Committee

8. There shall be established a Military Staff Committee to advise and assist the Peace and Security Council in all questions relating to military and security requirements for the promotion and maintenance of peace and security in Africa.

9. The Military Staff Committee shall be composed of Senior Military Officers of the Members of the Peace and Security Council. Any Member State not represented on the Military Staff Committee may be invited by the Committee to participate in its deliberations when it is so required for the efficient discharge of the Committee's responsibilities.

10. The Military Staff Committee shall meet as often as required to deliberate on matters referred to it by the Peace and Security Council.

11. The Military Staff Committee may also meet at the level of the Chief of Defence Staff of the Members of the Peace and Security Council to discuss questions relating to the military and security requirements for the promotion and maintenance of peace and security in Africa. The Chiefs of Defence Staff shall submit to the Chairperson of the Commission recommendations on how to enhance Africa's peace support capacities.

12. The Chairperson of the Commission shall take all appropriate steps for the convening of and follow-up of the meetings of the Chiefs of Defence Staff of Members of the Peace and Security Council.

Training

13. The Commission shall provide guidelines for the training of the civilian and military personnel of national standby contingents at both operational and tactical levels. Training on International Humanitarian Law and International Human Rights Law, with particular emphasis on the rights of women and children, shall be an integral part of the training of such personnel

14. To that end, the Commission shall expedite the development and circulation of appropriate Standing Operating Procedures to inter-alia:

- a. support standardization of training doctrines, manuals and programmes for national and regional schools of excellence;
- b. co-ordinate the African Standby Force training courses, command and staff exercises, as well as field training exercises.

15. The Commission shall, in collaboration with the United Nations, undertake periodic assessment of African peace support capacities.

16. The Commission shall, in consultation with the United Nations Secretariat, assist in the co-ordination of external initiatives in support of the African Standby Force capacity-building in training, logistics, equipment, communications and funding.

Role of Member States

17. In addition to their responsibilities as stipulated under the present Protocol:

- a. troop contributing countries States shall immediately, upon request by the Commission, following an authorization by the Peace and Security Council or the Assembly, release the standby contingents with the necessary equipment

for the operations envisaged under Article 9 (3) of the present Protocol;

b. Member States shall commit themselves to make available to the Union all forms of assistance and support required for the promotion and maintenance of peace, security and stability on the Continent, including rights of passage through their territories.

ARTICLE 14

PEACE BUILDING

Institutional Capacity for Peace-building

1. In post-conflict situations, the Peace and Security Council shall assist in the restoration of the rule of law, establishment and development of democratic institutions and the preparation, organization and supervision of elections in the concerned Member State.

Peace-building during Hostilities

2. In areas of relative peace, priority shall be accorded to the implementation of policy designed to reduce degradation of social and economic conditions arising from conflicts.

Peace-building at the End of Hostilities

3. To assist Member States that have been adversely affected by violent conflicts, the Peace and Security Council shall undertake the following activities:

- a. consolidation of the peace agreements that have been negotiated;
- b. establishment of conditions of political, social and economic reconstruction of the society and Government institutions;
- c. implementation of disarmament, demobilization and reintegration programmes, including those for child soldiers;

d. resettlement and reintegration of refugees and internally displaced persons;

e. assistance to vulnerable persons, including children, the elderly, women and other traumatized groups in the society.

ARTICLE 15

HUMANITARIAN ACTION

1. The Peace and Security Council shall take active part in coordinating and conducting humanitarian action in order to restore life to normalcy in the event of conflicts or natural disasters.

2. In this regard, the Peace and Security Council shall develop its own capacity to efficiently undertake humanitarian action.

3. The African Standby Force shall be adequately equipped to undertake humanitarian activities in their mission areas under the control of the Chairperson of the Commission.

4. The African Standby Force shall facilitate the activities of the humanitarian agencies in the mission areas.

ARTICLE 16

RELATIONSHIP WITH REGIONAL MECHANISMS FOR CONFLICT PREVENTION, MANAGEMENT AND RESOLUTION

1. The Regional Mechanisms are part of the overall security architecture of the Union, which has the primary responsibility for promoting peace, security and stability in Africa. In this respect, the Peace and Security Council and the Chairperson of the Commission, shall:

a) harmonize and coordinate the activities of Regional Mechanisms in the field of peace, security and stability to ensure that these activities are consistent with

the objectives and principles of the Union;

b) work closely with Regional Mechanisms, to ensure effective partnership between them and the Peace and Security Council in the promotion and maintenance of peace, security and stability. The modalities of such partnership shall be determined by the comparative advantage of each and the prevailing circumstances.

2. The Peace and Security Council shall, in consultation with Regional Mechanisms, promote initiatives aimed at anticipating and preventing conflicts and, in circumstances where conflicts have occurred, peacemaking and peace-building functions.

3. In undertaking these efforts, Regional Mechanisms concerned shall, through the Chairperson of the Commission, keep the Peace and Security Council fully and continuously informed of their activities and ensure that these activities are closely harmonized and coordinated with the activities of Peace and Security Council. The Peace and Security Council shall, through the Chairperson of the Commission, also keep the Regional Mechanisms fully and continuously informed of its activities.

4. In order to ensure close harmonization and coordination and facilitate regular exchange of information, the Chairperson of the Commission shall convene periodic meetings, but at least once a year, with the Chief Executives and/or the officials in charge of peace and security within the Regional Mechanisms.

5. The Chairperson of the Commission shall take the necessary measures, where appropriate, to ensure the full involvement of Regional Mechanisms in the establishment and effective functioning of the Early Warning System and the African Standby Force.

6. Regional Mechanisms shall be invited to participate in the discussion of any question brought before the Peace and Security Council whenever that question is being addressed by a Regional Mechanism is of special interest to that Organization.

7. The Chairperson of the Commission shall be invited to participate in meetings and deliberations of Regional Mechanisms.

8. In order to strengthen coordination and cooperation, the Commission shall establish liaison offices to the Regional Mechanisms. The Regional Mechanisms shall be encouraged to establish liaison offices to the Commission.

9. On the basis of the above provisions, a Memorandum of Understanding on Cooperation shall be concluded between the Commission and the Regional Mechanisms.

ARTICLE 17

RELATIONSHIP WITH THE UNITED NATIONS AND

OTHER INTERNATIONAL ORGANIZATIONS

1. In the fulfillment of its mandate in the promotion and maintenance of peace, security and stability in Africa, the Peace and Security Council shall cooperate and work closely with the United Nations Security Council, which has the primary responsibility for the maintenance of international peace and security. The Peace and Security Council shall also cooperate and work closely with other relevant UN Agencies in the promotion of peace, security and stability in Africa.

2. Where necessary, recourse will be made to the United Nations to provide the necessary financial, logistical and military support for the African Unions' activities in the promotion and maintenance of peace, security and stability in Africa, in keeping with the provisions of Chapter VIII of the UN Charter on the role of Regional Organizations in the maintenance of international peace and security.

3. The Peace and Security Council and the Chairperson of the Commission shall maintain close and continued interaction with the United Nations Security Council, its African members, as well as with the Secretary-General, including

holding periodic meetings and regular consultations on questions of peace, security and stability in Africa.

4. The Peace and Security Council shall also cooperate and work closely with other relevant international organizations on issues of peace, security and stability in Africa. Such organizations may be invited to address the Peace and Security Council on issues of common interest, if the latter considers that the efficient discharge of its responsibilities does so require.

ARTICLE 18

RELATIONSHIP WITH THE PAN AFRICAN PARLIAMENT

1. The Mechanism shall maintain close working relations with the Pan-African Parliament in furtherance of peace, security and stability in Africa.

2. The Peace and Security Council shall, whenever so requested by the Pan African Parliament, submit, through the Chairperson of the Commission, reports to the Pan-African Parliament, in order to facilitate the discharge by the latter of its responsibilities relating to the maintenance of peace, security and stability in Africa.

3. The Chairperson of the Commission shall present to the Pan-African Parliament an annual report on the state of peace and security in the continent. The Chairperson of the Commission shall also take all steps required to facilitate the exercise by the Pan-African Parliament of its powers, as stipulated in Article 11 (5) of the Protocol to the Treaty establishing the African Economic Community relating to the Pan-African Parliament, as well as in Article 11 (9) in so far as it relates to the objective of promoting peace, security and stability as spelt out in Article 3 (5) of the said Protocol.

ARTICLE 19

RELATIONSHIP WITH THE AFRICAN COMMISSION ON HUMAN AND PEOPLES'

RIGHTS

The Peace and Security Council shall seek close cooperation with the African Commission on Human and Peoples' Rights in all matters relevant to its objectives and mandate. The Commission on Human and Peoples' Rights shall bring to the attention of the Peace and Security Council any information relevant to the objectives and mandate of the Peace and Security Council.

ARTICLE 20

RELATIONS WITH CIVIL SOCIETY ORGANIZATIONS

The Peace and Security Council shall encourage non-governmental organizations, community-based and other civil society organizations, particularly women's organizations, to participate actively in the efforts aimed at promoting peace, security and stability in Africa. When required, such organizations may be invited to address the Peace and Security Council.

ARTICLE 21

FUNDING

Peace Fund

1. In order to provide the necessary financial resources for peace support missions and other operational activities related to peace and security, a Special Fund, to be known as the Peace Fund, shall be established. The operations of the Peace Fund shall be governed by the relevant Financial Rules and Regulations of the Union.

2. The Peace Fund shall be made up of financial appropriations from the regular budget of Union, including arrears of contributions, voluntary contributions

from Member States and from other sources within Africa, including the private sector, civil society and individuals, as well as through appropriate fund raising activities.

3. The Chairperson of the Commission shall raise and accept voluntary contributions from sources outside Africa, in conformity with the objectives and principles of the Union.

4. There shall also be established, within the Peace Fund, a revolving Trust Fund. The appropriate amount of the revolving Trust Fund shall be determined by the relevant Policy Organs of the Union upon recommendation by the Peace and Security Council.

Assessment of Cost of Operations and Pre-financing

5. When required, and following a decision by the relevant Policy Organs of the Union, the cost of the operations envisaged under Article 13 (3) of the present Protocol shall be assessed to Member States based on the scale of their contributions to the regular budget of the Union.

6. The States contributing contingents may be invited to bear the cost of their participation during the first three (3) months.

7. The Union shall refund the expenses incurred by the concerned contributing States within a maximum period of six (6) months and then proceed to finance the operations.

ARTICLE 22

FINAL PROVISIONS

Status of the Protocol in relation to the Cairo Declaration

1. The present Protocol shall replace the Cairo Declaration.

2. The provisions of this Protocol shall supercede the resolutions and decisions

of the OAU relating to the Mechanism for Conflict Prevention, Management and Resolution in Africa, which are in conflict with the present Protocol.

Signature, Ratification and Accession

3. The present Protocol shall be open for signature, ratification or accession by the Member States of the Union in accordance with their respective constitutional procedures.

4. The instruments of ratification shall be deposited with the Chairperson Commission

Entry into Force

5. The present Protocol shall enter into force upon the deposit of the instruments of ratification by a simple majority of the Member States of the Union.

Amendments

6. Any amendment or revision of the present Protocol shall be in accordance with the provisions of Article 32 of the Constitutive Act.

Depositary Authority

7. This Protocol and all instruments of ratification shall be deposited with the Chairperson of the Commission, who shall transmit certified true copies to all Member States and notify them of the dates of deposit of the instruments of ratification by the Member States and shall register it with the United Nations and any other Organization as may be decided by the Union.

Adopted by the 1st Ordinary Session of the Assembly of the African Union
Durban, 9 July 2002

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

21. Republic of The Gambia
22. Republic of Ghana
23. Republic of Guinea
24. Republic of Guinea Bissau
25. Republic of Kenya
26. Kingdom of Lesotho
27. Republic of Liberia
28. Great Socialist People's Libyan Arab Jamahiriya
29. Republic of Madagascar
30. Republic of Malawi
31. Republic of Mali
32. Islamic Republic of Mauritania
33. Republic of Mauritius
34. Republic of Mozambique
35. Republic of Namibia
36. Republic of Niger
37. Federal Republic of Nigeria
38. Republic of Rwanda
39. Sahrawi Arab Democratic Republic
40. Republic of Sao Tome and Principe
41. Republic of Senegal
42. Republic of Seychelles

43. Republic of Sierra Leone
44. Republic of Somalia
45. Republic of South Africa
46. Republic of Sudan
47. Kingdom of Swaziland
48. United Republic of Tanzania
49. Republic of Togo
50. Republic of Tunisia
51. Republic of Uganda
52. Republic of Zambia
53. Republic of Zimbabwe

MODALITIES FOR THE FUNCTIONING OF THE PANEL OF THE WISE AS ADOPTED BY THE PEACE AND SECURITY COUNCIL AT ITS 100TH MEETING HELD ON 12 NOVEMBER 2007

I. INTRODUCTION

In accordance with Article 11 (7) of the Protocol Relating to the Establishment of the Peace and Security Council of the African Union, the Peace and Security Council adopts the following Modalities for the functioning of the Panel of the Wise.

Definition

For the purpose of the present document:

- i) "Assembly" means the Assembly of Heads of State and Government of the

African Union;

- ii) "Council" means the Peace and Security Council of the African Union;
- iii) "Modalities" means the Modalities for the functioning of the Panel of the Wise of the African Union;
- iv) "Panel" means the Panel of the Wise of the African Union;
- v) "Protocol" means the Protocol Relating to the Establishment of the Peace and Security Council of the African Union.

Establishment

1. The Panel of the Wise is constituted under the terms of Article 11 of the Protocol, in order to support the efforts of the Council and those of the Chairperson of the Commission, particularly in the area of conflict prevention.
2. The Panel is composed of five members drawn from various segments of society in Member States.
3. The Panel members are selected from among highly respected African personalities of high integrity and independence, who have made outstanding contributions to Africa in the areas of peace, security and development. They shall not hold active political office at the time of their appointment and during their tenure as Panel members.
4. Panel members are selected by the Chairperson of the Commission after consultations with the Member States concerned, on the basis of regional representation. They are appointed through a decision of the Assembly.
5. Members of the Panel serve for a period of three years. They shall be eligible for reappointment for only one more term.

II. MANDATE

1. The Panel shall advise the Council and the Chairperson of the Commission on all issues pertaining to the promotion and maintenance of peace, security and stability in Africa.
2. The Panel shall undertake all such actions deemed appropriate to support the efforts of the Council and those of the Chairperson of the Commission for the prevention of conflicts.
3. The Panel may, as and when necessary and in the form it considers most appropriate, pronounce itself on any issue relating to the promotion and maintenance of peace, security and stability in Africa.
4. In carrying out its mandate as outlined above, the Panel may act either at the request of the Council or the Chairperson of the Commission, or at its own initiative.

III. MODALITIES OF ACTION

1. In coordination with the Council and the Chairperson of the Commission, and in support of, and complement to, their efforts, including through the Special Envoys / Representatives and other emissaries, the Panel may, as the circumstances require:
 - a) advise the Council and/or the Chairperson of the Commission on all matters within their respective competences pertaining to the promotion and maintenance of peace, security and stability in Africa;
 - b) facilitate the establishment of channels of communication between the Council and the Chairperson of the Commission, on the one hand, and parties engaged in a dispute, on the other hand, in order to prevent such dispute from escalating into conflict;
 - c) carry out fact-finding missions as an instrument of conflict prevention in

countries and/or regions where the Panel considers there is a danger of conflict either breaking out or seriously escalating;

- d) conduct shuttle diplomacy between parties to a conflict in cases where parties are not ready to engage in formal talks;
- e) encourage parties, where appropriate, to engage in political dialogue, adopt confidence-building measures, and carry out reconciliation processes, and facilitate such efforts, where appropriate;
- f) assist and advise mediation teams engaged in formal negotiations;
- g) assist and advise parties on how to resolve disputes related to the implementation of peace agreements; and
- h) develop and recommend ideas and proposals that can contribute to promoting peace, security and stability in the continent.

2. In undertaking any of the actions listed above, the Panel shall ensure that its initiatives facilitate appropriate action by the Council and/or the Chairperson of the Commission within their respective competences as provided for by the Protocol, add value to existing efforts, and contribute effectively to conflict prevention and resolution, as well as to peace-building.

3. The Panel shall, accordingly, and as provided for below, at all times, keep the Chairperson of the Commission and, through him, the Chairperson of the Council informed of its activities and consult and coordinate with them as appropriate.

IV. PROCEDURE AND RELATED MATTERS

Chairpersonship

1. The Panel shall be presided over by a Chairperson, who shall be elected on a rotating basis by the Panel for a term of one (1) year. A member of the Panel may not be elected Chairperson more than once in any period of three (3) years.
2. In case of absence or incapacity of the Chairperson, the Panel shall elect an acting Chairperson.

Meetings and Communications

3. The Panel shall meet as often as the circumstances may require and in any event at least three times a year or at any time at the request of the Council or the Chairperson of the Commission. In between meetings, the Panel shall maintain regular consultations among its members through appropriate technical means to facilitate the effective discharge of its mandate.

4. The Panel shall normally hold its meetings at the Headquarters of the Union. However, the Panel may, after consultation with the Chairperson of the Commission, hold its meetings outside the Headquarters of the Union.

5. Meetings of the Panel shall be held in closed sessions. However, if the Panel considers it necessary, it may invite resource persons, experts, institutions or individuals, to attend a meeting in order to assist the Panel in its deliberations on specific issues.

6. The Chairperson of the Commission shall bring to the attention of the Panel all relevant communications concerning a matter under consideration by the Panel.

Agenda

7. The provisional agenda of a meeting of the Panel shall be determined by its Chairperson, in consultation with the Chairperson of the Council and the Chairperson of the Commission.

8. The Chairperson of the Panel may receive, for inclusion in the provisional agenda of a meeting of the Panel, proposals from any member of the Panel, the Council and the Chairperson of the Commission, as well as from the Pan-African Parliament, the African Commission on Human and People's Rights and civil society groups, in the context of their respective contributions to the promotion and maintenance of peace, security and stability in Africa, as provided for in the relevant provisions of the Protocol.

9. The first item on the provisional agenda for each meeting of the Panel shall be

the adoption of the agenda.

10. The provisional agenda for a meeting of the Panel shall be circulated by the Chairperson of the Commission to all the members of the Panel. The provisional agenda shall also be made available to the Chairperson and members of the Council.

Quorum

11. The number of members required to constitute a quorum or a meeting of the Panel shall be three.

V. RECOMMENDATIONS AND REPORTS

1. The Panel shall, whenever it considers it appropriate, submit to the Council and to the Chairperson of the Commission its views and recommendations on any matter relating to the promotion and maintenance of peace, security and stability.

2. The Panel shall submit regular reports on its activities to the Council. It shall also, through the Council, submit bi-annual reports to the Assembly. Such reports shall be annexed to the regular reports by the Council to the Assembly on its activities and the state of peace and security in Africa, as provided for by article 7(1q) of the Protocol.

3. The Panel shall submit reports on its work in respect of specific mandates to the Council or to the Chairperson of the Commission as may be appropriate.

VI. PUBLIC STATEMENTS

Having regard to the circumstances of each meeting or consultation, the Panel may, if it deems it necessary, issue a press release or a statement, or a communication in any other form it considers appropriate, on any matter under its consideration.

VII. RELATIONSHIP WITH THE ORGANS OF THE UNION

1. The Panel shall, without prejudice to its independence, maintain regular contacts with the Council and the Chairperson of the Commission, as well as with the Chairperson of the African Union, and keep them fully informed of its activities for the purpose of ensuring close coordination and harmonization.

In particular, and prior to an intended visit to or engagement in a given country or region, the Panel shall inform the Council and the Chairperson of the Commission for purposes of coordination and harmonization.

2. The Assembly, the Council, the Chairperson of the Commission or other relevant organs of the Union may invite the Chairperson of the Panel to address them on matters relating to the promotion and maintenance of peace, security and stability in Africa.

3. The Chairperson of the Panel may also, after consultations with the Council and the Chairperson of the Commission, request to address the Assembly and other organs of the Union, on important issues under consideration by the Panel.

VIII. TECHNICAL AND OTHER SUPPORT

1. The Commission shall provide administrative, technical and logistical support as may be required by the Panel to facilitate its work.

2. The Commission shall provide substantive services in support of the Panel's work, including information relating to specific situations, on mediation and negotiation processes and other relevant matters.

The Commission shall provide the necessary research and advisory capacities to support the above.

3. The Commission shall provide support in gathering and receiving information on political and other developments in specific countries or regions that are the subject matter of the Panel's focus.

4. The Commission shall assist the Panel in the processing and production of documents required by the Panel for the discharge of its mandate, including its reports, and shall arrange for their timely distribution.

IX. ALLOWANCES AND OTHER ENTITLEMENTS OF PANEL MEMBERS

1. Members of the Panel shall be entitled to travel and lodging allowances and honorarium for the duration of the Panel meetings and missions undertaken by Panel members in the discharge of their duties.

2. The allowances and other entitlements payable to members of the Panel shall be determined by the Chairperson of the Commission in accordance with the financial rules and regulations of the Union.

X. TERMINATION OF TENURE

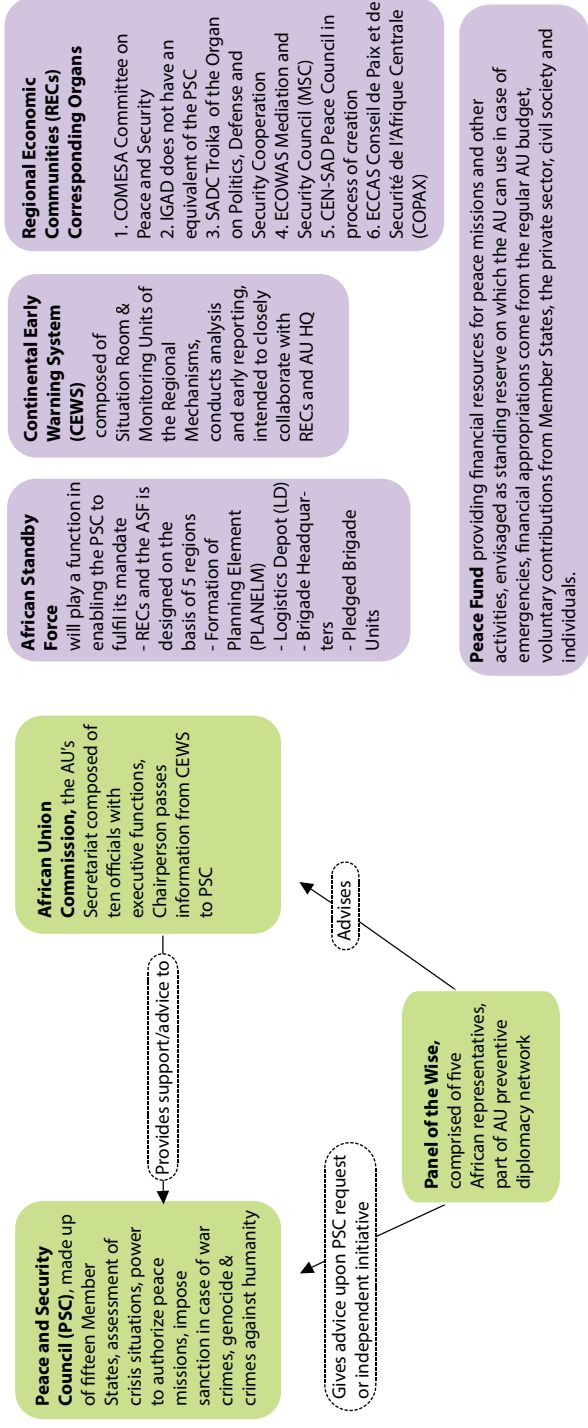
1. A member may resign from the Panel at any time by a letter addressed to the Chairperson of the Commission.

2. The mandate of a member of the Panel can be terminated on the recommendation of the Chairperson of the Commission approved by the Assembly.

XI. REVIEW

The Modalities shall be reviewed after the operationalization of the Panel to take into account any view that may be expressed by the members of the Panel. The Modalities shall be reviewed regularly and shall, when necessary, be amended.

APSA Pillars¹²²



122. This diagram of the APSA pillars is a simplification in which cross-cutting issues, such as border management, post conflict reconstruction and development and counterterrorism mechanisms are not depicted.



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