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## Protocol relating to the Establishment of the Peace and Security Council of the African Union (2002/2003)

Adopted by the AU Assembly in Durban, South Africa on 10 July 2002, in terms of article 5(2) of the AU Constitutive Act, and entered into force on 26 December 2003. Full text available at [www.au.int](http://www.au.int)

### *Excerpts*

We, the Heads of State and Government of the member states of the African Union;

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*Concerned* about the continued prevalence of armed conflicts in Africa and the fact that no single internal factor has contributed more to socio-economic 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;

...

*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;

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### **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 peacebuilding 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 harmonise 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 peacebuilding 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 purposes;
  - (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
  - (i) commitment to honour 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) authorise 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 harmonise and co-ordinate efforts at regional and continental levels to combat international terrorism;
  - (j) promote close harmonisation, 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 organisations;
  - (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 co-operation 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**

### **Organisation and Meetings:**

1. The Peace and Security Council shall be so organised 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.

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**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.

#### **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 or 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 or her opinion, deserves their attention;

(c) may, at his or her own initiative or when so requested by the Peace and Security Council, use his or 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 peacebuilding 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 authorised 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 organisations, research centres, 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 analyse 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 or 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 authorised 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.

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### **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, organisation 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, demobilisation 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 traumatised 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) harmonise and co-ordinate 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.

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#### **Article 17: Relationship with the United Nations and other international organisations**

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 co-operate 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 co-operate 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 organisations 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 co-operate and work closely with other relevant international organisations on issues of peace, security and stability in Africa. Such organisations 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 co-operation 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 organisations**

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.

#### **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.

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