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TENTH PARLIAMENT- THIRD SESSION

REPORT OF THE 1<sup>ST</sup> SESSION OF THE 2<sup>ND</sup> PARLIAMENT OF THE PAN-AFRICAN PARLIAMENT

GALLAGHER ESTATE, MIDRAND, GAUTENG PROVINCE, SOUTH AFRICA

26<sup>th</sup> October-5th November 2009

CLERKS CHAMBERS  
PARLIAMENT BUILDINGS  
NAIROBI

November 2009

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### **LIST OF ABBREVIATIONS**

PAP	-	Pan African Parliament
AU	-	African Union
UN	-	United Nations
NEPAD	-	New Economic Partnership for Africa Development
APRM -		Africa Peer Review Mechanism
CEMAC	-	Economic Community of Central Africa
SADC -		Southern Africa Development Community

## **PREFACE**

**Hon. Speaker,**

The Kenya delegation to the 1<sup>st</sup> Ordinary Session of the 2<sup>nd</sup> Parliament of the Pan-African Parliament comprised of the following;

- a) Hon. Gitobu Imanyara, M.P - Leader of Delegation.
- b) Hon. Rachel Shebesh, M.P.
- c) Hon. Abdul Bahari, M.P.
- d) Hon. Gideon Mungaro, M.P.
- e) Hon. Musa Sirma, M.P
- f) Mr. M. A. Mohamed –Secretary to the Delegation

The delegation fully participated the deliberations of the Ordinary Session and the sittings of the Permanent Committees of the Pan African Parliament.

The delegation is grateful to you for allowing us attend the Session and the office of the Clerk for facilitating the travel and providing logistical and technical support.

It is now my pleasant duty, on behalf of the delegation, to present and commend this report for adoption by the House.

**Hon. Gitobu Imanyara, MP.**

**LEADER OF DELEGATION.**



## **INTRODUCTION**

The Pan African Parliament was established in the Protocol to the Treaty establishing the African Economic Community. Article 2 of the Protocol provides;

*“Member States hereby establish a Pan African Parliament, the composition, functions, power and organization of which shall be governed by the present protocol.”*

The ultimate aim of the Pan African Parliament shall be to evolve into an institution with full legislative powers, whose members are elected by Universal adult suffrage.

The Pan African Parliament’s mandate and objectives in accordance with Article 3 of the Protocol is to *inter alia*;

- a) Facilitate the effective implementation of the policies and objectives of the OAU / AEC and ultimately of the African Union;
- b) Promote the principles of human rights and democracy in Africa;
- c) Encourage good governance, transparency and accountability in Member States;
- d) Promote peace, security and stability;
- e) Facilitate Co-operation & development in Africa;
- f) Strengthen continental solidarity and build a sense of common destiny among the people of Africa.

## **EXECUTIVE SUMMARY**

1. The President of the Pan-African Parliament Hon. Dr. Idriss Ndele Mousa officially opened the Session.
2. The President of the Republic of South Africa was the Chief Guest and gave a keynote address to the Members during the opening Sitting.
3. The Speakers of the National Parliaments of Kenya, Burundi, Chad, Nigeria, Senegal and the Arab Parliament gave solidarity speeches during the opening ceremony. The Session was also attended by the of the AU Commission Chairperson, Dr. Jean Ping, and representatives of the EU Parliament and the Secretary General of the United Nation
4. The following Members took and subscribed the oath of a Member of the Pan-African Parliament:
  - i. Hon. Richard Mwapela – Zambia
  - ii. Hon. Forrie Tembo - Zambia
  - iii. Hon. Joseph Njobvuyalema- Malawi
  - iv. Hon. Chimango Mughogho – Malawi
  - v. Hon. Jenifer Chilunga – Malawi
  - vi. Hon. Abu Bakar Mbaya – Malawi
  - vii. Hon. Symon Vuwa-Kaunda- Malawi
  - viii. Hon. Ba Aliou Irba - Mauritania
  - ix. Hon. Habib Ould Diah - Mauritania
  - x. Hon. Ould Khalifa Ahmed - Mauritania
  - xi. Hon. Ould Mohamed El Moustapha - Mauritania
  - xii. Hon. Bendir Khatari- Saharawi Republic
  - xiii. Hon. Bernadette Lahai - Sierra Leone
  - xiv. Hon. Manuel Nhamajo - Guinea-Bissau
  - xv. Hon. Antonia Mendes - Guinea-Bissau
  - xvi. Hon. Serifo Balde - Guinea-Bissau
  - xvii. Hon. Florentino Pereira - Guinea-Bissau
  - xviii. Hon. Certorio Biote - Guinea-Bissau
  - xix. Hon. Mamdoh Hosni Khalili- Egypt
  - xx. Hon. Siyadah Elhami -Egypt

5. The Permanent Committee on Rural Economy, Agriculture, Natural Resources and the Environment made the following major recommendations to mitigate the dangers of climate to the development of Continent;
- i. That Africa has to unite and negotiate with other partners in Western countries with one voice,
  - ii. That appropriate budgetary items for climate change are integrated in national budgets for action,
  - iii. That those countries that had not yet ratified the Kyoto Protocol to do so, so as to have access to the financing facilities established for this purpose,
  - iv. That awareness creation campaigns be made on the causes, effects and mitigation measures on climate change and;
  - v. Establishment of a seed bank so as to protect natural species as well as establishment of a further seed bank for genetic crops with a view to supporting adequate food production.

In the same light, the Black and Green campaign was launched where the Hon. Rachel Shebesh was installed by the special Representative of the UN Secretary General for disaster risk reduction as the regional champion for disaster risk reduction and climate change adaptation for Africa.

6. The President of the Pan African Parliament presented and tabled a report on the activities of the Bureau of the Pan African Parliament.

The President informed the House that the Bureau organized an African Parliamentary Speakers conference from 8<sup>th</sup> to 9<sup>th</sup> October 2009 to discuss transformation of PAP into a legislative organ in addition to the

African Parliamentary Knowledge Network whose objective is to use computers of work in the African Parliaments.

The President further announced that the four Vice Presidents of the Pan African Parliament will exercise the following delegated functions:

- i. Hon. Bethel Amadi, First Vice President- Monitoring and oversight on the legislative business,
- ii. Hon. Mary Mugenyi, Second Vice President - Monitoring and oversight on external and parliamentary relations,
- iii. Hon. Hammi Laroussi , Third Vice President- Monitoring and oversight on administrative and staff matters,
- iv. Hon. Joram Macdonald Gumbo, Fourth Vice President- Monitoring and oversight on financial matters.

The President further informed the House that the Bureau had formed an ad-hoc Committee comprising of two Members from each of the five regions of the continent to audit the financial and administrative domains of the Parliament. The Hon. Abdul Ali Bahari, MP of Kenya was nominated to this Committee by the Eastern Africa Caucus.

7. An ad-hoc Committee which was formed after the election of the new Bureau of the Pan African Parliament in March 2009 presented and tabled a report on institutional, political, financial and administrative evaluation of PAP.

In the report which was adopted by the House, the committee observed the following;

- i. Mismanagement and lack of adherence to rules and procedures in the institutional, administrative and financial domains of the Pan-African Parliament,
  - ii. A deterioration in the general work climate within the institution due to existence of nepotism and favoritism as a management method,
  - iii. Gradual deterioration of relations with other organs of the African Union,
  - iv. Lack of synergy between PAP activities and the programme of action of the AU,
  - v. Lack of transparency in the management of PAP including the operations of the Trust Fund,
8. The Parliament also debated and adopted a report on the review of the Protocol to the Treaty establishing the African Economic Community.
9. The House considered and adopted amendments to the Rules of Procedure of PAP in accordance with the proposed review of the protocol establishing the Pan African Parliament.
10. The House also considered and adopted the report of the External Auditors. In the report, the Auditors observed that the audit review gave rise to matters of governance interest where management responses and action were invited.
11. The House further deliberated on its budget amounting to USD 19,189,782 was presented. Out of this amount, USD 15.3 million was for operational budget that will be financed from Member states contributions and an amount of USD 3.9 million was for programme budget that will be covered by development partners.

12. The various Permanent Committees of the Parliament presented their activity report and made several recommendations and resolutions. follows:
13. The House adopted motions on the human rights situation in the Western Sahara, Guinea and Niger,

## **RECORD OF PROCEEDINGS IN THE PLENARY**

### **1.0: OPENING CEREMONY**

The President of the Pan-African Parliament Hon. Dr. Idriss Ndele Mousa officially opened the Session. The President welcomed back all the Honourable members of the Pan African Parliament and expressed his appreciation to the members for their timely arrival for the Session.

The President of the Republic of South Africa was the Chief Guest and gave a keynote address to the Members during the opening sitting.

In his address, the President emphasized on the need for the Pan African Parliament to address itself to pressing needs of the people of the continent including peace, stability, human rights and democracy among others. The President further urged the Members to be more proactive on the issues of Africa's economic integration.

The Speakers of the National Parliaments of Kenya, Burundi, Chad, Nigeria, Senegal and the Arab Parliament gave solidarity speeches during the opening ceremony. The Session was also attended by the of the AU Commission Chairperson, Dr. Jean Ping, and representatives of the EU Parliament and the Secretary General of the United Nation

In his solidarity speech, the Speaker of the Kenya National Assembly underscored the need for solidarity and cooperation among national parliaments as it carries significant weight for the simple reason that there is a growing amount of activities around parliaments, implying that not one Parliament in the world today

### **3.0: REPORT ON ELECTION OF CHAIRPERSONS, VICE CHAIRPERSONS AND RAPPORTEURS OF PERMANENT COMMITTEES**

The following members were elected to various positions in the Permanent Committees.

- (a) Committee on Rural Economy, Agriculture, Natural Resources and Environment:
  - (i) Chairperson - Hon. Augustin IYAMUREMYE - (Rwanda)
  - (ii) Deputy Chairperson - Hon. Sisa James Njikelana (South Africa)
  - (iii) Rapporteur - Hon. Jean-Marie MOKOLE (Central African Republic)
  
- (b) Committee on Monetary and Financial Affairs :-
  - (i) Chairperson - Hon. Njingum Mussa MBUTOH (Cameroon)
  - (ii) Deputy Chairperson - Hon. Ali BAHARI (Kenya)
  - (iii) Rapporteur - Hon. Aïssata SIDIBE (Burkina Faso)
  
- (c) Committee on Trade, Customs and Immigration matters:-
  - (i) Chairperson - Hon. Tsudao I. GUIRAB (Namibia)
  - (ii) Deputy Chairperson - Hon. Gebru GEBREMARIAM (Ethiopia)
  - (iii) Rapporteur - Hon. Mama Kandeh (The Gambia)
  
- (d) Committee on Cooperation, International Relations and Conflicts Resolution:-
  - (i) Chairperson - Hon. Ahmed Hassen ABDUSALEM (Ethiopia)
  - (ii) Deputy Chairperson - Hon. Dusty WOLOKOLIE (Liberia)
  - (iii) Rapporteur - Hon. Jean-Benoit GONDA (Central African Republic)
  
- (e) Committee on Transport, Industry, Communication, Energy, Science and Technology:-
  - (i) Chairperson - Hon. Mostefa BOUDINA (Algeria)

- (ii) Deputy Chairperson - Hon. Dieudonné Maurice BONANET (Burkina Faso)
  - (iii) Rapporteur - Hon. Michel BARTHELEMY (Djibouti)
- (f) Committee on Health, Labour and Social Affairs:-
- (i) Chairperson - Hon. Marie Rose NGUINI-EFFA (Cameroon)
  - (ii) Deputy Chairperson - Yamba M. SAWADOGO (Burkina Faso)
  - (iii) Rapporteur - Hon. Editor ERIMENZIAH (Zimbabwe)
- (g) Committee on Education, Culture, Tourism and Human Resources:-
- (i) Chairperson - Hon EL-HOUDERI Mohamed Elmadani (Libya)
  - (ii) Deputy Chairperson - Hon. Gina TRUSTY (Swaziland)
  - (iii) Rapporteur - Hon Sidia Jatta (The Gambia)
- (h) Committee on Gender, Family, Youth and People with Disability:-
- (i) Chairperson - Hon. Ascofaré O. TAMBOURA (Mali)
  - (ii) Deputy Chairperson - Hon. Marie-Thérèse TOYI (Burundi)
  - (iii) Rapporteur - Hon. Rachel SHEBESH (Kenya)
- (i) Committee on Justice and Human Rights:-
- (i) Chairperson - Hon. Agnès MUKABARANGA (Rwanda)
  - (ii) Deputy Chairperson - Johnny HAKAYE (Namibia)
  - (iii) Rapporteur - Hon. Jean-Claude SIAPA I. (Congo)
- (j) Committee on Rules, Privileges and Discipline:-
- (i) Chairperson - Hon. Ismaël TIDJANI-SERPOS (Benin)
  - (ii) Deputy Chairperson - Hon. Zely P. INZOUNGOU (Congo)
  - (iii) Rapporteur - Hon. Gitobu IMANYARA (Kenya)

#### **4: REPORT ON CLIMATE CHANGE AND DEVELOPMENT IN AFRICA**

The Chairperson of the Permanent Committee on Rural Economy, Agriculture, Natural Resources and the Environment presented the report.



In the report, the Committee made the following major recommendations to mitigate the dangers of climate change to the development of Continent;

- i. That Africa has to unite and negotiate with other partners in Western countries with one voice,
- ii. That appropriate budgetary items for climate change are integrated in national budgets for action,
- iii. That those countries that had not yet ratified the Kyoto Protocol to do so, so as to have access to the financing facilities established for this purpose,
- iv. That awareness creation campaigns be made on the causes, effects and mitigation measures on climate change and;
- v. Establishment of a seed bank so as to protect natural species as well as establishment of a further seed bank for genetic crops with a view to supporting adequate food production.

In the same light, the Black and Green campaign was launched where the Hon. Rachel Shebesh was installed by the special Representative of the UN Secretary General for disaster risk reduction as the regional champion for disaster risk reduction and climate change adaptation for Africa.

The Champion for disaster risk reduction is an honorary title bestowed by UNISDR on a person of integrity who embodies the organization's mission and ideals in advocating for disaster risk reduction.

#### **5.0: PRESENTATION AND DEBATE OF THE REPORT OF THE PRESIDENT OF PAN AFRICAN PARLIAMENT**

The President of the Pan African Parliament presented and tabled the report on the activities of the Bureau.

In the report, the President highlighted an account of the activities undertaken by the Bureau for the five months of its existence.

The President informed the House that he held meetings with the AU Chairperson and the chairperson of the AU Commission to enhance coordination between the various organs of the Union.

The President also informed the House that the Bureau organized an African Parliamentary Speakers conference from 8<sup>th</sup> to 9<sup>th</sup> October 2009 to discuss transformation of PAP into a legislative organ in addition to the African Parliamentary Knowledge Network whose objective is to use computers of work in the African Parliaments.

The President further announced that the four Vice Presidents of the Pan African Parliament will exercise the following delegated functions:

- i. Hon. Bethel Amadi, First Vice President- Monitoring and oversight on the legislative business,
- ii. Hon. Mary Mugenyi, Second Vice President - Monitoring and oversight on external and parliamentary relations,
- iii. Hon. Hammi Laroussi , Third Vice President- Monitoring and oversight on administrative and staff matters,
- iv. Hon. Joram Macdonald Gumbo, Fourth Vice President- Monitoring and oversight on financial matters.

The President further informed the House the House he had formed an ad-hoc Committee comprising of two Members from each of the five regions to audit the financial and administrative domains of the Parliament and to submit interim evaluation reports every six months and a final report at the end of its term of

two years. The Hon. Abdul Ali Bahari, MP of Kenya was nominated to this Committee by the Eastern Africa Caucus. In the same regard, the House passed a motion on the establishment of the said Committee.

## **6.0: PRESENTATION AND DEBATE OF THE REPORT ON INSTITUTIONAL, POLITICAL, FINANCIAL AND ADMINISTRATIVE EVALUATION**

The Report was prepared and presented by an ad-hoc Committee formed after the election of the new Bureau of the Pan African Parliament in March 2009.

In the report which was adopted by the House, the committee observed the following weaknesses in the institution;

- i. Mismanagement and lack of adherence to rules and procedures in the institutional, administrative and financial domains of the Pan-African Parliament,
- ii. A deterioration in the general work climate within the institution due to existence of nepotism and favoritism as a management method,
- iii. Gradual deterioration of relations with other organs of the African Union,
- iv. Lack of synergy between PAP activities and the programme of action of the AU,
- v. Lack of transparency in the management of PAP including the operations of the Trust Fund,

In the light of these significant institutional weaknesses, the ad-hoc committee formulated the following specific recommendations;

- i. Establishment of a closer collaboration between PAP and the other organs of the AU and the revision of the PAP strategic plan to be based on action plan of the Union,

- ii. Need to draw up exhaustive report on the circumstances of the non renewal of the contracts of the Clerk and the Deputy Clerk for Legislation since they were done un procedurally,
- iii. Engage the AU to establish and approve an organizational structure of the PAP,
- iv. Carry out further investigation in order to shade more light on the management of the Trust Fund whose monies cannot be accounted for,
- v. Raise the level of competency of the staff be recruited in future.

The Report was adopted by the House and urged the Bureau to ensure implementation. *(The Report of the Committee is annexed to this report)*

#### **7.0: REPORT ON THE REVIEW OF THE PROTOCOL ESTABLISHING THE AFRICAN ECONOMIC COMMUNITY RELATING TO THE PAN AFRICAN PARLIAMENT**

The Parliament debated a report on the review of the Protocol to the Treaty establishing the African Economic Community relating to the Pan-African Parliament.

The House adopted the report providing new provisions on election of PAP members and relations between PAP and other organs of the Union (*the report is annexed herein*)

#### **8.0: REPORT ON AMMENDMNETS TO THE RULES OF PROCEDURE**

The House considered and adopted amendments to the Rules of Procedure of PAP in accordance with the proposed review of the protocol establishing the Pan African Parliament.

In the report, the Permanent Committee on Rules proposed amendments to areas concerning term of office of parliamentarians and the Bureau, oath of office in the event of elections, representation of office holders within committee

officials and supervision of the election of Members of the Bureau. *(The Report of the Committee is annexed to this report)*

#### **9.0: REPORT ON THE 2008 AUDIT REPORT OF THE PAN- AFRICAN PARLIAMENT**

The Committee on Financial Affairs presented and tabled the Audit report by the Board of External Auditors of PAP.

In the report, the External Auditors observed that the audit review gave rise to matters of governance interest where management responses and action were invited.

The following are the major observations of the External Auditors;

- i. That the management financial management systems currently used in the processing of financial data are inefficient,
- ii. That the rate used by PAP in payment of post adjustment allowance is on the high side and was not approved by the appropriate AU organ,
- iii. That there is lack of adherence to AU finance policies and procedures relating to received funds,
- iv. That payment of perdiems to the Members of the Bureau and Members of parliament on missions were not approved by the AU regulatory organ,

#### **10.0: REPORT ON THE 2010 DRAFT BUDGET OF THE PAN- AFRICAN PARLIAMENT**

The Permanent committee on financial Affairs tabled and presented the draft 2010 budget of the Parliament.

A total budget amounting to USD 19,189,782 was presented. Out of this amount, USD 15.3 million was for operational budget that will be financed from Member

states contributions and an amount of USD 3.9 million was for programme budget that will be covered by development partners.

The House noted the Budget and referred it back to the Committee for further considerations.

## **10: REPORTS OF THE PERMANENT COMMITTEES**

The Permanent Committees presented their activity reports and made the following recommendations as follows;

### **a) The Committee on Transport, Communication, Industry, Energy, science and Technology**

The Committee observed the major ICT projects in Africa such as the Regional African satellite Organization (RASCOM), the East African Submarine System, the East Africa Marine system and the Southeast Asian Telecommunications Cable system project and further cited huge challenges to the Continent due to technological backwardness and recommended the following;

- i. Efforts towards liberalization and privatization of the sector should be enhanced to enable private sector investment with out any restrictions,
- ii. Promotion of sharing information infrastructure to limit duplications by investors and to enhance use of common installations,
- iii. Constant effort should be made to reduce the prices of telecommunication services especially broadband internet across the continent,

- iv. Support efforts to develop wireless broadband system to through tax incentives and conditions for the award of licenses so as to accelerate access to high standard technology and
- v. Optimum utilization of the Fund for Universal Access and services.

**b) The Committee on Justice and Human Rights**

- i. The Committee noted human rights violations in Liberia and recommended that the Government of Liberia to focus the rights of the displaced and vulnerable people,
- ii. The Committee recommended the establishment of Human Rights Desk at PAP to advise the Committee and the plenary on human rights issues,
- iii. The Committee noted that only two countries have ratified the African Charter on Democracy, Elections and Governance and urged the Member countries to do so

**c) The Committee on education, Culture, Tourism and Human Resources**

The Committee proposed the following recommendations in their report:

- i. PAP to request the AU to encourage Member States to respect their commitments with a view to accomplishing integration of education systems through implementation of the action plan of the Second Decade of Education for Africa,
- ii. PAP to work towards involvement of the national and regional parliaments in the harmonization of policies and laws on education in Africa,
- iii. PAP to carry out advocacy within the Regional Economic Communities in order to encourage them to create liaison desks that focus on education sector,

**Other Resolutions**

- i. The House passed a motion on the human rights situation in the Western Sahara following the arrest of seven human rights activist and continued occupation of the Moroccan Government. The Motion called upon the African Union and the United Nations to intervene urgently and exert

pressure on the Moroccan authorities to release the seven human rights activities.

- ii. The House also passed motion on the situations in Guinea and Niger, calling upon the military regime in Guinea not to contest the elections and also hold fresh and credible elections to be supervised and monitored by the African Union, further calling upon the President of Niger to call for fresh elections under the supervision of the ECOWAS.
- iii. The House further adopted a motion on establishment of an interest group of PAP Members on climate change.

### **ADJOURNMENT**

The House was adjourned on Thursday, 5th November 2009 at 10.00 am.



PAN-AFRICAN PARLIAMENT



PARLEMENT PANAFRICAIN

البرلمان الأفريقي

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**REPORT ON THE POLITICAL, INSTITUTIONAL,  
FINANCIAL AND ADMINISTRATIVE  
EVALUATION OF THE  
PAN AFRICAN PARLIAMENT**

Original version: French  
August 05, 2009.

## I INTRODUCTION

1. The Protocol to the Treaty establishing the African Economic Community (AEC) relating to the Pan-African Parliament stipulates in its Article 25 that, five years after the entry into force of this Protocol, a Conference of the States Parties to this Protocol shall be held to review the operation and effectiveness of this Protocol, as well as the system of representation.
2. At the end of the first parliament, PAP is in the process of implementing actions necessary for the review of the Protocol and has already renewed its Bureau.
3. During the process leading to the elections of the Bureau and within the framework of the implementation of DOC.EX.CL/459 (XIV) of the Assembly of Head of State and Government of the AU, the PAP Plenary adopted resolutions that resulted in the decision by PAP to fix the date for elections on 28 May 2009 for the renewal of the Bureau of PAP. An Ad hoc Committee, composed of one representative from each of the Regional Caucuses was elected in terms of Rule 22 (3) of PAPs Rules of Procedure to organise and supervise elections. (See Terms of Reference under Annex1).
4. After the elections, the new Bureau of PAP tasked the Ad hoc Committee to conduct an Institutional, Political, Financial and Administrative evaluation of PAP and to make recommendations to it accordingly.
5. The Ad Hoc Committee sat from 15 to 19 June 2009 and from 29 July 2009 to 5 August 2009 at the Seat of the Pan-African Parliament.

### Composition of the Ad hoc Committee

6. The Ad hoc Committee is composed of the following Pan-African Parliamentarians:

Hon. Chief Charumbira F. Z (Southern Africa) - Chairperson;  
Hon. Tidjani Serpos Ismael (Western Africa) - Rapporteur;  
Hon. Azzedine Abdelmadjid (Northern Africa) - Member;  
Hon. Françoise Labelle (Eastern Africa) - Member;  
Hon. Saleh Kebzabo (Central Africa) - Member.



## **I. TERMS OF REFERENCE OF THE MISSION**

7. The Terms of Reference of the Ad hoc Committee were to analyse and make recommendations on the following main domains or areas:

### **(i) Institutional and political domain of PAP**

- The mandate of PAP as defined by the Protocol;
- The contribution of the Pan-African Parliament to the evaluation of the Protocol and its review;
- PAP's relations with the other organs of the AU;

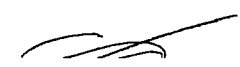
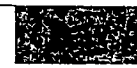
### **(ii) Financial domain of PAP**

- The 2009 budget;
- The 2009 programme-budget;
- Decision Doc. Ex.CL/455 (XIV) on the 2009 budget of the AU;
- Partners and Memorandum of Understanding;
- Trust Fund;
- Internal Audit.

### **(iii) Administrative domain: the administrative structure and issues relating to the status of PAP staff**

- Administrative structure of PAP (draft organogramme);
- Staff and posts adjustment;
- Appointments and promotions;
- Vacant positions;
- Advertisement of vacant positions;
- Recruitment procedures;
- Capacity building policy for PAP staff.

At the end of the analysis, the Ad hoc Committee will submit an evaluation report including recommendations to the Bureau with concrete proposals on actions to be taken.



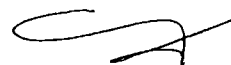
### **III. METHODOLOGY OF WORK OF THE AD HOC COMMITTEE**

8. The Ad hoc Committee studied the relevant documents of PAP. Some of the key documents are attached to the Report as Annexures.
9. The Ad hoc Committee interviewed the following persons:
  - The Acting Clerk (Mr Morad Boularaf);
  - The Director of Bureau (Ms Martha Luleka);
  - The Principal Clerk of LB (Ms Josiane Wawa);
  - The Officer in charge of Finance (Mr Mekonnen Girma);
  - The Human Resource Officer (Ms Rebecca Nabweteme);
  - The Internal Auditor (Mr Emmanuel Afedor);
  - The Officer in charge of International Relations (Ms Lyn Chiwandamira);
  - The Officer in charge of Communications (Mr Khalid Dahab);
  - The Legal Counsel of the Trust Fund (Professor TEM).
10. In accordance with the Terms of Reference of its mission, the Ad hoc Committee centred its analysis on the following three issues;
  - Institutional and political domain of PAP;
  - Financial domain of PAP;
  - Administrative domain: the administrative structure and issues relating to the status of PAP staff.
11. For each of these domains, the methodology adopted consisted evaluating the current situation, then highlighting the weaknesses and shortcomings inherent in the current situation and lastly, making relevant recommendations in order to remedy the situation.

### **IV. INSTITUTIONAL AND POLITICAL DOMAIN OF PAP**

#### Current status

12. As provided for in Article 17 of the Constitutive Act of the African Union, the Pan-African Parliament was established on 18 March 2004 and is currently composed of 46 Member States counted on the basis of the ratification of the Protocol.
13. In accordance with the provisions of Articles 2 (3) and 11 (3) of the Protocol to the Treaty establishing the African



Economic Community relating to PAP, the ultimate aim of the Pan-African Parliament shall be to evolve into an institution with full legislative powers, whose members are elected by universal adult suffrage. However, until such time as the Member States decide otherwise by an amendment to this Protocol, the Pan-African Parliament only has consultative and advisory powers. Members of the Pan-African Parliament are designated in accordance with the provisions of Article 4 of the Protocol;

14. The evaluation of the institutional and political domain of PAP centred on the following issues:
  - (i) The role and objectives of PAP;
  - (ii) The consultative and advisory role of PAP
  - (iii) Relations with the other organs of the African Union, National and Regional Parliaments as well as Development Partners;
  - (iv) Election observation in Africa;
  - (v) Review of the Protocol relating to the Pan-African Parliament.
  - (vi) The Rules of Procedure of PAP
  - (vii) Dissemination of information relating to PAP

#### **Role and objectives of PAP**

15. In accordance with Article 11 of the Protocol, the Pan African Parliament shall be endowed with legislative powers, as defined by the Assembly.

However, during the first mandate of its existence, the Pan African Parliament shall only exercise consultative and advisory powers

In accordance with the provisions of Article 3 of this Protocol, the objectives of the Pan-African Parliament shall be to:

- (a) Facilitate the effective implementation of the policies and objectives of the OAU/AEC and ultimately, of the African Union;
- (b) Promote the principles of human rights and democracy in Africa;

- (c) Encourage good governance, transparency and accountability in Member States;
- (d) Familiarize the peoples of Africa with the objectives and policies aimed at integrating the African Continent within the framework of the establishment of the African Union;
- (e) Promote peace, security and stability;
- (f) Contribute to a more prosperous future for the peoples of Africa by promoting collective self-reliance and economic recovery;
- (g) Facilitate cooperation and development in Africa;
- (h) Strengthen Continental solidarity and build a sense of common destiny among the peoples of Africa;
- (i) Facilitate cooperation among Regional Economic Communities and their Parliamentary fora.

#### **Consultative and Advisory Role of PAP**

16. The appraisal of the activities undertaken during the last five years in light of the legal provisions contained in the Protocol, has identified the following salient points:

- (a) Elaboration and adoption of its Rules of Procedure albeit still requiring improvement;
- (b) Adoption of a Strategic Plan 2006-2010 for PAP;
- (c) Regular holding of ordinary sessions of the PAP ;
- (d) Consideration and adoption of recommendations for the attention of the African Union;
- (e) Inclusion on the agenda of ordinary sessions of issues on peace and security. Within this framework, the situations in the Great Lakes regions, Sudan, Darfur, the Central African Republic, Chad, Côte d'Ivoire, Saharawi Arab Democratic Republic, Zimbabwe, Kenya etc, were considered;



- (f) Fielding of fact-finding missions to certain countries or the promotion of peace, security, stability, human rights, democracy, elections and governance, education, the environment and health. These missions were sent to; Darfur, the Sudan, (2005), Mauritania (2005 and 2008), Côte d'Ivoire (2006), Chad (2006), the Central African Republic (2007), Rwanda (2008), Sierra-Leone (2008); Liberia (2009);
- (g) Consideration of reports emanating from the implementation of the African Peer Review Mechanism (APRM): Ghana, Kenya, Algeria, Republic of South Africa, Rwanda;
- (h) Contribution to certain important debates such as those on: the Union Government of Africa, NEPAD, the rationalisation of RECs, the food crisis, environment, the financial crisis and TICAD IV;
- (i) The EU-PAP Joint Declaration of Lisbon in December 2007;
- (j) Observation of elections in a certain number of countries namely; Kenya, Zimbabwe, Swaziland, Angola and Ghana;
- (k) Sending of study missions of some Permanent Committees to the Headquarters of the African Union;
- (l) The retreat of the Bureau of PAP, Bureaux of Caucuses and Permanent Committees and staff in Dar es Salaam in Tanzania in January 2009;
- (m) Creation of a Trust Fund.

**PAP's relations with the organs of the African Union, Regional Parliaments, National Parliaments, and Development Partners**

**PAP's relations with the organs of the African Union:**

17. PAP's relations with AU organs have been visible through the PRC, the Executive Council and the Assembly during the consideration of the budget and AU Summits.

It is also worth noting the visits of certain high level






personalities of the AU; namely:

- Mr. Alphar Omar Konare, President of Mali and current Chairperson of the African Union;
  - Mr. John Kufuor, President of the Republic of Ghana, current Chairperson of the African Union;
  - Mr. Jakaya Mrisho Kikwete, President of Tanzania, current Chairperson of the African Union;
  - The Deputy Chairperson of the AU Commission;
18. In December 2006, a meeting was held in Addis-Ababa between the Bureau of PAP and the Chairperson of the Commission, His Excellency Alphar Omar Konare. It led to the creation of a technical committee tasked with considering the difficulties and problems that exist between PAP and the Commission and also to propose solutions to them. PAP subsequently forwarded the names of its representatives in this committee to the Commission, but this committee has never met.
13. The relations between the AU and PAP have been difficult. The bad relations were mainly caused by:
- (i) Personality clashes between the President of PAP and H.E. Alphar Omar Konare, the then Chairperson of the AU;
  - (ii) Exponential increase in the 2007 PAP budget. The Bureau was then perceived as making unrealistic budgetary demands mainly for personal benefit. The budget was cut from \$25 million to \$3 million
  - (iii) Status conflicts between the PRC and the President of PAP;
  - (iv) Functioning of PAP as an independent entity.

#### **PAP's relations with Regional Parliaments**

19. Three regional seminars for Eastern, Central and Southern Africa have characterised PAP's relations with Regional Parliaments in Africa, on the issue of integration and on the transformation of PAP into a legislative organ.
20. Furthermore, at the request of the Permanent Committee on





Rules, PAP had dispatched study missions to the Parliaments of the five Regional Economic Communities (REC) of the African continent to brief themselves and exchange views on the legal status of these organs, their effective role, their capacities, the mode of designation of their members, their financing and their evolution as time goes on.

These regional Parliaments are:

- The Consultative Council of the Arab Maghreb Union (Algeria)
- The Parliament of ECOWAS (Abuja in Nigeria)
- The East African Legislative Assembly (EALA – Tanzania)
- The SADC Parliamentary Forum (Namibia)
- The Inter-Parliamentary Commission for the Economic and Monetary Community of Central Africa (CIP/CEMAC-Equatorial Guinea).

Lastly, it is worth mentioning the visits to PAP by the Speakers of the ECOWAS and CIP/ECCAS Parliaments.

### **Relations with National Parliaments**

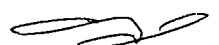
21. National Parliaments are the channel of communication through which PAP communicates with members of the Pan African Parliament.

In this regard, the PAP Secretariat is constantly liaising with of the Administrations of National Parliaments. To this end, it ensures that the composition of the delegation from each country conforms to the relevant statutes.

On this issue, the Committee insisted on the need for PAP Secretariat to periodically verify the compliance of the composition of each delegation with regard to both gender and diversity of political opinion (Article 4 of the Protocol).

Apart from these aspects, mention should be made of:

- The focal point installed in Dar es Salam in Tanzania and whose replication is being envisaged;
- The visits of the Speakers of the National Assemblies of Cameroon, Nigeria and Egypt to PAP.



## **Relations with development partners**

22. The Pan-African Parliament works with development partners, which by virtue of Memorandum of Understanding finance the activities of the Parliament. These partners are: GTZ, DFID, ACBF, AWEPA and the European Union.

## **Elections observation in Africa**

23. In pursuance of its mandate, PAP fielded elections observer missions to Kenya in December 2007, Zimbabwe in March and June 2008, Swaziland in August 2008, Angola in September 2008 and Ghana in December 2008.
24. These missions have contributed to the visibility of PAP at continental and international levels.
25. Unfortunately this work could not be pursued in 2009 because of insufficient funds and the recommendation which requires that these missions be undertaken jointly with the AU Commission. This explains why PAP was unable to observe the elections in South Africa, Algeria and Malawi in the course of the year.
27. However there is no coordination between PAP and the AU. As a result the AU Commission directly contacts Pan African Parliamentarians including former members of PAP who have lost their membership in their home parliaments are invited to these missions.

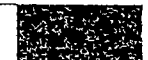
## **Review of the Protocol relating to the Pan-African Parliament**

28. Article 25 Paragraph 1 of the Protocol stipulates: « Five years after the entry into force of this Protocol, a Conference of the States Parties to this Protocol shall be held to review the operation and effectiveness of this Protocol, as well as the system of representation at the Pan-African Parliament with a view to ensuring that the objectives and purposes of this Protocol, as well as the vision underlying the Protocol, are being realised and that the Protocol meets the evolving needs of the African Continent.
29. During the Twelfth Ordinary Session of the Assembly of the AU held in Addis Ababa, Ethiopia, in January-February 2009, the Executive Council requested the AU Commission to



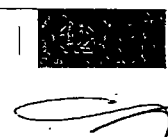
conduct a comprehensive study on the review of the Protocol in accordance with the Terms of Reference, taking into account the views of PAP and to make appropriate recommendations to the policy organs of the African Union (AU), for consideration, through the PRC at their next Ordinary Session in July 2009.

30. The decision of the Executive Council requested that PAP be involved in the review process of the Protocol not only in the formulation of the Terms of Reference of the assignment but also throughout the entire process. (See Decision 459).
31. In anticipation of the AU requiring inputs on the review, the Pan African Parliament, in 2008, through its Permanent Committee on Rules and Privileges, had taken the initiative to carry out a self-evaluation of its five (5) years of existence and had proposed amendments to both the Protocol and the Rules of Procedure.
32. The Committee on Rules and Privileges worked within a working group comprising the Chairpersons of Permanent Committees and Presidents of Regional Caucuses to amend the Protocol and the Rules of Procedure.
33. However, before the paper was presented for debate to the plenary in May 2009, the out-going Bureau of PAP modified the overall architecture of the text adopted by the working group. This modification centred on the definition of the legislative mandate that the Working Group had highlighted in the Protocol.
34. As a result, the draft amendment of the Protocol submitted for consideration by the Plenary is a proposal of the out-going Bureau which does not define the legislative procedure. Part of the Protocol was considered at the Plenary during the Eleventh Ordinary Session of PAP. Unfortunately, the Plenary could not finalise the consideration of the amended Protocol during this session.
35. To date, the Pan African Parliament has not yet received any invitation from the AU Commission to express its views on the elaboration of the Terms of Reference for the reviewing of the Protocol.



## The Rules of Procedure of PAP

36. The implementation of Rules of Procedure of PAP based on the interpretation of its provisions has revealed weakness in the following areas:
- (a) Vagueness with regard to the end of the mandate of members of PAP;
  - (b) The consequence of the end of the members of PAP on their responsibilities within the organs of PAP;
  - (c) The maximum duration of a mandate of the Bureau;
  - (d) Equitable regional distribution of responsibilities within the Bureaux of Permanent Committees can only be attained at the beginning of the parliament;
  - (e) The quorum required to amend the Rules of Procedure, according to Rule 92 sub-rule 2 is difficult to attain with regard to the 2/3 majority required. It would be advisable that the Committee on Rules consider if the 2/3 required for the adoption of the Rules of Procedure as set out in Article 12 (1) of the Protocol is also valid for its amendment as provided for in Rule 92 sub-rule 2 of the Rules of Procedure.
  - (f) Besides, it emerges from the interviews conducted by the Ad hoc Committee that important decisions pertaining to the life of PAP are scheduled at the end of session when attendance during sessions is lowest thus the quorum for a simple majority as required by Rule 55 of the Rules of Procedure is no longer possible
  - (g) Lastly, the Ad hoc Committee noted that although the Committee on Rules had drawn up and deposited a proposal on the code of conduct as stipulated in Rule 13 of the Rules of Procedure since 2005, this text has never been submitted by the Bureau of PAP for consideration and adoption whereas many actions which are contrary to administrative ethics are today being common in the management of PAP. These acts would have been avoided if a code of conduct was scrupulously implemented.



### Dissemination of information relating to PAP

37. A four page newsletter of the PAP is published periodically. PAP also has a website.

### Appraisals and challenges

38. The effectiveness of this report can only be assessed in relation to its real impact on the needs of countries and on the African peoples in the field of progress, the building of unity and the development of the African Continent. Recently the Panel of high-level personalities had concluded that PAP has no impact on the building of African unity.
39. During this transitional phase in which PAP will have consultative and advisory powers; it can only, have a tangible impact on the future of the Continent only under the following conditions:
- (i) Have an effective administration and operational machinery;
  - (ii) Ensure a better harmonisation of its activities with those of the policy organs of the Union in order to influence their decisions;
  - (iii) Ensure a better visibility of its image and its deliberations across the Continent.
40. The efficiency of the administration leaves a lot to be desired. The first weakness that the administration is suffering from is the poor level of recruitment and the clear incompetency of certain staff members.
41. For the ten Permanent Committees till date, PAP has only three permanent clerks. Even if during sessions, it hires the services of support staff from National Parliaments, it is clear that three clerks cannot ensure the appropriate and efficient monitoring of the duties of Committees in relation with the Bureaux of the latter. In this present situation, each clerk is supposed to theoretically ensure the monitoring of at least three Committees during the period between sessions.

42. Furthermore, the availability of working documents and their linguistic accessibility to all Parliamentarians is one of the recurrent complaints of many Parliamentarians. PAP is a continental Parliament which currently uses six working languages. All the documents serving as the basis of parliamentary proceedings should be translated and be made available on time in these six languages in order to facilitate their accessibility to Parliamentarians and make their proceedings useful and efficient. However, it is regrettable to note that translations are often not available in all the languages, especially at Committee Sitings.
43. As for interpretation, its quality and faithfulness often are a stumbling block.
44. It should also be noted that the policy on dissemination of information on PAP is inefficient. The periodic newsletter (*African Parliamentarian*) that is published by PAP is poorly distributed and is of poor quality. Furthermore the website, of the Parliament could ensure a better dissemination of the proceedings of PAP through the continent and the Parliamentarians themselves. The communication by PAP only insignificantly helps to popularise its image as a Continental Parliament.
45. Furthermore, the poor synergy between PAP and the organs of the AU and particularly the fact that PAP and the African Union Commission do not function in symbiosis are due to the following:
- (a) Insufficient knowledge of the organs of the AU and the mechanisms of their functioning by Pan-African Parliamentarians;
  - (b) The elaboration and adoption of the Strategic Plan of PAP (2006-2010) that is completely out of touch with the priorities defined by the Executive Organs of the AU emanating from the very Action Plan of the Committees. In these conditions, it is not surprising that no follow-up is made to the recommendations of PAP. This approach has certainly not put PAP in the dynamics of the organs of the AU.



- (c) The isolation of PAP with regard to the major debates that are taking place within the AU; in the exercise of its consultative powers PAP has only been contacted once and verbally by the Chairperson of the Assembly to make its input on the Union Government. It should also be noted that the budget of the Union has never been submitted to PAP for consideration and recommendations in spite of the provisions of Article 11 (2) of the Protocol. It is true that PAP has never requested to exercise this prerogative.
46. Since its establishment in 2004, the Pan-African Parliament has not had **systematic and effective relations** with the organs of the AU and Regional and National Parliaments.
47. The Ad hoc Committee noted that the reports of fact-finding and study missions undertaken by certain Committees to the Headquarters of the African Union are not debated at the Plenary. Consideration of these reports by the Plenary could enable all Pan-African Parliamentarians to share the information gathered by the different Committees.
48. PAP is an organ of the AU which has the special duty of representing the African peoples. In this regard, it should maintain close relations with all the organs of the AU, Regional and National Parliaments in order to give an impetus to the harmony shared by all these structures in the building of African unity.
49. In accordance with Rule 75 sub-rule 1 of the Rules of Procedure of the Pan-African Parliament, the annual reports of the organs of the African Union should be submitted to enable the Pan-African Parliament to make its input in accordance with Article 3 of the Protocol. Since its establishment, PAP has never received annual reports from the organs of the AU; neither has it requested them.
50. In accordance with Rule 77 Sub-rule 1 of the Rules of Procedure, the Pan-African Parliament may convene annual consultative fora with the Parliaments of Economic Communities to debate issues of interest. This rule has never been applied at the continental level.
51. The Ad hoc Committee also pointed out that in accordance





with the provisions of the Protocol, election observation also falls within the mandate of the Pan-African Parliament. It is evident that the option taken by the AU Executive on this issue has reduced to naught the initiatives of PAP in this domain.

52. Although the Pan African Parliament has been proactive on the issue of the review of the Protocol, there are still challenges to be met.
53. The proposal made by the Permanent Committee on Rules for the definition of the Terms of Reference should be transmitted to the AU Commission for consideration.
54. Besides, it is clear that at the present stage, PAP cannot be endowed with full legislative powers in all the domains; the acquisition of this power can only be progressive. Hence the need to clearly define the domains as well as the organs that have legislative initiative. It is therefore indispensable to go back to the initial draft that was elaborated in this spirit in March 2009 by the Committee on Rules.

## **V. THE FINANCIAL DOMAIN OF PAP**

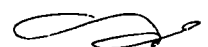
### **1. Current status**

#### **Financial resources of PAP**

55. The financial resources of the PAP are constituted by its budget and the Trust Fund.

#### ***The budget of PAP***

56. A 19 million American dollars, 2009 budget was adopted at the plenary. The Assembly of the Union approved an amount of 9.6 million American dollars being a 22% reduction as compared to the 2008 budget.
57. This reduction concerned budget lines considered as unauthorized, such as sitting, duty and communication allowances, funds allocated to the recruitment of twenty five (25) functionaries and lastly funds earmarked for post adjustment allowance of which the 58% applied rate is considered as illegal.





58. During the last African Union Summit held in February 2009, the Assembly adopted a decision relating to the budget of the Union in which PAP was requested through eleven (11) points to conform to the Financial Rules and Regulations of the Union, respect certain procedures and implement certain directives. This decision clearly exposed the errors committed by PAP of awarding irregular benefits to staff and unauthorized allowances to the Bureau, Bureau of Committees and Members of the Caucuses.
59. As at 30 April 2009, 3,455,416 American dollars had been released by the AU to PAP. If the remaining amount is disbursed, the Parliament could function until the end of the year albeit without operational programmes to achieve its objectives like election observation. There is therefore an urgent need for a supplementary budget to enable PAP to undertake programme activities to achieve its objectives in terms of the protocol.

**Contributions from partners**

60. Contributions from partners for 2009 are as follows:

No.	Partners	Contributions (US\$)	Remarks
1.	European Union Commission/African Union Commission	1,809,304.00	
2.	DFID	335,009.34	
3.	ACBF	337,000.00	
4.	GTZ	218,460.00	Contribution managed by the partner
5.	AWEPA	278,060.00	Contribution managed by the partner
6.	The Italian Government	50,000.00	
7.	UNDESA	100,000.00	
8.	EP-PPD	300,000.00	
9.	BILL GATES	300,000.00	
	<b>TOTAL AMOUNT</b>	<b>3,497,833.34</b>	



61. The 2009 programme budget is estimated at US\$3,497,833.34. It is intended to cover the activities of Committees, the Bureau and its staff.
62. To complete the financing of this programme budget, PAP has set aside an amount of US\$600,000.00 in its operational budget; the Assembly only adopted US\$120,000.00.

### **The Pan African Parliament Trust Fund**

63. The Pan African Parliament Trust Fund was established by PAP in 2006 to finance its Strategic Plan 2006-2010.
64. According to the South African law, the President of PAP is the founder member and the Trust Fund is managed by a Board of Directors. This Board was initially composed of three persons namely; Mr. Bwalya S.K. Chiti (Zambian) Board Chairman, Dr. Manu Chandaria Obe (Kenyan), and Dr. Mathews Phosa (South African), Board Members.
30. However, the legal counsel of the Trust Fund, Mr. Tem informed the Ad hoc Committee that Dr. Mathews Phosa (South Africa), Board Member resigned from the Board early this year and Dr. Manu Chandaria Obe (Kenya), Board member has never attended a single meeting of the Board.
65. Madam Mongella is the founder of the Trust Fund in her capacity as the President of PAP. Hence, with the election of the new bureau of PAP it the new President who henceforth enjoys the prerogatives attached to the title of the founder of the Fund.
66. In order to ascertain the operations the Pan African Trust Fund the Ad hoc Committee's first port of call was the Acting Clerk of PAP Mr Morad Boularaf, who is also the Deputy Clerk responsible for Finance and Administration. The Acting Clerk professed ignorance on the operations of the Trust Fund. The Ad hoc Committee also interviewed the Senior Finance Officer, Mr Mekonnen Girma who also professed ignorance. The Acting Clerk later advised that Dr. Mongella, the past President of PAP, had directed that all affairs of the Trust Fund would only and exclusively be handled by the Director of the Bureau, Martha Luleka. It is instructive to note that statement from the Acting Clerk with respect to the Trust Fund is confirmed by statements submitted by the former Clerk Mr. Murumba Werunga in his papers of appeal for reinstatement.



67. In view of the foregoing, the Ad hoc Committee proceeded to interview Ms Martha Luleka, the Director of the Bureau, on the Trust Fund. Although Ms Luleka accepted that her office handled matters with respect to the Fund she said she was not privy to financial transactions that took place so she could not supply any information of financial or bank statements. In her own words she said her office was “only used as a clearing house” through which papers of the Trust Fund passed.
68. The Ad hoc Committee then sought to engage the Trustees of the Fund through the Chairman, Mr Bwalya S. K. Chiti through the office of Acting Clerk at PAP. This has been unsuccessful as Mr Chiti does not respond to emails and is difficult to reach on the phone. In most cases the phones ring but no one answers. However during the Ad hoc meeting in June Mr Chiti sent Professor Tem, the Legal Counsel to the Trust Fund with some documents relating the formation of the Trust. Whilst this information would have been useful, although already known by Honourable Members, information relating to income and expenditure was missing.
69. Firstly, the Trust Fund rented premises in Sandton for its Headquarters. For the establishment and launch of the Fund, PAP had budgeted US\$350,000.00. From this amount, (US\$135,000) was spent during the launch of the Fund in 2006.
70. During the Accra Summit, the Heads of State of the AU decided that the Trust Fund be frozen and that the sum of US\$350,000 which was considered to have been paid into the account of the Funds, be entered in the books of PAP, but which, in reality was not paid. In fact only GTZ deposited 200 thousand Euros into the Fund as soon as it was launched promising a second payment of 200,000 Euros on condition that the first payment is exhausted and proof of expenditure is produced. Other small contributors also made deposits to the Fund.
71. At the Sharm El-Sheik Summit, the Assembly decided to unfreeze the Trust Fund. On the express instruction of the President of PAP, Dr Mongella PAP deposited the remaining contribution of PAP to the amount of US\$200,000 because the launch of the Fund had cost about US\$150,000.00.



72. With regard to expenses undertaken by the Fund to support the activities of PAP, the following information was brought to the attention of the Ad hoc Committee:

- US\$125,000 was requested from the Funds to finance PAP seminar on the harmonisation of Regional Economic Communities in Yaounde on 08 and 09 September 2008; this amount has not yet been fully paid back to PAP;
- US\$207,000 was requested for the retreat held by PAP in Dar es Salaam from 16 to 24 January 2009. The Fund has reimbursed this money to PAP.
- The Fund was requested to finance election observer missions in Algeria and South Africa to the amount of US\$352,546.00. The Chairperson of Board of Trustees had said there was only US\$93,000 and consequently he could only put US\$70,000 at the disposal of PAP. The rest was to be used in the operations of the Fund. The PAP had received US\$70,000 although the activities in question were not undertaken because of insufficient financial resources.

73. It is worth noting that the Fund has an account with "NEDBANK" and the Chairman Mr. Chiti is the sole signatory to the account following the resignation of Mr Mathews Phosa. The Legal counsel informed the Ad hoc Committees that the Trust Fund did not have appropriate financial documents because there was no accounting system in place.

74. After the Fund was frozen by the Accra Summit and in the face of lack of resources, the Fund had cancelled the lease agreement relating to its Headquarters in Sandton; PAP then offered an office within its premises to host its Headquarters.

75. The Ad hoc Committee met in August to finalise its Report and meet with the Board of Trustees of the Fund. Mr Chiti had indicated to the Acting Clerk that he would travel to Midrand to meet with the Committee on 3 August 2009. Mr Chiti never turned up however. He sent the Legal Counsel to the Committee with a letter saying he was committed in his country with his political party. The Legal Counsel submitted to the Committee "Cash Receipts and



Disbursement Schedule” prepared by some accountant and is attached hereto.

76. The Cash Receipts and Payments Schedule raises more questions than answers. For example, inter account transfers which are the dominant mode of withdrawal from the account are not explained as to who the beneficiaries are. Neither the purpose nor the authority for withdrawing such moneys could be explained. Efforts by the Ad hoc Committee to obtain authentic bank statements were in vain.

### **Internal Auditor**

77. PAP has a structure tasked with carrying out the internal auditing of the accounts of PAP. This officer reports directly to the Bureau.
78. When interviewed, the Internal Auditor said that the observations he presents to the Bureau are not taken into account. On the contrary, open threats have been made to him with regard to the renewal of his contract.

He further said that:

79. The activities of the PAP are supposed to be guided by the existing and pertinent decisions of the Assembly of the AU and the Executive Council. The Internal Auditor gave a few examples to back his statement as follows:
- (i) The payment of communication allowance to some staff members, in addition to the purchase of mobile telephones for the Clerk and Deputy Clerks with roaming facilities and the payment of extra charges to VODACOM when making calls. The purchase of mobile telephones and the contract with VODACOM were not authorized by the Bureau. (According to the report submitted to the Bureau in February 2008).
  - (ii) Questioned by the Ad hoc Committee on certain assertions made by the Internal Auditor, the Acting Clerk confirmed the purchase of mobile phones for the Clerk and the two Deputy Clerks. He added that mobile phones were also bought for each Bureau member. The decision for such purchases were not decided by the Clerk. Besides, the Clerk also benefited



from roaming facilities in addition to the monthly allowance of US\$200. The Deputy Clerks also benefited from the monthly allowance of US\$150 and 315 Rands for their communication. The Director of the Bureau and the Personal Assistant of the President also benefited from US\$150 and US\$100 respectively as monthly communication allowance.

- (iii) The Bureau had occasionally requested the members of Parliament to carry out certain services with respect to financial activities under their supervision; this has raised the question of conflict of interest.
- (iv) For example, the appointment of the former Chairperson of the Committee on Financial and Monetary Affairs (CFMA), Honourable Temple, to monitor the finances of the PAP. The Auditor had given his opinion on the matter which was sent to the former President of PAP.
- (v) In the same vein was request made by the former President for her to be paid a transportation allowance for her household furniture in December 2008 to the amount of US\$16, 167.20 claiming that the South African Government had provided her a new residence and she needed to transport her household furniture from Tanzania to South Africa. However, the residence put at the disposal of the President of PAP by the South African Government is furnished. The extra furniture that the residence needs is provided by PAP.
- (vi) Furthermore, on 26 May 2009, the former President of PAP is reported to have written a letter to the Acting Clerk of the Parliament requesting money to cover transportation costs for her to transport her personal belongings to Dar es Salaam. She had submitted a quotation for Maritime Fret to the value of 150,000 South African Rand. On 29 May 2009, she is reported to have received the equivalent in American dollars (US\$17,045.45). The pro-forma invoice was not in Dr. Mongella's name which was presented.
- (vii) Besides, several processes of recruitment of consultants were done in disregard for the procedures in force at the AU. This remark was brought to the



attention of the Bureau in the internal audit report of July 2007.

(viii) According to the Internal Auditor, the reports states in its paragraph 47 " Apart from the limited functions of the Human Resource Departments/Unit in the selection process, the Administration does not take into account the selection/recruitment procedures in force during the recruitment of consultants/experts; for example:

- Experts' contracts are not advertised;
- The selection criteria used are not known".

Paragraph 48, states "*When we despise established procedures, processes and criteria in the recruitment of consultants,/experts, there is likely to be lack of transparency and abuse.*"

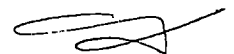
Paragraphs 49 and 53 are reproduced below:

49. *The conditions of service and the remuneration system of all consultants and experts employed by the AU, without taking into account the fact that they are paid from the funds allocated to the established posts or from extra-budgetary funds, are governed by the conditions of service and remuneration system as set out in Circular NO AD/FIN/ 75/ 3656 of 3 June 2004.*

50. *At the Pan-African Parliament (which is an organ of the AU), the conditions of service and the remuneration systems of consultants are not based on those of the AU.*

51. *Besides, it was noted that the remuneration of consultants and experts were not based on any criteria/directives approved either by the Bureau or the Parliament.*

52. *Whereas the ceiling for salary payable to a consultant/ expert by the AU (in accordance with the Circular quoted in paragraph 49 above) is fixed at US\$ 8,902.89 for New York, PAP Administration had paid consultants amount ranging from US\$380 per day, being US\$11,400 per month to US\$680 per day, being*



*US\$20,400 per month. These amounts are far above those authorised by the AU.*

*53. The disregard by the Administration for practices in force at the AU in fixing the remuneration and conditions of service of consultants/experts can be considered as fraud.*

80. The Internal Auditor finally noted that there is no Audit Committee within PAP despite the recommendations he had made to the Bureau in July 2007. An Audit Committee whose composition and mandate shall be determined by the Bureau of PAP should be set up.

### **Health and Life Insurance**

82. Business travel insurers "Travel G8WAY" of AIG engaged by PAP in 2008 to provide its services to PAP members, was found to be defunct. The health insurance premiums paid by members during PAP missions are now directly covered by PAP.

## **2. Appraisals and Challenges**

83. The Ad hoc Committee noted:
- (i) Budgetary forecasts for PAP appear to be unreliable given that the procedures and regulations of the Parliament do not conform to the provisions of the AU.
  - (ii) Benefits are awarded without any legal backing both to the staff as well as to the Bureau and other officials within PAP Structures. This is one of the causes of the drastic reduction of the budget of the PAP of more than 20% for the 2009 Financial Year.
  - (iii) Regulations required to ensure financial discipline and transparency are not adhered to. (See the Internal Auditor's statement).
  - (iv) Ineffective in the self-regulatory system and prevention of drifts in the administrative and financial management of PAP.





- (v) Lack of transparency that surrounds the Trust Fund and which is manifested by the total exclusion of PAP Administration in the management of this Fund. Although the Fund was established by PAP, its operation and management were carried out completely on the sidelines of PAP. This situation makes it difficult for the Ad hoc Committee to obtain the necessary information, within the deadline that it was initially given. This Fund is also characterized by the non-existence of an accounting system.

**VI. ADMINISTRATIVE DOMAIN: THE ADMINISTRATIVE STRUCTURE AND ISSUES RELATING TO THE STATUS OF PAP STAFF**

84. The Ad hoc Committee considered the following with regard to the administrative management, human resources and the positions provided for in the organogramme of the Institution: They are:

- The organizational structure of PAP;
- The issue of the non renewal of the contracts of the Clerk and his Deputy (Mr. Murumba Werunga and Dr Samuel Efova Mbozo'o);
- The issue of staff who have been specially recruited for the PAP President's office;
- Staff issues relating to post adjustment, staff promotion, vacant positions and staff capacity building.

**1. Current status**

**The organizational structure of PAP**

85. PAP has an organizational structure that was adopted in 2004. This structure took into account the peculiarities of parliamentary business, needs of a consultative Parliament. The structure adopted in 2004 is not completely filled.
86. The recruitment committee set up by the Bureau and chaired by the then 2<sup>nd</sup> Vice President had concluded that



the newly proposed organizational structure was not appropriate and that the structure adopted in 2004 should be forwarded to the AU Commission within the framework of the implementation of the decision. The Acting Clerk informed the Ad hoc Committee that the structure in force at PAP has been transmitted to the AU Commission for approval as requested by the decision.

87. The Assembly of the Union had requested in its Decision 455 that the organizational structure of PAP be sent to the Commission before the July 2009 Summit.
86. There is however an urgent need for PAP to undertake a thorough review of its institutional arrangements to take account of key AU decisions, the current organisational inefficiencies and the ongoing review of the Protocol.

**The issue of the non renewal of the contracts of the Clerk and the Deputy Clerk**

89. The Ad hoc Committee considered the complaint lodged by the Clerk Mr. Werunga Murumba and the Deputy Clerk Dr. Mbozo'o Samuel Efoa whose contracts were not renewed in January 2009 by the Bureau of PAP.
90. In January 2006, Mr. Murumba Werunga and Dr. Samuel Efoa Mbozo'o were recruited as Clerk and Deputy Clerk respectively. At the expiration of their initial contracts, these two officers of the administrative structure of PAP were fired. According to the complaints of these two officers and from information gathered, it emerges that the non renewal of the contracts did not respect the rules in force.
91. Honourable Chief Charumbira, Chairperson of the Ad hoc Committee and Honourable Saleh Kebzabo, member of the Committee had been given the mandate by the new Bureau of PAP to contact these two former staff members in order to get and consider their views (disputes and complaints).
92. In accordance with Article 13 of the AU Staff Rules and Regulations, the initial appointment of the staff of PAP shall be based on a contract of specified duration (CSD) for a period of three years, of which the first twelve months shall be considered as a probation period. *"Your appointment will, in the first instance, be on contractual terms for a period of*



*three years, twelve (12) months of which should be considered as probationary period. If at the end of the three years contract, your services are deemed satisfactory, the contract shall be renewed for a period of two years."*

It is instructive to note that paragraph 4 of the Letter of Appointment quoted above repeats verbatim, without change, the provisions of Article 13(a)(b) of the AU Staff Regulations.

93. Mr. Murumba Werunga claimed that the Bureau of PAP did not conduct any performance appraisal of his skills before the required end of the contract when deciding not to renew his contract; a decision he considers as arbitrary and abusive.
94. The two former staff members consider the non renewal of their contracts as a settlement of scores and that it is contrary to the provisions which govern the management of human resources at PAP.
95. The non renewal of these contracts was preceded by vacancy announcements. Both Mr Werunga and Dr Mbozo submitted applications for the post of Clerk.
96. The two former staff members both received their due severance pay.
97. During the August the Acting Clerk presented to the Ad hoc Committee appeal documents to the AU Tribunal by both Mr Werunga Murumba and Dr Mbozo. The AU Tribunal secretary is seeking a response from PAP being the respondent in both caes.

#### **The issue of staff who have been specially recruited**

98. The Human Resource Officer informed the Ad hoc committee that certain members of staff, members of the office of the President of PAP were recruited as special appointment by the President of PAP. Such staff are not subjected to the normal recruitment procedures such as interviews. The Director of the Bureau and the Personal Assistant are such examples. In this category also is the Domestic staff working at the residence of the President.



99. According to the Human Resource Officer these staff members whose recruitment is at the discretion of the President is also applied within the AU Commission. Their contracts will be basically linked to the mandate of the Chairperson of the AU Commission and would be automatically be terminated at the end of the Presidents mandate.
100. With regard to Special appointments at the AU the following situation obtains;

Special appointment position in the AUC

- (i) Director of the Bureau
- (ii) Personal Attaché
- (iii) Special Assistant
- (iv) Private Secretary
- (v) Domestic Staff (in the official residence)

*The Case of the Director of the Bureau at PAP*

- Ms Martha Luleka was first appointed on Short Term Contract as Personal Assistant, P2 Step 5, to the President of PAP in October, 2004;
- She was appointed as Director of Bureau, P5 step 5 on May 14, 2005;
- The Director of the Bureau was never subjected to the regular process of recruitment of staff of the African Union/PAP;
- She was offered an initial contract of three years renewable;
- Article 13 (b) of the Staff Rules and Regulation states that the initial contract of a staff may be renewed for another period of two years if the services of the staff member are deemed satisfactory.

However, the current contract of the Director of the Bureau also was renewed for three years outside the office of the Clerk and Human Resource Officer.



**Staff issues relating to the organizational structure, post adjustment, staff promotion, recruitment and vacant positions and staff capacity building**

**Post adjustment**

101. From 2004 until 2006, the post adjustment paid to the administrative staff of PAP was 40% of the basic salary. In April 2006, the Secretariat submitted a proposal to the Bureau whereby 58% of the basic salary should be applied in accordance with the rate in force in Guinea Conakry where an AU Office is based. This proposal was accepted by the Bureau.
102. In July 2008, the Secretariat received a circular note from the AU Commission on the harmonisation of the remuneration policy of the Union. In this circular, staff of professional categories transferred to Brussels, Geneva, New York and Washington DC were notified that the calculation of the post adjustment allowance will be based on the total amount of their basic salary and housing allowance. A proposal was made to the Bureau to apply this calculation to the staff of PAP. The Bureau of PAP set up a committee composed of Mr. Temple, then Chairperson of the Finance and Monetary Affairs Committee, the Clerk, Mr Murumba Werunga and Mr. Morad Boularaf, Acting Clerk to consider this issue. The committee was not able to sit because of the proceedings of the 9th Ordinary Session of PAP.
103. However, Mr. Temple who was tasked with considering the request of the staff had in his report, proposed to PAP, the implementation of the Circular. At the time of its implementation, the circular was considered null and void at PAP.
104. In the aftermath of a threat by the staff to go on strike during the visit of President Jakaya Mrisho KIKWETWE to PAP, the President and the 4th Vice-President met with the staff and instructed the Deputy Clerk in charge of Finance and Administration to pay this allowance to the staff.
105. The staff thus received these allowances retroactively from January 2007 to September 2008. The total amount paid was about USD600,000.00.



106. During the consideration of the 2009 PAP budget, the PRC said that post adjustment based on the calculation of the total of basic salary and housing allowance only applies to staff of the Union transferred to Brussels, Geneva, New York and Washington DC.
107. At the 12th Ordinary Session of the AU Assembly held in January-February 2009, the Assembly decided that PAP should stop applying the 58% rate to its staff members when their contracts expire in 2009 and apply the 40% rate in accordance with the AU Financial Rules and Regulations.
108. The Acting Clerk attested to the fact that he has started applying this measure to staff members whose contracts have been renewed.
109. Staff members have addressed a request to the AU Commission to review the situation.
110. At the 13<sup>th</sup> Ordinary Summit of the AU of July 2009, the decision was taken to increase the post adjustment allowance from 40% to 57% of the basic salary for PAP staff.

### **Staff promotion**

111. PAP staff members are considered to be classified according to the grades that correspond to their positions on the organizational structure.
112. This situation spurred other functionaries who were subsequently recruited to ask to be graded on the same categories with those who had been promoted and with whom they are supposed to be on the same category. The Bureau granted their request by promoting them within the space of less than a year.
113. The same persons who were recruited on the grade of P3 and promoted to the grade of P4 are advocating for the adoption of the new structure in which, the structures they are heading will be transformed into Divisions and they will consequently benefit from a new promotion into grade P5.





114. The Finance Committee had proposed a new post adjustment in the 2008 budget. This scale has never been considered and adopted by the Bureau and the Parliament.
115. Following these complaints, the former Chairperson of the Finance Committee Hon. Temple had recommended in his report to the Bureau that salaries should be paid according to the new scale that features on the budget. This recommendation was rejected by the Bureau.
116. Some staff members are paid based on the structure used to draw up the 2008 and 2009 budgets.
117. In the same report, it is proposed that allowances be paid to acting Heads of Sections who saw themselves acting as Heads of Divisions. The Bureau had approved the payment and the Secretariat had quickly implemented the decision without submitting the appointments of these acting Heads to the Bureau.
118. Realising that the Divisions were not approved and that it had not given mandate to any functionary to act as acting Head, the Bureau rescinded its decision to pay the acting allowance.

### **Staff recruitment and vacant positions**

#### *Recruitment of permanent staff and vacant positions:*

119. In accordance with the organizational structure adopted by the Bureau of PAP in November 2004 and by the Parliament during its 4th Ordinary Session, the needs in terms of human resources are 94. At the moment, the workforce is 44 employees. 50 positions are therefore vacant. Three Sections and three Divisions are not yet filled.
120. In 2008, 25 candidates who had undergone recruitment tests were selected. The new organizational structure should be approved by the AU for the recruitment of the 25 selected staff members.
121. The positions are:
- |                                     |   |
|-------------------------------------|---|
| (a) Head of Research Division: - P4 | 1 |
| (b) Personal Assistant: - P3        | 1 |

(c) Finance Officer: - P2	1
(d) Research Officer: - P2	3
(e) Assistant Clerk: - P2	5
(f) Assistant Administrative Officer: - GSA6	1
(g) Translator: - P3	4
(h) Research Assistant: - P1	3
(i) Assistant Accountant/Cashier: - GSA5	1
(j) Bilingual Secretary: - GSA4	3
(k) Driver: - GSB7	1
(l) Supplies and Procurement Clerk: - GSA5	1

**TOTAL** **25**

122. The AU should put the necessary financial means at the disposal of PAP for the recruitment of the 25 selected candidates after the adoption of the organizational structure.

123. The recruitment procedure at PAP consists of the following steps:

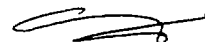
- Determining the positions to be filled;
- Publishing them on PAP's web site and notifying National Parliaments;
- Receiving applications;
- Short-listing 5 candidates per position for interview.
- Setting up a recruitment panel.

In addition to interviews, candidates for the position of translators took written tests.

Furthermore, special considerations were taken into account during the recruitment. These are:

- Geographical and gender balance which must be respected;
- In case of a tie, priority was given to candidates whose countries are not represented at the Secretariat.

124. The following points are worth mentioning: During the first interview, the recruitment panel put in place was composed of members of a private consultancy assisted by the 2nd Vice President and an envoy from the AU to conduct



interviews for short-listed candidates. During the second interview, the panel was composed of the Clerk, the two Deputy Clerks, the Director of Bureau and the Head of the Human Resource Section.

**Distribution of PAP staff by Region and Country**

125. Regional Distribution

NO	Professional category	REGIONS				
		North	West	East	Centre	South
1	Professional (P)	03	04	08	02	05
2	General Service (SG)	0	04	03	02	13
<b>3</b>	<b>Total</b>	<b>03</b>	<b>08</b>	<b>11</b>	<b>04</b>	<b>18</b>

126. Distribution per country is as follows:

NO	Regions	Countries	No. of staff
<b>1</b>	<b>Northern</b>	Algeria	01
		Egypt	01
		Libya	01
<b>2</b>	<b>Western</b>	Ghana	02
		Sierra Leone	01
		Benin	01
		Togo	01
		Côte d'Ivoire	02
		Nigeria	01
		<b>3</b>	<b>Central</b>
		Cameroon	03
<b>4</b>	<b>Eastern</b>	Tanzania	02
		Ethiopia	02
		Uganda	02
		Sudan	05
		<b>5</b>	<b>Southern</b>
		Botswana	01
		Mozambique	01
		South Africa	08
		Zimbabwe	02
		Zambia	05
		<b>TOTAL</b>	<b>44</b>

127. However, it is worth noting that Article 13 of the AU Staff Rules and Regulations stipulates. “the staff of the second category of Group II (Technical staff) and Group III (General Service & Administration are not taken into account during the calculation ion of the quota allocated to each member state”. These categories of quotas of staff allocated to regions or countries should therefore be subtracted.

### **Recruitment of service providers and support staff**

128. With regard to this issue, the Internal Auditor made the following statements:

*“The selection of the travel agency – Indo Jet Travel Conway – was not done in accordance with the normal procedure of award of tenders. (February 2009 Report): This travel agency was selected without;*

- *the involvement of the Protocol Service of PAP.*
- *an agreement which takes into account the interests of PAP.*

*The composition of the Committee of award of contracts is not clear and the award of contracts is not transparent.*

*The recruitment of close relatives of staff members to work as support staff during sittings and sessions of PAP, contrary to the Statutes and Rules and Regulations in force.*

*The recruitment of incompetent staff during Committee Sittings and Parliamentary Sessions.*

*Some members of the support staff are paid without doing anything during PAP’s sittings and sessions. There are cases of the recruitment of support staff who did not do any work but got paid.*

*Imbalance in regional and national distribution of support staff (February 2008 Report). This situation is still persisting despite the fact that the Bureau had expressed its concern over the matter”.*



## Staff capacity building

129. A training programme for staff members and Pan-African Parliamentarians has been elaborated by the Acting Clerk and the Head of the Human Resource Section.
130. It should be pointed out that three staff members had received financial assistance from PAP to undergo training which they themselves had looked for and identified on the Internet. The Acting Clerk has put an end to this practice this year.

## 2. Appraisals and challenges

### *The issue of non renewal of the contracts of the Clerk and the Deputy Clerk*

131. On considering the issue of the non renewal of the contracts of the Clerk and the Deputy Clerk by the Bureau of PAP, the Ad hoc Committee noted:
- That the contracts of these two staff members were not renewed by the Bureau of PAP without any regard for procedures and AU Rules. Indeed, according to the provisions of Article 12 paragraph 6 of the Protocol, it is PAP that appoints the Clerk and his two Deputies; but the non renewal of the contracts was decided upon without the Plenary of PAP being informed either before or after the decision. .
  - That it (the Committee) did not have the opportunity to gather the views of the out-going Bureau.
132. It is worth noting that this issue was tabled before the Committee on Rules by requests of the Clerk and his Deputy for its part, it had transmitted these requests to the former Bureau of PAP for the Bureau to express its opinion on the situation. But the Committee never received any feedback.
133. Investigations conducted by the Committee reveal that the non renewal of the contracts of these two staff members are quite complex and should be appraised in light of the AU Staff Rules and Regulations, the Protocol and the Rules of Procedure of PAP.



134. Given that PAP has been contacted by the AU Administrative Tribunal to respond to the Appeal by both Mr. Werunga Murumba and Dr. Mbozo expert legal advice should be sought. It is critical any legal advice should be based AU Staff Rules and Regulations as well as the Internal Rules and Regulations of the Administrative Tribunal
135. It is instructive that in most jurisdictions a matter before a Tribunal is subjudice. Therefore PAP can only advise members in plenary but may not debate it until concluded by the Tribunal.

**The issue of staff who have been specially recruited for the PAP President's office;**

136. It is obvious that the contracts attached to the office of the President of PAP who have been appointed by his discretion should be terminated at the end of the mandate of the President who appointed them.

**Staff issues relating to the organizational structure, post adjustment, staff promotion, recruitment and vacant positions and staff capacity building**

137. The Ad hoc Committee noticed that there are inconsistencies in the promotion of staff. The Rules and Regulations in force are not being respected in the promotion of junior staff. In any case, it is not normal that certain staff members who are recruited in a given position and on a given grade, find themselves, on the basis of the decision of the Bureau or the Clerk, at higher grades in violation of AU Rules and Regulations. In accordance with these Rules and Regulations, a staff recruited on GSA or even P1 cannot move to P2 or P3 without writing a test opened to all candidates. No diploma obtained before or after the recruitment of the staff can automatically lead to an adjustment on a higher category to that in which he/she was recruited. Any change of category should be as a result of an advertised recruitment test. All promotions of this sort have been carried out in violation of AU Rules in as much as the organizational structure has not changed. With these inconsistencies, staff recruited on GSA is reclassified in the professional category under the pretext that they have university diplomas. There have been distortions in the categories of classification for the same functions: examples of Committee Clerks. Collaborators recruited in this last





capacity on a lower category have found themselves on the same category as their superiors thus making subordination and the exercise of authority problematic. Staff issues deserve special attention from the Bureau of PAP in conformity with the Staff Rules and Regulations of the AU.

138. According to Article 13 of the Staff Rules the issue of regional balance concerning both permanent and support staff should be managed appropriately.
139. Employing relatives is proscribed by the AU Staff Rules and Regulations under Article 15.
140. The Parliament must commit itself in a training programme of administrative staff only according to its needs, any unplanned training by PAP should not have any financial implication on it. In any case, no staff members should go and look for his/her training and expect PAP to cover the cost.
141. Irregularities have been highlighted in the recruitment procedure of the 25 staff members which is on hold. Indeed there were manipulations during the selection process.

## **VII GENERAL CONCLUSION**

142. In terms of the evaluation carried out by the Ad hoc Committee, the major weaknesses that have been indentified in PAP's activities during the past five years has shown in the main:
  - (i) Mismanagement and lack of adherence to rules and procedures in the institutional, administrative and financial domains of PAP;
  - (ii) A deterioration in the general work climate within the institution due to the existence of nepotism and favouritism as a management method, to the exclusion of discipline, competence and merit as criteria for recruitment and promotion;
  - (iii) Gradual deterioration of relations with other organs of the AU with the resultant isolation of PAP from the former;

- (iv) A lack of synergy between PAP's activities and the programme of action of the AU Commission;
- (v) Vagueness and lack of transparency in the management of PAP, for example the Trust Fund, the giving of undue advantages and other irregularities brought to the attention of the Ad hoc Committee;
- (vi) A personality cult that translates into the tendency to display a lack of respect for members of parliament;
- (vii) A lack of confidence in PAP among partners.

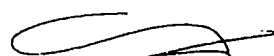
**143. In the light of these significant institutional weaknesses, the Ad Hoc Committee has formulated several specific and general recommendations.**

## **SPECIFIC RECOMMENDATIONS**

### **Institutional Domain**

#### **1. Recommendation relating to the consultative role of PAP**

144. In order to effectively implement the objectives of the Pan-African Parliament, the Ad hoc Committee proposes the following measures:
- (i) Establishment of a closer collaboration between PAP on the one hand, the African Union Commission and the other organs of the AU on the other, in order to create a synergy between these different organs;
  - (ii) Revision of the Strategic Plan based on the activities adopted in the Action Plan (2009-2012) of the AU Commission;
  - (iii) All Pan-African Parliamentarians should have a better knowledge of the functioning of the organs of the AU.
  - (iv) There should be a good synergy between the work plans of the Permanent Committees of PAP and the



Specialized Technical Committees of the Union in order to ensure a better coordination and a better interaction;

- (v) The Permanent Committees of PAP should familiarise themselves with the Conventions, Treaties and Protocols of the Union relating to their mandates and ensure that these instruments are signed, ratified and implemented by Member States and are popularized at continental, regional, national and grass-roots levels;
- (vi) The Bureau of PAP should call on the AU Commission, the Executive Council and the Assembly to officially request PAP to make an input or express its views on each major theme during the African Union Summit;
- (vii) The Bureau should draw up a detailed report on each Summit and the Decisions that are taken in order to enable Members of PAP to be in tune with the guidelines of the Assembly.
- (viii) The Bureau should ensure that the Committee on Rules submit the appropriate amendments on the Rules of Procedure of the PAP at the Plenary while awaiting the review of the Protocol.
- (ix) The reports of fact-finding and study missions of Permanent Committee should be considered at the Plenary.
- (x) The Bureau should give an account to PAP of the status of our external relations of all agreements signed with Parliamentary organs and Partners.
- (xi) It is advisable to carry out an evaluation of the policy of communication and promotion of the image of PAP in terms of options, measures taken and outcomes, and to present the conclusions of the evaluation to the Plenary for its input and adherence by the staff.
- (xii) With regard to translation and interpretation, it is also imperative to carry out an evaluation in terms of quality, human resources, cost and to look for alternative solutions. This evaluation should also be

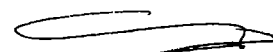


submitted to the Plenary of PAP for inputs and adherence by Parliamentarians.

- (xiii) The number of Committee clerks should be increased to at least five so that each of them services not more than two committees between sessions.

**2. Recommendations relating to PAP's relations with the Organs of the African Union, Regional Parliaments, National Parliaments and Development Partners**

145. In order to enable PAP to improve its relations with the different organs and implement its objectives, PAP should:
- (i) Organize meetings with the AU Commission in order to exchange views on the synergy that should exist between the functions of both organs. These meetings may be held during the first annual session of PAP;
  - (ii) Establish a climate of good governance between the PAP Bureau, the Commission, the PRC and other organs of the AU;
  - (iii) Invite African Heads of State or Ministers of Foreign Affairs to the ordinary sessions of the Pan-African Parliament in order to exchange views on the situations in countries and make recommendation;
  - (iv) Strengthen relations with African Regional and National Parliaments by organizing parliamentary days in order to better popularise the Institution in Africa
  - (v) Organize PAP missions to National Parliaments;
  - (vi) Have a network of correspondents in African countries to enable national media to disseminate the activities of PAP;
  - (vii) Invite African journalists to ordinary sessions of the PAP;
  - (viii) Undertake initiatives aimed at regaining the confidence of partners. In this domain an evaluation of each of these partners should be carried out in a transparency manner and taking into account the conclusions of





these evaluations. The opportunity to renew the mandate of parliamentarians tasked with monitoring partnerships such as TICAD IV, APKN, Africa Europe joint strategy should be appraised by the Bureau of PAP.

- (ix) Also undertake initiatives aimed at strengthening relations with other Continental Parliaments.

### **3. Recommendations relating on elections observation in Africa**

146. On this issue, the Ad hoc Committee recommends that the Bureau of PAP enters into discussion with the Commission and the PRC in order to make them understand that election observation is part of intrinsic functions of PAP. The necessary financial means should be put at the disposal of PAP in this regard. However the modalities of a coherent execution of these mission as may be collectively defined at the level of AU organs.

### **4. Recommendations relating to the review of the Protocol of The Pan-African Parliament**

147. Concerning this point, the Ad hoc Committee recommends that:

- (i) The Bureau include on the agenda of the next session of PAP, the re-consideration of the draft Protocol amended by the Permanent Committee on Rules as was adopted by the working group.
- (ii) The Pan-African Parliament should request that the consultant recruited by the African Union work in collaboration with it as provided for in Decision Ex.CL/459 (XIV).

#### **In the financial domain**

148. The Ad hoc Committee recommends:

- (i) It is in the interest of PAP to dispatch a high-level team to Addis Ababa to present and defend its budget. This team should be led by a Vice-President endowed, if need be, with a certain decision-making power in order to avoid that others should decide in the place

and against the interest of PAP, as was the case with the 2009 budget which was unceremoniously mangled;

- (ii) The Bureau should enter into negotiation with the members of the PRC and AU Commission in order to justify the legitimacy of certain allowances requested by PAP to ensure the efficiency of the operation of the organ. The rate of these allowances can be considered with them;
- (iii) Religiously abide by the decisions of the Executive Council and AU Financial Rules and Regulations (Decision 455 of the Executive Council). This requirement seems to be a prerequisite for any advocacy for a positive re-examination of AU decisions on PAP;
- (iv) Validation of the regularity of expenditures before funds are spent, production of quarterly reports on the weakness observed and bringing it to the attention of the Secretariat, the Bureau and the Audit Committee which will be established soon;
- (v) Shed full light on the operations and management of the Trust Fund and redefine the modalities of its operation and its administration in order to better harmonise it with PAP and to ensure transparency in its management;
- (vi) Examine together with the Legal Counsel appropriate measures that can be taken to safeguard the interest of PAP in relation with the Trust Fund;
- (vii) The report of the activities of the President of PAP should contain a report on the management of the Trust Fund;
- (viii) The report of the activities of the President of PAP should also contain a report on the management of other financial contributions received from partners.
- (ix) Implement the idea of the PAP President to set up an audit committee for PAP's accounts;



- (x) Systematically use a competitive system for engaging service providers: travel agents, suppliers, consultants; etc
- (xi) Diligently address the matter of health and life insurance for PAP members on mission to PAP or elsewhere.

### **Administrative domain**

#### **1. Recommendations relating to the non renewal of the contracts of the Clerk and the Deputy Clerk in charge of Legislative Business.**

149. Mindful of the sensitive nature of the issue, the Ad hoc Committee recommends to the Bureau of PAP:

- (i) Draw up an exhaustive report on the circumstances of the non renewal of the contracts of these two persons which should be presented at the Plenary for the decision of the Bureau to be endorsed or not. To this end, the Bureau should seek the opinions of eminent legal minds that have a mastery of the AU Staff Rules and Regulations in order for them to make suggestions to PAP and given their point of view to the AU Tribunal;
- (ii) Avoid a repetition of similar situations in future by scrupulously adhering to the provisions of Staff Rules and Regulations and parallelism in form which had governed the recruitment of these two staff.

#### **2. Recommendations relating to staff specially recruited to the PAP President's office**

150. Unless the President decides to keep them, the contracts of these staff shall terminate with the mandate of the former President without any procedure.

151. Due to the fact that the remuneration of this category of staff also refers to the categories provided for in the AU Staff Rules and Regulations, their profiles must be defined and



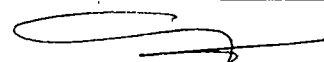
controlled in order that they correspond to the categories in which their functions are based.

152. Henceforth it should be made clear in the contracts of this category of staff that the duration of their contract may not in any case exceed the duration of the mandate of the President of PAP.

### 3. Recommendations relating to staff issues


153. The Ad hoc Committee recommends that the Bureau of PAP:

- (i) Engage the AU in order that the organizational structure of the PAP be diligently considered.
- (ii) Appoint a Vice-President who in collaboration with the Clerk will ensure that the AU diligently approves the organizational structure of PAP with the other necessary correspondences to be done with regard to positions at the level of Addis Ababa.
- (iii) **After the adoption of the structure by the AU, staff recruitment should be carried out taking into account the category to which each staff has been recruited. If a staff has been recruited as a Clerk, he/she will be reclassified to the corresponding category; if he/she is recruited as GSA, he/she will be reclassified in this category. Any change of category shall be subject to a test which should be advertised, even if the staff participating in it can benefit from a preferential coefficient in real value.**
- (iv) Ensure the respect of staff probation period which should be followed by an evaluation;
- (v) Concerning the 25 positions to be filled, the Ad hoc Committee suggests that **the selection procedure of candidates be carried out again after the adoption of the structure for the sake of transparency and in order to better match the profiles with the categories and the positions to be filled, and to ensure respect for regional balance in the absence of country balance**



## GENERAL RECOMMENDATIONS

154. All these specific recommendations can only lead to an effective of the PAP if the following measures are implemented, the final objective being to build a solid institution in the prospects of a Parliament having legislative powers.
- (i) Ensure compliance of the rules and practices of PAP with the texts of the AU;
  - (ii) Adhere to Rules and Procedures:
    - Internal Rules and Procedures of PAP
    - Administrative and Financial Rules and Procedures
    - AU Rules and Procedures
  - (iii) Eradicate favouritism, nepotism and clientelism as staff management rules. Only take into account merit and competency in the strict respect of the rules.
  - (iv) Institute transparency as the management principle within PAP.
  - (v) Create a synergy between the activities of PAP with the programme of actions of AU Commission.
  - (vi) Abolish personality cult within PAP. In this regard the respect for Parliamentarians is crucial and the plan of the President to work collectively with Vice Presidents in team spirit is welcome.
  - (vii) Avoid considering the Bureau as an isolated institution from the other Parliamentarians and adopt an all inclusive management method.
  - (viii) Normalise PAP relations with the other organs of the AU accordingly and in mutual respect taking into account the peculiarity of PAP.
  - (ix) Carry out further investigation in order to shed all light on the management of the Trust Fund and other financial irregularities.

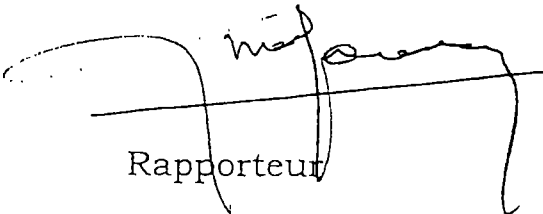


- (x) Raise the level of competency of the staff to be recruited.
- (xi) In order to ensure transparency, present the report of the Ad hoc Committee to the Plenary session of PAP.

Midrand

05<sup>th</sup> August 2009

For the Ad hoc Committee.

  
Rapporteur

  
Chairperson

Ismail TIDJANI-SERIOS

Hon. Chief Chamberlain F.Z.



PAN-AFRICAN PARLIAMENT



PARLEMENT PANAFRICAIN

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PARLAMENTO PAN-AFRICANO

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**PROTOCOL TO THE TREATY ESTABLISHING THE  
AFRICAN ECONOMIC COMMUNITY RELATING TO THE  
PAN-AFRICAN PARLIAMENT**

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*Revised version September 2009*

## **PREAMBLE**

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

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

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

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

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

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

**Further considering** that Articles 5 and 17 of the Constitutive Act of the African Union and Articles 7 and 14 of the Treaty establishing the African Economic Community provide for a Pan-African Parliament of the Community, whose composition, functions, powers and organization shall be defined in a related Protocol;

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

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

**Considering** that by the Algiers Declaration (AHG/Decl. 1 (XXXV)) of 14 July 1999 the Assembly reaffirmed its faith in the African Economic Community;

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

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



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

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

**HEREBY AGREE AS FOLLOWS:**

## **ARTICLE 1**

### **Definitions**

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

“**AU**” means the African Union

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

"**Bureau**" means the Bureau of the Pan-African Parliament and it is composed by the President and Vice-Presidents of the Pan-African Parliament;

"**Clerk**" means the Clerk of the Pan-African Parliament;

“**Deputy Clerk**” means the Deputy Clerk of the Pan-African Parliament;

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

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

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

"**Deputy Clerk**" refers to the person assisting the Clerk of the PAP;

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

"**Member State**" means a member State of the African Union;

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

“**Pan-African Legislative Act**” means the Decision submitted by the Chairperson of the Commission, considered by the Pan-African Parliament, approved by the Assembly in accordance with the provisions of this Protocol and having the force of a law.

"**President**" means the Member of the Pan-African Parliament elected to conduct the business of Parliament in accordance with Articles 18 and 20 of this Protocol;

“**Chairperson of the Commission**” means the Chairperson of African Union Commission

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

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

## **ARTICLE 2**

## **Establishment of the Pan-African Parliament**

1. Member States hereby establish a Pan-African Parliament the composition, functions, powers and organization of which shall be governed by the present Protocol.
2. The Pan-African Parliamentarians shall represent all the peoples of Africa.
3. The Pan-African Parliament is the legislative organ of the African Union, whose members are elected by universal adult suffrage. However, until such time as the Member States decide otherwise by an amendment to this Protocol, the Members of the Pan-African Parliament shall be elected or nominated as provided for in Articles 4 and 5 of this Protocol.
4. The mandate of the legislature of the PAP shall be for a period of 5 years.

### **ARTICLE 3**

#### **Objectives**

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

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

### **ARTICLE 4**

#### **Composition**

1. Until the Assembly decides otherwise, the Member States shall be represented at the PAP by an equal number of MPs.
2. Each member State shall be represented in the Pan-African Parliament by 5 (five) members, of whom at least two (2) must be from either sex.
3. The representation of the each Member State must reflect the diversity of the political creeds in each National Parliament or National Legislative Body.

### **ARTICLE 5**

#### **Election, Tenure and Vacancies**

1. The Pan-African Parliamentarians shall be elected or designated by the respective

National Parliaments or any other deliberative organs of the Member States, from among their members.

2. The duration of the mandate of any Pan-African parliamentarian shall be linked to that of his/her mandate in his/her parliament or any other national legislative organ.

3. The term of a Member of the Pan-African Parliament shall, in any case, cease upon the termination of the legislature of the Pan-African Parliament.

4. The seat of a Member of the Pan-African Parliament shall become vacant if he or she:

- a) dies;
- b) resigns in writing to the President;
- c) is unable to perform his or her functions for reasons of physical or mental incapacity;
- d) is removed on grounds of misconduct;
- e) ceases to be a Member of the National Parliament or other deliberative organ;
- f) is recalled by the National Parliament or other deliberative organ; or
- g) withdrawal or suspension of the State of origin of the MP from the AU;
- h) dissolution of his/her National Parliament or any other national legislative organ.
- i) accepts an incompatible function.

#### **ARTICLE 6**

##### **Vote**

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

#### **ARTICLE 7**

##### **Incompatibility**

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

#### **ARTICLE 8**

##### **Privileges and Immunities of Pan-African Parliamentarians**

1. The Pan-African Parliamentarians, while exercising their functions, shall enjoy in the territory of each Member State the immunities and privileges extended to representatives of Member States under the General Convention on the Privileges and Immunities of the OAU and the Vienna Convention on Diplomatic Relations.

2. Without prejudice to Paragraph (1) of this Article, the Pan-African Parliament shall have the power to waive the immunity of a member in accordance with its Rules of Procedure.

#### **ARTICLE 9**

##### **Parliamentary Immunities**

1. The Pan-African Parliamentarians shall enjoy parliamentary immunity in each Member State. Accordingly, a member of the Pan-African Parliament shall not be liable to civil or criminal proceedings, arrest, imprisonment or damages for what is said or done by him or her within or outside the Pan-African Parliament in his or her capacity as a member of Parliament in the discharge of his or her duties.

2. Without prejudice to Paragraph (1) of this Article, the Pan-African Parliament shall have the power to waive the immunity of a member in accordance with its Rules of Procedure.

#### **ARTICLE 10**

##### **Allowance**

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

#### **ARTICLE 11**

##### **Legislative Functions and Powers**

The Pan-African Parliament shall be vested with legislative, consultative and oversight powers:

#### **ARTICLE 11-2**

##### **Legislative Powers**

The legislative powers of the Pan-African Parliament shall be exercised through the consideration and adoption of Pan-African Legislative Acts (PLA) in the following domains:

1. Democracy, good governance and human rights
2. Promotion of gender equality
3. Free circulation of persons and goods at the continental level;
4. AU citizenship;
5. Mass and trans-continental immigration and emigration;
6. Youth and sport;
7. Education;
8. Scientific and technological research;
9. Public health;
10. The environment;
11. Development of agriculture and animal breeding;
12. Energy network inter-connection;
13. The means of trans-continental communication;
14. Telecommunications and inter-connection at the continental level
15. Infrastructure
16. Information and Communication Technologies (ICT).

These legislative powers shall also be exercised by:

- Voting of the budget of the African Union
- Ratification of AU Treaties and Agreements.



## Article 13

### **Consultative and Oversight Powers**

#### **1. Consultative Powers**

Under its consultative powers, the Parliament may:

- 1.1 Examine, discuss or express an opinion on any matter, either on its own initiative or at the request of the Assembly or other policy organs and make any recommendations it may deem fit relating to, inter alia, matters pertaining to respect of human rights, the consolidation of democratic institutions and the culture of democracy, as well as the promotion of good governance and the Rule of Law.
- 1.2- Make recommendations aimed at contributing to the attainment of the objectives of the AU and draw attention to the challenges facing the integration process in Africa as well as the strategies for dealing with them.
- 1.3- Call on the officers of the AU to attend its Sessions, to make presentations or assist it in the discharge of its duties.
- 1.4- Ensure the promotion of the programmes and objectives of the AU in the constituencies of Member States.
- 1.5- Promote the coordination and harmonisation of policies, measures, programmes and activities of Regional Economic Communities and African Parliamentary Fora.
- 1.6- Propose to the Council and the Assemble the size and nature.

#### **2- Oversight Powers**

- 2.1- The oversight powers of the Pan-African Parliament shall be exercise through:
  - 1) Fact-find inquiry missions
  - 2) Observer mission;
  - 3) Calling out to the Commission;
- 2.2- PAP may call out to the Commission on the execution of an activity, the Implementation of a project of the Community, AU position and on any current issue affecting the Continent.  
The Commission shall respond within 30days; It may do so either in writing or by oral communication to the Plenary of PAP when it is session.

#### **3-Other Powers**

The Pan-African Parliament shall discharge all the duties that the Assembly shall deem necessary to assigned to it.

## Article 14

### **Legislative initiative**

1. The Pan-African Legislative Act is a legal instrument of the AU with general application, adopted according to the legislative procedure provided for in this

Protocol; it shall have a supra-national magnitude; it is binding in its entirety and shall be directly applicable in each State Party.

2. During the First Ordinary Session, the Commission shall present its annual legislative programme to the PAP. This programme may be completed in the course of the financial year.
3. The onus of Pan-African Legislative Acts shall rest on the Commission; however, the Pan-African Parliament may, by voting a Motion, call upon the Commission to introduce a Draft Pan-African Legislative Act in the PAP, which would be part of its annual legislative programme. The Commission shall have three (3) months to take action.

## **ARTICLE 15**

### **Legislative procedure**

1. The Pan-African Legislative Acts may not be enacted except in the legislative domains listed in Article 12 of this Protocol. The following procedure relating to them shall be applicable for their adoption.
2. The Commission, on its own initiative or at the request of the Pan-African Parliament, shall present a Draft Pan-African Legislative Act to the PAP. The PAP shall adopt the Draft Act as is or shall amend it by an absolute majority vote of its members present and voting.
3. The Act, having been examined by the PAP, shall be transmitted to the Commission, which shall refer it to the Assembly, along with any views it may have on the amendments.
4. The Pan-African Legislative Act shall be deemed to have been adopted if the Assembly approves it by a simple majority of its members.
5. The Assembly may not reject an amendment from the PAP unless there is a qualified majority of 2/3 of its members. In such a case, the Act shall be referred back to the PAP with useful information on the reasons for rejection of the amendment for a second reading.
6. At the second reading, taking into account the information provided by the Assembly, the PAP may:
  - i) ratify the Act as adopted by the Assembly by simple majority vote; in this case the Act shall be deemed to have been adopted;
  - ii) reject the Act as referred by the Assembly, by a qualified majority of 2/3 of PAP members; in this case, the Act shall not be adopted.
7. If a qualified majority is not attained during the vote at the PAP, the Act as referred back by the Assembly shall be deemed to have been adopted.

## **ARTICLE 16**

### **Voting of the budget**

1. Voting the Budget shall constitute one of the items in the annual legislative programme submitted to the PAP by the Commission.
2. Before 31 July of each year, the Executive Council shall decide on the general guidelines for developing the AU Budget for the following year and shall instruct the Commission to disseminate them to each organ of the Union.
3. The PAP shall adopt its Budget within the limits of these guidelines and shall send it to the Commission, which shall integrate it into the general Budget of the AU, of which it shall constitute one component.
4. The Draft AU Budget shall be submitted to the PAP by the Commission within the first half of October.
5. The Pan-African Parliament shall, during its Second Ordinary Session, give a ruling on the Draft AU Budget after consideration of the Commission's report on the state of implementation of the Budget for the current financial year and its report on the forecasts of the trend of contributions by Member States.
6. The PAP shall have the right of amendment of the Draft Budget, but the Assembly may disregard such amendment by a qualified majority vote of 2/3 of its members.
7. In any case, no amendment by the PAP may increase the expenditure of the AU without prior identification of resources to offset such expenditure.
8. Should the PAP not give a ruling on the Draft Budget submitted to it during its Second Ordinary Session, the Budget shall be deemed to be final.

## **ARTICLE 17**

### **Ratification of Treaties and Agreements of the African Union**

1. The procedure for ratification by the PAP shall be applicable to the Treaties and Agreements concluded by the AU.
2. The provisional applications for ratification shall be submitted to the PAP by the Commission accompanied by the Treaties and Agreements relating to them.
3. The PAP shall vote the ratification in its original state, but it may make a request for additional documents and explanations to inform its decision.
4. On no account may the PAP alter the wording of a Treaty or an Agreement that are the subject of a provisional application for ratification.
5. The vote of the PAP shall be established by a simple majority of members present and voting.
6. In the event of rejection of the ratification by the PAP, the Treaty or Agreement shall

be ratified according to the constitutional procedures in force in the States Parties and the methods determined by each instrument.

7. The Treaties and Agreements ratified by the PAP shall be transmitted with the Pan-African Legislative Act on ratification to the Chairperson of the Commission who shall notify Member States of them. They shall enter into force thirty (30) days after notification.

## **ARTICLE 18**

### **Rules of Procedure and organization of the Pan-African Parliament**

1. The Pan-African Parliament shall adopt its own Rules of Procedure on the basis of a two-thirds majority of all its members.
2. The Pan-African Parliament shall elect, at its first legislature sitting, by secret ballot, from among its members and in accordance with its Rules of Procedure, a President and four (4) Vice Presidents representing the Regions of Africa as determined by the AU. The election shall, in each case, be by simple majority of the members present and voting.
3. **The terms of office of the President and the Vice-Presidents of the Bureau shall be two and a half years renewable once**, except upon the termination of their respective terms at the National Parliaments or deliberative organs which have elected or designated them.
4. **The terms of office of members of the Bureaux of the other organs of the PAP shall be two and a half years non-renewable**, except upon the termination of their respective terms at the National Parliaments or deliberative organs which have elected or designated them.
5. The Vice-Presidents shall be ranked in the order of First, Second, Third and Fourth Vice-President, in accordance with the result of the vote and shall stand in for the President by rotation.
6. In case of a vacancy in the Office of a member of an organ of the PAP during their term of office, the person elected in his/her place shall complete his/her term, which may be renewed once.
7. The Bureau shall be composed of the President and the Vice-Presidents.
  - i) The Bureau, under the leadership of the President and subject to the guidelines issued by the PAP, shall be responsible for the management and administration of the affairs and property of the Pan-African Parliament and its organs.
  - ii) In the discharge of its duties, the Bureau shall be assisted by the Clerk and his/her Deputy Clerks of the Pan-African Parliament.
8. The Pan-African Parliament shall appoint a Clerk, two Deputy Clerks and such other staff and functionaries as it may deem necessary for the proper discharge of its functions; it may, by regulations, set their terms and conditions of service in



accordance with the relevant AU practice as appropriate, taking into account the specificities linked to the operation of a continental Parliament.

9. The President shall preside over all Parliamentary proceedings except those held in committee and, in his or her absence, the Vice-Presidents shall act in rotation, in accordance with the Rules of Procedure which shall also deal with the powers of the person presiding over Parliamentary proceedings.
10. The Office of the President or Vice-President shall become vacant if he or she:
  - a) dies;
  - b) resigns in writing;
  - c) is unable to perform his or her functions for reasons of physical or mental incapacity;
  - d) is removed on grounds of misconduct;
  - e) ceases to be a Member of the National Parliament or other deliberative organ;
  - f) termination of his/her term of office in the National Parliament or legislative organ which elects or designates him/her;
  - g) is recalled by the National Parliament or other deliberative organ; or
  - h) ceases to be a Pan-African Parliamentarian in terms of Article 5 above of this Protocol.
  - i) dissolution or suspension from the parliament or national legislative organ.
11. Removal on the grounds stipulated in 8 (c) or (d) above shall be on a motion to be decided on by secret ballot and supported at the end of debate by two-thirds majority of all the Pan-African Parliamentarians. In the case of removal on the grounds stipulated in 8 (c), the motion shall, in addition, be supported by a medical report.
12. A vacancy in the Office of the President or Vice-President shall be filled at the sitting of the Pan-African Parliament immediately following its occurrence.
13. The quorum for a meeting of the Pan-African Parliament shall be constituted by a simple majority.
14. Each MP of the PAP shall be entitled to a vote.
  1. The Decisions of the Pan-African Parliament shall be taken by consensus or, in its absence, by a majority of 2/3 of all voting members present.
  2. However, the matters related to procedure, including the question of whether a matter is one of procedure or not, shall be decided by a simple majority of the voting members present, unless otherwise stipulated by the Rules of Procedure.
  3. In the event of a tie, the President of the Session shall have a casting vote.
15. The Pan-African Parliament may establish such committees, as it deems fit, for the proper discharge of its functions and in accordance with its Rules of Procedure.

**ARTICLE 19**  
**Oath of office**

1. At its first sitting, after the election and before proceeding with any other matter, the Pan-African Parliamentarians shall take an Oath or make a Solemn Declaration which shall be set out as an Addendum to this Protocol.
2. The Parliamentarian shall take an Oath of Office or make a Solemn Declaration once more if he/she is re-elected or reappointed into his/her the National Parliament or any other deliberative organ to sit at the Pan-African Parliament.

## **ARTICLE 20**

### **Sessions**

1. The inaugural session of each legislature shall be convened by the Clerk of the Pan-African Parliament.
2. The election of the President of the pan-African Parliament shall be presided over by an Ad hoc Committee that shall be constituted by five (5) members, each being an elected representative of a Caucus.
3. The President-elect shall preside over the elections of Vice-Presidents.
4. The Pan-African Parliament shall meet in ordinary session twice a year, within a period to be determined in the Rules of Procedure. Each ordinary session may last up to one month.
5. The Bureau, the Assembly, the Council or thirty (30) Pan-African Parliamentarians from at least ten (10) Member countries of the AU and from at least three (3) regions, may, by written notification addressed to the President, request an Extraordinary session. The request shall provide a motivation for and details of the matters to be discussed at the proposed Extraordinary session. The President shall convene such a session which shall discuss only the matters stipulated in the request. The session shall end upon exhaustion of the agenda. In any case, the duration of an Extraordinary Session shall not exceed ten days.
6. The proceedings of the Pan-African Parliament shall be open to the public, unless otherwise directed by the Bureau.

## **ARTICLE 21**

### **Budget**

1. The annual budget of the Pan-African Parliament shall constitute an integral part of the regular budget of the AU.
2. The budget shall be drawn up by the Pan-African Parliament in accordance with the Financial Rules and Regulations of the AU.

## **ARTICLE 22**

### **Seat of the Pan-African Parliament**

The seat of the Pan-African Parliament shall be located in the Republic of South Africa. . However, the Assembly may transfer it to any other Member State of the African Union, if need be.

The Pan-African Parliament may convene in the territory of any Member State at the



invitation of that Member State.

### **ARTICLE 23**

#### **Official Languages**

The official languages of the Pan-African Parliament shall be: Arabic, English, French, Portuguese, Spanish, Kiswahili and any other African language; the Executive Council shall determine the process and practical modalities for their use as working languages.

### **ARTICLE 24**

#### **The Relationship between the Pan-African Parliament and the Parliaments of Regional Economic Communities and National Parliaments or Other Deliberative Organs and the African Court of Justice.**

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

2. The PAP may call upon the Regional Economic Communities to provide information about their activities for consideration and recommendations.

3. Matters that have been tabled before the African Court of Justice shall not be the subject of discussion by the Pan-African Parliament.

4. The Pan-African Parliament may solicit interpretation of legal instruments of the AU by the African Court of Justice.

5. The Pan-African Parliament may request from the National Parliaments any information relevant to the lives of the peoples of Member States.

### **ARTICLE 25**

#### **Relations between the PAP and other organs of the AU**

1. The Chairperson of the Assembly shall make a speech on the State of the Union at the 1<sup>st</sup> Ordinary Session of the PAP. This speech shall not be followed by debate.

2. The speech of the Chairperson of the Assembly shall be followed by a presentation of the annual programme of the AU by the President of the Executive Council or the Chairperson of the Commission; the annual legislative programme of the Commission shall constitute one component of it. This presentation shall give rise to discussions culminating, if need be, in recommendations.

3. The Chairperson of the Commission shall present the Activity Report of the Commission during the 2<sup>nd</sup> Ordinary Session of the PAP.

4. The Pan-African Parliament shall forward its annual Activity Report to the different organs of the AU at the latest on 31 December of each year.

5. Heads of State of Member countries of the AU may forward their requests to make presentations at the Plenary to the Bureau of the PAP. These presentations shall not be

followed by discussions.

## **ARTICLE 26**

### **Interpretation**

The Court of Justice shall be seized with all matters of interpretation emanating from this Protocol.

## **ARTICLE 27**

### **Signature and Ratification**

1. This Protocol, as amended, shall be signed and ratified by the Member States in accordance with their respective Constitutional procedures.
2. The instruments of ratification or accession shall be deposited with the Chairperson of the AU Commission.

## **ARTICLE 28**

### **Entry into Force**

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

## **ARTICLE 29**

### **Accession**

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

## **ARTICLE 30**

### **Amendment or Revision of the Protocol**

1. This Protocol may be amended or revised by a Decision taken by a 2/3 majority of the Assembly.
2. Any Member State party to this Protocol or the Pan-African Parliament may propose, in writing to the Chairperson of the AU Commission, any amendment or revision of the Protocol.
3. The Chairperson of the AU Commission shall notify the proposal to all Member States at least thirty (30) days before the meeting of the Assembly, which is to consider the proposal.
4. The Chairperson of the AU Commission shall request the opinion of the Pan-African Parliament on the proposal and shall transmit the opinion, if any, to the Assembly, which may adopt the proposal, taking into account the opinion of the Pan-African Parliament.

5. The amendment or revision shall enter into force thirty (30) days after its ratification by the PAP in accordance with Article 11-6 of this Protocol or after deposit of the instruments of ratification with the Chairperson of the Commission by two-thirds of Member States.

### **ARTICLE 31**

#### **Review of the Protocol**

Ten (10) years after the entry into force of this Protocol, a Conference of the States Parties to this Protocol shall be held to review the operation and effectiveness of this Protocol, with a view to ensuring that the objectives and purposes of this Protocol, as well as the vision underlying the Protocol, are being realised and that the Protocol meets with the evolving needs of the African Continent.

Such Review Conferences may be convened at an interval of less than ten (10) years, if so decided by the Pan-African Parliament.

Done in ....., on ....., 2009



## PREAMBLE TO THE

## PROPOSALS FOR AMENDMENT OF THE RULES OF PROCEDURE

In pursuance of its Decision Doc EX.CL/459 (XIV), the Assembly requested the Pan-African Parliament «to amend its Rules of Procedure in order to make them conform to the legal instruments of the African Union ».

In the implementation of this decision, the Committee on Rules of the PAP realised that certain provisions of the Rules of Procedure do not conform to the legal instruments of the A.U., notably the Protocol to the Treaty establishing the African Economic Community relating to the Pan-African Parliament.

It also pointed out that certain provisions notably those of Rules 5, 12 and 13 of the Protocol are not clearly explicit and well-defined in the Rules of Procedure.

These provisions concern:

- The term of office of Parliamentarians;
- Supervision of the election of Members of the Bureau of the PAP;
- The term of office of Members of the Bureau of the Pan-African Parliament and the bureaux of the other organs;
- Oath of office or solemn declaration in the event of re-election or re-designation;
- Equitable regional representation of offices within bureaux;

To this effect, the Committee on Rules has formulated proposed amendments for the Rules of Procedure such as Rules 7, 9, 15, 16 and 22 with a view to harmonising the provisions of the Rules of Procedure with those of the Protocol.

1. With regard to the status of Parliamentarian, a member of the Pan-African Parliament shall acquire this status only after taking the oath of office or solemn declaration during a plenary session of the PAP and it is only then that his or her term of office shall commence. (Rule 7).
2. Oath of office or solemn declaration should be taken once more in the event where the Parliamentarian is re-elected or re-designated by his or her National Parliament



or any other deliberative organ of the Member State given that he or she is commencing a new term of office (Rule 9).

3. Concerning candidatures for members of the organs of the PAP, the Clerk shall call for the submission of candidatures at least 7 days before the election, with the possibility of reducing this deadline to 3 days in the case of an emergency declared by the Plenary of the PAP (Rule 15).
4. The amendment of Rule 16 relating to the election of members of the Bureau of the PAP emanating from the decision whereby the session of the Parliament shall be presided over by the Chairperson of the A.U. as was endorsed for these elections only concerns the inaugural session of the establishment of the Parliament; this had taken place on 18 May 2004 in Addis Ababa. This explains why during the 11th Session in May 2009, an Ad hoc Committee of 5 members elected by the regional Caucuses was put in place with a view to organizing and presiding over the election of the President of the PAP. Once elected and inaugurated, the President shall preside over the election of Vice-Presidents with the assistance of the Ad hoc Committee.
5. Furthermore, it is worth underscoring the fact that the Parliamentarian who is elected into a vacant office within an organ of the PAP shall complete the term of office of his or her predecessor with the possibility of being re-elected once more. (Rule 16-11 new).
6. In light of the experience learnt from the putting in place of the bureaux of the organs of the PAP, it was deemed appropriate to amend Sub-rule 6 of Rule 22 in order to achieve equal regional representation of offices within these bureaux. This will contribute in fostering the attainment of the objective of continental integration as envisaged by the AU.
7. Lastly, it was deemed necessary to introduce « miscellaneous provisions relating to the bureaux of the organs of PAP» (Part XIX). And under this Part, Rule 86 was retained in order to fix the duration of the term of office of the Bureau of the PAP and the bureaux of the other organs to three (3) years, in accordance with a resolution adopted by the Plenary during the 11th Session of the PAP.

In the application of the provisions of Rule 92(3) of the Rules of Procedure, the Committee on Rules decided that these amendments shall enter into force as soon as they are adopted by the Plenary of the Pan-African Parliament.

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**Item 1** – In accordance with Rule 92 of the Rules of Procedure, the provisions of Rules 7, 9, 15, 16 and 22 of these Rules are amended as follows:

**Rule 7** : instead of :**Term of Office of the Parliamentarian**

**Read: Status and Term of Office of the Parliamentarian**

The provisions of **Rule 7** are hereby replaced as follows:

1 – Pan-African Parliamentarians shall be elected or designated by their respective National Parliaments or any other deliberative organ of Member States, from among their members.

2 – The term of office of a Pan-African Parliamentarian shall commence with the taking of oath or solemn declaration during a plenary session of the PAP.

3 – Members of the Pan-African Parliament shall vote in their individual and independent capacity and shall not receive any orders or instructions from any authority.

**Rule 9** :

Instead of: **Oath**:

**Read: Rule 9: Oath or Solemn Declaration of Office**

1. During the first Session following their elections and before undertaking any other function, Pan-African Parliamentarians shall take the oath or make a solemn declaration of office. The text of the oath or solemn declaration is annexed to these Rules of Procedure.
2. **New:** In the event of re-election or re-designation, the Pan-African Parliamentarian shall commence a new term of office. He or she shall once more take an oath in accordance with the provisions of the previous Sub-rule.



**Rule 15 : Candidatures**

**15-1:** remains the same.

**15-2.** instead of: The Clerk shall call for the submission of candidatures at least one week before the election.

**Read:** The Clerk shall call for the submission of candidatures at least seven (7) days before the election; this deadline may be reduced to three (3) days in the case of an emergency declared by the Plenary of the PAP.

**Rule 16 : Election of members of Bureau**

**16-1 and 16-2:** remains the same.

**16.3:** Instead of: The Chairperson of the African Union shall preside over the election of the President.

**Read:** An Ad hoc Committee of five (5) members constituted by an elected representative from each regional Caucus shall organise and preside over the election of the President of the PAP.

**16-4 to 16-9:** remain the same.

**16.10 (new):** The term of office of the Bureau of the Pan-African Parliament shall be three (3) years.

**16.11 (new):** In the event of a vacancy of an office during the term of office of a member of an organ of the PAP, the latter who is elected in replacement shall terminate the term of office of his or her predecessor. It may be renewed once.

**Rule 22 : Establishment of Permanent Committees of the PAP**

**2- 1 to 22- 5:** remain the same

**22-6:** instead of: Each Permanent Committee shall elect from within its members, a Chairperson, a Deputy Chairperson and a Rapporteur.

**Read:** Each Permanent Committee shall elect from within its members, a Chairperson, a Deputy Chairperson and a Rapporteur. The Bureau of the PAP, in consultation with the bureaux of regional Caucuses, shall ensure that there is regional representation of office bearers within these bureaux during the overall renewal of the bureaux of Committees.

**22-7 to 22-11:** remain the same

**Item 2:** The provisions hereafter are modified as follows:

Page 111, instead of: **Part Nineteen: Miscellaneous Provisions**

Read: Part Nineteen: Provisions common to the bureaux of organs of the PAP.

**Rule 86: instead of:** Public access to documents.

Read: **Rule 86: Duration of Term of Office.**

1. The term of office of a member of the Pan-African Parliament shall be that of his or her National Parliament or any other deliberative organ that elects or designates him or her.
2. The term of office of the Bureau of the PAP and the bureaux of the other organs shall be three (3) years.

**Rule 87: Public access to documents** (former Rule 86: remains the same).

**Rule 88: Attendance of Members at sittings.** (former Rule 87: remains the same).

**Rule 89: Leave of absence** (former Rule 88: remains the same)

**Rule 90: Annual Parliamentary Programme** (former Rule 89: remains the same).

**Rule 91: Accounts and audit** (former Rule 90: remains the same).

**Rule 92: Application of the Rules of Procedure** (former Rule 91: remains the same).

**Rule 93: Amendment of the Rules of Procedure** (former Rule 92: remains the same).

**Rule 94: (new) Entry into force of the Rules of procedure**

**Item 3:** These amendments shall enter into force as soon as they are adopted by the Plenary of the Pan-African Parliament.

Midrand,.....2009