Appendix 1A. The African Union: the vision, programmes, policies and challenges

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I. Introduction

The establishment of the African Union (AU) was the culmination of several crucial decisions by African states leading to the replacement of the Organization of African Unity (OAU) by a new organization. In September 1999, the Fourth Extraordinary Session of the Assembly of Heads of State and Government of the OAU adopted the Sirte Declaration, which resolved to establish the African Union (AU) as the successor organization to the OAU.[1] In the Constitutive Act of the African Union of July 2000,[2] the heads of state and government of the members of the OAU agreed to establish the Union. The Fifth Extraordinary OAU/African Economic Community (AEC) Summit, held in March 2001,[3] specified the legal requirements for the entry into force of the Constitutive Act: 30 days after the deposit of the 36th instrument of ratification (that is, ratification by two-thirds of the OAU member states), the act would enter into force. On 26 April 2001, Nigeria, as the 36th state, deposited its instrument of ratification and the Constitutive Act entered into force on 26 May.

The African Union was officially inaugurated at the 38th, and last, Assembly of the Heads of State and Government of the OAU, meeting in Durban, South Africa, on 9–10 July 2002.[4] The headquarters of the African Union are in Addis Ababa, Ethiopia. As of 1 April 2003, 53 states were members of the AU.[5]

The establishment of the AU was greeted with a certain scepticism by some elements of the international community, particularly in the West. Part of this attitude could be attributed to the perceived role of Libya in the process. The period in which the AU was created coincided with the well-publicized trial of the Libyans accused (and subsequently convicted) of complicity in the 1988 bombing of an aircraft over Lockerbie, UK, and with a time when Libya's higher diplomatic profile in the African community was a source of concern to major Western powers.

Little attention was paid to the fact that Libya's conception of the African Union as a 'United States of Africa'—with a common army, institutions and leadership—was not endorsed by the majority of African states. What emerged was a compromise, with an organization designed to be more cohesive and more integrated than the OAU, but not a 'United States of Africa'. More significantly, the process of creating the AU did not begin with the Sirte Declaration. The declaration itself was the culmination of a long-held goal—the realization of the visions of African nationalists such

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[1] Organization of African Unity, Fourth Extraordinary Session of the Assembly of Heads of State and Government, 8–9 Sep. 1999, Sirte, Libya, Declaration on the Establishment of the African Union (Sirte Declaration), available at URL <http://www.au2002.gov.za/docs/key_oau/sirte.htm>.

[2] The Constitutive Act of the African Union, agreed at Lomé, Togo, on 11 July 2000, is available at URL <http://www.au2002.gov.za/docs/key_oau/au_act.htm>.

[3] For the decisions adopted by the Fifth Extraordinary Session, held at Sirte, Libya, on 1–2 Mar. 2001, see URL <http://www.au2002.gov.za/docs/key_oau/sirterep.htm>.

[4] For the documents from this summit meeting see URL <http://www.au2002.gov.za/docs/speeches/essy087a.htm>.

[5] The AU member states are listed in the glossary in this volume.

as Herbert Macauley of Nigeria, Gamal Abdel Nasser of Egypt, Kwame Nkrumah of Ghana, Julius Nyerere of Tanzania and Sékou Touré of Guinea, who had fought for independence from colonial rulers, and their predecessors in the Pan African Movement, including George Padmore and Marcus Garvey. The vast majority of people of African descent stood behind them.

The other difficulty was that the process was very rapid—the AU did not have a sufficient period of grace to communicate its vision, programmes and policies to the rest of the world. To some extent, this was a matter of conscious choice. African countries had come to the conclusion that the emerging world order would marginalize their continent and thus had an inward-looking sense of purpose. They were concerned to communicate their message to their people within their continent: the rest of the world could wait and learn. In addition, one component of the AU agenda was a framework for a new partnership with the international community—the New Partnership for Africa's Development (NEPAD), established in October 2001[6]—and it was thought that this process would also serve to inform other countries. This was an approach that soon proved to be problematic.

II. Background

The impetus for the establishment of the African Union was derived from several main considerations.

First, the AU stresses political and socio-economic integration of the continent, as set out in the 1991 Treaty Establishing the African Economic Community (Abuja Treaty).[7] The OAU had previously prepared a number of policy instruments to address the developmental concerns of the continent, but it could not implement them. Indeed, for much of its existence the OAU was preoccupied with the resolution of political problems such as decolonization, ending apartheid, and conflict management and resolution. The advent of the African Union was informed by the need to redress the balance between the economic and political agendas and to integrate them in a meaningful fashion. This vision asserts the need for the AU to be an essential actor in the development of the continent.

Second, as Amara Essy, the Interim Chairperson of the AU, has noted, the Union is designed to construct a political space within which the democratic aspirations of the African people can be promoted. This vision implies a commonwealth of democratic developing states seizing the opportunities offered by globalization to include civil society, trade unions, professional groups and other stakeholders in the processes of policy formulation, implementation, assessment and monitoring. These processes are to be promoted in the framework of the Conference on Security, Stability, Development and Cooperation in Africa (CSSDCA) and the Economic, Social and Cultural Council (ECOSOCC), which the Union is seeking to establish. The 2000 Declaration on the Framework for the OAU Response to Unconstitutional Changes of Government (Lomé Declaration) reiterated Africa's determination to ensure that henceforth governments must emanate from the will of the people, as expressed in transparent, free and fair elections, and that Africa must be governed on the basis of democracy.[8]

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[6] On NEPAD see URL <www.nepad.org>.

[7] Organization of African Unity, Treaty Establishing the African Economic Community, 3 June 1991, available at URL <http://www.uneca.org/itca/ariportal/abuja.htm>.

[8] Organization of African Unity, Declaration on the Framework for the OAU Response to Unconstitutional Changes of Government, adopted at Lomé, Togo, on 12 July 2000.

It also established a system of targeted sanctions to support this process, based on an escalatory ladder of punishment and deprivation that could culminate in expulsion from the organization.

The Lomé Declaration has already been put to the test. It was applied to the regime of President Azali Assoumani in the island nation of Comoros in 1999–2002 and set the pace for the democratic transition in that country. The OAU also applied sanctions to the regime of General Robert Gueï in Côte d'Ivoire in 1999–2000 and held the same line with regard to the Government of President Marc Ravalomanana in Madagascar after the disputed elections of December 2001 and the elections of July 2002—despite pressure from the USA, France and other Western nations, which had recognized the Ravalomana regime and urged African leaders to do the same as a measure of expediency. The OAU/AU Summit held in Durban on 28 June–10 July 2002 rejected these demands and insisted that the Ravalomana regime accept the principles of democracy before Madagascar would be allowed to take a seat at the AU.[9] Such challenges persist, as the coup in the Central African Republic in March 2003 demonstrated. The real test of commitment will come when a major African power violates the Lomé Declaration.

The AU also seeks to mobilize the energies of relevant social and economic forces through its various organs, such as the Pan-African Parliament (PAP), the ECOSOCC, the African Commission of Human Rights and the African Court of Justice.[10] The Constitutive Act upholds the principle of diminished sovereignty and acknowledges the right of intervention in cases of mass violation of human rights, genocide or other conditions that degrade the human condition.[11] These provisions emphasize that the African community which the Union seeks to create is to be bound by the common values of democracy, liberty and human freedom shared by a wide spectrum of the international community. The Constitutive Act emphasizes the need to build partnerships between governments and all segments of civil society, and regards popular participation as a condition for development. It includes clear provisions for the observance of human rights and the rule of law, the handling of gender issues and so on as a context for the strengthening of popular participation and democracy.

The AU has described its two main programmes, NEPAD and the CSSDCA, as anchors for its project of economic and social reconstruction. NEPAD is conceived as a plan for adding momentum to the development efforts of the continent within the framework of partnership between governments and the private sector, on the one hand, and between Africa and the international community, on the other. The CSSDCA[12] is conceived as a policy development forum for forging and sustaining common values and commitment within the Union as a basis for cementing unity and promoting development. As part of this effort, the CSSDCA process is designed to harness the collective energies of Africans within and outside the continent, including those of the diaspora. Since its establishment, it has served as a framework to draw civil society, including Africans of the diaspora, into the policy formulation and decision-making processes of the Union and as a way to relate the various constituent

[9] On the Durban Summit see URL <http://www.au2002.gov.za/>.

[10] The organs of the AU are enumerated in Article 5 of the Constitutive Act (note 2).

[11] Constitutive Act (note 2), Article 4(g) and (h).

[12] Organization of African Unity, Solemn Declaration on the CSSDCA, Lomé, Togo, July 2000, URL <http://www.africaleadership.org/cssdca_solemn_decl.htm>; and Memorandum of Understanding on the Conference on Security, Stability, Development and Cooperation in Africa (CSSDCA), Durban, South Africa, July 2002.

parts of the Union to each other. More significantly, it provides a monitoring and evaluation mechanism to ensure effective implementation of the collective decisions adopted by member states within the purview of the Union.

III. Difficulties and challenges

The attainment of the vision of the founders of the African Union and the people of the continent in general is constrained by four primary requirements. One is the need to create appropriate institutional structures to support and implement its goals and objectives. The second is a stable and secure regional environment allowing effective implementation of the social and political agenda. Even at the time when the transition to the AU was being carried out, the continent was racked by a series of internal conflicts that threatened to undermine the viability of any sustained regional agenda. Peace and stability are thus themselves a necessary, if not sufficient, condition for progress and development. The third condition is the character and shape of international support for the process. As noted above, there was suspicion and mistrust in some parts of the international community about the purposes of the new Union. The impact of international actors on the process of development of the Union thus continues to pose serious problems for its goals and objectives. Fourth is the need to create an appropriate funding strategy for the Union. Given that several countries are already in arrears with payments, it is difficult to see how can the new Union and its various organs can be funded (see section IV below).

Institutional structures

The Constitutive Act of the African Union provides for the creation of institutional structures to support the process of transformation. Whereas the OAU had four main organs,[13] there are provisions for nine AU organs (and for others that the Assembly of the Union may decide to establish).

The Assembly of the Union, composed of heads of state and government, is the supreme organ and is responsible for determining the common policies of the Union. The Executive Council, under the Assembly, is composed of ministers of foreign affairs or other ministers or authorities designated by the governments of the member states. The function of the Executive Council is to coordinate and take decisions on policies in areas of common interest to the members, including foreign trade, energy, industry and mineral resources, food, agriculture and water resources.

Seven Specialized Technical Committees are responsible for: Rural Economy and Agricultural Matters; Monetary and Financial Affairs; Trade, Customs and Immigration Matters; Industry, Science and Technology, Energy, Natural Resources and Environment; Transport, Communications and Tourism; Health, Labour and Social Affairs; and Education, Culture and Human Resources. The functions of these committees include, among others, to prepare the projects and programmes of the Union and submit them to the Executive Council; to ensure the supervision, follow-up and evaluation of the decisions taken by the organs of the Union; to ensure the

[13] The organs of the OAU were: the Assembly of Heads of State and Government; the Council of Ministers; the General Secretariat of the OAU; and the Central Organ of the Mechanism for Conflict Prevention, Management and Resolution

coordination and harmonization of projects; and to submit recommendations on the implementation of the provisions of the Constitutive Act.

The Constitutive Act also provides for a Pan-African Parliament in order to ensure the full participation of African peoples in the development and economic integration of the continent; an African Court of Justice; and three financial institutions—the African Central Bank, the African Monetary Fund and the African Investment Bank. There are also provisions for a Permanent Representatives Committee, charged with preparing the work of the Executive Council; for an Economic and Social Council, composed of various professional and social groups of the member states; and the Commission of the Union, which will serve as the technical arm and the Secretariat.

The key challenge for the AU is to establish the various institutions on a sound basis with adequate financial provisions, appropriate personnel and guidelines, and the requisite physical, technical and infrastructure capacity. Terms of reference and rules of procedure must be put in place, as well as modalities for the transition, including the conclusion of transfer of assets and liabilities. Since the time of the 2002 Durban Summit, the Interim Commission has focused on these requirements, with critical emphasis on the precise structure of the new Commission. Preliminary drafts were submitted for the consideration of the Permanent Representatives Committee and the Executive Council, which met in N'djamena, Chad, in March 2003. A final draft will be submitted at the fourth Assembly meeting, scheduled to be held in Maputo, Mozambique, in July 2003, when the Commission will become a permanent body of the Union.

The peace and security agenda

Another major challenge facing the African Union is the imperative of a stable and secure environment as a condition for the economic and political progress of the African continent. The continent is inundated by conflicts, including those in Burundi, the Central African Republic, Côte d'Ivoire, Somalia, Sudan, Zimbabwe and the Mano River Union area (Guinea, Liberia and Sierra Leone). The persistence of such conflicts undermines the prospects for realizing the vision of the African Union. The AU recognizes the need to show greater determination and political will and to mobilize resources against the challenges of conflict, crises and political turmoil.

Since the 2002 Durban Summit, the African Union has sought to tackle the issue of conflicts with greater resolve, recognizing that several of these conflicts are associated with the crisis of democratization and development.[14] The Peace and Security Directorate of the Union has adopted a more proactive approach to conflict resolution. This approach emphasizes early response to developing conflict situations and a model of active mediation on a day-to-day basis through Special Envoys. The aim is to achieve blanket coverage so that every conflict receives the necessary attention.

A decision was also taken at the Durban Summit, in the Protocol Relating to the Establishment of the Peace and Security Council of the African Union,[15] to strengthen the AU Mechanism for Conflict Resolution through the creation of a Peace and

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[14] African Union, Report of the Interim Chairperson on the Commission of Conflict Situations in Africa, 4 Feb. 2003.

[15] The protocol was signed on 9 July 2002; see URL <http://www.au2002.gov.za/docs/summit_council/secprot.htm>.

Security Council. The Peace and Security Directorate has adopted a work programme, which seeks to operationalize the protocol; to determine modalities for facilitating common defence and security policies; to strengthen the role of the African Union in conflict prevention and resolution; to follow up the 2000 Lomé Declaration; to pursue measures against terrorism; and to build a human resource capacity for the Conflict Management Centre.[16]

Within this context, the African Union regards as crucial the control of the flow of small arms and light weapons and has developed a programme of action. The AU is also concerned with the issue of terrorism. In an address to the Heritage Foundation in Washington, DC on 16 December 2002, Interim Chairperson Essy elaborated on this commitment: 'Our commitment is nurtured by experience. Africa has become a frontline of terrorist activity. Our people are being used as pawns. In the recent bombing in Mombasa, the target of the terrorism was supposed to be Israelis but ten Kenyans were killed. The incident coming on the heels of the bombing of the US Embassy in Nairobi deeply hurts the Kenya economy. It would appear that the new focus on soft targets is a euphemism for killing Africans'.[17] As a result, the Union held a high-level intergovernmental meeting in Algiers in September 2002, which produced a Concrete Plan of Action for the Implementation of the 1999 OAU Convention on the Prevention and Combating of Terrorism (Algiers Convention). The Plan of Action has provisions for police and border control, a commitment to legislative and judicial measures, measures to suppress the financing of terrorism, provision for exchange of information, and plans for coordination at the national and regional levels.

Disputed electoral outcomes have also been a major source of political tension in various states, such as Madagascar and Zimbabwe. The AU recognizes that the OAU's handling of such issues was often contentious, as seen, for example, in Zimbabwe. Thus, the 2002 Durban Summit approved a Declaration on Election Observation and Monitoring, which includes the setting up of an Electoral Unit and the drawing up of clear Guidelines for Election, Observation, and Monitoring. The AU Commission is charged with these tasks, and the CSSDCA Unit, working in concert with the Political Department of the AU Commission as the lead agency, is currently finalizing plans. On 7–10 April 2003 the Interim Commission of the African Union, jointly with the Independent Electoral Commission of South Africa, held a workshop in Pretoria involving all the Electoral Commissions on the continent, to review standard draft guidelines for African Electoral Observation and Monitoring Missions and a Declaration on Elections, Democracy and Governance. These documents will establish clear parameters for assessing declared electoral outcomes, which in turn will support processes for giving effect to the Declaration on Unconstitutional Changes of Government against military or political adventurers or incumbent regimes which manipulate political circumstances to extend their stay in power.

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[16] African Union, Report of the 86th Ordinary Session of the Central Organ of the Mechanism for Conflict Prevention, Management and Resolution at Ambassadorial Level, Indicative Work Programme on Peace and Security Issues in Africa for the Central Organ and the Commission of the African Union for the period 2002–2003, 29 Oct. 2002.

[17] Address delivered by the Interim Chairperson of the African Union, H.E. Mr Amara Essy, at the Heritage Foundation, Washington, DC, 16 Dec. 2002.

International support

A crucial factor in the implementation of the agenda of the Union will be the degree of international support it attracts. The problem over perceptions of Libyan influence—which does not dominate the AU agenda—was noted above. Within the international community, attempts have been made to portray NEPAD as a rival institution rather than a programme of the African Union. This has given rise to heated exchanges between Western leaders and leaders of the African Union; the latter insist that NEPAD was never intended to become an institution in its own right. The most significant such exchange was between South African President Thabo Mbeki and Canadian Prime Minister Jean Chrétien, in which Mbeki made it clear that NEPAD is an instrument of the African Union and that the AU has primacy in all matters pertaining to the continent.[18] The November 2002 Abuja Communiqué of the Heads of State Implementation Committee (HSIC) cemented this declaration by confirming that NEPAD is indeed a programme of the Union and that even its Secretariat is only a transitory arrangement covering the transition process in the African Union.[19] The AU was requested to make the necessary arrangements and develop the necessary capacity to take over NEPAD after the transition.

IV. Conclusions

Other critical issues remain, such as the requirement of adequate funding support for the process. The Commission has undertaken relevant studies and is in the process of completing a document on a funding strategy, to be submitted for consideration and possible ratification by the Executive Council and the Assembly. NEPAD also has a critical role to play as an effective agency for mobilizing international support. International agencies such as the United Nations Development Programme and the Group of Friends of the AU (comprising a number of Western countries) have been involved in consultations, negotiations and plans to support specific components of the AU agenda. However, the strategy places greater emphasis on the internal generation of funds in order to give the Union the moral authority and autonomy it requires to implement a continental mandate.

Within the Commission there is increasing emphasis on developing the human capacity requirements of the Union, with a focus on gender sensitivity. One of the crucial decisions taken at the historic Durban Summit was that at least half the number of commissioners elected at the Maputo Summit, to be held in Mozambique in July 2003, should be women.

Finally, the question is often asked whether the African Union will live up to the demands and expectations of the great majority of people in the continent. The view from Africa is that it was constructed to fulfil these expectations and therefore will. However, much will depend on the political will of the continent's leaders and the pressure that is brought to bear on them through the active participation of civil society and other segments of the African community.

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[18] See an abridged version of a letter from Mbeki to Chrétien in 'Nepad not independent of AU', *The Herald* (Harare), 19 Nov. 2002, available at URL <http://allafrica.com/stories/200211210796.html>.

[19] 'Communiqué issued at the end of the Fifth Summit of the Heads of State and Government Implementation Committee (HSIC) of the New Partnership for Africa's Development', Abuja, Nigeria, 3 Nov. 2002, URL <http://www.sarpn.org.za/documents/d0000097/P104_NEPAD_Abuja.pdf>.