African Union

African Union Non-Aggression and Common Defence Pact

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African Union

African Union Non-Aggression and Common Defence Pact

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

CONSCIOUS of the gravity of the impact of conflicts both within and among African States, on peace, security and stability in the Continent, and their devastating impact on socio-economic development;

COMMITTED to our common vision of a united and strong Africa, based on respect for the principles of peaceful co-existence, non-aggression, non-interference in the internal affairs of Member States, mutual respect for individual sovereignty and territorial integrity of each State;

DETERMINED to put an end to conflicts of any kind within and among States in Africa, in order to create propitious conditions for socio-economic development and integration of the Continent, as well as the fulfilment of the aspirations of our peoples;

REAFFIRMING that appropriate development institutions and promotion of a strong democratic culture through organization of honest and regular elections, respect for human rights and the rule of law, combating corruption and impunity and formulation of sustainable development policies are vital to collective security, peace and stability;

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

CONSIDERING ALSO the Protocol Relating to the Establishment of the Peace and Security Council of the African Union adopted in Durban, South Africa, on 10 July 2002, particularly its Article 7(h) on the implementation of the Common Defence Policy of the Union;

REAFFIRMING our commitment to the Solemn Declaration on the Common African Defence and Security Policy adopted in Sirte, Great Libyan Arab Jamahiriya, by the Second Extraordinary Session of the Assembly of the African Union held from 27 to 28 February 2004, particularly its Chapter III, paragraph (t) which encourages "the conclusion and ratification of non-aggression pacts between and among African States and the harmonization of such agreements'";

CONVINCED that the African Union is a community of Member States which decided, among other things, to adopt an African Union Non-Aggression and Common Defence Pact in order to deal with threats to peace, security and stability in the continent and to ensure the well being of the African peoples.

HAVE AGREED AS FOLLOWS:

Definitions

Article 1

In this Pact:

a) "**Acts of Subversion**" means any act that incites, aggravates or creates dissension within or among Member States with the intention or purpose to destabilize or overthrow the existing regime or political order by, among other means, fomenting racial, religious, linguistic, ethnic and other differences, in a manner inconsistent with the Constitutive Act, the Charter of the United Nations and the Lomé Declaration;

b) "**African Standby Force**" means the African Standby Force (ASF) provided in the Protocol Relating to the Establishment of the Peace and Security Council of the African Union;

c) "**Aggression**" means the use, intentionally and knowingly, of armed force or any other hostile act by a State, a group of States, an organization of States or non-State actor(s) or by any foreign or external entity, against the sovereignty, political independence, territorial integrity and human security of the population of a State Party to this Pact, which are incompatible with the Charter of the United Nations or the Constitutive Act of the African Union. The following shall constitute acts of aggression, regardless of a declaration of war by a State, group of States, organization of States, or non-State actor(s) or by any foreign entity:

i) the use of armed forces against the sovereignty, territorial integrity and political independence of a Member State, or any other act inconsistent with the provisions of the Constitutive Act of the African Union and the Charter of the United Nations;

ii) the invasion or attack by armed forces against the territory of a Member State, or military occupation, however temporary, resulting from such an invasion or attack, or any annexation by the use of force of the territory of a Member State or part thereof;

iii) the bombardment of the territory of a Member State or the use of any weapon against the territory of a Member State;

iv) the blockade of the ports, coasts or airspace of a Member State;

v) the attack on the land, sea or air forces, or marine and fleets of a Member State;

vi) the use of the armed forces of a Member State which are within the territory of another Member State with the agreement of the latter, in contravention of the conditions provided for in this Pact;

vii) the action of a Member State in allowing its territory, to be used by another Member State for perpetrating an act of aggression against a third State;

viii) the sending by, or on behalf of a Member State or the provision of any support to armed groups, mercenaries, and other organized trans-national criminal groups which may carry out hostile acts against a Member State, of such gravity as to amount to the acts listed above, or its substantial involvement therein;

ix) the acts of espionage which could be used for military aggression against a Member State;

x) technological assistance of any kind, intelligence and training to another State for use in committing acts of aggression against another Member State; and

xi) the encouragement, support, harbouring or provision of any assistance for the commission of terrorist acts and other violent trans-national organized crimes against a Member State.

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

e) "**Commission**" means the Commission of the African Union;

f) "**Common African Defence and Security Policy**" means the Solemn Declaration on a Common African Defence and Security Policy adopted by the Second Extraordinary Session of the Assembly, held in Sirte, Great Socialist Libyan Arab Jamahiriya, in February 2004;

g) "**Constitutive Act**" means the Constitutive Act of the African Union;

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

i) "**Destabilization**" means any act that disrupts the peace and tranquillity of any Member State or which may lead to mass social and political disorder;

j) "**Dispute**" means any conflict between two or among several Member States or within a Member State, which constitutes a threat to peace and security, or a breach of the peace and security within the African Union, as determined by the Assembly of Heads of State and Government or the Peace and Security Council;

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k) "**Human Security**" means the security of the individual in terms of satisfaction of his/her basic needs. It also includes the creation of social, economic, political, environmental and cultural conditions necessary for the survival and dignity of the individual, the protection of and respect for human rights, good governance and the guarantee for each individual of opportunities and choices for his/her full development;

l) "**Lomé Declaration**" means the Declaration on the Framework for an OAU Response to Unconstitutional Changes of Government;

m) "**Member States**" means Member States of the African Union;

m) "**Mercenaries**" means mercenaries as defined in the OAU Convention on the Elimination of Mercenarism in Africa;

o) "**Military Staff Committee**" means the Military Staff Committee (MSC) provided in the Protocol Relating to the Establishment of the Peace and Security Council of the African Union;

p) "**Non-Aggression**" means peaceful conduct by a Member State, group of Member States, organization of Member States, or non-State actor(s), which does not constitute acts of aggression as defined above;

q) "**Pact**" means the present Pact;

r) "**Peace and Security Council**" means the Peace and Security Council (PSC) of the African Union as provided in the Protocol Relating to the Establishment of the Peace and Security Council of the African Union;

s) "**Protocol**" means the Protocol Relating to the Establishment of the Peace and Security Council of the African Union;

t) "**Regional Mechanism**" means African Regional Mechanisms for Conflict Prevention, Management and Resolution;

u) "**State Party**" means a Member State that has ratified or acceded to this Pact;

v) "**Terrorist Acts**" means those acts or offences defined in the OAU Convention on the Prevention and Combating of Terrorism;

w) "**Threat of Aggression**" means any harmful conduct or statement by a State, group of States, organization of States, or non-State actor(s) which though falling short of a declaration of war, might lead to an act of aggression as defined above;

x) "**Trans-national Organized Criminal Group**" means a structured group of three or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious crimes which are trans-national in scope, or offences established in accordance with international law, including the United Nations Convention Against Trans-national Organized Crime and its Protocols thereto, the purpose being which to obtain, directly or indirectly financial and other material benefits;

y) "**Union**" means the African Union;

Objectives

Article 2

a) The objectives of this Pact are:

   i) to promote cooperation among the Member States in the areas of non-aggression and common defence,

   ii) to promote peaceful co-existence in Africa,

   iii) to prevent conflicts of inter-State or intra-State nature, and

iv) to ensure that disputes are resolved by peaceful means.

b) In pursuance of these objectives, this Pact seeks to define a framework under which the Union may intervene or authorise intervention, in preventing or addressing situations of aggression, in conformity with the Constitutive Act, the Protocol and the Common African Defence and Security Policy;

c) Consequently, any aggression or threat of aggression against any of the Member States shall be deemed to constitute a threat or aggression against all Member States of the Union.

Obligations

Article 3

a) State Parties undertake, pursuant to the provisions of the Constitutive Act, to resolve any differences by peaceful means, in order to avoid endangering peace and security; to refrain from the use of force or threat to use force in their relations with each other and in any manner whatsoever, incompatible with the United Nations Charter. Consequently, no consideration whatsoever, be it political, economic, military, religious or racial shall justify aggression;

b) State Parties undertake to develop and strengthen the friendly and peaceful relations among them in accordance with the fundamental principles of the Union;

c) State Parties undertake to promote such sustainable development policies as are appropriate to enhance the well being of the African people, including the dignity and fundamental rights of every human being in the context of a democratic society as stipulated in the Lomé Declaration. In particular, State Parties shall ensure freedom of worship, respect of the cultural identity of peoples and the rights of minorities;

d) State Parties undertake to prohibit and prevent genocide, other forms of mass murder as well as crimes against humanity.

Article 4

a) State Parties undertake to provide mutual assistance towards their common defence and security vis-a-vis any aggression or threats of aggression;

b) State Parties undertake, individually and collectively, to respond by all available means to aggression or threats of aggression against any Member State;

c) State Parties undertake not to recognize any territorial acquisition or special advantage, resulting from the use of aggression;

d) As part of the vision of building a strong and united Africa, State Parties undertake to establish an African Army at the final stage of the political and economic integration of the Continent. In the meantime, State Parties will make best efforts to address the challenges of common defence and security through the effective implementation of the Common African Defence and Security Policy, including the early establishment and operationalisation of the African Standby Force.

Article 5

a) State Parties undertake to intensify collaboration and cooperation in all aspects related to combating international terrorism and any other form of organized trans-national crime or destabilization of any Member State;

b) Each State Party shall prevent its territory and its people from being used for encouraging or committing acts of subversion, hostility, aggression and other harmful practices that might threaten the territorial integrity and sovereignty of a Member State or regional peace and security;

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c) Each State Party shall prohibit the use of its territory for the stationing, transit, withdrawal or incursions of irregular armed groups, mercenaries and terrorist organizations operating in the territory of another Member State.

Article 6

a) State Parties undertake to extend mutual legal and all other assistance in the event of threats of terrorist attack or other organized international crimes.

b) State Parties undertake to arrest and prosecute any irregular armed group(s), mercenaries or terrorist(s) that pose a threat to any Member State.

Article 7

State Parties undertake, to cooperate and enhance their military and intelligence capacities through mutual assistance.

Article 8

a) Each State Party declares not to enter into any international or regional commitment which is in contradiction to the present Pact.

b) Each State Party declares that under no circumstances shall it exempt itself from its obligations under this Pact.

Implementation mechanisms

Article 9

The Peace and Security Council shall be responsible for the implementation of this Pact, under the authority of the Assembly. In this regard, the Peace and Security Council may be assisted by any organ of the Union, pending the setting up of mechanisms and institutions for common defence and security.

Article 10

a) State Parties undertake to provide all possible assistance towards the military operations decided by the Peace and Security Council, including the use of the African Standby Force;

b) State Parties undertake to develop and strengthen the level of their actual collaboration with the Command Headquarters and Military Staff Committee of the African Standby Force in accordance with the provisions of the Protocol and the Policy Framework for the Establishment of the African Standby Force and the Military Staff Committee.

Article 11

a) State Parties undertake to develop and strengthen the capacities of African research, information and training institutions to enhance early preventive action against any aggression or threats of aggression;

b) The Peace and Security Council may also be assisted by the following institutions:

   i) The African Peace Academy;

   ii) The African Centre for Study and Research on Terrorism;

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iii) The African Union Commission on International Law;

c) The Peace and Security Council may establish any other mechanism as it deems necessary.

The African Peace Academy

Article 12

a) State Parties undertake to establish and operationalize the African Peace Academy (APA) to serve as a framework for the promotion of peace and stability in Africa, and as a centre of excellence for research and development of an African peace doctrine;

b) The organization and operational modalities of the Academy shall be decided upon by the Assembly.

African Centre for the Study and Research on Terrorism

Article 13

a) The African Centre for the Study and Research on Terrorism (ACSRT) shall serve to centralize, collect and disseminate information, studies and analysis on terrorism and terrorist groups, and shall provide training programs by organizing, with the assistance of international partners meetings, and symposia, in order to prevent and combat terrorist acts in Africa;

b) The Centre shall assist Member States develop the expertise and strategies for the prevention and combating of terrorism, particularly with respect to the implementation of the 1999 OAU Convention and its Protocol thereto on the Prevention and Combating of Terrorism, as well as the Plan of Action on the Prevention and Combating of Terrorism in Africa and other relevant decisions adopted by the policy Organs of the Union;

c) State Parties undertake to support fully and take active part in the activities of the Centre.

The African Union Commission on International Law

Article 14

a) State Parties undertake to establish an African Union Commission on International Law whose objectives shall, among others, be to study all legal matters related to the promotion of peace and security in Africa, including the demarcation and delineation of African borders;

b) The composition and functions of the African Union Commission on International Law shall be decided upon by the Assembly.

Peaceful settlement of dispute

Article 15

State Parties involved in any dispute shall first seek a solution by negotiation, inquiry, mediation, conciliation, arbitration, judicial settlement, or resort to regional and continental mechanisms or arrangements, or other peaceful means.

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Interpretation

Article 16

State Parties undertake to refer all disputes over the interpretation, implementation and validity of this Pact to the Court of Justice, without prejudice to the competence of the Peace and Security Council.

Article 17

a) This Pact shall not derogate from, and shall not be interpreted as derogating in any way from the obligations of Member States contained in the United Nations Charter and the Constitutive Act, including the Protocol, and from the primary responsibility of the United Nations Security Council for the maintenance of international peace and security.

b) This Pact shall not derogate from, and shall not be interpreted as derogating in any way whatsoever, from the rights of refugees guaranteed by the relevant continental and international instruments.

Final provisions

Article 18

a) This Pact shall be open to signature and ratification or accession by Member States in accordance with their respective constitutional procedures;

b) The instruments of ratification shall be deposited with the Chairperson of the Commission;

c) Any Member State acceding to this Pact after its entry into force shall deposit the instrument of accession with the Chairperson of the Commission;

d) Any State Party may withdraw from this Pact by giving a one (1) year prior notice to the Chairperson of the Commission, who shall notify all the State Parties thereof.

Article 19

This Pact shall enter into force thirty (30) days following the deposit of instruments of ratification by fifteen (15) Member States.

Article 20

a) Any State Party may submit proposals for the amendment or revision of this Pact;

b) Proposals for amendment or revision shall be submitted to the Chairperson of the Commission who shall transmit same to the State Parties within thirty (30) days of receipt thereof;

c) The amendments shall be examined and approved by the State Parties, by consensus or, failing which, by two-third majority, and thereafter, the amendments shall be formally endorsed by the Assembly;

d) The amendments shall enter into force for each State Party which has accepted it, thirty (30) days after the Chairperson of the Commission has received notice of the acceptance.

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Article 21

There shall be a periodic evaluation of this Pact in order to update it and to enhance its implementation. The evaluation of the Pact shall be done within the context of paragraph 36 of the Solemn Declaration on the Common African Defence and Security Policy which provide for the convening by the Chairperson of the Peace and Security Council "of a yearly review conference involving all the conflict resolution mechanisms of the various regional organizations as well as mechanisms established by the continental instruments."

Article 22

This Pact, drawn up in four (4) original texts in Arabic, English, French and Portuguese, all four (4) being equally authentic, shall be deposited with the Chairperson of the Commission who shall transmit certified copies thereof to each Member State.

Article 23

The Chairperson of the Commission shall register this Pact with the United Nations.

Adopted by the fourth Ordinary Session of the Assembly, held in Abuja, Nigeria, on Monday, 31 January 2005

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