



AFRICAN UNION COMMISSION – OFFICE OF LEGAL COUNSEL

**TREATY PROMOTION WORKSHOP ON THE SIDELINES OF THE
3RD ORDINARY SESSION OF THE SPECIALIZED TECHNICAL
COMMITTEE ON JUSTICE AND LEGAL AFFAIRS**

ADDIS ABABA, ETHIOPIA

15 NOVEMBER, 2017

CONCEPT NOTE

I. Introduction and Context

The African Union (AU) comprising 55 member states was established with the objectives of inter alia achieving greater unity and solidarity between the African countries and the peoples of Africa, accelerating political and socio-economic integration of the continent, promoting peace, security, cooperation in all fields of human activity, democratic principles and institutions, respect and protection for human rights, good governance as well as coordination and harmonization of policies including with Regional Economic Communities recognized by the AU.

In order to achieve these objectives, the African Union has adopted a number of legal instruments that set out the norms, principles and shared values guiding its integration agenda. In addition, the AU has through its legal instruments, established its institutional framework to facilitate the achievement of its aforesated objectives.

It is noteworthy that the African Union takes over from the Organization of African Unity, which was established in 1963. To date the OAU/AU has adopted thirty five (35) legal instruments espousing the norms, shared values and common aspirations of the African Member States. The OAU/AU has also adopted over forty (40) instruments setting up the institutional framework through which it shall operate to achieve its objectives.

While a number of legal instruments are expressed to come into force upon adoption by the Assembly, most of them are operational upon requisite ratification by Member States. Although the AU processes envisage member state participation at every level of treaty making as well as adequate stakeholder engagement in the finalization of the treaty texts, it has been observed that the pace of ratification is slow. Consequently, to date, of the treaties to come into force by ratification, only thirty one (31) have been brought into force while twenty (20) others are yet to pending receipt of the requisite number of instruments of ratification.

In a 2008 study conducted on the harmonization of ratification procedures and measures to speed up the ratification of OAU/AU treaties, it was observed that the causes for the slow pace of ratification can be broadly categorized as political willingness and technical inability. In terms of political willingness, it was observed that changes in Government precipitating a shift in priorities and discordance between the legislative body charged with approving ratification and domestication and the executive that signed the treaty are some of the key obstacles in achieving progress for the implementation of OAU/AU treaties. Lengthy and cumbersome legal and constitutional procedures and a dearth of technical capacity also play a role in the slow pace of ratification and implementation of OAU/AU treaties. The number and identity of states that have ratified a treaty also

diminishes its effectiveness when for example a maritime Charter is ratified by a handful of landlocked states and not those with the longest coastline or most active maritime sectors.

This worrying trend of slow ratification of OAU/AU treaties has also been observed at the level of the policy organs of the Union so that there have been numerous Executive Council and Assembly Decisions exhorting member states to ratify OAU/AU treaties in a bid to further among other objectives, the integration agenda of the African Union.

II. Justification of the workshop

The sum total of the foregoing is that the implementation of the Union's vision, goals and aspirations remains low within the Member States. In a bid to ameliorate the above situation, the Commission has put in place a number of interventions including; maintaining an updated website wherein the status of OAU/AU treaties can be publicly assessed, periodic communications from the Depositary regarding deposit of instruments of ratification and notification of treaties that have entered into force, organization of treaty signing weeks and training workshops as a form of technical assistance to member states towards enhancing capacity to negotiate, draft, ratify and domesticate treaties, participation in sensitization and awareness workshops to educate stakeholders on OAU/AU treaties, availing OAU/AU treaties during African Union Summits for signature by Ministers of Foreign Affairs or Heads of State and Government, establishment of Standing Committee of Experts and establishment of National Sectorial Committees, which are bodies comprising senior Government officials, civil society, media, practitioners, academia and all practitioners involved in the implementation of treaties with a view to creating a structure through which feedback on the status of OAU/AU treaties can be channeled.

The meeting of the STC on Justice and Legal Affairs brings together all the Ministers of Justice, Ministers of Justice and Attorneys General, Ministers in charge of Human Rights, Constitutional Affairs and the Rule of Law to examine draft AU Treaties and thereafter submit them to the Executive Council and the Assembly for their consideration and eventual adoption. The AU Office of Legal Counsel (OLC) aims to optimize the opportunity to engage the Ministers of Justice, Ministers of Justice and Attorneys General, Ministers in charge of Human Rights, Constitutional Affairs and the Rule of Law as key legal advisers of their respective Member States towards prioritizing the ratification of OAU/AU treaties.

The treaty promotion workshop is being organized on the sidelines of the STC meeting for all fifty five (55) AU Member State representatives. The workshop shall provide an overview of the status of OAU/AU treaties, in particular, their nature and statistics

relating to the treaties. The session shall also explore the challenges encountered in the ratification of OAU/AU treaties. In addition, the session is expected to generate proposals on the way forward in regard to promoting the ratification of OAU/AU treaties and conclude with dissemination of key publications.

III. Target Participants

The training is targeted at the Member State representatives attending the STC Meeting of the Ministers of Justice, Ministers of Justice and Attorneys General, Ministers in charge of Human Rights, Constitutional Affairs and the Rule of Law. The expected total number of participants for this session is fifty five (55) comprising one (1) nominee from each of Member States of the African Union plus four (4) from the Office of the Legal Counsel.

IV. Objectives

The primary objective of the treaty promotion workshop is to drive increased ratification of OAU/AU treaties by Member States.

V. Expected Outcomes

The workshop is expected to generate greater impetus among AU Member States given the pivotal role that Ministers of Justice, Ministers of Justice and Attorneys General, Ministers in charge of Human Rights, Constitutional Affairs and the Rule of Law play towards ratification, domestication and implementation of legal obligations such as are contained in OAU/AU treaties.

VI. Structure and Approach

The workshop will be conducted through a combination of methods, namely, mini-lecture and interactive sessions.

The African Union Commission, Office of Legal Counsel on behalf of the Chairperson as the Depositary of the OAU/AU treaties as well as the Directorate charged with advising on the legal affairs of the Union, shall conduct the workshop.

VII. Date and Venue

The treaty promotion workshop will take place on **15 November 2017** in Addis Ababa, Ethiopia.

VIII. Indicative budget

The Budget will cover the cost of Training resources, including: handouts, printing and tea/coffee break refreshments.

IX. Contact Information

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