

**AFRICAN UNION**  
الاتحاد الأفريقي



**UNION AFRICAINE**  
**UNIÃO AFRICANA**

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ORIGINAL: ENGLISH

**DRAFT**

**STATUTE OF THE AFRICAN MINERALS DEVELOPMENT CENTRE**

## PREAMBLE

The States Parties to the Present Statute

**BEARING IN MIND** the importance of Minerals and other Natural Resources, notably in contribution towards inclusive growth and sustainable development through; job creation especially for the youth and women, wealth creation and poverty eradication thus leading to socio-economic structural transformation of African Economies;

**DEEPLY CONCERNED** about the fact that Africa's abundant mineral resources are not yet contributing equitably and effectively towards improving the living conditions of its populations;

**ALSO CONCERNED** about the increasing competition and demand for Africa's raw mineral resources and the imposition of trade conditionalities, both of which are likely to reduce the continent's policy space to pursue local beneficiation, value addition and resource-based industrialisation;

**AWARE** of the enormous potential that the appropriate development of mineral resources offers to propel Africa towards broad-based socio-economic development and to the achievement of the African Union Agenda 2063;

**RECALLING** the commitment made by our Heads of State and Government in their Solemn Declaration on the occasion of the 50<sup>th</sup> Anniversary of the OAU/AU to take ownership of, use and develop the natural resources endowments and mineral resources, through value addition as the basis for industrialization of the continent;

**ALSO RECALLING** Decision AU/MIN/CAMRMRD/4(I) taken during the 1st Ordinary Session of 13-17 October 2008 of the AU Conference of Ministers responsible for Mineral Resources Development, calling upon AU Member States to work together to ensure that international agreements that they enter into enhance rather than undermine Africa's policy space for integrating mineral resources development into their economies;

**FURTHERRECALLING** Decision Assembly/AU/Dec.175 (X)) adopted by the Assembly of the Union in Addis Ababa, ETHIOPIA on 31st January 2008 that adopted the Action Plan for Accelerated Industrial Development of Africa – Doc. EX.CL/378 (XII)

**MINDFUL of the** Decision EX.CL/Dec.471 (XIV) of the Executive Council held in Addis Ababa, Ethiopia in February 2009 that adopted the African Mining, as well as Decision EX.CL/ Dec.714 (XXI) of the Executive Council held in Addis Ababa, Ethiopia in July 2012 that endorsed the Addis Ababa Declaration on Building a Sustainable Future for Africa’s Extractive Industry – From Vision To Action and called for the establishment of a Minerals Development Centre;

**CONVINCED** that the time is now for Africa’s Renaissance, for the continent to regain ownership of its natural resources and to implement the Africa Mining Vision, with sound, prudent management and good governance, with a view to maximizing the benefits derivable from mineral resources exploitation for present and future generations while limiting negative environmental and macroeconomic impacts;

**RECOGNISING** that the implementation of the Africa Mining Vision is a joint responsibility of state and non-state actors, including the private sector, community based organisation, specialized institutions, organised labour among other stakeholders;

**DETERMINED** to seize the opportunities offered by historically high commodity prices and increased competition for Africa’s mineral resources, in order to change the continent’s development paradigm and move from a mere reliance on extracting and exporting raw minerals to a more transformational growth trajectory;

**RE-AFFIRMING** the commitment for efficient implementation of the Action Plan of the Africa Mining Vision in order to achieve the goals of the Accelerated Industrial Development of Africa (AIDA), Boosting of Intra-African Trade (BIAT) as well as of the African Union Agenda 2063 for the transformation of the lives of Africa’s populations and the integration of Africa into the global economy;

**INSPIRED BY** the Bahir Dar Ministerial decision calling for an effective management, governance and beneficiation of African resources to effect transformation, inclusive growth and industrialisation;

**URGING** that Minerals should play their transformative role in order to contribute to solving the pressing problems of development in the African Continent;

**BEING AWARE** of the need for co-operation in this field, particularly in research, development and training

**EMPHASIZING** the urgency of strengthening the minerals beneficiation capabilities of African countries;

**RECOGNISING** the important role that the African Minerals Development Centre will play in supporting African Union Member States towards harnessing effectively their mineral resources in order to improve the living conditions of Africans;

**APPRECIATING** the initiative taken by our key partners African Development Bank, United Nations Development Programme and the United Nations Economic Commission for Africa for the promotion and preparation of the establishment of such a centre;

HAVE AGREED AS FOLLOWS:

**Article 1**

Definitions

For the purpose of this Statute:

**“Act”** means the Constitutive Act of the African Union;

**“Annex”** means annex to this Statute

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

**“Affiliated Institutions”** means established institutions with the capacity to execute specialized functions in fulfilment of the AMDC objectives.

**“Advisory Board”** means the Minerals Advisory Board of the Centre;

**“AMDC”** means the African Minerals Development Centre;

**“AMV”** means African Mining Vision;

**“AU”** means the African Union;

**“Centre”** means the African Minerals Development Centre;

**“Collaborating Institutions”** means any entities or organizations that will cooperate with the Centre on issues of mutual interest;

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

**“Continent”** means the Continent of Africa;

**“Conference of the parties”** means the conference of the parties of the Centre”

**“Court”** means the African Court of Justice and Human and Peoples’ Rights;

**“Director General”** means the Chief Executive of the Centre and the Head of the Secretariat;

**“Executive Council”** means the Executive Council of Ministers of the African Union;

**“General Convention”** means the General Convention on Privileges and Immunities of the Organization of African Unity;

**“Members”** means the States Parties;

**“Member State”** means a Member State of the African Union;

**“Obligation”** means the commitments of States Parties to the Centre;

**“REC”** means the Regional Economic Communities recognised by the African Union

**“Region”** means the regions of the African Union as provided for by Resolution CM/Res.464 (XXVI) of the Council of Ministers of the Organization of African Unity on the division of Africa into five (5) regions, namely: Northern, Western, Central, Eastern and Southern Africa;

**“Senior Officials”** means the category of staff other than executives as defined by the Centre;

**“Special Operations”** means any other operation that is different from ordinary operations;

**“State Party”** means the Member State which has ratified or acceded to the Statute of the Centre;

**“Statute”** means the present Statute of the Centre;

**“Subsidiary institutions”** ...

**“Supervisory Bodies”** means the Conference of the parties and the Advisory Board which oversees the activities of the Centre;

**“UNECA”** United Nations Economic Commission for Africa

**“Union”** means the African Union established by the Constitutive Act;

## Article 2

### Establishment of the Centre

The African Minerals Development Centre (hereafter referred to as “the centre”) is hereby established as a Specialised Agency of the Union responsible for Mineral resources Development in Africa.

## Article 3

### Objectives

AMDC’s objectives shall be to coordinate and oversee the implementation of the AMV and its Action plan to enable the mineral resource sector to play its role in the social and economic transformation, inclusive growth and sustainable development of African economies in conjunction with member States, RECs, the private sector, civil society organizations including women and youth organisations, collaborating institutions and other key stakeholders in:

1. ensuring that there are coherent policies and robust regulatory and legal frameworks at the national level which are harmonized at the regional and continental level on exploration, exploitation, licensing, contracting, taxation, exporting, mineral processing and handling;
2. developing a diversified and globally competitive African mineral industry which contributes to broad economic and social growth through the creation of economic linkages;
3. contributing to the regional integration agenda and the boosting of intra-african trade;
4. promoting good governance in mineral resources development for the betterment of local communities in Africa;
5. fostering sustainable development principles based on environmentally and socially responsible mining, which respects human rights, health and safety of the local communities, workers and other stakeholders; and
6. contributing to the Plan of Action for Accelerating Industrial Development of Africa (AIDA) through promotion of beneficiation, value addition, industrial linkages, responsible investments, innovation and diversification.

#### **Article 4**

#### **Functions**

AMDC shall carry out the following functions:

1. Support member States in the formulation and implementation of policies which are geared towards development of the mineral sector;
2. Support acceleration of regional mapping and exploration activities to improve the quality of geological information and geodata management systems on the continent;
3. Facilitate and nurture human resources and skills development in line with the AMV Action Plan;



4. Facilitate and undertake research and development, and the building of knowledge networks and niches involving the academia, private sector, government, think tanks, and other players;
5. Encourage the establishment of industry/professional associations, Chambers of Mines, cluster councils, and incubator/technology packs;
6. Foster learning processes by the establishment of a critical mass of industry players that share information and best practices, collaborate and compete to enhance competitiveness;
7. Promote local beneficiation and value addition for the local production of consumer and industrial goods;
8. Encourage and support Artisanal and Small Scale Mining and medium-scale enterprises to be integrated in the regional and global value chains;
9. Harness the potential of Public Private Partnerships in supporting infrastructure and capacity development;
10. Promote advocacy and communication in order to increase access to information and knowledge that may enhance informed decision-making;
11. Promote and apply science and technology in awareness raising; and
12. Carry out any other functions that may enable the Center achieve its objectives as may be approved by the Conference of Parties.

## **Article 5**

### **Membership**

1. Membership of the Centre shall be open to all Member States of the African Union which have signed and ratified or acceded to the statute.
2. Founding Members of the Centre shall be all Members that have signed the Statutes before its entry into force.

**Article 6**  
**Legal Capacity**

AMDC shall enjoy, in the territory of each State Party, legal capacity accorded to legal persons under the national laws of the State Parties as may be necessary for the fulfilment of its objectives and the exercise of its functions.

**Article 7**  
**Privileges and Immunities**

AMDC, its representatives and Staff shall enjoy in the territory of each Member State, the privilege and immunities stipulated in the 1964 General Convention on the Privileges and Immunities of the OAU/AU and the Additional Protocol to the OAU General Convention on Privileges and Immunities, and such facilities and courtesies as are necessary for the exercise of its functions in connection with the Centre.

**Article 8**  
**Headquarters**

The headquarters of the Centre shall be situated in such a location as the Conference of Parties shall determine based on criteria for hosting AU organs and institutions.

**Article 9**  
**Organs of the Centre**

The Centre shall have the following organs:

- a) The conference of the parties;

- b) The Minerals Advisory Board ; and
- c) The Secretariat.

## **Article 10**

### **The Conference of the Parties**

1. The Conference of the Parties shall consist of:
  - a. a representative of each member of the Centre;
  - b. the AU Commissioner of Trade and Industry;
  - c. the Chairperson of the Advisory Board; and
  - d. the Director General of the Centre serving in an ex officio capacity without the right to vote.
2. The Conference of the Parties shall be represented by Ministers responsible for Minerals resources development or their duly authorised representatives.
3. In nominating their representatives, Conference of the Parties shall pay due regard to their administrative capability, Minerals policy and development background.
4. The Conference of the Parties shall meet in:
  - a. ordinary session at least once every two years; and
  - b. Extraordinary session at the initiative of Chairperson of the Conference of the Parties or any State Party and upon approval of two-thirds of all the State Parties.
5. The Conference of the Parties shall elect a Bureau which shall be composed of a Chairperson, two Vice-Chairpersons and a rapporteur from among the representatives of the Parties taking into account the principle of geographical rotation;
6. The members of the Bureau shall hold office for two years renewable once for a further term of two years;

7. The quorum for the Conference of the Parties shall be two-thirds majority of the Parties of the Centre;
8. Decisions of the Conference of the Parties shall be taken by a two-thirds majority of the Parties present and having a right to vote;
9. The Conference of the Parties shall have the right to invite Member States and stakeholders as observers to attend its meetings without the right to vote.

## **Article 11**

### **Functions of the Conference of the Parties**

The functions of the Conference of the Parties shall be to:

1. issue policy guidelines through resolutions and recommendations;
2. adopt the Rules of Procedure for the Conference of the Parties;
3. determine the criteria and the scale of assessment for membership fees for Parties;
4. appoint and dismiss the Director General of the Centre;
5. appoint external auditors and decide on their mandate and remuneration;
6. elect and dismiss for cause the Members of the Advisory Board;
7. dissolve the Advisory Board if necessary;
8. decide on the necessity of establishing or causing to be established, or dissolving or causing to be dissolved any Centre Subsidiary;
9. decide on the location of any Subsidiary of the Centre to be established;
10. propose a sustainable financial mechanism and the annual contribution of members of the centre to the Assembly of Heads of State and Government through the Executive Council.
11. decide and prioritise the activities of the Centre relating to critical issues affecting minerals development in different parts of the continent;

**Article 12**  
**The Minerals Advisory Board**

1. The Advisory Board shall consist of the following:
  - a) The AU Director of Trade and Industry;
  - b) A representative from each region in the Bureau of the African Union Specialized Technical Committee on Trade, Industry and Mineral Resources;
  - c) One Representative from each REC;
  - d) The representatives of the Collaborating Institutions;
  - e) The Director General of the Centre; and
  - f) An expert in the area of Minerals Resources development.
  
2. Members of the Advisory Board shall possess relevant professional experience in the field of mineral resources development and participate actively in carrying out AMDC's activities.
  
3. The Advisory Board Members, other than the Director General and the AU Director of Trade and Industry, shall be appointed for a term of two years renewable once for a further term two years.

4. The Advisory Board Members shall serve as representatives of the Centre and shall serve on a part-time basis as required by their functions.
  
5. The Advisory Board shall meet:
  - a) in regular session twice a year one of which is to immediately precede the Conference of the Parties, and
  
  - b) as often as necessary in extraordinary session at the request of the Chairperson of the Advisory Board or as otherwise requested by the Secretariat.
  
  - c) at the seat of the Centre, unless otherwise determined by the Conference of the parties.
  
6. The quorum for meetings of the Advisory Board shall be a two-thirds majority of the members of the Advisory Board.
  
7. The decisions of the Advisory Board shall be taken by consensus. However, if all attempts to reach a consensus fail, decisions may be taken by a two-thirds majority of the Members of the Advisory Board.
  
8. The Board shall elect annually from among its members, a Chairperson, Vice Chairperson and a rapporteur on regional rotational basis.
  
9. Any Member State may participate, without a vote, in the consideration by the Advisory Board of any question which especially affects its interests. No member of the Advisory Board shall vote in the consideration by the Advisory Board of a dispute to which that State Party is a Party.

10. The members of the Advisory Board shall not be remunerated. However, the members of the Advisory Board shall be reimbursed for any costs incurred as a result of attending Board meetings.
  
11. Pending the entry into force of this Statute the Chairperson of the AU Commission shall appoint members of the Advisory Board to undertake the functions of the Advisory Board. Such members appointed by the Chairperson of the AU Commission shall serve only on an interim basis.

### **Article 13**

#### **The Functions of the Minerals Advisory Board**

The functions of the Advisory Board shall be to:

1. Prepare its own rules of procedure and submit to Conference of the Parties for approval;
2. Convene the ordinary and extraordinary sessions of the Conference of Parties, subject to the relevant provisions of Article 10, and determine the provisional agenda;
3. Ensure the implementation of the work programme and other resolutions of the Conference of the Parties ;
4. Supervise and coordinate the activities of the Secretariat and committees or working groups;
5. Assist the State Parties in implementing the resolutions, directives and decisions of the Conference of the Parties and discharge the duties and obligations which are conferred upon it under the Statute.
6. Submit to the Conference of the Parties nominations for the post of Director General in accordance with guidelines set by the Conference of the Parties;
7. Supervise the administrative and financial management of the Secretariat;

8. Submit periodic reports of its activities to the Conference of the Parties; and
9. Carry out any other functions that may be assigned to it by the Conference of the Parties.

#### **Article 14**

##### **The Secretariat**

1. The Secretariat shall be headed by a Director General who shall be assisted by the necessary and competent staff for the smooth functioning of the Centre.
2. The Director General shall be appointed by the Conference of the Parties upon the recommendation of the Advisory Board.
3. In the appointment of the Director General and other staff, consideration shall be made to ensure competence, qualification, experience, high integrity and geographical distribution of posts.
4. The Director General shall serve in office for a term of four (4) years renewable only once for a further term of four (4) years.
5. The Director General shall:
  - a) follow up and ensure the implementation of the resolutions, directives and decisions of the Conference of the Parties and the Advisory Board in accordance with the rules and regulations of AMDC;
  - b) represent AMDC and defend its interest under the guidance and approval of the Advisory Board and the Conference of the Parties;
  - c) promote the development of the programmes, projects and initiatives of AMDC;
  - d) Prepare and submit proposals relating to the work programmes, business plans, strategic objectives, projects, activities and budgets of AMDC and ensure their implementation;
  - e) oversee the administrative and financial management of AMDC by appropriately managing the budgetary and financial resources including collecting the approved revenue from various sources;



- f) prepare financial reports and budgets to be submitted to the Conference of the Parties for approval in accordance with AMDC's rules and regulations;
- g) submit reports on the activities of AMDC to the Conference of the Parties and Advisory Board;
- h) appoint staff and terminate contracts of appointments in accordance with AMDC Staff Rules and Regulations;
- i) prepare and service meetings of the Conference of the Parties, the Advisory Board and Committees of AMDC;
- j) organize meetings and undertake studies as necessary and maintain relevant records in relation thereto;
- k) submit to the Conference of the Parties and the Advisory Board annual reports on the operations of AMDC;
- l) keep in custody the seal, documents, files and other data relating or relevant to the work of AMDC; and
- m) make recommendations to improve AMDC's operational efficiency.

### **Article 15**

#### **Subsidiary or Affiliated Institutions of the Centre**

There shall be such subsidiary or affiliated institutions of the Centre as the Conference of the Parties may decide for the purposes of carrying out the functions of the Centre.

**Article 16**

**Cooperation with other organizations**

AMDC shall work in close cooperation with the different AU Organs, RECs, national organizations, including government ministries, universities, industrial research and training institutes, mineral development and policymaking bodies as well as the private sector, civil society organisations and international agencies.

**Article 17**

**Financial Resources of the Centre**

1. The regular budget of AMDC shall be funded by contributions of State Parties in accordance with the scale of assessment determined by the Conference of the Parties;
2. Supplemental budgets of AMDC shall be made available, where necessary to meet the extra and/or special budgetary expenditure of AMDC. The Conference of the Parties shall determine the contributions of State Parties to the special budgets of AMDC; and
3. In addition AMDC may receive grants, donations and proceeds for its activities as approved by the Advisory Board.

## **Article 18**

### **Expenses**

1. The Secretariat may incur expenses for administrative, operational and investment purposes in accordance with the approved Programme of Work, Budget and Financial Regulations and Rules of the Centre as adopted by the Conference of the Parties.
2. Expenses incurred by representatives of Parties in attending meetings of the Conference of the Parties shall be borne by their respective governments.
3. Expenses incurred by Members of the Advisory Board in the course of their official duties for the Centre shall be borne by the Centre.

## **Article 19**

### **Sanctions**

1. Any State Party that fails to honour its financial obligations to the Centre for a period of two (2) years or more shall, as long as it is in such arrears, forfeit the right to vote in the Conference of the Parties or to present candidates for any elective or other post with AMDC.
2. Any violation of any provisions of this Statute by a State Party shall result in sanctions as may be determined by the Conference of the Parties.

## **Article 20**

### *Signature, Ratification, Accession and Entry into Force*

1. This Statute shall be open to signature, ratification, acceptance and accession by the African Union Members States in accordance with their respective Constitutional procedure.

2. The instrument of ratification shall be deposited with the Chairperson of the African Union Commission.
3. Any African Union Member State acceding to this Statute after its entry into force shall deposit the instrument of accession with the Chairperson of the Commission.
4. This Statute shall provisionally enter into force upon signature by fifteen African Union Member States and shall definitively enter into force upon ratification by fifteen (15) African Union Member States.
5. The Depository shall give notice to AMDC and any State Member to AMDC of the date on which the AMDC Statute enters into force provisionally and formally.

## **Article 21**

### *Denunciation*

Any denunciation of this Statute shall be made through appropriate notification to the Chairperson of the AU Commission who shall within thirty (30) days advise AMDC and States Parties accordingly. The withdrawal of any State from membership of AMDC shall become effective one (1) year following the receipt by the Chairperson of the AU Commission of such notification.

## **Article 22**

### *Amendment and Revision*

1. Any State Party may submit proposals for the amendment or revision of this Statute.

2. Proposals for amendments or revision shall be submitted to the Chairperson of the AU Commission who shall transmit the same to AMDC and the Member States within thirty (30) days of receipt therefore.
3. The AMDC Conference of the Parties shall meet to consider the proposals for amendments or revisions and submit their recommendations to the Executive Council.
4. The Assembly upon the advice of the Executive Council shall examine the recommendations within a period of one year following notification of the State Party in accordance with the provisions of paragraph 2 of this Article.
5. Amendments or revisions shall be adopted by the Assembly and submitted for ratification by all Member States in accordance with their respective constitutional procedure. Such amendments shall enter into force in accordance with the provisions of Article (20).

## **Article 23**

### *Settlement of Disputes*

1. Any dispute arising between two (2) or more AMDC State Parties on the application or interpretation of this Statute shall in the first instance be settled through negotiations.
2. In case the dispute(s) remains unresolved, it shall be referred to the AMDC Advisory Board failing which it shall, at the request of any State concerned in the dispute, be referred to the AMDC Conference of the Parties for resolution.
3. Should this not provide a satisfactory solution to the Parties the dispute may be settled by arbitration. The arbitration team may consist of a panel of three Arbitrators. Each Party shall appoint one arbitrator and the third one by the appointed arbitrators. The seat of arbitration shall be in Africa.

4. The arbitration Panel shall adopt its own Rules of Procedure and make an award within six (6) months. The decision of the Panel shall be final and binding on the Parties.
  
5. Without prejudice to the above provisions, the African Court of Justice and Human Rights and Peoples' Rights may be seized with any dispute regarding the application or interpretation of the Present Statute.

## **Article 24**

### *Working Languages*

The working languages of the AMDC shall be those of the Union.

**IN WITNESS, WE**, Heads of State and Government of the African Union have adopted this Statute.

DONE at -----on the----- day of ..... 20.., in Arabic, English, French and Portuguese, all the texts being equally authentic.