

AFRICAN UNION
الاتحاد الأفريقي



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DEPARTMENT OF HUMAN RESOURCES, SCIENCE AND TECHNOLOGY

**FIRST EXTRAORDINARY SESSION OF THE
CONFERENCE OF MINISTERS OF EDUCATION
OF THE AFRICAN UNION (COMEDAF IV+)
NAIROBI, KENYA
11 - 13 MAY 2011**

AU/ EXPT/EDUC/3e (IV+)

MEMORANDUM OF UNDERSTANDING

First draft

Memorandum of Understanding

Between

The Pan African University

on one hand

and

theGovernment

on the other hand

Concerning the establishment of the Pan African University Rectorate/Vice-Chancellery

The Pan African University (hereafter named the PAU),

and theGovernment (hereafter named the Government);

hereafter named the Parties:

Taking into consideration the provisions of the PAU statute adopted on the (date);

Considering that the PAU is an institution of the African Union and that benefits all its Member States;

Considering also that on the (date), the Bureau of the Conference of Ministers of Education of the African Union (COMEDAF Bureau) authorized the establishment of the PAU Rectorate/Vice-Chancellery in (Country);

Taking note of the approval of theGovernment concerning the establishment of the PAU Rectorate/ Vice-Chancellery on its territory;

Desiring to specify by this Memorandum of understanding the terms and conditions relating to the establishment and functioning of the PAU Rectorate;
have agreed the following:

CHAPTER I

DEFINITIONS

For the purposes of the present memorandum, unless the context requires or permits a different meaning, words and the expressions listed below shall mean:

- a) « The Recteur/Vice-Chancellor» means the Recteur/Vice-Chancellor of the Pan African University;
- b) “The competent authorities” means the authorities under the laws and regulations of..... (country) ;
- c) “Officials” means Rectorate /Vice-Chancellery personnel with at least the rank of Director.
- d) “Premises” means buildings or part of buildings occupied permanently or temporarily by the PAU Rectorate/Vice-Chancellery (country)
- e) “Archives” means all records, correspondence, documents and recording belonging to or held by the PAU, wherever located

CHAPTER II

PREMISES OF THE PAN AFRICAN UNIVERSITY (PAU)

Article 1

The Government shall facilitate the location and acquire buildings to the needs of the PAU, including the residence of the Rector as well as all other buildings or facilities to serve the needs of the PAU and the housing of its staff.

CHAPTER III

IMMUNITIES AND PRIVILEGES

Article 2

The staff and student of PAU who are not citizen of the host country and not resident prior to their admission shall enjoy in the territory of the(country), immunities and privileges and given to African Union employees in compliance with articles V, VI and VII of the General Convention on the privileges and immunities of the Organisation of African Unity concluded in Accra (Ghana) in October 1965.

Article 3

The PAU, its property, funds and assets shall enjoy the immunity from proceedings regarding any form of legal action. No form of interference and seizure shall be taken against the PAU, its property, funds and assets.

Article 4

All archives and documents of the PAU wherever they may be are inviolable.

Article 5

The PAU premises shall be inviolable and are placed under the supervision and the direct authority of the PAU. Thus competent authorities shall not enter the premises except with the express consent of the Recteur/Vice-Chancellor or its representative.

Article 6

The PAU shall have the right to establish regulations applicable in its premises and to establish the appropriate conditions for its functioning.

Article 7

1. Competent officers representing the Government such as administrative, judicial, military or police officers shall not access the premises of the PAU to carry out their official duties except with the approval of the Rector/Vice-Chancellor or its representative.
2. The PAU shall not permit its premises to become the refuge of people trying to avoid arrest of legal process issued by(country).
3. All PAU staff must respect and adhere to all national laws of the host country

Article 8

The appropriate authorities of (country) shall take appropriate steps to protect the PAU premises against intrusion and to prevent disturbance of peace of the PAU.

To achieve his purpose, the Government shall provide to the PAU the same protections it grants to international organizations and diplomatic missions established in the territory of(country).

CHAPTER IV

ENTRY, STAY AND DEPARTURE

Article 9

(1) The Government shall take appropriate steps to facilitate entry, stay and departure as well as the free movement on the territory of (country) of the following persons travelling in (country) to carry out their duties, study or invited on official business:

- The PAU academic and research staff,
- The PAU students,
- The elected and non elected members of the PAU Council including the President ,
- The PAU Senate members,
- The representatives of Partners and Lead Thematic Partners,
- Directors of PAU Institutes and coordinators of PAU centres,

- PAU administrative, technical and support personnel;
- Invited experts,
- Persons other than the PAU staff who work for the account of the PAU,
- Relatives dependant on persons referred to previously in this paragraph, during the period of their functions and missions.

(2) The PAU shall communicate to the Government through the Ministry of Foreign Affairs a list of its staff and student mentioned in paragraph (1). The entry permissions and visas for these persons, when required, shall be issued promptly and free of charge.

(3) The persons referred to in the paragraph (1) shall move freely within the territory of the (country) in compliance with laws and regulations in force of thec concerning the access to certain places or localities.

Article 10

The PAU shall undertake to cooperate with the Government in order to avoid any interference with national security in (country) .

CHAPTER V

COMMUNICATIONS, PUBLICATIONS AND PUBLIC SERVICES

Article 11

The PAU enjoys in (country) for its official communications the same treatment that Government grants to diplomatic missions and international organizations based in (country) concerning priority and tariffs.

Article 12

(1) The Government shall not have the right to inspect PAU official correspondences. Consequently, these correspondences shall not be censured.

(2) The PAU shall have the right to use codes, send and receive official correspondences via sealed mail or bags which shall enjoy the same immunities and privileges as diplomatic couriers and bags.

(3) The PAU shall have the right to publish freely in the interest of PAU in (country) provided this is done in respect of national and international regulations on the protection of intellectual property rights in (country)

Article 13

(1) The Government shall ensure public services to the PAU in the same conditions granted to diplomatic missions and international organizations based in (country) .

The term public services include electricity, water, sewerage, gas, post, telephone, telegraph, drainage, fire protection, local transportation etc.

(2) In case of interruption or threatened interruption of any of these public services. The Government shall take appropriate measures to ensure that the needs of the PAU are as important as similar needs of government departments and will take appropriate measures to ensure that the work of the PAU is not jeopardised.

CHAPTER VI

MEETINGS AND SEMINARS

Article 14

For its activities, the PAU may arrange meetings in its premises of the Rectorate and in other places in the territory of (country) . In this case of the latter, the PAU shall give prior notice to the Government in order to guarantee the freedom of expression and discussion and provision of security of premises and participants.

CHAPTER VII

FINANCIAL AND FISCAL FACILITIES

Article 15

The PAU, its property, incomes and assets are exempt from all taxes, duties and customs charges. This disclaimer applies in particular to:

- (1) all direct and indirect taxes in force in(country)
- (2) all rights and duties or other charges and restrictions on import and export taxes

Article 16

The Staff and PAU students who are not citizens of the host country and not resident prior to their admission shall enjoy in the territory of..... (country) ,the right to

import their furniture and personal effects duty free within 12 months of first taking up their position in the PAU.

Article 17

The staff and students of PAU who are not citizens of the host country and not resident prior to their admission shall enjoy the same privileges in the territory of (country):

- (1) The same privileges relating to exchange facilities as those that are granted by (country) for diplomatic missions and international organizations,
- (2) The possibility to have ... (country), domiciliary, local and foreign accounts elsewhere in any other country with foreign securities and other movable property and acquire buildings subject to the laws and regulations in force in (country),
- (3) The right to transfer out of (country) sums into another currency as(the currency of host country) without any restriction or limitation, provided that they can prove that they own them legitimately,

Article 18

1. Applicable charges and sharing of Intellectual Property proceeds except otherwise expressly provided elsewhere in MoU, all operational charges relating to or arising out of this MoU or of any rights, in the form of permits, stamp duties, student registration fees, consultancy etc. The proceeds shall be shared between the Pan African University and the host University

CHAPTER VII

OFFICIALS, PERSONNEL AND EXPERTS OF THE PAU

Article 19

The PAU officials, personnel and experts, except for citizens of (country), shall enjoy on the territory of (country), the following immunities, exemptions and privileges:

- (1) Exemption from (country) income tax on salaries and emoluments paid by the PAU,

- (2) Exemption from all national service obligation, except for staff members and students who are citizens of (country);
- (3) The immunity from legal proceedings for any speeches, papers or acts for which they are responsible when carrying out their official duties;
- (4) the immunity from seizure of their official luggage,
- (5) exemption from all formalities for foreigners and immigration,
- (6) the same protection and repatriation facilities for themselves, members of their families and dependent persons as members of diplomatic missions and international organisation, in times of international crisis.

Article 20

Moreover the immunities, exemptions and privileges mentioned in the previous articles, the Recteur/Vice-Chancellor and his representative, unless they are citizens of (country) shall enjoy for themselves and their families immunities, exemptions and privileges under the same conditions and following the same procedures that the Government applies to heads of diplomatic missions.

Article 21

The PAU officials, students, personnel and experts who are citizens of (country) shall only enjoy immunities, exemptions and privileges specified in Art 19 paragraph (1) and (3).

Responsibility

The PAU Officials, students, personnel, and experts shall not do anything that is contrary to assigned jobs.

Article 22

The PAU staff's spouse and dependants have the right to work in (country). The competent authorities must issue promptly the necessary licences or permissions. Revenues from these jobs are subject to taxation in accordance with the laws in force in (country).

Article 23

The Government shall issue PAU officials and personnel diplomatic identity cards to be used to identify and certify that they have the immunities, exemptions and privileges set in article 18.

Article 24

The PAU shall ensure that immunities, exemptions and privileges are granted in the interest of the PAU are not abused.

Article 25

PAU students shall be allowed to work for not less than 20hours and not more than 30hours per week and revenues from these jobs are subject to taxation and labour rules in accordance with the law in force in host country.

CHAPTER X

GENERAL DEPOSITIONS

Article 26

The PAU and the Government shall reach other agreements which are necessary to achieve the objectives of the present Memorandum of Understanding.

CHAPTER XI

SETTLEMENT OF DISPUTE AND ARBITRATION

Article 27

- 1- Any dispute that may arise between the Parties in relation to the interpretation or application of the present Agreement shall be settled through negotiation or any form of amicable settlement.
- 2- In the case when settlement through negotiation or any other method can not be obtained, it shall be referred to a tribunal made up of three arbitrators, two of which are appointed by the PAU and..... Government respectively and the third chosen by the first two or, if they are not able to agree on the third arbitrator, by the President of the African Court of Justice and Human Rights.

CHAPTER XII

FINAL DISPOSITIONS

Article 28

- 1- This Memorandum of Understanding shall come into force on the date it is signed.
- 2- This memorandum of Understanding is entered into force for an indefinite period.
- 3- This Memorandum of Understanding may be revised or modified by mutual agreement upon writing request stating from one of the two Parties shall thereafter be committed into writing. Any modifications adopted shall enter into force on the date of the last notification received from the two Parties.
- 4- The present Memorandum of Understanding applies to all persons concerned irrespective of whether or not the Government maintain diplomatic relation with the Member State to which the individual belongs.

In witness whereof, the undersigned, duly authorised therefore, have signed and sealed this Memorandum of Understanding in duplicate in(Language); Both texts being equally authentic.

Done on..... (Date)

For the Government of

For the Pan African University.....