

**Chairperson of the Experts Meeting,
Members of the Bureau,
Distinguished Government Legal Experts
Ladies and Gentlemen,**

On behalf of the Chairperson of the African Union Commission, H.E. Mr. Moussa Faki Mahamat, and indeed on my own behalf, it is my pleasure to welcome you to the AU Headquarters in Addis Ababa, Ethiopia, at this official opening of the **Meeting of the Government Legal Experts** of the Third Ordinary session of the Specialized Technical Committee (STC) on Justice and Legal Affairs.

Let me also take this opportunity to express my gratitude, on behalf of the African Union Commission, to all the delegates here present, for the efforts they made to be here. Your attendance at this Meeting bears testimony once again to the importance that Member States attach to developing the legal framework setting out the norms, guiding principles and shared values of the African Union in order to advance its agenda.

**Distinguished Experts
Ladies and Gentlemen,**

During the 2nd ordinary session of the STC on Justice and Legal Affairs held from 1st to 7th September, 2016 in Lomé, Togo, the meeting considered the following instruments: i) Draft Charter on Maritime Security and Safety and Development in Africa (Lomé Charter); ii) Draft Statute of the African Union Mechanism for Police Cooperation (AFRIPOL) and iii) Draft Amendment to the Constitution of the African Civil Aviation Commission. The Lomé Charter was adopted by the Assembly in its extraordinary Summit held in Lomé, Togo in October 2016 vide Decision Ext/Assembly/AU/Dec.1 (VI) . The AFRIPOL statute and Draft Amendment to the AFCAC Constitution were subsequently adopted in January 2017 vide Decision Assembly/AU/Dec. 636 (XXVIII) The Lome Charter and the Draft amendment to the AFCAC Constitution are open for signature and ratification by Member States.

Over the next ten (10) days we shall robustly review the draft legal instruments submitted to this 3rd ordinary session of the Specialized Technical Committee (STC) on Justice and Legal Affairs. The draft legal instruments represent the implementation of Assembly and Executive Council decisions requesting the Commission to take steps towards a specific objective, and include

instruments implementing flagship projects of the first ten year implementation plan for the achievement of Agenda 2063. All the draft legal instruments are the culmination of great effort and dedication by the Member States. It is to be recalled that in accordance with the AU treaty making processes, the draft legal instruments were considered by the relevant sectorial STCs before being recommended for your consideration at this STC and transmission thereafter to the Policy organs of the Union for adoption.

Distinguished Experts

Ladies and Gentlemen,

The first order of business is to present to you the Agenda before you, which is comprised of fourteen (14) items; The first four (4) items are the **Draft Rules of Procedure** that guide the meetings of the various STCs. The Draft Rules were discussed and endorsed by the various STCs. They are now submitted before this STC for consideration and endorsement. Once endorsed, the Draft Rules of Procedure shall be submitted to the Executive Council for approval in accordance with Article 16 of the Constitutive Act of the African Union.

The fifth item on the Agenda is the **Draft Statute of the Trust Fund for Victims of Hissène Habré Crimes**. The statute was

developed pursuant to the Decision *Assembly/AU/Dec.615 (XXVII)*, wherein the Assembly decided “that a Trust Fund on reparations for rightful victims of crimes within the jurisdiction of the African Extraordinary African Chamber shall be established under the auspices of the Union”. The draft Statute has been considered by the Steering Committee for the Funding of the Extraordinary African Chambers (in which Hissène Habré was tried) at its Fourteenth Session held in 2017. Further, vide EX.CL/Dec.972 (XXXI) the Executive Council at its thirty first ordinary session in July 2017 “requested the Commission to submit the Statute of the Trust Fund for Victims of Hissène Habré Crimes to the Specialized Technical Committee on Justice and Legal Affairs for Consideration and to present it to the Thirtieth Ordinary Session of the Assembly for adoption through the Executive Council January/February 2018.”

The Sixth item on the Agenda of the STC meeting is the **Draft Amendment to Article 5(1) of the Protocol to the African Charter on Human and Peoples’ Rights on the Establishment of an African Court on Human and Peoples’ Rights**. The 2nd Ordinary Session of the STC on Justice and Legal Affairs which was held in Lomé, Togo in 2016 considered the amendment proposed by ACERWC. However, during deliberations, Member States raised concerns that the African Court on Human and Peoples’ Rights had not given its opinion directly and substantively

on the proposed amendment, despite the fact that the Member States had been duly informed of the proposed amendment, in accordance with Article 35 (1). Nevertheless, it should be recalled that the Court had pronounced itself on this matter in Advisory Opinion No.002/2013. The 2nd Ordinary Session of the STC on Justice and Legal Affairs in considering the proposed amendment recommended that the Commission should study the procedure in accordance with Article 35 of the Court Protocol related to the proposal for amendments. Consequently, in exercise of its powers under Article 35 (2) that entitles the Court to propose amendments to the Protocol as it may deem necessary, the Court now proposes an amendment to Article 5 (1) to enable the African Committee on the Rights and Welfare of the Child to submit cases before it. (*STC/Legal/ Exp-6 (I)*).

The seventh item on the Agenda is the **Draft Amendment to the ECOSOCC Statute and Rules of Procedure** that reflects the proposed relocation of the Secretariat from the Citizens and Diaspora Organizations Directorate of the Commission to a host country as approved by the Policy Organs of the Union.

It should be recalled that during its Twenty Sixth Ordinary Session held in Addis Ababa, Ethiopia in January 2016, the Assembly adopted Decision *Assembly/AU/Dec.591(XXVI)* on the items proposed by Member States as follows:

'8. WELCOMES and FULLY SUPPORTS the offer by Zambia to host ECOSOCC;

9. URGES Zambia working with the Commission to expedite the processes regarding legal, structural and financial implications;

10. REQUESTS the Commission to undertake the appropriate evaluation mission and submit a detailed report to the next Ordinary Session of the Assembly through the Executive Council scheduled for July 2016.'

Subsequently, in July 2017 vide Decision *Assembly/AU/Dec.642(XXIX)*, the Assembly “requested the Commission to work out all legal, structural and financial implications affecting the relocation of ECOSOCC to Lusaka, Zambia and submit to the PRC for supplementary budget consideration”

Item 8 of the Agenda is the **Draft Statute of the African Institute for Remittances**. The Draft statute is one of the instruments once again submitted for the consideration of this STC having been submitted to its 2nd Ordinary Session where it could not be considered as the meeting was not able to exhaust all the Agenda items. The African Institute for Remittances (AIR) is designated as a Specialized Technical Office of the African Union and it became

operational in October 2015, being hosted in Nairobi, Kenya. The Institute is one of the five legacy projects pursuant to the 2012 Declaration of the Global African Diaspora Summit, which was subsequently in the same year, endorsed by the Assembly of the Heads of State and Government of the African Union vide Decision *Assembly/AU/Dec..443(XIX)*. It is an institute established, *inter alia*, to facilitate and leverage the social and economic benefits of diaspora remittances. The Draft Statute is hereby vide *Resolution 946(XLIX)* of the 9th Joint AU-ECA STC meeting of the Ministers of Finance, Monetary Affairs, Economic Planning and Integration, submitted to this STC on Justice and Legal Affairs for consideration and eventual adoption by the Assembly of the Union.

The ninth item on the Agenda is the **Draft Annexes to the African Charter on Maritime Security and Safety and Development in Africa (Lomé Charter)**. While the draft Annexes were expected to have been considered by the various relevant sectorial STCs prior to this 3rd Session of the STC Meeting, this has not been done. As a result, the Draft Annexes are not ready for consideration at this session of the STC.

Item 10 is the **Draft Institutional and Regulatory Texts of the Yamoussoukro Decision**. These texts were developed as part of the implementation of the Yamoussoukro Decision. The

Yamoussoukro Decision (YD) of 14 November 1999 is concerned with the liberalization of access to air transport markets in Africa. It is to be noted that the Single African Air Transport Market is one of the flagship projects of the first ten year implementation plan for the achievement of Agenda 2063. The texts have been considered by the AU Conference of African Ministers of Transport (CAMT) and subsequently by the First Session of the STC on Transport, Intercontinental and Interregional Infrastructures, Energy and Tourism held in Lomé, Togo on 13-17 March, 2017, wherein, they were recommended for consideration by the STC on Justice and Legal Affairs before onward transmission to the policy organs of the Union for adoption.

The eleventh item on the Agenda is the **Draft Protocol to the Treaty Establishing the African Economic Community relating to Free Movement of Persons, Rights of Residence and Right of Establishment and its Draft Implementation Roadmap, commonly referred to as the “Free Movement Protocol”**. The proposal to develop a Draft Protocol on Free Movement of Persons was initially proposed at the 25th Ordinary session of the Assembly, held in June 2015 in Johannesburg, South Africa. Vide Decision *EX.CL/Dec.908(XXVIII)Rev.1* adopted in January 2016, the Executive Council urged Member States to adopt “the process outlined towards the adoption of a Protocol on Free Movement of People by January 2018, which should come into immediate effect

in Member States”. Subsequently, in July 2016, the Assembly requested the Commission to “put in place an implementation roadmap for the development of a Protocol on Free Movement of Persons in Africa by January 2018, which should come into effect immediately in Member States upon its adoption.”

The text of the draft Protocol has been validated by several Meetings of Experts and considered by the STC on Migration, Refugees and Internally Displaced Persons at its 2nd ordinary session in October 2017 in Kigali, Rwanda, wherein it was recommended to your STC for further consideration.

Item 12 is the **Draft African Union Model Law for the implementation of the African Union Convention for the Protection of and Assistance to Internally Displaced Persons in Africa**. This Model Law is submitted to this STC for the second time due to inability to exhaust the Agenda items during the previous STC. The Model Law was developed by the African Union Commission on International Law, to assist Member States in the implementation of the Kampala Convention. Further, the AUCIL is this year holding its annual forum under the theme “*the legal, political and socio-economic consequences of migration, situation of refugees and internally displaced persons in Africa*”. Therefore, the adoption of the Model Law is deemed as a

significant contribution towards the legal framework for the protection of vulnerable groups.

Item 13 is the **Draft Protocol to the African Charter on Human and Peoples' Rights on the Rights of Persons with Disability in Africa**. The Draft is the result of years of efforts towards developing a legal framework with wide acceptance among all the stakeholders for the adequate protection of Persons with Disability in Africa. The adoption of this instrument is a laudable step in the realization of the shared values of the Union. The Draft Protocol was recommended to your STC for consideration by the STC on Social Development, Labor and Employment which met in April 2017.

The last item on the Agenda is item 14. It incorporates a proposal by the Republic of South Africa to **review the causes or the slow rate of ratification of the Protocol on the Amendments to the Protocol on the Statute of the African Court of Justice and Human Rights commonly referred to as the "Malabo Protocol"**. The Malabo Protocol merges the existing African Court of Human and Peoples' Rights (AFCHPR) with the Court of Justice of the African Union established under the 1998 Protocol to the African Charter on Human and Peoples' Rights on the establishment of an African Court on Human and Peoples Rights (the Court Protocol) and the 2003 Protocol of the Court of Justice

of the African Union respectively and incorporates jurisdiction for international crimes. Despite its adoption by the Assembly of the African Union at its Twenty-Third Ordinary Session in Malabo, Equatorial Guinea, on 27th June, 2014, the Protocol has only garnered ten signatories and registered no ratifications. Hence, the matter is submitted for the consideration by this STC.

Distinguished Experts
Ladies and Gentlemen,

As I have just assumed my responsibility as the Legal Counsel on Friday, I would like to seize this opportunity to thank the team at the office, especially my Deputy Ms. Gaspar Constancia and appreciate all their efforts in preparing for this STC.

I also would like to thank the Chair for his remarks about the required support for the Office of the Legal Counsel and pinpointing some of the issues that need to be tackled from our side.

Having said that, I am confident that this STC will have successful deliberations and the Commission represented by the Office of the Legal Counsel remain at your disposition to assist in facilitating the work of this Committee.