OAU CONVENTION ON THE PREVENTION AND COMBATING OF TERRORISM

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The Member States of the Organization of African Unity:

Considering the purposes and principles enshrined in the Charter of the Organization of African Unity, in particular its clauses relating to the security, stability, development of friendly relations and cooperation among its Member States;

Recalling the provisions of the Declaration on the Code of Conduct for Inter-African Relations, adopted by the Thirtieth Ordinary Session of the Assembly of Heads of State and Government of the Organization of African Unity, held in Tunis, Tunisia, from 13 to 15 June, 1994;

Aware of the need to promote human and moral values based on tolerance and rejection of all forms of terrorism irrespective of their motivations;

Believing in the principles of international law, the provisions of the Charters of the Organization of African Unity and of the United Nations and the latter's relevant resolutions on measures aimed at combating international terrorism and, in particular, resolution 49/60 of the General Assembly of 9 December, 1994 together with the annexed Declaration on Measures to Eliminate International Terrorism as well as resolution 51/210 of the General Assembly of 17 December, 1996 and the Declaration to Supplement the 1994 Declaration on Measures to Eliminate International Terrorism, annexed thereto;

Deeply concerned over the scope and seriousness of the phenomenon of terrorism and the dangers it poses to the stability and security of States;

Desirous of strengthening cooperation among Member States in order to forestall and combat terrorism;

Reaffirming the legitimate right of peoples for self-determination and independence pursuant to the principles of international law and the provisions of the Charters of the Organization of African Unity and the United Nations as well as the African Charter on Human and Peoples' Rights;

Concerned that the lives of innocent women and children are most adversely affected by terrorism;

Convinced that terrorism constitutes a serious violation of human rights and, in particular, the rights to physical integrity, life, freedom and security, and impedes socio-economic development through destabilization of States;

Convinced further that terrorism cannot be justified under any circumstances and, consequently, should be combated in all its forms and manifestations, including those in which States are involved directly or indirectly, without regard to its origin, causes and objectives;

Aware of the growing links between terrorism and organized crime, including the illicit traffic of arms, drugs and money laundering;

Determined to eliminate terrorism in all its forms and manifestations;

HAVE AGREED AS FOLLOWS:

PART I

SCOPE OF APPLICATION

Article 1

For the purposes of this Convention:

1. "Convention" means the OAU Convention on the Prevention and Combating of Terrorism.

2. "State Party" means any Member State of the Organization of African Unity which has ratified or acceded to this Convention and has deposited its instrument of ratification or accession with the Secretary General of the Organization of African Unity.

3. "Terrorist act" means:

(a) any act which is a violation of the criminal laws of a State Party and which may endanger the life, physical integrity or freedom of, or cause serious injury or death to, any person, any number or group of persons or causes or may cause damage to public or private property, natural resources, environmental or cultural heritage and is calculated or intended to:

(i) intimidate, put in fear, force, coerce or induce any government, body, institution, the general public or any segment thereof, to do or abstain from doing any act, or to adopt or abandon a particular standpoint, or to act according to certain principles; or

(ii) disrupt any public service, the delivery of any essential service to the public or to create a public emergency; or

(iii) create general insurrection in a State.

(b) any promotion, sponsoring, contribution to, command, aid, incitement, encouragement, attempt, threat, conspiracy, organizing, or procurement of any person, with the intent to commit any act referred to in paragraph (a) (i) to (iii).

Article 2

States Parties undertake to:

(a) review their national laws and establish criminal offences for terrorist acts as defined in this Convention and make such acts punishable by appropriate penalties that take into account the grave nature of such offences;

(b) consider, as a matter of priority, the signing or ratification of, or accession to, the international instruments listed in the Annexture, which they have not yet signed, ratified or acceded to; and

(c) implement the actions, including enactment of legislation and the establishment as criminal offences of certain acts as required in terms of the international instruments referred to in paragraph (b) and that States have ratified and acceded to and make such acts punishable by appropriate penalties which take into account the grave nature of those offences;

(d) notify the Secretary General of the OAU of all the legislative measures it has taken and the penalties imposed

on terrorist acts within one year of its ratification of, or accession to, the Convention.

Article 3

1. Notwithstanding the provisions of Article 1, the struggle waged by peoples in accordance with the principles of international law for their liberation or self-determination, including armed struggle against colonialism, occupation, aggression and domination by foreign forces shall not be considered as terrorist acts.

2. Political, philosophical, ideological, racial, ethnic, religious or other motives shall not be a justifiable defence against a terrorist act.

PART II

AREAS OF COOPERATION

Article 4

1. States Parties undertake to refrain from any acts aimed at organizing, supporting, financing, committing or inciting to commit terrorist acts, or providing havens for terrorists, directly or indirectly, including the provision of weapons and their stockpiling in their countries and the issuing of visas and travel documents.

2. States Parties shall adopt any legitimate measures aimed at preventing and combating terrorist acts in accordance with the provisions of this Convention and their respective national legislation, in particular, they shall do the following:

(a) prevent their territories from being used as a base for the planning, organization or execution of terrorist acts or for the participation or collaboration in these acts in any form whatsoever;

(b) develop and strengthen methods of monitoring and detecting plans or activities aimed at the illegal cross-border transportation, importation, export, stockpiling and use of arms, ammunition and explosives and other materials and means of committing terrorist acts;

(c) develop and strengthen methods of controlling and monitoring land, sea and air borders and customs and immigration check-points in order to pre-empt any infiltration by individuals or groups involved in the planning, organization and execution of terrorist acts;

(d) strengthen the protection and security of persons, diplomatic and consular missions, premises of regional and international organizations accredited to a State Party, in accordance with the relevant conventions and rules of international law;

(e) promote the exchange of information and expertise on terrorist acts and establish data bases for the collection and analysis of information and data on terrorist elements, groups, movements and organizations;

(f) take all necessary measures to prevent the establishment of terrorist support networks in any form whatsoever;

(g) ascertain, when granting asylum, that the asylum seeker is not involved in any terrorist act;

(h) arrest the perpetrators of terrorist acts and try them in accordance with national legislation, or extradite them in accordance with the provisions of this Convention or extradition treaties concluded between the requesting State and the requested State and, in the absence of a treaty, consider facilitating the extradition of persons suspected of having committed terrorist acts; and

(i) establish effective co-operation between relevant domestic security officials and services and the citizens of the States Parties in a bid to enhance public awareness of the scourge of terrorist acts and the need to combat such acts, by providing guarantees and incentives that will encourage the population to give information on terrorist acts or other acts which may help to uncover such acts and arrest their perpetrators.

Article 5

States Parties shall co-operate among themselves in preventing and combating terrorist acts in conformity with national legislation and procedures of each State in the following areas:

1. States Parties undertake to strengthen the exchange of information among them regarding:

(a) acts and crimes committed by terrorist groups, their leaders and elements, their headquarters and training camps, their means and sources of funding and acquisition of arms, the types of arms, ammunition and explosives used, and other means in their possession;

(b) the communication and propaganda methods and techniques used by the terrorist groups, the behaviour of these groups, the movement of their leaders and elements, as well as their travel documents.

2. States Parties undertake to exchange any information that leads to:

(a) the arrest of any person charged with a terrorist act against the interests of a State Party or against its nationals, or attempted to commit such an act or participated in it as an accomplice or an instigator;

(b) the seizure and confiscation of any type of arms, ammunition, explosives, devices or funds or other instrumentalities of crime used to commit a terrorist act or intended for that purpose.

3. States Parties undertake to respect the confidentiality of the information exchanged among them and not to provide such information to another State that is not party to this Convention, or to a third State Party, without the prior consent of the State from where such information originated.

4. States Parties undertake to promote co-operation among themselves and to help each other with regard to procedures relating to the investigation and arrest of persons suspected of, charged with or convicted of terrorist acts, in conformity with the national law of each State.

5. States Parties shall co-operate among themselves in conducting and exchanging studies and researches on how to combat terrorist acts and to exchange expertise relating to control of terrorist acts.

6. States Parties shall co-operate among themselves, where possible, in providing any available technical assistance in drawing up programmes or organizing, where necessary and for the benefit of their personnel, joint training courses involving one or several States Parties in the area of control of terrorist acts, in order to improve their scientific, technical and operational capacities to prevent and combat such acts.

PART III

STATE JURISDICTION

Article 6

1. Each State Party has jurisdiction over terrorist acts as defined in Article 1 when:

(a) the act is committed in the territory of that State and the perpetrator of the act is arrested in its territory or outside it if this is punishable by its national law;

(b) the act is committed on board a vessel or a ship flying the flag of that State or an aircraft which is registered under the laws of that State at the time the offence is committed; or

(c) the act is committed by a national or a group of nationals of that State.

2. A State Party may also establish its jurisdiction over any such offence when:

(a) the act is committed against a national of that State; or

(b) the act is committed against a State or government facility of that State abroad, including an embassy or other diplomatic or consular premises, and any other property, of that State;

(c) the act is committed by a stateless person who has his or her habitual residence in the territory of that State; or

(d) the act is committed on board an aircraft which is operated by any carrier of that State; and

(e) the act is committed against the security of the State Party.

3. Upon ratifying or acceding to this Convention, each State Party shall notify the Secretary General of the Organization of African Unity of the jurisdiction it has established in accordance with paragraph 2 under its national law. Should any change take place, the State Party concerned shall immediately notify the Secretary General.

4. Each State Party shall likewise take such measures as may be necessary to establish its jurisdiction over the acts set forth in Article 1 in cases where the alleged offender is present in its territory and it does not extradite that person to any of the States Parties which have established their jurisdiction in accordance with paragraphs 1 or 2.

Article 7

1. Upon receiving information that a person who has committed or who is alleged to have committed any terrorist act as defined in Article 1 may be present in its territory, the State Party concerned shall take such measures as may be necessary under its national law to investigate the facts contained in the information.

2. Upon being satisfied that the circumstances so warrant, the State Party in whose territory the offender or alleged offender is present shall take the appropriate measures under its national law so as to ensure that person's presence for the purpose of prosecution.

3. Any person against whom the measures referred to in paragraph 2 are being taken shall be entitled to:

(a) communicate without delay with the nearest appropriate representative of the State of which that person is a national or which is otherwise entitled to protect that person's rights or, if that person is a stateless person, the State in whose territory that person habitually resides;

(b) be visited by a representative of that State;

(c) be assisted by a lawyer of his or her choice;

(d) be informed of his or her rights under sub-paragraphs (a), (b) and (c).

4. The rights referred to in paragraph 3 shall be exercised in conformity with the national law of the State in whose territory the offender or alleged offender is present, subject to the provision that the said laws must enable full effect to be given to the purposes for which the rights accorded under paragraph 3 are intended.

PART IV

EXTRADITION

Article 8

1. Subject to the provisions of paragraphs 2 and 3 of this Article, the States Parties shall undertake to extradite any person charged with or convicted of any terrorist act carried out on the territory of another State Party and whose extradition is requested by one of the States Parties in conformity with the rules and conditions provided for in this Convention or under extradition agreements between the States Parties and within the limits of their national laws.

2. Any State Party may, at the time of the deposit of its instrument of ratification or accession, transmit to the Secretary General of the OAU the grounds on which extradition may not be granted and shall at the same time indicate the legal basis in its national legislation or international conventions to which it is a party which excludes such extradition. The Secretary General shall forward these grounds to the State Parties.

3. Extradition shall not be granted if final judgement has been passed by a competent authority of the requested State upon the person in respect of the terrorist act or acts for which extradition is requested. Extradition may also be refused if the competent authority of the requested State has decided either not to institute or terminate proceedings in respect of the same act or acts.

4. A State Party in whose territory an alleged offender is present shall be obliged, whether or not the offence was committed in its territory, to submit the case without undue delay to its competent authorities for the purpose of prosecution if it does not extradite that person.

Article 9

Each State Party undertakes to include as an extraditable offence any terrorist act as defined in Article 1, in any extradition treaty existing between any of the States Parties before or after the entry into force of this Convention.

Article 10

Exchange of extradition requests between the States Parties to this Convention shall be effected directly either through diplomatic channels or other appropriate organs in the concerned States.

Article 11

Extradition requests shall be in writing, and shall be accompanied in particular by the following:

(a) an original or authenticated copy of the sentence, warrant of arrest or any order or other judicial decision made, in accordance with the procedures laid down in the laws of the requesting State;

(b) a statement describing the offences for which extradition is being requested, indicating the date and place of its commission, the offence committed, any convictions made and a copy of the provisions of the applicable law; and

(c) as comprehensive a description as possible of the wanted person together with any other information which may assist in establishing the person's identity and nationality.

Article 12

In urgent cases, the competent authority of the State making the extradition may, in writing, request that the State seized of the extradition request arrest the person in question provisionally. Such provisional arrest shall be for a reasonable period in accordance with the national law of the requested State.

Article 13

1. Where a State Party receives several extradition requests from different States Parties in respect of the same suspect and for the same or different terrorist acts, it shall decide on these requests having regard to all the prevailing circumstances, particularly the possibility of subsequent extradition, the respective dates of receipt of the requests, and the degree of seriousness of the crime.

2. Upon agreeing to extradite, States Parties shall seize and transmit all funds and related materials purportedly used in the commission of the terrorist act to the requesting State as well as relevant incriminating evidence.

3. Such funds, incriminating evidence and related materials, upon confirmation of their use in the terrorist act by the requested State, shall be transmitted to the requesting State even if, for reasons of death or escape of the accused, the extradition in question cannot take place.

4. The provisions in paragraphs 1, 2 and 3 of this Article shall not affect the rights of any of the States Parties or bona fide third parties regarding the materials or revenues mentioned above.

PART V

EXTRA-TERRITORIAL INVESTIGATIONS (COMMISSION ROGATOIRE) AND MUTUAL LEGAL ASSISTANCE

Article 14

1. Any State Party may, while recognizing the sovereign rights of States Parties in matters of criminal investigation, request any other State Party to carry out, with its assistance and cooperation, on the latter's territory, criminal investigations related to any judicial proceedings concerning alleged terrorist acts and, in particular:

(a) the examination of witnesses and transcripts of statements made as evidence;

(b) the opening of judicial information;

(c) the initiation of investigation processes;

(d) the collection of documents and recordings or, in their absence, authenticated copies thereof;

(e) conducting inspections and tracing of assets for evidentiary purposes;

(f) executing searches and seizures; and

(g) service of judicial documents.

Article 15

A commission rogatoire may be refused:

(a) where each of the States Parties has to execute a commission rogatoire relating to the same terrorist acts;

(b) if that request may affect efforts to expose crimes, impede investigations or the indictment of the accused in the country requesting the commission rogatoire; or

(c) if the execution of the request would affect the sovereignty of the requested State, its security or public order.

Article 16

The extra-territorial investigation (commission rogatoire) shall be executed in compliance with the provisions of national laws of the requested State. The request for an extra-territorial investigation (commission rogatoire) relating to a terrorist act shall not be rejected on the grounds of the principle of confidentiality of bank operations or financial institutions, where applicable.

Article 17

The States Parties shall extend to each other the best possible mutual police and judicial assistance for any investigation, criminal prosecution or extradition proceedings relating to the terrorist acts as set forth in this Convention.

Article 18

The States Parties undertake to develop, if necessary, especially by concluding bilateral and multilateral agreements and arrangements, mutual legal assistance procedures aimed at facilitating and speeding up investigations and collecting evidence, as well as cooperation between law enforcement agencies in order to detect and prevent terrorist acts.

PART VI

FINAL PROVISIONS

Article 19

1. This Convention shall be open to signature, ratification or accession by the Member States of the Organization of African Unity.

2. The instruments of ratification or accession to the present Convention shall be deposited with the Secretary General of Organization of African Unity.

3. The Secretary General of the Organization of African Unity shall inform Member States of the Organization of the deposit of each instrument of ratification or accession.

4. No State Party may enter a reservation which is incompatible with the object and purposes of this Convention.

5. No State Party may withdraw from this Convention except on the basis of a written request addressed to the Secretary General of the Organization of African Unity. The withdrawal shall take effect six months after the date of receipt of the written request by the Secretary General of the Organization of African Unity.

Article 20

1. This Convention shall enter into force thirty days after the deposit of the fifteenth instrument of ratification with the Secretary General of the Organization of African Unity.

2. For each of the States that shall ratify or accede to this Convention shall enter into force thirty days after the date of the deposit by that State Party of its instrument of ratification or accession.

Article 21

1. Special protocols or agreements may, if necessary, supplement the provisions of this Convention.

2. This Convention may be amended if a State Party makes a written request to that effect to the Secretary General of the Organization of African Unity. The Assembly of Heads of State and Government may only consider the proposed amendment after all the States Parties have been duly informed of it at least three months in advance.

3. The amendment shall be approved by a simple majority of the State Parties. It shall come into force for each State which has accepted it in accordance with its constitutional procedures three months after the Secretary General has received notice of the acceptance.

Article 22

1. Nothing in this Convention shall be interpreted as derogating from the general principles of international law, in particular the principles of international humanitarian law, as well as the African Charter on Human and Peoples' Rights.

2. Any dispute that may arise between the States Parties regarding the interpretation or application of this Convention shall be amicably settled by direct agreement between them. Failing such settlement, any one of the States Parties may refer the dispute to the International Court of Justice in conformity with the Statute of the Court or by arbitration by other States Parties to this Convention.

Article 23

The original of this Convention, of which the Arabic, English, French and Portuguese texts are equally authentic, shall be deposited with the Secretary General of the Organization of African Unity.

ANNEX

LIST OF INTERNATIONAL INSTRUMENTS

(a) Tokyo Convention on Offences and Certain Other Acts Committed on Board Aircraft of 1963;

(b) Montreal Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation of 1971 and the Protocol thereto of 1984;

(c) New York Convention on the Prevention and Punishment of Crimes against Internationally Protected Persons, including Diplomatic Agents of 1973;

(d) International Convention against the Taking of Hostages of 1979;

(e) Convention on the Physical Protection of Nuclear Material of 1979;

(f) United Nations Convention on the Law of the Sea of 1982;

(g) Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation of 1988;

(h) Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms located on the Continental Shelf of 1988;

(i) Convention for the Suppression of Unlawful Acts against Maritime Navigation of 1988;

(j) Convention on the Marking of Plastic Explosives of 1991;

(k) International Convention for the Suppression of Terrorist Explosive Bombs of 1997;

(l) Convention on the Prohibition of the Use, Stockpiling, Production and Transfer of Anti-Personnel Mines and on their Destruction of 1997.